

**THE SCOPE OF TEACHER-BOARD BARGAINING
UNDER PENNSYLVANIA'S ACT 195:
WHICH MATTERS ARE AND ARE NOT SUBJECT
TO BARGAINING?**

BRIAN G. BELL

Northampton Area School District

PERRY A. ZIRKEL

Lehigh University

ABSTRACT

This article provides a tabular synthesis of the various labor board and court rulings regarding which topics fit in each of the categories for scope of bargaining under the Pennsylvania statute that governs teacher-board collective negotiations. Thus, it not only provides guidance for practitioners and others interested in teacher-board bargaining in Pennsylvania but also a model for providing similar guidance in the other states that have broad language and various rulings concerning scope of negotiations. Using coded designations and a visual-organizer format, the chart that is the focal feature of this article synthesizes multiple primary legal sources into one page that serves as a starting point—not an ending point, for authoritative guidance.

Teacher-board collective bargaining is primarily a matter of state legislation. In states that authorize such bargaining, the statute is either exclusive to teachers or covers public employees more generally, and it addresses—either with broad language or a specific laundry list—which subjects must, may, and may not be collectively bargained. The majority of the states use broad language, typically a variation of the basic balancing standard in the National Labor Relations Act [1].

Sec. 701 - Mandatory Topics of Collective Bargaining	
BINDING INTEREST ARBITRATION ¹	Over TIME ²⁹
CAMPUS PARKING FEES ²	<i>(Certain) Past Practices</i> ³⁰
<i>Cell Phone Use (non-assigned time)</i> ³	<i>Pay Periods</i> ³¹
Change of Hours ⁴	Physical Work Environment ^{*32}
Christmas Bonus ^{*5}	SALARY SCHEDULE PLACEMENT ³³
<i>Conference Leave</i> ⁶	REDUCTION-IN-FORCE ³⁴
Conflict of Rights ^{*7}	<i>Reduction of Work Year</i> ³⁵
<i>Direct Deposit of Pay</i> ⁸	<i>Release of Certain Information</i> ³⁶
Disciplinary Action ^{*9}	RESIDENCY REQUIREMENT ³⁷
Disciplinary Records ^{*10}	SABBATICAL LEAVE ³⁸
<i>Distribution of Paychecks</i> ^{*11}	<i>Salary Bonus for Some Members of Bargaining Unit</i> ^{*39}
DOCTOR'S EXCUSES ¹²	Shift Change ^{*40}
DRUG TESTING (w/exception) ^{*13}	Sick Leave Policy ⁴¹
<i>Dues Check Off</i> ¹⁴	SMOKING ^{*42}
DUES DEDUCTION ¹⁵	<i>Snow Day Policy</i> ⁴³
EARLY RETIREMENT INCENTIVES ¹⁶	SPLIT SABBATICALS ⁴⁴
EXTRACURRICULAR ACTIVITIES ¹⁷	STAFF CARS ^{*45}
<i>Fair Share (or agency shop)</i> ¹⁸	Staff Development ⁴⁶
<i>Family Medical Leave Act</i> ^{*19}	Student Advising Program ^{**47}
FURLOUGHS ²⁰	SUBCONTRACTING ⁴⁸
GRIEVANCE ARBITRATION ²¹	<i>Tele-teaching</i> ^{**}
HEALTH/LIFE INSURANCE ²²	(CERTAIN) TRANSFERS OF WORK OUTSIDE BARGAINING UNIT ⁴⁹
INCOME VERIFICATION FEE ²³	TUITION REIMBURSEMENT ⁵⁰
<i>Introduction of New Technology</i> ^{*24}	<i>Use of Volunteers</i> ⁵¹
<i>Job Bidding</i> ^{*25}	<i>Vacation</i> ^{*52}
MAINTENANCE OF MEMBERSHIP ²⁶	WAGES ⁵³
<i>Mileage Allowance</i> ^{*27}	WORKERS COMPENSATION ⁵⁴
<i>Minimum Starting Salary</i> ²⁸	(Certain) Work Rules ⁵⁵

Sec. 702 – Topics for Meet and Discuss	
<i>Campus Parking</i> ⁵⁶	<i>School Calendar</i> ⁸³
<i>Cell Phone Use (assigned time)</i> ⁵⁷	<i>Sign-in Requirement</i> ⁸⁴
<i>Class Preparation Time</i> ⁵⁸	SMOKING ⁸⁵
CLASS SIZE ⁵⁹	<i>Staff Assignment</i> ^{*86}
COACHES' HOURS/WAGES ⁶⁰	<i>Tenure Requirements</i> ⁸⁷
CODE OF CONDUCT-EMPLOYEE ^{*61}	<i>Time Clocks</i> ^{*88}
CURRICULUM ⁶²	<i>Transfer of Work Inside Unit</i> ⁸⁹
<i>Disciplinary ACTION</i> ⁶³	<i>Videotaping</i> ⁹⁰
<i>Dress Codes FOR EMPLOYEES</i> ⁶⁴	<i>Withholding Taxes (Non-cash Compensation)</i> ^{*91}
DRUG TESTING *(see Section 701)	(CERTAIN) WORK RULES ⁹²
<i>Elimination of Service</i> ⁶⁵	<i>Work Shift</i> ⁹³
EXTRACURRICULAR ACTIVITIES ⁶⁶	
<i>Furloughs</i> ^{*67}	Sec. 703 - Unlawful Topics of Collective Bargaining
<i>Grade Structure</i> ⁶⁸	
<i>Increase of Class Periods</i> ⁶⁹	
<i>Introduction of New Technology</i> ^{*70}	<i>Release of Certain Information</i> ⁹⁴
<i>Job ASSIGNMENT</i> ⁷¹	SABBATICAL LEAVE ⁹⁵
<i>Lunch</i> ^{*72}	
MEDICAL STANDARDS ^{*73}	
<i>Off-Duty Employment</i> ^{*74}	
PENSION BENEFITS ^{*75}	
<i>Performance Evaluation Standards</i> ⁷⁶	
<i>Physical Requirements</i> ^{*77}	
<i>Posting of Vacation Schedules</i> ^{*78}	
<i>Probationary Period</i> ⁷⁹	
<i>Reclassification and Promotion</i> ⁸⁰	
<i>Release Time for Union Business</i> ^{*81}	
Salary-Adult Education Program ⁸²	

This article provides a practical chart-type model for showing the scope of teacher-board bargaining in states that are within this predominant pattern. Inasmuch as Pennsylvania is one of the leading such states in terms of legal activity, including labor board and court rulings regarding scope of, it serves here as the demonstration of this synthesizing model.

In Pennsylvania, the applicable statute is the Public Employee Relations Act (PERA), also known as Act 195 [2]. This act, which applies to public employees generally, contains three sections that, taken together, broadly demarcate the scope of bargaining. Section 701 provides the standard for mandatory subjects, i.e., those that both sides must bargain upon the request of either party—“wages, hours, and other terms and conditions of employment” [2, § 1101.701; 3]. Section 702 provides, as interpreted by the courts [4], a balancing boundary for this mandatory zone—“matters of inherent managerial policy” [2, § 1101.702; 5]. It also establishes a separate “meet and discuss” mechanism, which is akin to consultation rather than negotiation, for subjects that are not mandatory or illegal, i.e., for “policy matters affecting wages, hours, and terms and conditions of employment as well as the impact thereon upon request by public employee representative” [2, § 1101.702]. Finally, Section 703 addresses illegal subjects, i.e., those that, if included in the collective bargaining agreement, are not enforceable [2, § 1101.703].

For resolution of disputed subjects, the PERA provides a multilevel system that starts with a hearing examiner of the administering agency, the Pennsylvania Labor Relations Board (PLRB) and proceeds on appeal to the PLRB itself. If either party disputes the PLRB resolution that party appeals to the Pennsylvania Court of Common Pleas, and, if further appealed, to the Pennsylvania Commonwealth Court. Finally, the Pennsylvania Supreme Court is the highest applicable authority, if the losing side seeks and the court exercises its discretion to decide the matter.

Although teacher-board bargaining more generally under the PERA has been the subject of scholarly analysis [6] and state partisan organizations have produced internal analyses of the scope of bargaining for teachers under the PERA [7], the participants and interested observers lack a handy, readily available, and nonpartisan synthesis of the topics that, according to pertinent legislation and rulings to date, fit in the three respective zones of sections 701-703.

The attached table provides such a practical synthesis. It lists the subjects relevant to teacher-board bargaining that the courts, the PLRB, or PLRB hearing examiners have determined to be within Sections 701 (matters subject to bargaining), 702 (matters subject to meet and discuss), or 703 (matters illegal to bargain).

The table’s accompanying notes list the applicable ruling(s) for each entry in the table [8, 9]. If the decision is based on an analogous statute, such as Pennsylvania’s Act 111, which governs collective bargaining for police and fire departments [10], “*cf.*” precedes the citation to show that the authority is only by analogy. The

entries are listed alphabetically for each of these categories of collective bargaining. To show the particular level of cited authority, each entry is visually presented as follows:

- ***ALL CAPITAL LETTERS IN BOLDFACE AND ITALICS*** = Pennsylvania Supreme Court decision or statutory provision.
- **ALL CAPITAL LETTERS IN BOLDFACE** = Pennsylvania Commonwealth Court decision
- ALL CAPITAL LETTERS = Pennsylvania Court of Common Pleas decision
- ***noncapital letters in boldface and in italics*** = PLRB decision
- *noncapital letters in italics* = PLRB hearing examiner decision
- * (i.e., one asterisk) = the cited authority is not directly within the context of education
- ** (i.e., two asterisks) = the cited authority includes one or more exceptions
- The entry is listed with two different fonts = the first font represents rulings within the context of education, whereas the second font represents rulings that are only indirectly applicable.

Finally, this tabular synthesis is intended as a starting point, rather than an ending point for authoritative guidance. We advise readers to consult the cited authority with legal counsel to determine definitively the categorization of the particular teacher-board bargaining issue. We also welcome corrections and additions so that such mutual collective interaction proceeds in a mutually harmonious and productive manner.

CHART NOTES

1. 24 P.S. § 11-1123-A (“final best-offer arbitration”). “Interest” arbitration applies upon impasse at the expiration of the collective bargaining agreement (CBA); in contrast, grievance arbitration (*infra*) applies to matters arising in the administration and interpretation of the CBA.
2. *Commonwealth v. PLRB*, 467 A.2d 1187 (Pa. Commw. Ct. 1983).
3. *Monessen Educ. Ass’n v. Monessen City Sch. Dist.*, 35 PPER ¶ 35033 (H. Ex. 2004).
4. *Jersey Shore Educ. Ass’n v. Jersey Shore Area Sch. Dist.*, 18 PPER ¶ 18117 (PLRB 1987); *PLRB v. Hazelton Area Sch. Dist.*, 15 PPER ¶ 15170 (PLRB 1984); *Palmerton Area Educ. Support Personnel Ass’n v. Palmerton Area Sch. Dist.*, 30 PPER ¶ 30176 (H. Ex. 1999); *Wyoming Valley West Educ. Support Personnel Ass’n v. Wyoming Valley West Sch. Dist.*, 20 PPER ¶ 29160 (H. Ex. 1998); *Conrad Weiser Educ. Ass’n v. Conrad Weiser Sch. Dist.*, 27 PPER ¶ 27213 (H. Ex. 1996).
5. *Cf. PLRB v. Borough of Berwick*, 3 PPER ¶ 183 (PLRB 1973).
6. *W. Greene Educ. Ass’n v. W. Greene Sch. Dist.*, 34 PPER ¶ 34139 (H. Ex. 2003).
7. *Cf. AFSCME, Council 13 v. Pennsylvania Dep’t of Educ.*, 23 PPER ¶ 23008 (PLRB 1991).
8. *Teamsters, Local 384 v. Owen J. Roberts Sch. Dist.*, 35 PPER ¶ 5 (H. Ex. 2004); *Midd-West Educ. Ass’n v. Midd-West Sch. Dist.*, 18 PPER ¶ 18131 (H. Ex. 1987).

9. *Fraternal Order of Police Lodge No. #9 v. City of Reading*, 29 PPER ¶ 29146 (PLRB 1998).
10. *Cf. Fairview Township Police Ass'n v. Fairview Township*, 31 PPER ¶ 31019 (PLRB 1999).
11. *Cf. Wilkes-Barre Police Benevolent Ass'n v. City of Wilkes-Barre*, 29 PPER ¶ 29041 (H. Ex. 1998).
12. *Greater Johnstown Educ. Ass'n v. Greater Johnstown Sch. Dist.*, 19 PPER ¶ 19112 (PLRB 1988).
13. *Cf. Amalgamated Transit Union Div. 1279 v. Cambria County Transit Auth.*, 21 PPER ¶ 22056 (Cambria County C.P. 1991) (ruled that suspicion-less drug testing, i.e., either on a random basis or as part of an annual physical examination, is a mandatory subject of bargaining **except** where the employer can show that: 1) drug or alcohol abuse is a real problem in the workplace; **and** 2) an immediate and substantial public safety risk is present).
14. *SEIU, Local 585 v. Fox Chapel Area Sch. Dist.*, 24 PPER ¶ 24079 (H. Ex. 1992).
15. 43 P.S. § 1101.705.
16. *Ringgold Sch. Dist. v. Ringgold Educ. Ass'n*, 694 A.2d 1163 (Pa. Commw. Ct. 1997); *Chichester Educ. Ass'n v. Chichester Sch. Dist.*, 16 PPER ¶ 16051 (H. Ex. 1985).
17. *Canon-McMillan Sch. Bd. v. Commonwealth*, 316 A.2d 114 (Pa. 1974) (ruled that wages for extracurricular activities constitute a mandatory subject of bargaining when performed by a member of the professional bargaining unit).
18. *Hazleton ESPA v. Hazleton Sch. Dist.*, 20 PPER ¶ 20170 (H. Ex. 1989).
19. 43 P.S. § 1102.3; *cf. Int'l Ass'n of Firefighters Local No. 1749 v. City of Butler*, 32 PPER ¶ 32066 (H. Ex. 2001).
20. *Walkowski v. Duquesne City Sch. Dist.*, 25 PPER ¶ 25132 (Pa. Commw. Ct. 1994); *Colonial Educ. Ass'n v. Colonial Sch. Dist.*, 25 PPER ¶ 25126 (Pa. Commw. Ct. 1994).
21. 43 P.S. § 1101.903.
22. *Cumberland Valley Sch. Dist. v. Cumberland Valley Educ. Ass'n*, 394 A.2d 946 (Pa. 1978).
23. *Wilkes-Barre Area Educ. Ass'n v. Wilkes-Barre Area Sch. Dist.*, 25 PPER ¶ 25108 (Luzerne County C.P. 1994).
24. *Cf. Fraternal Order of Police Lodge No. 5 v. City of Philadelphia*, 27 PPER ¶ 27048 (H. Ex. 1996).
25. *AFSCME Dist. Council 88 Local #790 v. Reading Sch. Dist.*, 35 PPER ¶ 35061 (H. Ex. 2004).
26. 43 P.S. § 1101.75 (with the proviso that "the payment of dues and assessments, while members, may be the only requisite employment condition"); *see also Dauphin County Tech. Sch. Educ. Ass'n v. Dauphin County Area Vo-Tech Sch. Bd.*, 398 A.2d 168 (Pa. 1978).
27. *Cf. PLRB v. Gallagher*, 3 PPER ¶ 381 (PLRB 1973).
28. *PLRB v. Warwick Area Bd. of Sch. Directors*, 3 PPER ¶ 15 (PLRB 1973).
29. *Cf. City of Philadelphia v. Fraternal Order of Police*, 30 PPER ¶ 30009 (Pa. Commw. Ct. 1998); *Wyoming Valley West ESPA v. Wyoming Valley West Sch. Dist.*, 29 PPER ¶ 29160 (H. Ex. 1998).
30. *Mifflin County Educ. Ass'n v. Mifflin County Sch. Dist.*, 21 PPER ¶ 21127 (PLRB 1990); *PLRB v. Hazleton Area Sch. Dist.*, 15 PPER ¶ 15170 (PLRB 1984) (requires two

conditions prior to finding that there has been a refusal to bargain about a change in past practice: 1) an established past practice regarding 2) a term or condition of employment upon which the employer is obligated to bargain).

31. *Buckingham Township Police Benevolent Ass'n v. Buckingham Township*, 30 PPER, ¶ 30006 (H. Ex. 1998).
32. *Cf. Dormont Borough Police Ass'n v. Dormont Borough*, 32 PPER ¶ 32100 (PLRB 2001); *Ellwood City Police Wage and Policy Unit v. Ellwood City Borough*, 36 PPER ¶ 41 (H. Ex. 2005).
33. *Riverside Educ. Ass'n v. Riverside Sch. Dist.*, 27 PPER ¶ 27118 (Lackawanna County C.P. 1996) (ruled that district must bargain the step placement regarding prior years of service to current district)
34. *PLRB v. Mars Area Sch. Dist.*, 389 A.2d 1073 (Pa. 1978).
35. *Jersey Shore Area Educ. Ass'n v. Jersey Shore Area Sch. Dist.*, 18 PPER ¶ 18117 (PLRB 1987).
36. *Chester County Intermediate Unit Educ. Ass'n v. Chester County Intermediate Unit No. #24*, 33 PPER ¶ 33189 (H. Ex. 2002) (held that district violates its duty to bargain in good faith upon refusing the union access to information that is either reasonably necessary to the presentation of a grievance or to the decision of whether to file a grievance); *UMWA, Dist. 2 v. Fayette County*, 36 PPER ¶ 72 (H. Ex. 2005).
37. 24 P.S. § 11-1106. Section 1106 of the School Code states “[e]xcept for school districts of the first class and first class A which may require residency requirements for other than professional employees, substitutes and temporary professional employees, no other school district shall require an employee reside within the school district as a condition for appointment or continued employment.”
38. 24 P.S. § 11-1161.1. Act 66, which was a 1996 amendment to the School Code, eliminated travel and terminal sabbaticals; replaced study sabbaticals with “leave of absence for professional development”; and authorized leaves of absence for “classroom occupational exchange.”
39. *Cf. AFSCME Dist. Council 33, Local 1637 v. Philadelphia Parking Auth.*, 24 PPER ¶ 24145 (H. Ex. 1993).
40. *Cf. White Rose Lodge No. 15, Fraternal Order of Police v. City of York*, 26 PPER ¶ 26217 (PLRB 1995).
41. *W. Norriton Township Police Dep't v. W. Norriton Township*, 28 PPER ¶ 28163 (PLRB 1997).
42. *Commonwealth v. PLRB*, 459 A.2d 452 (Pa. Commw. Ct. 1983).
43. *West Side Area Vo-Tech Educ. Support Personnel Ass'n v. West Side Area Vo-Tech Sch.*, 21 PPER ¶ 21199 (H. Ex. 1991).
44. 24 P.S. § 11-1166; *Clarion-Limestone Area Sch. Dist. v. PLRB*, 646 A.2d 1280 (Pa. Commw. Ct. 1994).
45. *Cf. Fraternal Order of Police v. Commonwealth Bureau of Liquor Control Enforcement*, 751 A.2d 726 (Pa. Commw. Ct. 2000).
46. *Fairview Educ. Ass'n v. Fairview Sch. Dist.*, 22 PPER ¶ 22135 (PLRB 1990).
47. *Cheltenham Educ. Ass'n v. Cheltenham Sch. Dist.*, 19 PPER ¶ 19011 (PLRB 1987).
48. *Morrisville Sch. Dist. v. PLRB*, 687 A.2d 5 (Pa. Commw. Ct. 1995); *Elizabeth Forward Sch. Dist. v. PLRB*, 23 PPER ¶ 23166 (Pa. Commw. Ct. 1992); *Midland Borough Sch. Dist. v. PLRB*, 560 A.2d 303 (Pa. Commw. Ct. 1989); *Minersville Area Sch. Dist. v. PLRB*, 475 A.2d 962 (Pa. Commw. Ct. 1984). However, an employer is not required

- to bargain subcontracting when 1) the employer ceases to provide specific services; 2) the bargaining unit does not exclusively perform the job being subcontracted out, or 3) the union has knowledge of the contracting-out proposal, an opportunity to bargain prior to the proposal's implementation, and a bargained agreement for severance pay for eliminated employees.
49. *Cf. City of Harrisburg v. PLRB*, 605 A.2d 440 (Pa. 1992); *St. Clair Educ. Ass'n v. St. Clair Area Sch. Dist.*, 584 A.2d 1106 (Pa. Commw. Ct. 1990); *Midland Educ. Ass'n v. Midland Borough Sch. Dist.*, 560 A.2d 303 (Pa. Commw. Ct. 1989), *appeal denied*, 581 A.2d 576 (Pa. 1990). However, the employer is not required to bargain this subject if 1) the work assigned was not performed by bargaining unit members or 2) it was not the employer who took the affirmative act to transfer the work.
 50. *Cumberland Valley Sch. Dist. v. PLRB*, 394 A.2d 946 (Pa. 1978).
 51. *Northwestern Sch. Serv. Personnel Ass'n v. Northwestern Sch. Dist.*, 16 PPER ¶ 16108 (H. Ex. 1985).
 52. *Cf. Aliquippa-Hopewell Fraternal Order of Police Lodge No. 26 v. City of Aliquippa*, 27 PPER ¶ 27203 (PLRB 1996).
 53. *Sch. Dist. of the Allentown v. Hotel & Restaurant Employees Int'l Union, Local No. 391*, 26 PPER ¶ 26029 (Pa. Commw. Ct. 1995); *Philadelphia Fed'n of Teachers v. Philadelphia Sch. Dist.*, 36 PPER ¶ 23 (H. Ex. 2005).
 54. 77 P.S. § 531.306; *PLRB v. State College Area Sch. Dist.*, 337 A.2d 262 (Pa. 1975); *Woodland Hills Educ. Ass'n v. Woodland Hills Sch. Dist.*, 22 PPER ¶ 24002 (Allegheny County C.P. 1992).
 55. *Abington Transp. Ass'n v. Abington Sch. Dist.*, 21 PPER ¶ 21053 (Pa. Commw. Ct. 1990) (requires evaluation of bargaining status of work rules on an issue-by-issue basis).
 56. *Mt. Lebanon Educ. Ass'n v. Mt. Lebanon Sch. Dist.*, 32 PPER ¶ 32047 (PLRB 2001). However, an employer must bargain the impact of the loss of parking spaces including alternative parking spaces. *Id.*
 57. *Monessen Educ. Ass'n v. Monessen City Sch. Dist.*, 35 PPER ¶ 35033 (H. Ex. 2004).
 58. *Pittston Area Fed'n of Teachers Local No. 1590 v. Pittston Area Sch. Dist.*, 27 PPER ¶ 27066 (PLRB 1996); *PLRB v. South Butler County Sch. Dist.*, 9 PPER ¶ 9023 (PLRB 1978), *PLRB v. Nazareth Area Educ. Ass'n*, 2 PPER ¶ 194 (PLRB 1972).
 59. *Joint Bargaining Comm. of the Pennsylvania Soc. Serv. Union v. PLRB*, 469 A.2d 150 (Pa. 1983). However, the decision was specific to employees' caseload in the special setting of the state's social service agency, and the court warned that "[i]n some [other] factual settings caseload might indeed be a mandatory subject of bargaining." *Id.* at 154.
 60. *Harbor Creek Sch. Dist. v. Harbor Creek Educ. Ass'n*, 640 A.2d 899 (Pa. 1994). *See* 24 P.S. § 11-1101 (School Code definition of the term "professional employee."); *see also* 43 P.S. § 1101.301(7) (PERA's definition of "professional employee").
 61. *Cf. AFSCME Council 13 v. PLRB*, 479 A.2d 683 (Pa. 1984).
 62. *Rochester Area Sch. Dist. v. Rochester Educ. Ass'n*, 747 A.2d 971 (Pa. Commw. Ct. 2000).
 63. *Fraternal Order of Police, Lodge No. 5 v. PLRB*, 30 PPER ¶ 30070 (Pa. Commw. Ct. 1999); *Pittston Area Fed'n of Teachers Local #1590 v. Pittston Area Sch. Dist.*, 27 PPER ¶ 27066 (PLRB 1996).

64. *PSSU Local 668 v. PLRB*, 763 A.2d 560, 563 (Pa. Commw. Ct. 2000); *Portage Area Educ. Ass'n v. Portage Area Sch. Dist.*, 29 PPER ¶ 29032 (H. Ex. 1998).
65. *PLRB v. Commonwealth*, 19 PPER 19138 (PLRB 1988).
66. *Harbor Creek Sch. Dist. v. Harbor Creek Educ. Ass'n*, 640 A.2d 899 (Pa. 1994); *Apollo-Ridge Sch. Dist. v. Apollo-Ridge Educ. Ass'n*, 799 A.2d 911, 914-15 (Pa. Commw. Ct. 2002); *PLRB v. Elizabeth Forward Sch. Dist.*, 7 PPER 179 (PLRB 1976); *APSCUF v. State System of Higher Educ. (Edinboro and West Chester State Universities)*, 35 PPER ¶ 41 (H. Ex. 2004).
67. *Cf. AFSCME, Dist. Council 88 v. Upper Gwynedd-Towamencin Mun. Auth.*, 18 PPER ¶ 18039 (H. Ex. 1987).
68. *PLRB v. Aliquippa Sch. Dist.*, 3 PPER ¶ 327 (PLRB 1973).
69. *Sayre Area Sch. Dist. v. PLRB*, 16 PPER ¶ 16200 (PLRB 1985).
70. *AFSCME, Dist. Council 13 v. Pennsylvania Dep't of Revenue*, 18 PPER ¶ 18137 (PLRB 1987).
71. *Cf. South Park Township Police Ass'n v. PLRB*, 789 A.2d 874 (Pa. Commw. Ct. 2002), *appeal denied*, 806 A.2d 864 (Pa. 2002); *Hazleton Area Educ. Ass'n v. Hazleton Area Sch. Dist.*, 28 PPER ¶ 28209 (H. Ex. 1997).
72. *Cf. Dormont Police Ass'n v. Dormont Borough*, 232 PPER ¶ 32114 (H. Ex. 2001).
73. *Cf. SEPTA v. Transport Workers Union of America*, 525 A.2d 1 (Pa. Commw. Ct. 1987).
74. *Cf. Fraternal Order of Police Lodge #9 v. City of Reading*, 27 PPER ¶ 27162 (H. Ex. 1996).
75. 53 P.S. § 895.607. As of the passage of Act 205 in 1995, an employer's decision to revise a pension plan is not subject to the employer's obligation to bargain.
76. *Exeter Township Educ. Support Pers. Ass'n v. Exeter Township Sch. Dist.*, 33 PPER ¶ 33015 (H. Ex. 2001); *Ass'n of Pennsylvania Coll. & Univ. Faculties v. State System of Higher Educ.*, 20 PPER ¶ 20111 (H. Ex. 1989); *Joint Bargaining Comm. of PSSU v. Commonwealth Dep't of Public Welfare, Office of Income Maintenance Operations*, 18 PPER ¶ 18199 (H. Ex. 1987).
77. *Cf. AFSCME Council 13 v. Pennsylvania Dep't of Transp.*, 19 PPER ¶ 19107 (PLRB 1988).
78. *Cf. Fraternal Order of Police, Capitol Police Lodge No. 85 v. Commonwealth*, 29 PPER ¶ 29178 (PLRB 1998).
79. *SEIU Local 395 v. City of Allentown*, 26 PPER ¶ 26059 (H. Ex. 1995) (applicable to school district employees other than teachers where not prescribed by statute).
80. *PLRB v. Commonwealth*, 9 PPER ¶ 9061 (PLRB 1978). For procedural elements, see *Pennsylvania State Troopers Ass'n v. PLRB*, 809 A.2d 422 (Pa. Commw. Ct. 2002). For substantive elements, see *W. Reading Borough Police Officers v. W. Reading Borough*, 29 PPER ¶ 29050 (H. Ex. 1998).
81. *Cf. Upper Mt. Bethel Township Policeman's Ass'n v. Upper Mt. Bethel Township*, 28 PPER ¶ 28017 (H. Ex. 1996).
82. *PLRB v. Dauphin County Technical Sch. Joint Operating Comm.*, 3 PPER ¶ 47 (PLRB 1973).
83. *APSCUF v. State Sys. of Higher Educ.*, 24 PPER ¶ 24070 (PLRB 1993).
84. *PLRB v. Penncrest Sch. Dist.*, 13 PPER ¶ 13240 (PLRB 1982).

85. *Chambersburg Area Sch. Dist. v. PLRB*, 430 A.2d 740 (Pa. Commw. Ct. 1981). *appeal dismissed*, 446 A.2d 603 (Pa. 1982).
86. *Cf. Wilkes-Barre Police Benevolent Ass'n v. City of Wilkes-Barre*, 29 PPER ¶ 29240 (PLRB 1998).
87. *Bangor Area Educ. Ass'n v. Bangor Area Sch. Dist.*, 33 PPER ¶ 33088 (PLRB 2002).
88. *Cf. PSSU Local 668 v. Commonwealth, Dep't of Corrections*, 29 PPER ¶ 29022 (PLRB 1997).
89. *Forest Area Sch. Serv. Personnel Ass'n v. Forest Area Sch. Dist.*, 19 PPER ¶ 19116 (PLRB 1988).
90. *Oil City Area Educ. Ass'n v. Oil City Area Sch. Dist.*, 34 PPER ¶ 31 (H. Ex. 2003).
91. *Cf. AFSCME, Council 13 v Pennsylvania Office of the Budget*, 18 PPER ¶ 18138 (PLRB 1987).
92. *Pennsylvania Dep't of Transp. v. PLRB*, 543 A.2d 1255 (Pa. 1988).
93. *Brandywine Heights Educ. Ass'n v. Brandywine Heights Sch. Dist.*, 29 PPER ¶ 29232 (PLRB 1998); *Palmyra Area Educ. Ass'n v. Palmyra Area Sch. Dist.*, 26 PPER ¶ 26087 (PLRB 1995); *Minersville Area Sch. Serv. Personnel Ass'n v. Minersville Area Sch. Dist.*, 18 PPER ¶ 18025 (PLRB 1986).
94. *Chester County Intermediate Unit Educ. Ass'n v. Chester County Intermediate Unit No. 24*, 33 PPER ¶ 33189 (H. Ex. 2002); *Pennsylvania State Corrections Officers Ass'n v. Commonwealth*, 33 PPER ¶ 33157 (H. Ex. 2002); *Greater Latrobe Educ. Ass'n v. Greater Latrobe Sch. Dist.*, 21 PPER ¶ 21177 (H. Ex. 1990).
95. 24 P.S. § 11-1166.1. In 1996, Act 66 eliminated travel and terminal sabbaticals; replaced study sabbaticals with "leave of absence for professional development"; and authorized leaves of absence for "classroom occupational exchange."

ENDNOTES

1. National Labor Relations Act, 29 U.S.C. 1982 § 151-169.
2. 43 P.S. 1101 *et. seq.* The School Code contains more recent restrictions specific to teacher strikes: 24 P.S. § 11-1101-A.
3. See also 24 P.S. § 11-1111-A (Act 88).
4. See, e.g., *PLRB v. State College Area Sch. Dist.*, 337 A.2d 262 (Pa. 1975).
5. See also 24 P.S. § 11-1112-A (Act 88).
6. See, e.g., Charles Baird, *Pennsylvania's Act 195: Twenty Years of Folly*, 10 Gov't Union Rev. 1 (1989); Kathleen Herbert, *Balancing Teachers' Collective Bargaining Rights with the Interests of School Districts, Students and Taxpayers: Current Legislation Strikes Out*, 99 Dick L. Rev. 57 (1994); *cf.* Patricia Crawford, *Pennsylvania's Bargaining Law for School Employees Act of 1992*, 45 Lab. L.J. 475 (1994) (Act 88 provisions limiting teacher strikes).
7. See, e.g., Pennsylvania State Education Association Legal Division, Act 195: Scope of Bargaining Document (July 14, 2004).
8. The cited sources, such as "A.2d" are generally available in law libraries and on Internet legal research sites with one exception: The rulings of the PLRB and its hearing examiners, along with some of the court decisions, are published in the specialized series entitled the Pennsylvania Public Employee Reporter (PPER), which is commercially available from LRP Publications.

9. The parenthetical for each citation designates the deciding forum, which in descending order is:
 - Pa. = Pennsylvania Supreme Court
 - Pa. Commw. Ct. = Pennsylvania Commonwealth Court (which is the intermediate, appellate level of the Pennsylvania judiciary)
 - C.P. = Pennsylvania Court of Common Pleas, designated by county (and which is the trial court level of the Pennsylvania judiciary)
 - PLRB = Pennsylvania Labor Relations Board
 - H. Ex. = PLRB hearing examiner
10. Act 111 43 P.S. §§ 217.1-217.10.

Direct reprint requests to:

Perry A. Zirkel
University Professor of Education and Law
111 Research Dr. – Iacocca Hall A221
Lehigh University
Bethlehem, PA 18015
e-mail: paz0@Lehigh.edu