



**PENNSYLVANIA TEACHER STRIKES**  
**Submitted Testimony of Commonwealth Foundation**  
**PENNSYLVANIA SENATE EDUCATION COMMITTEE**  
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Teacher strikes and collective bargaining have long been intertwined, with ramifications across the nation and in Pennsylvania's 500 school districts.<sup>1</sup> While collective bargaining occurs at the local school district level, state collective bargaining laws often address the legality of teacher strikes, and subsequent penalties. In Pennsylvania, broad collective bargaining and impasse negotiation procedures have resulted in constant teacher strikes, more than any other state in the nation.

**Teacher Strike Laws in Other States**

Forty-five states authorize teacher collective bargaining in state law, with varying provisions regarding bargaining impasse resolutions and striking rights. For instance, 32 states use mediation, while fact-finding procedures (21 states) and voluntary arbitration (19 states) are less common, and only three states mandate binding arbitration.

Thirty-six states prohibit teacher strikes according to state or case law. Banning teacher strikes, however, does not prevent them: [West Virginia's highly visible, statewide walkout](#) from February 22 to March 6 occurred despite [a prohibition on the practice](#). School administrators enabled this through a simple strike workaround—closing all 55 state school districts so teachers would not be penalized or lose pay for missing school days. Teachers can then make up the days throughout the year, like snow days. Further, administrators and state officials were unwilling to invoke a court injunction and impose penalties upon thousands of teachers who may have defied the injunction.

These and similar work-arounds, such as teachers taking sick days during a strike, effectively allow teacher strikes without legal penalties, loss of paid days, or the threat of not completing the state-mandated 180 school days. Ultimately, school and government officials must be willing to pursue penalties for unlawful strikes. These penalties vary by state.

Of the 36 states prohibiting teacher strikes, 18 impose penalties via state law. They range from loss of wages and benefits for each strike day, union decertification, teacher suspension or dismissal, and fines and misdemeanor charges with risk of imprisonment.

Additionally, teachers in states without statute-based penalties can face consequences via case law and injunctions. For example, a New Jersey judge in 2001 [jailed teachers](#) for violating a return-to-work order.<sup>2</sup>

Thus, even states prohibiting strikes have difficulty enforcing the law, a situation exacerbated in strike-promoting Pennsylvania.

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<sup>1</sup> Emily Workman, "State Collective Bargaining Policies for Teachers," Education Commission of the States, December 2011, <https://www.ecs.org/clearinghouse/99/78/9978.pdf>.

<sup>2</sup> Robert Hanley, "New Jersey Teachers Jailed for Continuing to Strike," The New York Times, Dec. 4, 2001, <https://www.nytimes.com/2001/12/04/nyregion/new-jersey-teachers-jailed-for-continuing-to-strike.html>.

## **Pennsylvania Law in Comparison**

Pennsylvania law not only requires teacher collective bargaining by statute but also includes generous negotiation impasse resolution measures: mediation, fact-finding, and mandated binding arbitration.<sup>3</sup> Only one other state (Alaska) requires binding arbitration and legally permits strikes in state law.

Pennsylvania teachers can strike once these impasse resolutions are exhausted. Pennsylvania is one of only **12 states** legally permitting teacher strikes.<sup>4</sup>

Though Pennsylvania is the only state granting mediation, fact-finding, binding arbitration, and striking rights, our policies still fail to mitigate contraction negotiation impasses because they fail to address the underlying issues causing labor disputes.

Union members disagreeing with teacher strikes could face repercussions, as many courts have upheld unions' right to discipline members who do not join the strike.<sup>5</sup> If a full dues-paying teacher refuses to picket, the local Pennsylvania State Education Association (PSEA) or the Pennsylvania Federation of Teachers (PFT) can penalize them, including through loss of access to union strike funds or fines levied.<sup>6</sup>

Indeed, Pennsylvania law seems to encourage rather than discourage strikes.

## **Number of Pennsylvania Teacher Strikes**

Currently, 38 school districts have expired contracts, which lapsed between 2013 and 2017. Altogether, these districts represent about **8,000 classroom teachers**<sup>7</sup> and **115,000 students**<sup>8</sup> who could be impacted by teacher strikes. Another 126 school districts will see teachers' collective bargaining agreements expire in 2018, starting on June 30.<sup>9</sup> In other words, more than 25 percent of teacher contracts are up for negotiation this year, and those teachers' unions have a right to strike in the event of an impasse.

A **Mother Jones magazine tally of teacher strikes** reports 839 teacher strikes across America between 1968 and 2012. Around 740 of those—or **88 percent**—occurred in Pennsylvania.

According to the Pennsylvania Department of Education, 131 teacher strikes took place between August 1999 and March 2018, averaging seven strikes per year and costing over 1,300 lost school days.<sup>10</sup> Based upon 2016-17 enrollment figures, those strikes impacted over an estimated 300,000 students.<sup>11</sup>

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<sup>3</sup> The parties must choose among these settlement options: final best package offer from employer/union/fact-finder (if the last exists); issue-by-issue settlement from one of the three; or one of the three offers based on considering economic and non-economic issues as "separate units."

<sup>4</sup> Milla Sanes and John Schmitt, "Regulation of Public Sector Collective Bargaining in the States," Center for Economic and Policy Research, March 2014, <http://cepr.net/documents/state-public-cb-2014-03.pdf>; these states include Alaska, California, Colorado, Hawaii, Illinois, Louisiana, Minnesota, Montana, Ohio, Oregon, Pennsylvania, and Vermont.

<sup>5</sup> "What If I Want to Work During a Strike?" National Right to Work Legal Defense Foundation, <http://www.nrtw.org/work-during-strike-teacher/>.

<sup>6</sup> Teachers who are fair share fee payers are not required to participate in any union actions.

<sup>7</sup> Pennsylvania Department of Education, "2016-17 Professional Staff Summary Report," Revised July 31, 2017, <http://www.education.pa.gov/Data-and-Statistics/Pages/Professional-and-Support-Personnel.aspx>.

<sup>8</sup> Pennsylvania Department of Education, "Public School Enrollments, 2016-2017," October 1, 2016, <http://www.education.pa.gov/Data-and-Statistics/Pages/Enrollment%20Reports%20and%20Projections.aspx>.

<sup>9</sup> Total calculated from Right-to-Know responses to requests for school district collective bargaining agreements. <sup>10</sup> Response to Right-to-Know request from Pennsylvania Department of Education, March 22, 2018.

<sup>11</sup> Pennsylvania Department of Education, "Public School Enrollments, 2016-2017," October 1, 2016, <http://www.education.pa.gov/Data-and-Statistics/Pages/Enrollment%20Reports%20and%20Projections.aspx>.

## **The Negative Impact of Teacher Strikes**

The potential for strikes and missed school days impacts families across the commonwealth. Pittsburgh's [looming teacher strike](#) in February would have left over 22,000 students out of school, making parents scrambling to provide childcare coverage. Further, independent research has repeatedly shown that time out of school disproportionately hurts low-income students' academic progress<sup>12</sup> as well as workers who cannot afford to miss work.

Evidence does not show a correlation between collective bargaining or striking rights and better teacher pay. [New research shows](#) that requiring teacher collective bargaining does not improve teacher pay or increase education funding. Rather, states requiring collective bargaining already had higher teacher salaries and per-pupil spending *before* collective bargaining was mandated.<sup>13</sup> Further, average teacher salary, when adjusted for cost of living, [is not consistently higher](#) in states legally permitting strikes.<sup>14</sup>

## **Solutions and Recommendations**

### *Contract Transparency*

Giving both rank-and-file teachers and the public more transparency with regard to contract negotiations, and specifically proposed contracts, would help alleviate teacher strikes.

Teachers who belong to unions have limited input in the collective bargaining process. Union leaders and school board officials meet in closed-door meetings, with minimal negotiation updates provided to members and even less solicitation for input from the very workers bound by these contracts. When negotiations break down, teachers are then called to action, still without a seat at the negotiation table.

That's why it is imperative that Pennsylvania [make public school contract negotiations completely transparent from beginning to end](#), so taxpayers—and teachers—learn what offers are on the table *before* the bill comes due.

Three Senate bills awaiting a full Senate vote already exist to bring transparency to the collective bargaining process:

- SB 168—Requires all levels of government (including school districts) to publicize proposed collective bargaining agreements before they go into effect. Similar legislation passed the Senate last session.
- SB 503—Subjects contract negotiations to Pennsylvania's [Sunshine Act](#).
- SB 504—Makes proposed contracts subject to the state's Right-to-Know law.

### *Collective Bargaining Reforms*

Reforming the collective bargaining process would allow Pennsylvania officials to more adequately meet teachers' and students' needs.

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<sup>12</sup> Beth Akers and Matthew Chingos, "Poor Students Can't Afford Teacher Strike," Brookings Institute, September 10, 2012, <https://www.brookings.edu/blog/up-front/2012/09/10/poor-students-cant-afford-teacher-strike/>; Rob Manning, "Missing School Drags Down Student Achievement, Research Finds," Oregon Public Broadcasting, November 29, 2012, <https://www.opb.org/news/series/classof2025/attendance-achievement-high-risk-students-oregon/>

<sup>13</sup> Agustina S. Paglayan, "Public-Sector Unions and the Size of Government," American Journal of Political Science, March 19, 2018, [https://docs.wixstatic.com/ugd/a763a0\\_88184d4d09d64d65ad89b2cefbcf9913.pdf](https://docs.wixstatic.com/ugd/a763a0_88184d4d09d64d65ad89b2cefbcf9913.pdf).

<sup>14</sup> Cory Turner, "The Fight Over Teacher Salaries: A Look at the Numbers," NPR, March 16, 2018, <https://www.npr.org/sections/ed/2018/03/16/592221378/the-fight-over-teacher-salaries-a-look-at-the-numbers>.

For instance, limiting the parameters of collective bargaining agreements would give local elected officials more control over their costs and the ability to direct more dollars to instruction. Wisconsin reforms from 2012 led to [billions of dollars in savings for state and local government](#). Giving school and municipal officials the power to find the most affordable health coverage plan for employees, instead of requiring the issue to be addressed only in labor negotiations, could save Pennsylvania taxpayers millions in additional costs and could prevent teacher strikes.

### *Strike Reform*

Pennsylvania does not have meaningful consequences for teacher strikes, particularly compared to other states. As a result, the state leads in teacher strikes that often disrupt education and local communities. Taking measures to discourage strikes, promote negotiation resolutions at an earlier stage, and encourage earlier participation of teachers will enhance negotiations—ultimately resulting in a better education experience for students, teachers, and communities.