

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

(105 ILCS 5/34-8.1b rep.)

Section 5. The School Code is amended by repealing Section 34-8.1b.

Section 10. The Illinois Educational Labor Relations Act is amended by changing Sections 2 and 13 as follows:

(115 ILCS 5/2) (from Ch. 48, par. 1702)

Sec. 2. Definitions. As used in this Act:

(a) "Educational employer" or "employer" means the governing body of a public school district, including the governing body of a charter school established under Article 27A of the School Code or of a contract school or contract turnaround school established under paragraph 30 of Section 34-18 of the School Code, combination of public school districts, including the governing body of joint agreements of any type formed by 2 or more school districts, public community college district or State college or university, a subcontractor of instructional services of a school district (other than a school district organized under Article 34 of the School Code), combination of school districts, charter

school established under Article 27A of the School Code, or contract school or contract turnaround school established under paragraph 30 of Section 34-18 of the School Code, an Independent Authority created under Section 2-3.25f-5 of the School Code, and any State agency whose major function is providing educational services. "Educational employer" or "employer" does not include (1) a Financial Oversight Panel created pursuant to Section 1A-8 of the School Code due to a district violating a financial plan or (2) an approved nonpublic special education facility that contracts with a school district or combination of school districts to provide special education services pursuant to Section 14-7.02 of the School Code, but does include a School Finance Authority created under Article 1E or 1F of the School Code and a Financial Oversight Panel created under Article 1B or 1H of the School Code. The change made by this amendatory Act of the 96th General Assembly to this paragraph (a) to make clear that the governing body of a charter school is an "educational employer" is declaratory of existing law.

(b) "Educational employee" or "employee" means any individual, excluding supervisors, managerial, confidential, short term employees, student, and part-time academic employees of community colleges employed full or part time by an educational employer, but shall not include elected officials and appointees of the Governor with the advice and consent of the Senate, firefighters as defined by subsection

(g-1) of Section 3 of the Illinois Public Labor Relations Act, and peace officers employed by a State university. However, with respect to an educational employer of a school district organized under Article 34 of the School Code, a supervisor shall be considered an educational employee under this definition unless the supervisor is also a managerial employee. For the purposes of this Act, part-time academic employees of community colleges shall be defined as those employees who provide less than 3 credit hours of instruction per academic semester. In this subsection (b), the term "student" does not include graduate students who are research assistants primarily performing duties that involve research, graduate assistants primarily performing duties that are pre-professional, graduate students who are teaching assistants primarily performing duties that involve the delivery and support of instruction, or any other graduate assistants.

(c) "Employee organization" or "labor organization" means an organization of any kind in which membership includes educational employees, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any organization which practices discrimination in membership because of race, color, creed, age, gender, national origin or political affiliation.

(d) "Exclusive representative" means the labor organization which has been designated by the Illinois Educational Labor Relations Board as the representative of the majority of educational employees in an appropriate unit, or recognized by an educational employer prior to January 1, 1984 as the exclusive representative of the employees in an appropriate unit or, after January 1, 1984, recognized by an employer upon evidence that the employee organization has been designated as the exclusive representative by a majority of the employees in an appropriate unit.

(e) "Board" means the Illinois Educational Labor Relations Board.

(f) "Regional Superintendent" means the regional superintendent of schools provided for in Articles 3 and 3A of The School Code.

(g) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, reward or discipline other employees within the appropriate bargaining unit and adjust their grievances, or to effectively recommend such action if the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The term "supervisor" includes only those individuals who devote a preponderance of their employment time to such exercising authority.

(h) "Unfair labor practice" or "unfair practice" means any

practice prohibited by Section 14 of this Act.

(i) "Person" includes an individual, educational employee, educational employer, legal representative, or employee organization.

(j) "Wages" means salaries or other forms of compensation for services rendered.

(k) "Professional employee" means, in the case of a public community college, State college or university, State agency whose major function is providing educational services, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired, (1) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (2) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (1) of this subsection,

and (ii) is performing related work under the supervision of a professional person to qualify himself or herself to become a professional as defined in paragraph (l).

(l) "Professional employee" means, in the case of any public school district, or combination of school districts pursuant to joint agreement, any employee who has a certificate issued under Article 21 or Section 34-83 of the School Code, as now or hereafter amended.

(m) "Unit" or "bargaining unit" means any group of employees for which an exclusive representative is selected.

(n) "Confidential employee" means an employee, who (i) in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine and effectuate management policies with regard to labor relations or who (ii) in the regular course of his or her duties has access to information relating to the effectuation or review of the employer's collective bargaining policies.

(o) "Managerial employee" means, with respect to an educational employer other than an educational employer of a school district organized under Article 34 of the School Code, an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices or, with respect to an educational employer of a school district organized under Article 34 of the School Code, an individual who has a significant role in the negotiation of

collective bargaining agreements or who formulates and determines employer-wide management policies and practices.  
"Managerial employee" includes a general superintendent of schools provided for under Section 34-6 of the School Code.

(p) "Craft employee" means a skilled journeyman, craft person, and his or her apprentice or helper.

(q) "Short-term employee" is an employee who is employed for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that he or she will be rehired by the same employer for the same service in a subsequent calendar year. Nothing in this subsection shall affect the employee status of individuals who were covered by a collective bargaining agreement on the effective date of this amendatory Act of 1991.

The changes made to this Section by this amendatory Act of the 102nd General Assembly may not be construed to void or change the powers and duties given to local school councils under Section 34-2.3 of the School Code.

(Source: P.A. 101-380, eff. 1-1-20.)

(115 ILCS 5/13) (from Ch. 48, par. 1713)

Sec. 13. Strikes.

(a) Notwithstanding the existence of any other provision in this Act or other law, educational employees employed in school districts organized under Article 34 of the School Code shall not engage in a strike at any time during the 18 month

period that commences on the effective date of this amendatory Act of 1995. An educational employee employed in a school district organized under Article 34 of the School Code who participates in a strike in violation of this Section is subject to discipline by the employer. In addition, no educational employer organized under Article 34 of the School Code may pay or cause to be paid to an educational employee who participates in a strike in violation of this subsection any wages or other compensation for any period during which an educational employee participates in the strike, except for wages or compensation earned before participation in the strike. Notwithstanding the existence of any other provision in this Act or other law, during the 18-month period that strikes are prohibited under this subsection nothing in this subsection shall be construed to require an educational employer to submit to a binding dispute resolution process.

(b) Notwithstanding the existence of any other provision in this Act or any other law, educational employees other than those employed in a school district organized under Article 34 of the School Code and, after the expiration of the 18 month period that commences on the effective date of this amendatory Act of 1995, educational employees in a school district organized under Article 34 of the School Code other than educational supervisors as provided under subsection (c) shall not engage in a strike except under the following conditions:

(1) they are represented by an exclusive bargaining



representative;

(2) mediation has been used without success and, for educational employers and exclusive bargaining representatives to which subsection (a-5) of Section 12 of this Act applies, at least 14 days have elapsed after the Board has made public the parties' offers;

(2.5) if fact-finding was invoked pursuant to subsection (a-10) of Section 12 of this Act, at least 30 days have elapsed after a fact-finding report has been released for public information;

(2.10) for educational employees employed in a school district organized under Article 34 of the School Code, at least three-fourths of all bargaining unit employees who are members of the exclusive bargaining representative have affirmatively voted to authorize the strike; provided, however, that all members of the exclusive bargaining representative at the time of a strike authorization vote shall be eligible to vote;

(3) at least 10 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the educational employer, the regional superintendent and the Illinois Educational Labor Relations Board;

(4) the collective bargaining agreement between the educational employer and educational employees, if any, has expired or been terminated; and

(5) the employer and the exclusive bargaining representative have not mutually submitted the unresolved issues to arbitration.

If, however, in the opinion of an employer the strike is or has become a clear and present danger to the health or safety of the public, the employer may initiate in the circuit court of the county in which such danger exists an action for relief which may include, but is not limited to, injunction. The court may grant appropriate relief upon the finding that such clear and present danger exists. An unfair practice or other evidence of lack of clean hands by the educational employer is a defense to such action. Except as provided for in this paragraph, the jurisdiction of the court under this Section is limited by the Labor Dispute Act.

(c) Educational supervisors employed in a school district organized under Article 34 of the School Code whose position requires an administrative license may not engage in a strike.

(Source: P.A. 97-7, eff. 6-13-11; 97-8, eff. 6-13-11; 98-513, eff. 1-1-14.)

Section 99. Effective date. This Act takes effect January 1, 2023.