AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in professional employees, further providing FOR TEMPORARY PROFESSIONAL EMPLOYEES, for contracts, execution and form, for causes for suspension and for persons to be suspended and to receive tenure, for collective bargaining agreements and for timing of appeal of suspension; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1121(b) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended March 29, 1996 (P.L.47, No.16), is amended to read:

SECTION 1. SECTIONS 1108 AND 1121(B) OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, AMENDED MARCH 29, 1996 (P.L.47, NO.16), ARE AMENDED TO READ:

SECTION 1108. TEMPORARY PROFESSIONAL EMPLOYEES.—(A) IT SHALL BE THE DUTY OF THE DISTRICT SUPERINTENDENT TO NOTIFY EACH
TEMPORARY PROFESSIONAL EMPLOYEE, AT LEAST TWICE EACH YEAR DURING
THE PERIOD OF HIS OR HER EMPLOYMENT, OF THE PROFESSIONAL
QUALITY, PROFESSIONAL PROGRESS, AND RATING OF HIS OR HER
SERVICES. NO TEMPORARY PROFESSIONAL EMPLOYEE SHALL BE DISMISSED
UNLESS RATED UNSATISFACTORY, AND NOTIFICATION, IN WRITING, OF
SUCH UNSATISFACTORY RATING SHALL HAVE BEEN FURNISHED THE EMPLOYEE
WITHIN TEN (10) DAYS FOLLOWING THE DATE OF SUCH RATING. THE
RATING OF A TEMPORARY PROFESSIONAL EMPLOYEE SHALL BE DONE AS
PROVIDED IN SECTION ONE THOUSAND ONE HUNDRED TWENTY-THREE OF
THIS ACT.

(B) (1) A TEMPORARY PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED
BY A SCHOOL DISTRICT PRIOR TO JUNE 30, 1996, WHOSE WORK HAS BEEN
CERTIFIED BY THE DISTRICT SUPERINTENDENT TO THE SECRETARY OF THE
SCHOOL DISTRICT, DURING THE LAST FOUR (4) MONTHS OF THE SECOND
YEAR OF SUCH SERVICE, AS BEING SATISFACTORY SHALL THEREAFTER BE
A "PROFESSIONAL EMPLOYEE" WITHIN THE MEANING OF THIS ARTICLE.

(2) A TEMPORARY PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY A
SCHOOL DISTRICT, ON OR AFTER JUNE 30, 1996, BUT PRIOR TO JUNE
30, 2014, WHOSE WORK HAS BEEN CERTIFIED BY THE DISTRICT
SUPERINTENDENT TO THE SECRETARY OF THE SCHOOL DISTRICT, DURING
THE LAST FOUR (4) MONTHS OF THE THIRD YEAR OF SUCH SERVICE, AS
BEING SATISFACTORY SHALL THEREAFTER BE A "PROFESSIONAL EMPLOYEE"
WITHIN THE MEANING OF THIS ARTICLE.

(2.1) A TEMPORARY PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY
A SCHOOL DISTRICT, ON OR AFTER JUNE 30, 2014, WHOSE WORK HAS BEEN
CERTIFIED BY THE DISTRICT SUPERINTENDENT TO THE SECRETARY
OF THE SCHOOL DISTRICT, DURING THE LAST FOUR (4) MONTHS OF THE
FIFTH YEAR OF SUCH SERVICE, AS BEING SATISFACTORY SHALL
THEREAFTER BE A "PROFESSIONAL EMPLOYEE" WITHIN THE MEANING OF
THIS ARTICLE.
3) The attainment of the status under paragraph (1) [or (2)], (2) or (2.1) shall be recorded in the records of the Board and written notification thereof shall be sent also to the employee. The employee shall then be tendered forthwith a regular contract of employment as provided for professional employees. No professional employee who has attained tenure status in any school district of this Commonwealth shall thereafter be required to serve as a temporary professional employee before being tendered such a contract when employed by any other part of the public school system of the Commonwealth.

(C) (1) Any temporary professional employee employed by a school district prior to June 30, 1996, who is not tendered a regular contract of employment at the end of two years of service, rendered as herein provided, shall be given a written statement signed by the President and Secretary of the Board of School Directors and setting forth explicitly the reason for such refusal.

(2) Any temporary professional employee employed by a school district after June 30, 1996, but prior to June 30, 2014, who is not tendered a regular contract of employment at the end of three years of service, rendered as herein provided, shall be given a written statement signed by the President and Secretary of the Board of School Directors and setting forth explicitly the reason for such refusal.

(3) Any temporary professional employee employed by a school district on or after June 30, 2014, who is not tendered a regular contract of employment at the end of five (5) years of service, rendered as herein provided, shall be given a written statement signed by the President and Secretary of the Board of School Directors and setting forth explicitly the reason for such refusal.
SUCH REFUSAL.

(D) TEMPORARY PROFESSIONAL EMPLOYEES SHALL FOR ALL PURPOSES, EXCEPT TENURE STATUS, BE VIEWED IN LAW AS FULL-TIME EMPLOYEES, AND SHALL ENJOY ALL THE RIGHTS AND PRIVILEGES OF REGULAR FULL-TIME EMPLOYEES.

Section 1121. Contracts; Execution; Form.--* * *

(b) (1) Each board of school directors in all school districts shall hereafter enter into contracts, in writing, with each professional employe initially employed by a school district prior to June 30, 1996, who has satisfactorily completed two (2) years of service in any school district of this Commonwealth.

(2) Each board of school directors in all school districts shall hereafter enter into contracts, in writing, with each professional employe initially employed by a school district, on or after June 30, 1996, BUT PRIOR TO JUNE 30, 2014, who has satisfactorily completed five (5) years of service in any school district of this Commonwealth.

(3) EACH BOARD OF SCHOOL DIRECTORS IN ALL SCHOOL DISTRICTS SHALL ONLY HEREAFTER ENTER INTO CONTRACTS, IN WRITING, WITH EACH PROFESSIONAL EMPLOYE INITIALLY EMPLOYED BY A SCHOOL DISTRICT, ON OR AFTER JUNE 30, 2014, WHO HAS SATISFACTORILY COMPLETED THREE (3) YEARS OF SERVICE IN ANY SCHOOL DISTRICT OF THIS COMMONWEALTH AND RECEIVED OVERALL PERFORMANCE RATINGS OF "DISTINGUISHED" OR "PROFICIENT" ON BOTH OF THE PROFESSIONAL EMPLOYE'S MOST RECENT PERFORMANCE EVALUATIONS PURSUANT TO SECTION 1123 AT THE SCHOOL DISTRICT OF CURRENT EMPLOYMENT.

* * *

Section 2. Section 1124(a) 1124 of the act, amended June 30, 2012 (P.L.684, No.82), is amended to read:

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Section 1124. Causes for Suspension.--(a) Any board of school directors may suspend the necessary number of professional employes, for any of the causes hereinafter enumerated:

(1) substantial decrease in pupil enrollment in the school district;

(2) curtailment or alteration of the educational program on recommendation of the superintendent and on concurrence by the board of school directors, as a result of substantial decline in class or course enrollments or to conform with standards of organization or educational activities required by law or recommended by the Department of [Public Instruction] Education;

(3) consolidation of schools, whether within a single district, through a merger of districts, or as a result of joint board agreements, when such consolidation makes it unnecessary to retain the full staff of professional employes; [or]

(4) when new school districts are established as the result of reorganization of school districts pursuant to Article II., subdivision (i) of this act, and when such reorganization makes it unnecessary to retain the full staff of professional employes[.]; or

(5) economic reasons that require a reduction in professional employes.

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A SCHOOL DISTRICT MAY NOT USE COSTS AS THE SOLE FACTOR IN DETERMINING WHICH PROFESSIONAL EMPLOYEES TO SUSPEND, BUT SHALL USE THE PROCEDURES IN SECTION 1125.1 TO DETERMINE THE ORDER IN WHICH PROFESSIONAL EMPLOYEES ARE SUSPENDED.

(B) NOTWITHSTANDING AN EXISTING OR FUTURE PROVISION IN A COLLECTIVE BARGAINING AGREEMENT OR OTHER SIMILAR EMPLOYMENT
CONTRACT TO THE CONTRARY, SUSPENSION OF A PROFESSIONAL EMPLOYE
DUE TO THE CURTAILMENT OR ALTERATION OF THE EDUCATIONAL PROGRAM
AS SET FORTH IN SUBSECTION (A)(2) MAY BE EFFECTUATED WITHOUT THE
APPROVAL OF THE CURTAILMENT OR ALTERATION OF THE EDUCATIONAL
PROGRAM BY THE DEPARTMENT OF EDUCATION, PROVIDED THAT, WHERE AN
EDUCATIONAL PROGRAM IS ALTERED OR CURTAILED AS SET FORTH IN
SUBSECTION (A)(2), THE SCHOOL DISTRICT SHALL NOTIFY THE
DEPARTMENT OF EDUCATION OF THE ACTIONS TAKEN PURSUANT TO
SUBSECTION (A)(2). THE DEPARTMENT OF EDUCATION SHALL POST ALL
NOTIFICATIONS RECEIVED FROM A SCHOOL DISTRICT PURSUANT TO THIS
SUBSECTION ON THE DEPARTMENT OF EDUCATION'S PUBLICLY ACCESSIBLE
INTERNET WEBSITE.

(C) A COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY A SCHOOL
DISTRICT AND AN EXCLUSIVE REPRESENTATIVE OF PROFESSIONAL
EMPLOYEES IN ACCORDANCE WITH THE ACT OF JULY 23, 1970 (P.L.563,
NO.195), KNOWN AS THE "PUBLIC EMPLOYE RELATIONS ACT," AFTER THE
EFFECTIVE DATE OF THIS SUBSECTION MAY NOT PROHIBIT THE
SUSPENSION OF PROFESSIONAL EMPLOYEES FOR ECONOMIC REASONS OTHER
 THAN AS PROVIDED FOR IN THIS SECTION. A PROVISION IN ANY
AGREEMENT OR CONTRACT IN EFFECT ON THE EFFECTIVE DATE OF THIS
SUBSECTION THAT PROHIBITS THE SUSPENSION OF PROFESSIONAL
EMPLOYEES FOR ECONOMIC REASONS IN CONFLICT WITH THIS SECTION
SHALL BE DISCONTINUED IN ANY NEW OR RENEWED AGREEMENT OR
CONTRACT OR DURING THE PERIOD OF STATUS QUO FOLLOWING AN EXPIRED
CONTRACT.

Section 3. Section 1125.1 of the act, amended or added
November 20, 1979 (P.L.465, No.97) and July 10, 1986 (P.L.1270,
No.117), is amended to read:

Section 1125.1. Persons to be Suspended.--(a) Professional
employees shall be suspended under section 1124 [(relating to
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causes for suspension) in inverse order of seniority within the
school entity of current employment. Approved leaves of absence
shall not constitute a break in service for purposes of
computing seniority for suspension purposes.] based upon the
professional employe's performance evaluations pursuant to
section 1123 within the professional employe's areas of
certification. IN THE FOLLOWING ORDER WITHIN THE AREA OF
CERTIFICATION REQUIRED BY LAW FOR THE PROFESSIONAL EMPLOYEE'S
CURRENT POSITION:

(1) EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "FAILING" ON THE PROFESSIONAL EMPLOYEE'S
MOST RECENT PERFORMANCE RATING SHALL BE SUSPENDED FIRST.

(2) AFTER SUSPENDING PROFESSIONAL EMPLOYEES UNDER PARAGRAPH
(1), EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "NEEDS IMPROVEMENT" ON THE PROFESSIONAL
EMPLOYEE'S MOST RECENT PERFORMANCE RATING SHALL BE SUSPENDED
SECOND.

(3) AFTER SUSPENDING PROFESSIONAL EMPLOYEES UNDER PARAGRAPH
(2), EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "PROFICIENT" ON THE PROFESSIONAL EMPLOYEE'S
MOST RECENT PERFORMANCE RATING SHALL BE SUSPENDED THIRD.

(4) AFTER SUSPENDING PROFESSIONAL EMPLOYEES UNDER PARAGRAPH
(3), EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "DISTINGUISHED" ON THE PROFESSIONAL
EMPLOYEE'S MOST RECENT PERFORMANCE RATING SHALL BE SUSPENDED
LAST.

(A.1) WHEN MORE PROFESSIONAL EMPLOYEES RECEIVE THE SAME
OVERALL PERFORMANCE RATING THAN THERE ARE SUSPENSIONS, SENIORITY
WITHIN THE SCHOOL ENTITY SHALL BE USED TO DETERMINE SUSPENSIONS
AMONG PROFESSIONAL EMPLOYEES WITH THE SAME OVERALL PERFORMANCE
RATING ON THE EMPLOYEE'S MOST RECENT PERFORMANCE EVALUATION
Pursuant to Section 1123.

(A.2) Seniority shall continue to accrue during suspension and all approved leaves of absence.

(b) Where there is or has been a consolidation of schools, departments or programs, all professional employees shall retain the seniority rights they had prior to the reorganization or consolidation.

[(c) A school entity shall realign its professional staff so as to insure that more senior employees are provided with the opportunity to fill positions for which they are certificated and which are being filled by less senior employees.]

(d) (1) No suspended employee shall be prevented from engaging in another occupation during the period of suspension.

(2) Suspended professional employees or professional employees demoted for the reasons set forth in section 1124 shall be reinstated on the basis of their [seniority] performance evaluation within their areas of certification, followed next by seniority overall performance rating on their most recent performance evaluation within the area of certification required by law for the position held by the professional employee on the date the professional employee was suspended or demoted, with the highest rated employees reinstated first, except seniority within the school entity shall be used to make reinstatement decisions among teachers with the same overall performance rating on their most recent performance evaluation. No new appointment shall be made while there is such a suspended or demoted professional employee available who is properly certificated to fill such vacancy. For the purpose of this subsection, positions from which professional employees are on approved leaves of absence...
shall also be considered temporary vacancies.

(3) To be considered available a suspended professional employe must annually report to the governing board in writing his current address and his intent to accept the same or similar position when offered.

(4) A suspended employe enrolled in a college program during a period of suspension and who is recalled shall be given the option of delaying his return to service until the end of the current semester.

(e) Nothing contained in [section 1125.1(a) through (d)] this section shall be construed to:

(1) limit the cause for which a temporary professional employe may be suspended; or

(2) supersede or preempt any provisions of a collective bargaining agreement negotiated by a school entity and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act"; however, no agreement shall prohibit the right of a professional employe who is not a member of a bargaining unit from retaining seniority rights under the provisions of this act.

(f) A decision to suspend in accordance with this section shall be considered an adjudication within the meaning of the "Local Agency Law." 

(g) A collective bargaining agreement for professional employes which is entered into after the effective date of this subsection shall not include provisions prohibiting suspension of professional employes for economic reasons pursuant to section 1124(a)(5). 

(G) NO COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY A
SCHOOL DISTRICT AND AN EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES IN ACCORDANCE WITH THE ACT OF JULY 23, 1970 (P.L.563, NO.195), KNOWN AS THE "PUBLIC EMPLOYEE RELATIONS ACT," AFTER THE EFFECTIVE DATE OF THIS SUBSECTION SHALL PROVIDE FOR SUSPENDING, REINSTATING OR REALIGNING PROFESSIONAL EMPLOYEES BASED ON SENIORITY OTHER THAN AS PROVIDED FOR IN THIS SECTION. UPON THE EXPIRATION, AMENDMENT OR ADOPTION OF ANY AGREEMENT OR CONTRACT, A PROVISION THAT PROVIDES FOR SUSPENDING, REINSTATING OR REALIGNING PROFESSIONAL EMPLOYEES BASED ON SENIORITY IN CONFLICT WITH THIS SECTION SHALL BE DISCONTINUED IN ANY NEW OR RENEWED AGREEMENT OR CONTRACT OR DURING THE PERIOD OF STATUS QUO FOLLOWING AN EXPIRED CONTRACT.

Section 4. Section 1131 of the act is amended to read:

Section 1131. Appeals to [Superintendent of Public Instruction] Secretary of Education.—In case the professional employe concerned considers himself or herself aggrieved by the action of the board of school directors, an appeal by petition, setting forth the grounds for such appeal, may be taken to the [Superintendent of Public Instruction] Secretary of Education at Harrisburg. Such appeal shall be filed within [thirty (30)] fifteen (15) days after receipt by registered mail of the written notice of the decision of the board. A copy of such appeal shall be served by registered mail on the secretary of the school board.

The [Superintendent of Public Instruction] Secretary of Education shall fix a day and time for hearing, which shall be not sooner than ten (10) days nor more than thirty (30) days after presentation of such petition, and shall give written notice to all parties interested.

The [Superintendent of Public Instruction] Secretary of
Education shall review the official transcript of the record of the hearing before the board, and may hear and consider such additional testimony as he may deem advisable to enable him to make a proper order. At said hearing the litigants shall have the right to be heard in person or by counsel or both.

After hearing and argument and reviewing all the testimony filed or taken before him, the [Superintendent of Public Instruction] Secretary of Education shall enter such order, either affirming or reversing the action of the board of school directors, as to him appears just and proper.

Section 5. This act shall take effect immediately. AS FOLLOWS:

(1) THE AMENDMENT OR ADDITION OF SECTIONS 1124(C) AND 1125.1(G) OF THE ACT SHALL TAKE EFFECT IMMEDIATELY.

(2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

(3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1, 2015.