

**Article XI-A ("Collective Bargaining") of the Public School Code of 1949 establishes current collective bargaining procedures for public school employees; this article was added to the Public School Code by Act 88 of 1992. These procedures are outlined as follows:**

Submission to Mediation: If the negotiating parties have not reached an agreement within 45 days after negotiations have commenced, or no later than 126 days prior to end of school entity's fiscal year, both parties must immediately request the services of PA Bureau of Mediation. If no agreement is reached through mediation within 45 days after its commencement, or reached no later than 81 days prior to end of fiscal year, the Bureau of Mediation must notify the PA Labor Relations Board that no agreement was reached, and it must notify the Board as to whether or not either party has requested the appointment of a fact-finding panel.

Fact-Finding Panel: No later than 81 days prior to end of fiscal year, either party may request the Board to appoint a fact-finding panel; the Board then must appoint a panel consisting of one or three members. The panel must make findings of fact and make recommendations within 40 days after request for fact-finding. If both parties agree to fact-finding, a panel can be appointed at any time except during mandated final best-offer arbitration. The Board can appoint a fact-finding panel at other times except between period of notice of strike and end of strike, and mandated final best-offer arbitration.

The parties must notify the Board, and each other, of whether they accept the findings of fact not more than 10 days after fact-finding panel issues its determination; not less than 5 days nor more than 10 days after publication of findings of fact, the parties must again inform the Board and each other of whether or not they accept findings of fact.

The Commonwealth must pay one-half the cost of the fact-finding panel and the other half of the cost is shared between the two parties.

Final Best-Offer Arbitration-Types and Composition: The negotiating parties must bargain upon the issue of acceptance and adoption of one of the following arbitration procedures (although they are not required to agree to any of them): 1) arbitration under which an award is limited to a choice of the last best-offer, in its entirety, of both parties and the recommendations of the fact-finding panel; 2) arbitration under which the award is based on an issue-by-issue consideration of the last best-offer of both parties and the recommendations of the fact-finding panel; and 3) arbitration under which an award is confined to consideration of economic and non-economic issues as separate units with respect to last best-offer of both parties, and the recommendations of the fact-finding panel.

A board of arbitration must be composed of three members. Each party must select a member within 5 days of the party's submission to final best-offer arbitration. The third arbitrator is selected from a list of seven arbitrators furnished by the American Arbitration Association; the third arbitrator must be selected within five days of publication of the list. The third arbitrator is selected by a process of alternative "strike off" of names with the employer allotted the right to first "strike off" with the person remaining being the third member and chairman. If the arbitration was voluntarily opted for, then the costs of the arbitration panel are equally divided

amongst the parties. If the arbitration is mandatory, the costs of the panel are paid for by having the Commonwealth pay half and the other half shared equally between the two parties.

Final Best-Offer Arbitration-Process: At any time prior to mandated final best-offer arbitration, either party may request final best-offer arbitration unless fact-finding has been initiated. If either party requests final best-offer arbitration, that party must notify the Bureau of Mediation, the Board, and the opposing party; the opposing party has 10 days to accept or refuse final best-offer arbitration.

If a strike or lockout will prevent the public school entity from providing the required days of instruction by the later of June 15<sup>th</sup>, or last day of school's scheduled school year, the parties must submit to mandated final best-offer arbitration consistent with the arbitration option negotiated (if the parties could not agree on one of the options, the mediator must select the procedure). Within 10 days of submission to final best-offer arbitration, the parties must submit their final contract offer. Upon submission of both party's offers, the employer must post the offers in the school's main office for purposes of soliciting public comment. The public has 10 days to comment and all comments must be forwarded to arbitrators.

Within 10 days of selection of third arbitrator, the arbitrators must begin hearings at which they are required to hear arguments from both parties. The arbitrators must make a determination no later than 20 days after the hearing. The determination made by the arbitrators is final and binding on all parties, unless either party, within 10 days, rejects the determination at a regularly scheduled meeting. The determination can include a directive requiring legislative enactment including the levy of taxes. No appeal of the determination is allowed to a court unless the award resulted from fraud, corruption, or willful misconduct of arbitrators.

Final Best Offer-Arbitration-Rejection of Award: If either party rejects the arbitrator's award, the employee organization can initiate a legal strike or resume a legal strike started prior to submission to final best-offer arbitration, and the employer may hire substitutes and initiate or continue a legal lockout.

Strikes and Lockouts: A strike must cease where parties request fact-finding for the duration of the fact-finding, and strikes are prohibited where parties agree to arbitration. Strikes and lockouts are prohibited; 1) during the 10 day period an opposing party has to respond to a request for final best-offer arbitration; 2) during final best-offer arbitration; and 3) when an arbitrator's award becomes final and binding.

Injunctions: The Secretary of Education can initiate an injunction in a county court of common pleas if an employee strike threatens to interfere with the required period of instruction for students.

Prohibitions: Selective strikes are prohibited and the utilization of strike breakers by a school entity are prohibited. The school entity can only utilize those employees who have actively been employed by the school district at any time during the previous year; however, in situations where the employee organization rejected the arbitrator's award and a strike threatens to prevent

students from receiving required completion of instruction, the school entity is free to hire replacements who may not meet the 12 month "actively employed" criteria.