



ALLEGHENY INSTITUTE
FOR PUBLIC POLICY

Public School Strikes in Pennsylvania

Testimony to Senate Education Committee

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Thank you members of the Senate Education Committee for the opportunity to present testimony on the subject of teacher strikes.

My name is Eric Montarti and I am a Senior Policy Analyst with the [Allegheny Institute for Public Policy](#). The Institute is a non-profit, non-partisan research and education organization. We research topics related to fiscal and economic policy at the local level in southwestern Pennsylvania.

I had the pleasure of testifying to the Senate Committee in April of 2009 and I have attached that testimony as part of my submission today because nothing has changed regarding the law on collective bargaining for public school employees, Act 88 of 1992 (24 P.S. XI-a) or the negative consequences for [Pennsylvania being one of the few states to allow teacher strikes](#).

Since that testimony, two research reports were published that relate to collective bargaining and strikes by teachers.

First, in 2011 the Education Commission of the States released "[State Collective Bargaining Policies for Teachers](#)" which presented a typology of states on whether they permitted collective bargaining, their impasse procedures (mediation, fact-finding, and voluntary or mandatory arbitration), and whether strikes are permitted or prohibited.

Based on the typology in that study, the following can be concluded:

Five states (Illinois, Ohio, Oregon, Pennsylvania, and Vermont) have

1. Collective bargaining *and*
2. Utilize mediation, fact-finding, and voluntary arbitration as impasse mechanisms *and*
3. Permit teacher strikes

Four states (Delaware, Maine, Massachusetts, and New York) have

1. Collective bargaining *and*
2. Utilize mediation, fact-finding, and voluntary arbitration as impasse mechanisms *and*
3. Prohibit teacher strikes

Second, in 2013 the Allegheny Institute produced [a report](#) that measured the incidence of strikes in Pennsylvania by the number of student days out of class. This was calculated by multiplying the duration of a strike by the number of students affected. In the period from 1997 through 2013 there were 115 strikes that totaled 3.8 million days out of class. In Allegheny County, for example, there were 15 strikes in 11 districts (four districts had two strikes each during the time frame) that led to over 500,000 days out of class.

The Allegheny Institute has weighed in on the topic in the intervening years. For example;

- [In 2014, we wrote](#) "Pennsylvania needs to adopt the New York model wherein striking school workers are docked two days of pay for every one missed, so they are actually losing pay when they get paid for days worked in making up lost time. That is a powerful deterrent to strikers."

- [In 2015, we wrote](#) “Pennsylvania regularly leads the nation in the number of teacher strikes as well as proposals that have been made to end them.”
- [In 2016, we wrote](#) “A strike creates disruptions in students’ lives, pressure on working parents to find child supervision, and delays in completing the school year with all that entails for students looking for summer jobs and family travel plans. Eventually, it will mean higher taxes to pay for the compensation increases the union will receive in a new contract.”
- [In 2017, we wrote](#) “Public employees should not have the right to strike, period. It leads to all sorts of fiscal problems as we see in heavily unionized states all across the country.”

In that time period there were strikes in the Allegheny County districts of [Highlands](#), [East Allegheny](#), [Shaler](#), and there was almost one in the [Pittsburgh Public Schools](#), the second largest district in the state.

So what can be done? Pennsylvania needs to eliminate the right of teachers to strike. Pennsylvania currently prohibits several types of public sector employee groups from striking and subjects them to alternative methods of dispute resolution, including binding arbitration for police and fire personnel.

There is a piece of legislation called the “Strike Free Education Act” that would amend the language of Act 88 and replace it with a stricter and more specific timeline on when negotiations on an expiring contract would have to begin, and when mediation, fact-finding, and non-binding arbitration would have to occur if negotiations do not produce an agreement as the expiration date of the contract approaches. There would be much more transparency in the process at each stage of the negotiations. This legislation has been introduced before and we analyzed it twice (in [2008](#) and [2011](#)).

Most importantly strikes and lockouts would be prohibited with penalties for those that initiate a strike, participate in a strike, for a union that initiates or participates in one, and for a school district that has a lockout. It is perhaps the aforementioned punishment for [teachers who participate in a strike](#), which would be two times their daily rate of pay for every one day out on strike that would be the strongest provision.

Enacting that law would move Pennsylvania from the five state group mentioned earlier and would put it alongside the group that includes the neighboring states of New York and Delaware.

Thank you for the opportunity to submit testimony.



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(Original Testimony from April 22, 2009,
resubmitted April 18, 2018)

Eric Montarti, Senior Policy Analyst
Allegheny Institute for Public Policy

Good afternoon, and thank you Mr. Chairman and members of the committee for inviting me here to speak.

My name is Eric Montarti, and I am a Senior Policy Analyst with the Allegheny Institute for Public Policy, a non-profit, non-partisan research and educational organization in southwestern Pennsylvania.

While most of our research focus is on local and regional issues, we have devoted a substantial portion of our research agenda to the subject of labor issues like binding arbitration, public sector unions, and today's subject, public school strikes.

I'd like to present some data we collected and show that Pennsylvania is severely out of step in regards to permitting public school employees to strike. While the subject of today's hearing is specifically teachers, and their walkouts get the most attention from the media and the public and occur with the most frequency, the majority of the data (aside from pay data) is for all public school employees since a strike by any unit can disrupt the education process.

Here are the key facts to keep in mind:

Pennsylvania is one of only 13 states to allow public school workers to strike.

That distinction alone places it in a small minority. These states are spread across the nation with Ohio and Illinois being the closest. The border states of New York, New Jersey, Delaware, Maryland and West Virginia all prohibit teacher strikes.

Pennsylvania had 86 public school strikes between the 2000-01 and 2007-08 school years. That's an average of 10 strikes per year. By comparison, the two nearby strike-permitting states of Ohio and Illinois had 18 strikes and 69 strikes, respectively, in that same time frame. That works out to a rough average of 2 in Ohio and 9 in Illinois on an annual basis. Pennsylvania's 86 strikes represented half of the total number of strikes in these three states over the time frame and nearly as many as Ohio and Illinois combined. In previous reviews of this topic we have found that the other ten states permitting strikes tend to have very few if any at all.

This is true even though these two other states have more school districts than Pennsylvania, and thus have more opportunities for strikes. Here's another way of looking at the strike data. Both Ohio and Illinois have more K-12 school districts, thus more bargaining units, and thus more opportunities for public school strikes. Illinois has 893 independent elementary and secondary school districts (78% more than PA) and Ohio has 612 (22% more than PA), yet the data shows that Pennsylvania has seen more strikes than the other two states.

As of 2009, Pennsylvania has not had a school year without a strike.

For certain, the average number of strikes has fallen since Act 88 went into effect in the 1992-1993 school year, but that's not enough. In the sixteen years prior to Act 88 taking effect, there were 509 strikes, an average of 32 per year. In the sixteen years since, there have been 192, an average of 12 per year. Some may say that's proof positive that Pennsylvania has made strides. But how do we know that pre Act 88 strikes did not solidify benefits that have been built upon in subsequent years?

It can be argued that a pre-Act 88 strike may have established pay and benefit levels that have not required the same level of strike activity that was evidenced in earlier years. It can also be argued that the threat to strike is a powerful tool in and of itself, whether or not it is actually used. Realize too that

in both Illinois and Ohio similar legislation affecting the ability of public sector workers to engage in strikes resulted in declines in the number of strikes, but those two states have been better than Pennsylvania on the results thus far this decade. It is also worth noting that of the 13 states that permit strikes, only Pennsylvania has the combination of mediation, fact-finding, and advisory arbitration and methods of dispute resolution, but continually leads the nation in strikes.

Pennsylvania has deemed it good public policy to prohibit certain types of public sector employees from going on strike. Under Act 111, police and fire personnel are subject to binding arbitration, and under Act 195 prison guards, mental hospital guards, and personnel necessary to the functioning of the courts are subject to advisory binding arbitration.

Given these facts, policymakers need to decide if public school workers should be able to continue to have the right to strike. If they are happy that the number of strikes have fallen since the previous highs of earlier decades and like the fact that public school workers have this right, then the status quo should be continued. If they are unhappy that Pennsylvania is in the minority of states granting this right and that the state is continually the leader on this statistic, then a change is in order.

We would argue that given the fact that Pennsylvania is one of the few states that allow public school workers to strike, that Pennsylvania has been the leader in strikes among states that permit strikes, and that the state has decided to forbid certain classes of employees from striking that a new framework needs to be established.

There are a variety of policy options should the General Assembly choose to depart from the current state of affairs under Act 88. Other states where strikes are prohibited offer some direction. For instance, those who engage in a strike can face termination (FL, GA), fines for either the employee and/or the union (MD, MS, NY), or the employee is charged with a misdemeanor (IA, NC). Clearly the most effective method seems to be creating disincentives to strike—like employees losing two days pay for every one day out on strike or the possible loss of union representation for a period of time—and enforcing those provisions.

Once again, thank you for your time and I'd be happy to answer any questions

Sources:

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Act 111 of 1968

Act 195 of 1970

Telephone/E-mail Conversations with:

Jennifer Krieder, Pennsylvania Labor Relations Board
Dave Davare, Pennsylvania School Boards Association

Cherith Alexander, Ohio State Employee Relations Board
Van Keating, Ohio School Boards Association

Renee Strickland, Illinois Education Employee Relations Board
Matt Wanckler, Illinois State Board of Education
Gary Adkins, Illinois School Boards Association