

AN ACT concerning education, which may be referred to as the Chicago Education Reform Act of 2003.

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

Section 5. The School Code is amended by changing Sections 27A-4, 27A-5, 27A-6, 27A-10, 34-8.1, and 34-18 and adding Section 34-3.5 as follows:

(105 ILCS 5/27A-4)

Sec. 27A-4. General Provisions.

(a) The General Assembly does not intend to alter or amend the provisions of any court-ordered desegregation plan in effect for any school district. A charter school shall be subject to all federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, or need for special education services.

(b) The total number of charter schools operating under this Article at any one time shall not exceed 60 45. Not more than 30 15 charter schools shall operate at any one time in any city having a population exceeding 500,000; not more than 15 charter schools shall operate at any one time in the counties of DuPage, Kane, Lake, McHenry, Will, and that portion of Cook County that is located outside a city having a population exceeding 500,000, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located; and not more than 15 charter schools shall operate at any one time in the remainder of the State, with not more than one charter

school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located.

For purposes of implementing this Section, the State Board shall assign a number to each charter submission it receives under Section 27A-6 for its review and certification, based on the chronological order in which the submission is received by it. The State Board shall promptly notify local school boards when the maximum numbers of certified charter schools authorized to operate have been reached.

(c) No charter shall be granted under this Article that would convert any existing private, parochial, or non-public school to a charter school.

(d) Enrollment in a charter school shall be open to any pupil who resides within the geographic boundaries of the area served by the local school board.

(e) Nothing in this Article shall prevent 2 or more local school boards from jointly issuing a charter to a single shared charter school, provided that all of the provisions of this Article are met as to those local school boards.

(f) No local school board shall require any employee of the school district to be employed in a charter school.

(g) No local school board shall require any pupil residing within the geographic boundary of its district to enroll in a charter school.

(h) If there are more eligible applicants for enrollment in a charter school than there are spaces available, successful applicants shall be selected by lottery. However, priority shall be given to siblings of pupils enrolled in the charter school and to pupils who were enrolled in the charter school the previous school year, unless expelled for cause.

Dual enrollment at both a charter school and a public school or non-public school shall not be allowed. A pupil who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the public schools of the school district in which the pupil resides.

(i) (Blank).

(j) Notwithstanding any other provision of law to the contrary, a school district in a city having a population exceeding 500,000 shall not have a duty to collectively bargain with an exclusive representative of its employees over decisions to grant or deny a charter school proposal under Section 27A-8 of this Code, decisions to renew or revoke a charter under Section 27A-9 of this Code, and the impact of these decisions, provided that nothing in this Section shall have the effect of negating, abrogating, replacing, reducing, diminishing, or limiting in any way employee rights, guarantees, or privileges granted in Sections 2, 3, 7, 8, 10, 14, and 15 of the Illinois Educational Labor Relations Act.

(Source: P.A. 91-357, eff. 7-29-99; 91-405, eff. 8-3-99; 91-407, eff. 8-3-99; 92-16, eff. 6-28-01.)

(105 ILCS 5/27A-5)

Sec. 27A-5. Charter school; legal entity; requirements.

(a) A charter school shall be a public, nonsectarian, nonreligious, non-home based, and non-profit school. A charter school shall be organized and operated as a nonprofit corporation or other discrete, legal, nonprofit entity authorized under the laws of the State of Illinois.

(b) A charter school may be established under this Article by creating a new school or by converting an existing public school or attendance center to charter school status.

Beginning on the effective date of this amendatory Act of the 93rd General Assembly, in all new applications submitted

to the State Board or a local school board to establish a charter school in a city having a population exceeding 500,000, operation of the charter school shall be limited to one campus. The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to charter schools existing or approved on or before the effective date of this amendatory Act.

(c) A charter school shall be administered and governed by its board of directors or other governing body in the manner provided in its charter. The governing body of a charter school shall be subject to the Freedom of Information Act and the Open Meetings Act.

(d) A charter school shall comply with all applicable health and safety requirements applicable to public schools under the laws of the State of Illinois.

(e) Except as otherwise provided in the School Code, a charter school shall not charge tuition; provided that a charter school may charge reasonable fees for textbooks, instructional materials, and student activities.

(f) A charter school shall be responsible for the management and operation of its fiscal affairs including, but not limited to, the preparation of its budget. An audit of each charter school's finances shall be conducted annually by an outside, independent contractor retained by the charter school.

(g) A charter school shall comply with all provisions of this Article and its charter. A charter school is exempt from all other State laws and regulations in the School Code governing public schools and local school board policies, except the following:

(1) Sections 10-21.9 and 34-18.5 of the School Code regarding criminal background investigations of applicants for employment;

(2) Sections 24-24 and 34-84A of the School Code

regarding discipline of students;

(3) The Local Governmental and Governmental Employees Tort Immunity Act;

(4) Section 108.75 of the General Not For Profit Corporation Act of 1986 regarding indemnification of officers, directors, employees, and agents;

(5) The Abused and Neglected Child Reporting Act;

(6) The Illinois School Student Records Act; and

(7) Section 10-17a of the School Code regarding school report cards.

(h) A charter school may negotiate and contract with a school district, the governing body of a State college or university or public community college, or any other public or for-profit or nonprofit private entity for: (i) the use of a school building and grounds or any other real property or facilities that the charter school desires to use or convert for use as a charter school site, (ii) the operation and maintenance thereof, and (iii) the provision of any service, activity, or undertaking that the charter school is required to perform in order to carry out the terms of its charter. However, a charter school that is established on or after the effective date of this amendatory Act of the 93rd General Assembly and that operates in a city having a population exceeding 500,000 may not contract with a for-profit entity to manage or operate the school during the period that commences on the effective date of this amendatory Act of the 93rd General Assembly and concludes at the end of the 2004-2005 school year. Except as provided in subsection (i) of this Section, a school district may charge a charter school reasonable rent for the use of the district's buildings, grounds, and facilities. Any services for which a charter school contracts with a school district shall be provided by the district at cost. Any services for which a charter school contracts with a local school board or with

the governing body of a State college or university or public community college shall be provided by the public entity at cost.

(i) In no event shall a charter school that is established by converting an existing school or attendance center to charter school status be required to pay rent for space that is deemed available, as negotiated and provided in the charter agreement, in school district facilities. However, all other costs for the operation and maintenance of school district facilities that are used by the charter school shall be subject to negotiation between the charter school and the local school board and shall be set forth in the charter.

(j) A charter school may limit student enrollment by age or grade level.

(Source: P.A. 91-407, eff. 8-3-99.)

(105 ILCS 5/27A-6)

Sec. 27A-6. Contract contents; applicability of laws and regulations.

(a) A certified charter shall constitute a binding contract and agreement between the charter school and a local school board under the terms of which the local school board authorizes the governing body of the charter school to operate the charter school on the terms specified in the contract.

(b) Notwithstanding any other provision of this Article, the certified charter may not waive or release the charter school from the State goals, standards, and assessments established pursuant to Section 2-3.64. Beginning with the 2003-2004 school year, the certified charter for a charter school operating in a city having a population exceeding 500,000 shall require the charter school to administer any other nationally recognized standardized tests to its

students that the chartering entity administers to other students, and the results on such tests shall be included in the chartering entity's assessment reports.

(c) Subject to the provisions of subsection (e), a material revision to a previously certified contract or a renewal shall be made with the approval of both the local school board and the governing body of the charter school.

(c-5) The proposed contract shall include a provision on how both parties will address minor violations of the contract.

(d) The proposed contract between the governing body of a proposed charter school and the local school board as described in Section 27A-7 must be submitted to and certified by the State Board before it can take effect. If the State Board recommends that the proposed contract be modified for consistency with this Article before it can be certified, the modifications must be consented to by both the governing body of the charter school and the local school board, and resubmitted to the State Board for its certification. If the proposed contract is resubmitted in a form that is not consistent with this Article, the State Board may refuse to certify the charter.

The State Board shall assign a number to each submission or resubmission in chronological order of receipt, and shall determine whether the proposed contract is consistent with the provisions of this Article. If the proposed contract complies, the State Board shall so certify.

(e) No material revision to a previously certified contract or a renewal shall be effective unless and until the State Board certifies that the revision or renewal is consistent with the provisions of this Article.

(Source: P.A. 91-407, eff. 8-3-99.)

Sec. 27A-10. Employees.

(a) A person shall be deemed to be employed by a charter school unless a collective bargaining agreement or the charter school contract otherwise provides.

(b) In all school districts, including special charter districts and districts located in cities having a population exceeding 500,000, the local school board shall determine by policy or by negotiated agreement, if one exists, the employment status of any school district employees who are employed by a charter school and who seek to return to employment in the public schools of the district. Each local school board shall grant, for a period of up to 5 years, a leave of absence to those of its teachers who accept employment with a charter school. At the end of the authorized leave of absence, the teacher must return to the school district or resign; provided, however, that if the teacher chooses to return to the school district, the teacher must be assigned to a position which requires the teacher's certification and legal qualifications. The contractual continued service status and retirement benefits of a teacher of the district who is granted a leave of absence to accept employment with a charter school shall not be affected by that leave of absence.

(c) Charter schools shall employ in instructional positions, as defined in the charter, individuals who are certificated under Article 21 of this the-School Code or who possess the following qualifications:

(i) graduated with a bachelor's degree from an accredited institution of higher learning;

(ii) been employed for a period of at least 5 years in an area requiring application of the individual's education;

(iii) passed the tests of basic skills and subject matter knowledge required by Section 21-1a of the School

Code; and

(iv) demonstrate continuing evidence of professional growth which shall include, but not be limited to, successful teaching experience, attendance at professional meetings, membership in professional organizations, additional credits earned at institutions of higher learning, travel specifically for educational purposes, and reading of professional books and periodicals.

Charter schools employing individuals without certification in instructional positions shall provide such mentoring, training, and staff development for those individuals as the charter schools determine necessary for satisfactory performance in the classroom.

Beginning with the 2006-2007 school year, at least 50% of the individuals employed in instructional positions by a charter school that is operating in a city having a population exceeding 500,000 and that is established on or after the effective date of this amendatory Act of the 93rd General Assembly shall hold teaching certificates issued under Article 21 of this Code.

Beginning with the 2006-2007 school year, at least 75% of the individuals employed in instructional positions by a charter school that is operating in a city having a population exceeding 500,000 and that is established before the effective date of this amendatory Act of the 93rd General Assembly shall hold teaching certificates issued under Article 21 of this Code.

Charter schools operating in a city having a population exceeding 500,000 are exempt from any annual cap on new participants in an alternative certification program. The second and third phases of the alternative certification program may be conducted and completed at the charter school, and the alternative teaching certificate is valid for 4 years

or the length of the charter (or any extension of the charter), whichever is longer.

Notwithstanding any other provisions of the School Code, charter schools may employ non-certificated staff in all other positions.

(d) A teacher at a charter school may resign his or her position only if the teacher gives notice of resignation to the charter school's governing body at least 60 days before the end of the school term, and the resignation must take effect immediately upon the end of the school term.

(Source: P.A. 89-450, eff. 4-10-96.)

(105 ILCS 5/34-3.5 new)

Sec. 34-3.5. Partnership agreement on advancing student achievement; No Child Left Behind Act of 2001.

(a) The General Assembly finds that the Chicago Teachers Union, the Chicago Board of Education, and the district's chief executive officer have a common responsibility beyond their statutory collective bargaining relationship to institute purposeful education reforms in the Chicago Public Schools that maximize the number of students in the Chicago Public Schools who reach or exceed proficiency with regard to State academic standards and assessments. The General Assembly further finds that education reform in the Chicago Public Schools must be premised on a commitment by all stakeholders to redefine relationships, develop, implement, and evaluate programs, seek new and additional resources, improve the value of educational programs to students, accelerate the quality of teacher training, improve instructional excellence, and develop and implement strategies to comply with the federal No Child Left Behind Act of 2001 (Public Law 107-110).

The Chicago Board of Education and the district's chief executive officer shall enter into a partnership agreement

with the Chicago Teachers Union to allow the parties to work together to advance the Chicago Public Schools to the next level of education reform. This agreement must be entered into and take effect within 90 days after the effective date of this amendatory Act of the 93rd General Assembly. As part of this agreement, the Chicago Teachers Union, the Chicago Board of Education, and the district's chief executive officer shall jointly file a report with the General Assembly at the end of each school year with respect to the nature of the reforms that the parties have instituted, the effect of these reforms on student achievement, and any other matters that the parties deem relevant to evaluating the effectiveness of the agreement.

(b) Decisions concerning matters of inherent managerial policy necessary to comply with the federal No Child Left Behind Act of 2001 (Public Law 107-110), including such areas of discretion or policy as the functions of the employer, the standards and delivery of educational services and programs, the district's overall budget, the district's organizational structure, student assignment, school choice, and the selection of new employees and direction of employees, and the impact of these decisions on individual employees or the bargaining unit shall be permissive subjects of bargaining between the educational employer and the exclusive bargaining representative and are within the sole discretion of the educational employer to decide to bargain. This subsection (b) is exclusive of the parties' obligations and responsibilities under Section 4.5 of the Illinois Educational Labor Relations Act (provided that any dispute or impasse that may arise under this subsection (b) shall be resolved exclusively as set forth in subsection (b) of Section 12 of the Illinois Educational Labor Relations Act in lieu of a strike under Section 13 of the Illinois Educational Labor Relations Act).

(105 ILCS 5/34-8.1) (from Ch. 122, par. 34-8.1)

Sec. 34-8.1. Principals. Principals shall be employed to supervise the operation of each attendance center. Their powers and duties shall include but not be limited to the authority (i) to direct, supervise, evaluate, and suspend with or without pay or otherwise discipline all teachers, assistant principals, and other employees assigned to the attendance center in accordance with board rules and policies and (ii) to direct all other persons assigned to the attendance center pursuant to a contract with a third party to provide services to the school system. The right to employ, discharge, and layoff shall be vested solely with the board, provided that decisions to discharge or suspend non-certified employees, including disciplinary layoffs, and the termination of certified employees from employment pursuant to a layoff or reassignment policy are subject to review under the grievance resolution procedure adopted pursuant to subsection (c) of Section 10 of the Illinois Educational Labor Relations Act. The grievance resolution procedure adopted by the board shall provide for final and binding arbitration, and, notwithstanding any other provision of law to the contrary, the arbitrator's decision may include all make-whole relief, including without limitation reinstatement. The principal shall fill positions by appointment as provided in this Section and may make recommendations to the board regarding the employment, discharge, or layoff of any individual. The authority of the principal shall include the authority to direct the hours during which the attendance center shall be open and available for use provided the use complies with board rules and policies, to determine when and what operations shall be conducted within those hours, and to schedule staff within those hours. Under the direction of, and subject to the authority of the principal, the Engineer In Charge shall be

accountable for the safe, economical operation of the plant and grounds and shall also be responsible for orientation, training, and supervising the work of Engineers, Trainees, school maintenance assistants, custodial workers and other plant operation employees under his or her direction.

There shall be established by the board a system of semi-annual evaluations conducted by the principal as to performance of the engineer in charge. Nothing in this Section shall prevent the principal from conducting additional evaluations. An overall numerical rating shall be given by the principal based on the evaluation conducted by the principal. An unsatisfactory numerical rating shall result in disciplinary action, which may include, without limitation and in the judgment of the principal, loss of promotion or bidding procedure, reprimand, suspension with or without pay, or recommended dismissal. The board shall establish procedures for conducting the evaluation and reporting the results to the engineer in charge.

Under the direction of, and subject to the authority of, the principal, the Food Service Manager is responsible at all times for the proper operation and maintenance of the lunch room to which he is assigned and shall also be responsible for the orientation, training, and supervising the work of cooks, bakers, porters, and lunchroom attendants under his or her direction.

There shall be established by the Board a system of semi-annual evaluations conducted by the principal as to the performance of the food service manager. Nothing in this Section shall prevent the principal from conducting additional evaluations. An overall numerical rating shall be given by the principal based on the evaluation conducted by the principal. An unsatisfactory numerical rating shall result in disciplinary action which may include, without limitation and in the judgment of the principal, loss of

promotion or bidding procedure, reprimand, suspension with or without pay, or recommended dismissal. The board shall establish rules for conducting the evaluation and reporting the results to the food service manager.

Nothing in this Section shall be interpreted to require the employment or assignment of an Engineer-In-Charge or a Food Service Manager for each attendance center.

Principals shall be employed to supervise the educational operation of each attendance center. If a principal is absent due to extended illness or leave or absence, an assistant principal may be assigned as acting principal for a period not to exceed 100 school days. Each principal shall assume administrative responsibility and instructional leadership, in accordance with reasonable rules and regulations of the board, for the planning, operation and evaluation of the educational program of the attendance center to which he is assigned. The principal shall submit recommendations to the general superintendent concerning the appointment, dismissal, retention, promotion, and assignment of all personnel assigned to the attendance center; provided, that from and after September 1, 1989: (i) if any vacancy occurs in a position at the attendance center or if an additional or new position is created at the attendance center, that position shall be filled by appointment made by the principal in accordance with procedures established and provided by the Board whenever the majority of the duties included in that position are to be performed at the attendance center which is under the principal's supervision, and each such appointment so made by the principal shall be made and based upon merit and ability to perform in that position without regard to seniority or length of service, provided, that such appointments shall be subject to the Board's desegregation obligations, including but not limited to the Consent Decree and Desegregation Plan in U.S. v. Chicago Board of Education;

(ii) the principal shall submit recommendations based upon merit and ability to perform in the particular position, without regard to seniority or length of service, to the general superintendent concerning the appointment of any teacher, teacher aide, counselor, clerk, hall guard, security guard and any other personnel which is to be made by the general superintendent whenever less than a majority of the duties of that teacher, teacher aide, counselor, clerk, hall guard, and security guard and any other personnel are to be performed at the attendance center which is under the principal's supervision; and (iii) subject to law and the applicable collective bargaining agreements, the authority and responsibilities of a principal with respect to the evaluation of all teachers and other personnel assigned to an attendance center shall commence immediately upon his or her appointment as principal of the attendance center, without regard to the length of time that he or she has been the principal of that attendance center.

Notwithstanding the existence of any other law of this State, nothing in this Act shall prevent the board from entering into a contract with a third party for services currently performed by any employee or bargaining unit member.

Notwithstanding any other provision of this Article, each principal may approve contracts, binding on the board, in the amount of no more than \$10,000, if the contract is endorsed by the Local School Council.

Unless otherwise prohibited by law or by rule of the board, the principal shall provide to local school council members copies of all internal audits and any other pertinent information generated by any audits or reviews of the programs and operation of the attendance center.

Each principal shall hold a valid administrative certificate issued or exchanged in accordance with Article 21

and endorsed as required by that Article for the position of principal. The board may establish or impose academic, educational, examination, and experience requirements and criteria that are in addition to those established and required by Article 21 for issuance of a valid certificate endorsed for the position of principal as a condition of the nomination, selection, appointment, employment, or continued employment of a person as principal of any attendance center, or as a condition of the renewal of any principal's performance contract.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 and, upon approval of the plan by the local school council, shall be responsible for directing implementation of the plan. The principal, with the assistance of the Professional Personnel Advisory Committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers

are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

On or before October 1, 1989, the Board of Education, in consultation with any professional organization representing principals in the district, shall promulgate rules and implement a lottery for the purpose of determining whether a principal's existing performance contract (including the performance contract applicable to any principal's position in which a vacancy then exists) expires on June 30, 1990 or on June 30, 1991, and whether the ensuing 4 year performance contract begins on July 1, 1990 or July 1, 1991. The Board of Education shall establish and conduct the lottery in such manner that of all the performance contracts of principals (including the performance contracts applicable to all principal positions in which a vacancy then exists), 50% of such contracts shall expire on June 30, 1990, and 50% shall expire on June 30, 1991. All persons serving as principal on May 1, 1989, and all persons appointed as principal after May 1, 1989 and prior to July 1, 1990 or July 1, 1991, in a manner other than as provided by Section 34-2.3, shall be deemed by operation of law to be serving under a performance contract which expires on June 30, 1990 or June 30, 1991; and unless such performance contract of any such principal is renewed (or such person is again appointed to serve as principal) in the manner provided by Section 34-2.2 or 34-2.3, the employment of such person as principal shall terminate on June 30, 1990 or June 30, 1991.

Commencing on July 1, 1990, or on July 1, 1991, and thereafter, the principal of each attendance center shall be the person selected in the manner provided by Section 34-2.3 to serve as principal of that attendance center under a 4 year performance contract. All performance contracts of principals expiring after July 1, 1990, or July 1, 1991,

shall commence on the date specified in the contract, and the renewal of their performance contracts and the appointment of principals when their performance contracts are not renewed shall be governed by Sections 34-2.2 and 34-2.3. Whenever a vacancy in the office of a principal occurs for any reason, the vacancy shall be filled by the selection of a new principal to serve under a 4 year performance contract in the manner provided by Section 34-2.3.

The board of education shall develop and prepare, in consultation with the organization representing principals, a performance contract for use at all attendance centers, and shall furnish the same to each local school council. The term of the performance contract shall be 4 years, unless the principal is retained by the decision of a hearing officer pursuant to subdivision 1.5 of Section 34-2.3, in which case the contract shall be extended for 2 years. The performance contract of each principal shall consist of the uniform performance contract, as developed or from time to time modified by the board, and such additional criteria as are established by a local school council pursuant to Section 34-2.3 for the performance contract of its principal.

During the term of his or her performance contract, a principal may be removed only as provided for in the performance contract except for cause. He or she shall also be obliged to follow the rules of the board of education concerning conduct and efficiency.

In the event the performance contract of a principal is not renewed or a principal is not reappointed as principal under a new performance contract, or in the event a principal is appointed to any position of superintendent or higher position, or voluntarily resigns his position of principal, his or her employment as a principal shall terminate and such former principal shall not be reinstated to the position from which he or she was promoted to principal, except that he or

she, if otherwise qualified and certified in accordance with Article 21, shall be placed by the board on appropriate eligibility lists which it prepares for use in the filling of vacant or additional or newly created positions for teachers. The principal's total years of service to the board as both a teacher and a principal, or in other professional capacities, shall be used in calculating years of experience for purposes of being selected as a teacher into new, additional or vacant positions.

In the event the performance contract of a principal is not renewed or a principal is not reappointed as principal under a new performance contract, such principal shall be eligible to continue to receive his or her previously provided level of health insurance benefits for a period of 90 days following the non-renewal of the contract at no expense to the principal, provided that such principal has not retired.

(Source: P.A. 91-622, eff. 8-19-99; 91-728, eff. 6-2-00.)

(105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

Sec. 34-18. Powers of the board. The board shall exercise general supervision and jurisdiction over the public education and the public school system of the city, and, except as otherwise provided by this Article, shall have power:

1. To make suitable provision for the establishment and maintenance throughout the year or for such portion thereof as it may direct, not less than 9 months, of schools of all grades and kinds, including normal schools, high schools, night schools, schools for defectives and delinquents, parental and truant schools, schools for the blind, the deaf and the crippled, schools or classes in manual training, constructural and vocational teaching, domestic arts and physical culture,

vocation and extension schools and lecture courses, and all other educational courses and facilities, including establishing, equipping, maintaining and operating playgrounds and recreational programs, when such programs are conducted in, adjacent to, or connected with any public school under the general supervision and jurisdiction of the board; provided, however, that in allocating funds from year to year for the operation of all attendance centers within the district, the board shall ensure that supplemental general State aid funds are allocated and applied in accordance with Section 18-8 or 18-8.05. To admit to such schools without charge foreign exchange students who are participants in an organized exchange student program which is authorized by the board. The board shall permit all students to enroll in apprenticeship programs in trade schools operated by the board, whether those programs are union-sponsored or not. No student shall be refused admission into or be excluded from any course of instruction offered in the common schools by reason of that student's sex. No student shall be denied equal access to physical education and interscholastic athletic programs supported from school district funds or denied participation in comparable physical education and athletic programs solely by reason of the student's sex. Equal access to programs supported from school district funds and comparable programs will be defined in rules promulgated by the State Board of Education in consultation with the Illinois High School Association. Notwithstanding any other provision of this Article, neither the board of education nor any local school council or other school official shall recommend that children with disabilities be placed into regular education classrooms unless those children with disabilities are provided with

supplementary services to assist them so that they benefit from the regular classroom instruction and are included on the teacher's regular education class register;

2. To furnish lunches to pupils, to make a reasonable charge therefor, and to use school funds for the payment of such expenses as the board may determine are necessary in conducting the school lunch program;

3. To co-operate with the circuit court;

4. To make arrangements with the public or quasi-public libraries and museums for the use of their facilities by teachers and pupils of the public schools;

5. To employ dentists and prescribe their duties for the purpose of treating the pupils in the schools, but accepting such treatment shall be optional with parents or guardians;

6. To grant the use of assembly halls and classrooms when not otherwise needed, including light, heat, and attendants, for free public lectures, concerts, and other educational and social interests, free of charge, under such provisions and control as the principal of the affected attendance center may prescribe;

7. To apportion the pupils to the several schools; provided that no pupil shall be excluded from or segregated in any such school on account of his color, race, sex, or nationality. The board shall take into consideration the prevention of segregation and the elimination of separation of children in public schools because of color, race, sex, or nationality. Except that children may be committed to or attend parental and social adjustment schools established and maintained either for boys or girls only. All records pertaining to the creation, alteration or revision of attendance areas

shall be open to the public. Nothing herein shall limit the board's authority to establish multi-area attendance centers or other student assignment systems for desegregation purposes or otherwise, and to apportion the pupils to the several schools. Furthermore, beginning in school year 1994-95, pursuant to a board plan adopted by October 1, 1993, the board shall offer, commencing on a phased-in basis, the opportunity for families within the school district to apply for enrollment of their children in any attendance center within the school district which does not have selective admission requirements approved by the board. The appropriate geographical area in which such open enrollment may be exercised shall be determined by the board of education. Such children may be admitted to any such attendance center on a space available basis after all children residing within such attendance center's area have been accommodated. If the number of applicants from outside the attendance area exceed the space available, then successful applicants shall be selected by lottery. The board of education's open enrollment plan must include provisions that allow low income students to have access to transportation needed to exercise school choice. Open enrollment shall be in compliance with the provisions of the Consent Decree and Desegregation Plan cited in Section 34-1.01;

8. To approve programs and policies for providing transportation services to students. Nothing herein shall be construed to permit or empower the State Board of Education to order, mandate, or require busing or other transportation of pupils for the purpose of achieving racial balance in any school;

9. Subject to the limitations in this Article, to establish and approve system-wide curriculum objectives and standards, including graduation standards, which

reflect the multi-cultural diversity in the city and are consistent with State law, provided that for all purposes of this Article courses or proficiency in American Sign Language shall be deemed to constitute courses or proficiency in a foreign language; and to employ principals and teachers, appointed as provided in this Article, and fix their compensation. The board shall prepare such reports related to minimal competency testing as may be requested by the State Board of Education, and in addition shall monitor and approve special education and bilingual education programs and policies within the district to assure that appropriate services are provided in accordance with applicable State and federal laws to children requiring services and education in those areas;

10. To employ non-teaching personnel or utilize volunteer personnel for: (i) non-teaching duties not requiring instructional judgment or evaluation of pupils, including library duties; and (ii) supervising study halls, long distance teaching reception areas used incident to instructional programs transmitted by electronic media such as computers, video, and audio, detention and discipline areas, and school-sponsored extracurricular activities. The board may further utilize volunteer non-certificated personnel or employ non-certificated personnel to assist in the instruction of pupils under the immediate supervision of a teacher holding a valid certificate, directly engaged in teaching subject matter or conducting activities; provided that the teacher shall be continuously aware of the non-certificated persons' activities and shall be able to control or modify them. The general superintendent shall determine qualifications of such personnel and shall prescribe rules for determining the duties and activities

to be assigned to such personnel;

10.5. To utilize volunteer personnel from a regional School Crisis Assistance Team (S.C.A.T.), created as part of the Safe to Learn Program established pursuant to Section 25 of the Illinois Violence Prevention Act of 1995, to provide assistance to schools in times of violence or other traumatic incidents within a school community by providing crisis intervention services to lessen the effects of emotional trauma on individuals and the community; the School Crisis Assistance Team Steering Committee shall determine the qualifications for volunteers;

11. To provide television studio facilities in not to exceed one school building and to provide programs for educational purposes, provided, however, that the board shall not construct, acquire, operate, or maintain a television transmitter; to grant the use of its studio facilities to a licensed television station located in the school district; and to maintain and operate not to exceed one school radio transmitting station and provide programs for educational purposes;

12. To offer, if deemed appropriate, outdoor education courses, including field trips within the State of Illinois, or adjacent states, and to use school educational funds for the expense of the said outdoor educational programs, whether within the school district or not;

13. During that period of the calendar year not embraced within the regular school term, to provide and conduct courses in subject matters normally embraced in the program of the schools during the regular school term and to give regular school credit for satisfactory completion by the student of such courses as may be approved for credit by the State Board of Education;

14. To insure against any loss or liability of the board, the former School Board Nominating Commission, Local School Councils, the Chicago Schools Academic Accountability Council, or the former Subdistrict Councils or of any member, officer, agent or employee thereof, resulting from alleged violations of civil rights arising from incidents occurring on or after September 5, 1967 or from the wrongful or negligent act or omission of any such person whether occurring within or without the school premises, provided the officer, agent or employee was, at the time of the alleged violation of civil rights or wrongful act or omission, acting within the scope of his employment or under direction of the board, the former School Board Nominating Commission, the Chicago Schools Academic Accountability Council, Local School Councils, or the former Subdistrict Councils; and to provide for or participate in insurance plans for its officers and employees, including but not limited to retirement annuities, medical, surgical and hospitalization benefits in such types and amounts as may be determined by the board; provided, however, that the board shall contract for such insurance only with an insurance company authorized to do business in this State. Such insurance may include provision for employees who rely on treatment by prayer or spiritual means alone for healing, in accordance with the tenets and practice of a recognized religious denomination;

15. To contract with the corporate authorities of any municipality or the county board of any county, as the case may be, to provide for the regulation of traffic in parking areas of property used for school purposes, in such manner as is provided by Section 11-209 of The Illinois Vehicle Code, approved September 29, 1969, as

amended;

16. (a) To provide, on an equal basis, access to a high school campus and student directory information to the official recruiting representatives of the armed forces of Illinois and the United States for the purposes of informing students of the educational and career opportunities available in the military if the board has provided such access to persons or groups whose purpose is to acquaint students with educational or occupational opportunities available to them. The board is not required to give greater notice regarding the right of access to recruiting representatives than is given to other persons and groups. In this paragraph 16, "directory information" means a high school student's name, address, and telephone number.

(b) If a student or his or her parent or guardian submits a signed, written request to the high school before the end of the student's sophomore year (or if the student is a transfer student, by another time set by the high school) that indicates that the student or his or her parent or guardian does not want the student's directory information to be provided to official recruiting representatives under subsection (a) of this Section, the high school may not provide access to the student's directory information to these recruiting representatives. The high school shall notify its students and their parents or guardians of the provisions of this subsection (b).

(c) A high school may require official recruiting representatives of the armed forces of Illinois and the United States to pay a fee for copying and mailing a student's directory information in an amount that is not more than the actual costs incurred by the high school.

(d) Information received by an official recruiting

representative under this Section may be used only to provide information to students concerning educational and career opportunities available in the military and may not be released to a person who is not involved in recruiting students for the armed forces of Illinois or the United States;

17. (a) To sell or market any computer program developed by an employee of the school district, provided that such employee developed the computer program as a direct result of his or her duties with the school district or through the utilization of the school district resources or facilities. The employee who developed the computer program shall be entitled to share in the proceeds of such sale or marketing of the computer program. The distribution of such proceeds between the employee and the school district shall be as agreed upon by the employee and the school district, except that neither the employee nor the school district may receive more than 90% of such proceeds. The negotiation for an employee who is represented by an exclusive bargaining representative may be conducted by such bargaining representative at the employee's request.

(b) For the purpose of this paragraph 17:

(1) "Computer" means an internally programmed, general purpose digital device capable of automatically accepting data, processing data and supplying the results of the operation.

(2) "Computer program" means a series of coded instructions or statements in a form acceptable to a computer, which causes the computer to process data in order to achieve a certain result.

(3) "Proceeds" means profits derived from marketing or sale of a product after deducting the expenses of developing and marketing such product;

18. To delegate to the general superintendent of schools, by resolution, the authority to approve contracts and expenditures in amounts of \$10,000 or less;

19. Upon the written request of an employee, to withhold from the compensation of that employee any dues, payments or contributions payable by such employee to any labor organization as defined in the Illinois Educational Labor Relations Act. Under such arrangement, an amount shall be withheld from each regular payroll period which is equal to the pro rata share of the annual dues plus any payments or contributions, and the board shall transmit such withholdings to the specified labor organization within 10 working days from the time of the withholding;

19a. Upon receipt of notice from the comptroller of a municipality with a population of 500,000 or more, a county with a population of 3,000,000 or more, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or a housing authority of a municipality with a population of 500,000 or more that a debt is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority by an employee of the Chicago Board of Education, to withhold, from the compensation of that employee, the amount of the debt that is due and owing and pay the amount withheld to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority; provided, however, that the amount deducted from any one salary or wage payment shall not exceed 25% of the net

amount of the payment. Before the Board deducts any amount from any salary or wage of an employee under this paragraph, the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority shall certify that (i) the employee has been afforded an opportunity for a hearing to dispute the debt that is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority and (ii) the employee has received notice of a wage deduction order and has been afforded an opportunity for a hearing to object to the order. For purposes of this paragraph, "net amount" means that part of the salary or wage payment remaining after the deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority for services, work, or goods, after the period granted for payment has expired, or (ii) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority pursuant to a court order or order of an administrative hearing officer after the exhaustion of, or the failure to exhaust, judicial review;

20. The board is encouraged to employ a sufficient number of certified school counselors to maintain a

student/counselor ratio of 250 to 1 by July 1, 1990. Each counselor shall spend at least 75% of his work time in direct contact with students and shall maintain a record of such time;

21. To make available to students vocational and career counseling and to establish 5 special career counseling days for students and parents. On these days representatives of local businesses and industries shall be invited to the school campus and shall inform students of career opportunities available to them in the various businesses and industries. Special consideration shall be given to counseling minority students as to career opportunities available to them in various fields. For the purposes of this paragraph, minority student means a person who is:

(a) Black (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) American Indian or Alaskan Native (a person having origins in any of the original peoples of North America).

Counseling days shall not be in lieu of regular school days;

22. To report to the State Board of Education the annual student dropout rate and number of students who graduate from, transfer from or otherwise leave bilingual programs;

23. Except as otherwise provided in the Abused and Neglected Child Reporting Act or other applicable State or federal law, to permit school officials to withhold, from any person, information on the whereabouts of any child removed from school premises when the child has been taken into protective custody as a victim of suspected child abuse. School officials shall direct such person to the Department of Children and Family Services, or to the local law enforcement agency if appropriate;

24. To develop a policy, based on the current state of existing school facilities, projected enrollment and efficient utilization of available resources, for capital improvement of schools and school buildings within the district, addressing in that policy both the relative priority for major repairs, renovations and additions to school facilities, and the advisability or necessity of building new school facilities or closing existing schools to meet current or projected demographic patterns within the district;

25. To make available to the students in every high school attendance center the ability to take all courses necessary to comply with the Board of Higher Education's college entrance criteria effective in 1993;

26. To encourage mid-career changes into the teaching profession, whereby qualified professionals become certified teachers, by allowing credit for professional employment in related fields when determining point of entry on teacher pay scale;

27. To provide or contract out training programs for administrative personnel and principals with revised or expanded duties pursuant to this Act in order to assure they have the knowledge and skills to perform their duties;

28. To establish a fund for the prioritized special needs programs, and to allocate such funds and other lump sum amounts to each attendance center in a manner consistent with the provisions of part 4 of Section 34-2.3. Nothing in this paragraph shall be construed to require any additional appropriations of State funds for this purpose;

29. (Blank);

30. Notwithstanding any other provision of this Act or any other law to the contrary, to contract with third parties for services otherwise performed by employees, including those in a bargaining unit, and to layoff those employees upon 14 days written notice to the affected employees. Those contracts may be for a period not to exceed 5 years and may be awarded on a system-wide basis;

31. To promulgate rules establishing procedures governing the layoff or reduction in force of employees and the recall of such employees, including, but not limited to, criteria for such layoffs, reductions in force or recall rights of such employees and the weight to be given to any particular criterion. Such criteria shall take into account factors including, but not be limited to, qualifications, certifications, experience, performance ratings or evaluations, and any other factors relating to an employee's job performance; and

32. To develop a policy to prevent nepotism in the hiring of personnel or the selection of contractors;

33. To enter into a partnership agreement, as required by Section 34-3.5 of this Code, and, notwithstanding any other provision of law to the contrary, to promulgate policies, enter into contracts, and take any other action necessary to accomplish the objectives and implement the requirements of that agreement; and

34. To establish a Labor Management Council to the board comprised of representatives of the board, the chief executive officer, and those labor organizations that are the exclusive representatives of employees of the board and to promulgate policies and procedures for the operation of the Council.

The specifications of the powers herein granted are not to be construed as exclusive but the board shall also exercise all other powers that they may be requisite or proper for the maintenance and the development of a public school system, not inconsistent with the other provisions of this Article or provisions of this Code which apply to all school districts.

In addition to the powers herein granted and authorized to be exercised by the board, it shall be the duty of the board to review or to direct independent reviews of special education expenditures and services. The board shall file a report of such review with the General Assembly on or before May 1, 1990.

(Source: P.A. 92-109, eff. 7-20-01; 92-527, eff. 6-1-02; 92-724, eff. 7-25-02; revised 9-24-02.)

Section 10. The Illinois Educational Labor Relations Act is amended by changing Sections 4.5 and 12 as follows:

(115 ILCS 5/4.5)

Sec. 4.5. ~~Prohibited~~ Subjects of collective bargaining.

(a) Notwithstanding the existence of any other provision in this Act or other law, collective bargaining between an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and an exclusive representative of its employees may ~~shall--not~~ include any of the following subjects:

(1) (Blank). Decisions to grant or deny a charter school proposal under Section 27A-8 of the Charter Schools Law, to renew or revoke a charter under Section 27A-9 of the Charter Schools Law, or to grant or deny a leave of absence to an employee of a school district to become an employee of a charter school, and the impact of these decisions on individual employees or the bargaining unit.

(2) Decisions to contract with a third party for one or more services otherwise performed by employees in a bargaining unit and, the procedures for obtaining such contract or the identity of the third party, and the impact of these decisions on individual employees or the bargaining unit.

(3) Decisions to layoff or reduce in force employees (including but not limited to reserve teachers or teachers who are no longer on an administrative payroll) due to lack of work or funds, including but not limited to decline in student enrollment, change in subject requirements within the attendance center organization, closing of an attendance center, or contracts with third parties for the performance of services, and the impact of these decisions on individual employees or the bargaining unit.

(4) Decisions to determine class size, class staffing and assignment, class schedules, academic calendar, hours and places of instruction, or pupil assessment policies, and the impact of these decisions on individual employees or the bargaining unit.

(5) Decisions concerning use and staffing of experimental or pilot programs and, decisions concerning use of technology to deliver educational programs and services and staffing to provide the technology, and the impact of these decisions on individual employees or the

bargaining-unit.

(b) The subject or matters described in subsection (a) are permissive prohibited subjects of bargaining between an educational employer and an exclusive representative of its employees and, for the purpose of this Act, are within the sole discretion authority of the educational employer to decide to bargain, provided that the educational employer is required to bargain over the impact of a decision concerning such subject or matter on the bargaining unit upon request by the exclusive representative. During this bargaining, the educational employer shall not be precluded from implementing its decision. If, after a reasonable period of bargaining, a dispute or impasse exists between the educational employer and the exclusive representative, the dispute or impasse shall be resolved exclusively as set forth in subsection (b) of Section 12 of this Act in lieu of a strike under Section 13 of this Act.

(c) A provision in a collective bargaining agreement that was rendered null and void because it involved a prohibited subject of collective bargaining under this subsection (c) as this subsection (c) existed before the effective date of this amendatory Act of the 93rd General Assembly remains null and void and shall not otherwise be reinstated in any successor agreement unless the educational employer and exclusive representative otherwise agree to include an agreement reached on a subject or matter described in subsection (a) of this Section as subsection (a) existed before this amendatory Act of the 93rd General Assembly. This Section--shall-apply-to-collective-bargaining-agreements-that become-effective-after-the-effective-date-of-this--amendatory Act--of--1995--and--shall--render--a--provision--involving--a prohibited-subject-in-such-agreement-null-and-void.

(Source: P.A. 89-15, eff. 5-30-95.)

(115 ILCS 5/12) (from Ch. 48, par. 1712)

Sec. 12. Impasse procedures.

(a) If the parties engaged in collective bargaining have not reached an agreement by 90 days before the scheduled start of the forthcoming school year, the parties shall notify the Illinois Educational Labor Relations Board concerning the status of negotiations.

Upon demand of either party, collective bargaining between the employer and an exclusive bargaining representative must begin within 60 days of the date of certification of the representative by the Board, or in the case of an existing exclusive bargaining representative, within 60 days of the receipt by a party of a demand to bargain issued by the other party. Once commenced, collective bargaining must continue for at least a 60 day period, unless a contract is entered into.

Except as otherwise provided in subsection (b) of this Section, if after a reasonable period of negotiation and within 45 days of the scheduled start of the forth-coming school year, the parties engaged in collective bargaining have reached an impasse, either party may petition the Board to initiate mediation. Alternatively, the Board on its own motion may initiate mediation during this period. However, mediation shall be initiated by the Board at any time when jointly requested by the parties and the services of the mediators shall continuously be made available to the employer and to the exclusive bargaining representative for purposes of arbitration of grievances and mediation or arbitration of contract disputes. If requested by the parties, the mediator may perform fact-finding and in so doing conduct hearings and make written findings and recommendations for resolution of the dispute. Such mediation shall be provided by the Board and shall be held before qualified impartial individuals. Nothing prohibits

the use of other individuals or organizations such as the Federal Mediation and Conciliation Service or the American Arbitration Association selected by both the exclusive bargaining representative and the employer.

If the parties engaged in collective bargaining fail to reach an agreement within 15 days of the scheduled start of the forthcoming school year and have not requested mediation, the Illinois Educational Labor Relations Board shall invoke mediation.

Whenever mediation is initiated or invoked under this subsection (a) Section, the parties may stipulate to defer selection of a mediator in accordance with rules adopted by the Board.

(b) If, after a period of bargaining of at least 60 days, a dispute or impasse exists between an employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and the exclusive bargaining representative over a subject or matter set forth in Section 4.5 of this Act, the parties shall submit the dispute or impasse to the dispute resolution procedure agreed to between the parties. The procedure shall provide for mediation of disputes by a rotating mediation panel and may, at the request of either party, include the issuance of advisory findings of fact and recommendations.

(c) The costs of fact finding and mediation shall be shared equally between the employer and the exclusive bargaining agent, provided that, for purposes of mediation under this Act, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source.

(d) Nothing in this Act prevents an employer and an exclusive bargaining representative from mutually submitting to final and binding impartial arbitration unresolved issues

concerning the terms of a new collective bargaining agreement.

(Source: P.A. 86-412.)

Section 90. The State Mandates Act is amended by adding Section 8.27 as follows:

(30 ILCS 805/8.27 new)

Sec. 8.27. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 93rd General Assembly.

Section 99. Effective date. This Act takes effect upon becoming law.