



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5107

Introduced 1/27/2022, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

105 ILCS 5/34-8.1b rep.

115 ILCS 5/2

from Ch. 48, par. 1702

115 ILCS 5/13

from Ch. 48, par. 1713

Amends the Chicago School District Article of the School Code. Repeals provisions concerning exemption from bargaining unit membership. Amends the Illinois Educational Labor Relations Act. With respect to an educational employer of the Chicago school district, provides that (i) a supervisor shall be considered an "educational employee" unless the supervisor is also a managerial employee and (ii) a "managerial employee" means 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, including a general superintendent of schools (rather than 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). In provisions concerning strikes, prohibits educational supervisors employed in the Chicago school district whose position requires an administrative license from engaging in a strike. Effective January 1, 2023.

LRB102 24702 NLB 33941 b

1 AN ACT concerning education.

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

4 (105 ILCS 5/34-8.1b rep.)

5 Section 5. The School Code is amended by repealing Section
6 34-8.1b.

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

9 (115 ILCS 5/2) (from Ch. 48, par. 1702)

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

11 (a) "Educational employer" or "employer" means the
12 governing body of a public school district, including the
13 governing body of a charter school established under Article
14 27A of the School Code or of a contract school or contract
15 turnaround school established under paragraph 30 of Section
16 34-18 of the School Code, combination of public school
17 districts, including the governing body of joint agreements of
18 any type formed by 2 or more school districts, public
19 community college district or State college or university, a
20 subcontractor of instructional services of a school district
21 (other than a school district organized under Article 34 of
22 the School Code), combination of school districts, charter

1 school established under Article 27A of the School Code, or
2 contract school or contract turnaround school established
3 under paragraph 30 of Section 34-18 of the School Code, an
4 Independent Authority created under Section 2-3.25f-5 of the
5 School Code, and any State agency whose major function is
6 providing educational services. "Educational employer" or
7 "employer" does not include (1) a Financial Oversight Panel
8 created pursuant to Section 1A-8 of the School Code due to a
9 district violating a financial plan or (2) an approved
10 nonpublic special education facility that contracts with a
11 school district or combination of school districts to provide
12 special education services pursuant to Section 14-7.02 of the
13 School Code, but does include a School Finance Authority
14 created under Article 1E or 1F of the School Code and a
15 Financial Oversight Panel created under Article 1B or 1H of
16 the School Code. The change made by this amendatory Act of the
17 96th General Assembly to this paragraph (a) to make clear that
18 the governing body of a charter school is an "educational
19 employer" is declaratory of existing law.

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

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

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

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

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

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

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

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

1 practice prohibited by Section 14 of this Act.

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

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

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

1 and (ii) is performing related work under the supervision of a
2 professional person to qualify himself or herself to become a
3 professional as defined in paragraph (1).

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

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

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

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

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

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

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

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

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

20 (115 ILCS 5/13) (from Ch. 48, par. 1713)

21 Sec. 13. Strikes.

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

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

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

26 (1) they are represented by an exclusive bargaining

1 representative;

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

7 (2.5) if fact-finding was invoked pursuant to
8 subsection (a-10) of Section 12 of this Act, at least 30
9 days have elapsed after a fact-finding report has been
10 released for public information;

11 (2.10) for educational employees employed in a school
12 district organized under Article 34 of the School Code, at
13 least three-fourths of all bargaining unit employees who
14 are members of the exclusive bargaining representative
15 have affirmatively voted to authorize the strike;
16 provided, however, that all members of the exclusive
17 bargaining representative at the time of a strike
18 authorization vote shall be eligible to vote;

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

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

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

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

15 (c) Educational supervisors employed in a school district
16 organized under Article 34 of the School Code whose position
17 requires an administrative license may not engage in a strike.
18 (Source: P.A. 97-7, eff. 6-13-11; 97-8, eff. 6-13-11; 98-513,
19 eff. 1-1-14.)

20 Section 99. Effective date. This Act takes effect January
21 1, 2023.