

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in professional employees, further
6 providing for temporary professional employees, for
7 contracts, execution and form, for causes for suspension, for
8 persons to be suspended and for appeals; and making editorial
9 changes.

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

12 Section 1. Sections 1108, 1121(b), 1124, 1125.1 and 1131 of
13 the act of March 10, 1949 (P.L.30, No.14), known as the Public
14 School Code of 1949, are amended to read:

15 Section 1108. Temporary Professional Employees.--(a) It
16 shall be the duty of the district superintendent to notify each
17 temporary professional employe, at least twice each year during
18 the period of his or her employment, of the professional
19 quality, professional progress, and rating of his or her
20 services. No temporary professional employe shall be dismissed
21 unless rated unsatisfactory, and notification, in writing, of

1 such unsatisfactory rating shall have been furnished the employe
2 within ten (10) days following the date of such rating. The
3 rating of a temporary professional employe shall be done as
4 provided in section one thousand one hundred twenty-three of
5 this act.

6 (b) (1) A temporary professional employe initially employed
7 by a school district prior to June 30, 1996, whose work has been
8 certified by the district superintendent to the secretary of the
9 school district, during the last four (4) months of the second
10 year of such service, as being satisfactory shall thereafter be
11 a "professional employe" within the meaning of this article.

12 (2) A temporary professional employe initially employed by a
13 school district, on or after June 30, 1996, but prior to June
14 30, 2017, whose work has been certified by the district
15 superintendent to the secretary of the school district, during
16 the last four (4) months of the third year of such service, as
17 being satisfactory shall thereafter be a "professional employe"
18 within the meaning of this article.

19 (2.1) A temporary professional employe initially employed by
20 a school district, on or after June 30, 2017, whose work has
21 been certified by the district superintendent to the secretary
22 of the school district, during the last four (4) months of the
23 third year of such service, or, in the case of a temporary
24 professional employe whose temporary professional status was
25 extended for one additional year by the district superintendent
26 pursuant to paragraph (2.2), during the last four (4) months of
27 the fourth year of such service, as being satisfactory shall
28 thereafter be a "professional employe" within the meaning of
29 this article.

30 (2.2) The district superintendent may extend the temporary

1 professional status of an employe by one additional year when,
2 in the professional judgment of the district superintendent,
3 further evaluation of the temporary professional employe is
4 necessary prior to certifying the work of the temporary
5 professional employe as satisfactory. To extend the temporary
6 professional status of an employe under this paragraph, the
7 district superintendent must provide the temporary professional
8 employe, during the last four (4) months of the third year of
9 the temporary professional employe's service, with a written
10 statement, signed by the district superintendent, setting forth
11 the specific reason for the extension.

12 (3) The attainment of the status under paragraph (1) [or],
13 (2) or (2.1) shall be recorded in the records of the board and
14 written notification thereof shall be sent also to the employe.
15 The employe shall then be tendered forthwith a regular contract
16 of employment as provided for professional employes. No
17 professional employe who has attained tenure status in any
18 school district of this Commonwealth shall thereafter be
19 required to serve as a temporary professional employe before
20 being tendered such a contract when employed by any other part
21 of the public school system of the Commonwealth.

22 (c) (1) Any temporary professional employe employed by a
23 school district prior to June 30, 1996, who is not tendered a
24 regular contract of employment at the end of two years of
25 service, rendered as herein provided, shall be given a written
26 statement signed by the president and secretary of the board of
27 school directors and setting forth explicitly the reason for
28 such refusal.

29 (2) Any temporary professional employe employed by a school
30 district after June 30, 1996, but prior to June 30, 2017, who is

1 not tendered a regular contract of employment at the end of
2 three years of service, rendered as herein provided, shall be
3 given a written statement signed by the president and secretary
4 of the board of school directors and setting forth explicitly
5 the reason for such refusal.

6 (3) Any temporary professional employe employed by a school
7 district on or after June 30, 2017, who is not tendered a
8 regular contract of employment at the end of three (3) years of
9 service, or, in the case of a temporary professional employe
10 whose temporary professional status was extended for one
11 additional year by the district superintendent pursuant to
12 subsection (b)(2.2), at the end of four (4) years of service,
13 rendered as herein provided, shall be given a written statement
14 signed by the president and secretary of the board of school
15 directors and setting forth explicitly the reason for such
16 refusal.

17 (d) Temporary professional employes shall for all purposes,
18 except tenure status, be viewed in law as full-time employes,
19 and shall enjoy all the rights and privileges of regular full-
20 time employes.

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

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

28 (2) Each board of school directors in all school districts
29 shall hereafter enter into contracts, in writing, with each
30 professional employe initially employed by a school district, on

1 or after June 30, 1996, but prior to June 30, 2017, who has
2 satisfactorily completed three (3) years of service in any
3 school district of this Commonwealth.

4 (3) Each board of school directors in all school districts
5 shall only hereafter enter into contracts, in writing, with each
6 professional employe initially employed by a school district, on
7 or after June 30, 2017, who has satisfactorily completed three
8 (3) years of service, or in the case of a temporary professional
9 employe whose temporary professional contract is extended by the
10 district superintendent for one additional year and who has
11 satisfactorily completed four (4) years of service, in any
12 school district of this Commonwealth and who has received
13 overall performance ratings of "distinguished" or "proficient"
14 on both of the professional employe's two (2) most recent end-
15 of-year performance evaluations pursuant to section 1123 at the
16 school district of current employment.

17 * * *

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

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

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

30 (3) consolidation of schools, whether within a single

1 district, through a merger of districts, or as a result of joint
2 board agreements, when such consolidation makes it unnecessary
3 to retain the full staff of professional employes; [or]

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

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

11 (a.1) A school district may not use an employe's
12 compensation in determining which professional employes to
13 suspend, but shall use the procedures in section 1125.1 to
14 determine the order in which professional employes are
15 suspended.

16 (b) Notwithstanding an existing or future provision in a
17 collective bargaining agreement or other similar employment
18 contract to the contrary, suspension of a professional employe
19 due to the curtailment or alteration of the educational program
20 as set forth in subsection (a)(2) may be effectuated without the
21 approval of the curtailment or alteration of the educational
22 program by the Department of Education, provided that, where an
23 educational program is altered or curtailed as set forth in
24 subsection (a)(2), the school district shall notify the
25 Department of Education of the actions taken pursuant to
26 subsection (a)(2). The Department of Education shall post all
27 notifications received from a school district pursuant to this
28 subsection on the Department of Education's publicly accessible
29 Internet website.

30 (c) (1) A collective bargaining agreement negotiated by a

1 school district and an exclusive representative of professional
2 employees in accordance with the act of July 23, 1970 (P.L.563,
3 No.195), known as the "Public Employe Relations Act," after the
4 effective date of this subsection may not prohibit the
5 suspension of professional employes for economic reasons other
6 than as provided for in this section.

7 (2) A provision in any agreement or contract in effect on
8 the effective date of this subsection that prohibits the
9 suspension of professional employes for economic reasons in
10 conflict with this section shall be discontinued in any new or
11 renewed agreement or contract or during the period of status quo
12 following an expired contract.

13 Section 1125.1. Persons to be Suspended.--(a) Professional
14 employes shall be suspended under section 1124 [(relating to
15 causes for suspension) in inverse order of seniority within the
16 school entity of current employment. Approved leaves of absence
17 shall not constitute a break in service for purposes of
18 computing seniority for suspension purposes.] in the following
19 order, within the area of certification required by law for the
20 professional employe's current position:

21 (1) Each professional employe who received an overall
22 performance rating of "failing" on the professional employe's
23 most recent end-of-year performance rating shall be suspended
24 first.

25 (2) After suspending professional employes under paragraph
26 (1), each professional employe who received an overall
27 performance rating of "needs improvement" on the professional
28 employe's most recent end-of-year performance rating shall be
29 suspended second.

30 (3) After suspending professional employes under paragraph

1 (2), each professional employe who received an overall
2 performance rating of "proficient" on the professional employe's
3 most recent end-of-year performance rating shall be suspended
4 third.

5 (4) After suspending professional employes under paragraph
6 (3), each professional employe who received an overall
7 performance rating of "distinguished" on the professional
8 employe's most recent end-of-year performance rating shall be
9 suspended last.

10 (a.1) When more professional employes receive the same
11 overall performance rating than there are suspensions, seniority
12 within the school entity and within the area of certification
13 required by law for the professional employe's current position
14 shall be used to determine suspensions among professional
15 employes with the same overall performance rating on the
16 employe's most recent performance evaluation pursuant to section
17 1123.

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

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

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

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

30 (2) Suspended professional employes or professional employes

1 demoted for the reasons set forth in section 1124 shall be
2 reinstated on the basis of their [seniority] overall performance
3 rating on their most recent performance evaluation within the
4 area of certification required by law for the position held by
5 the professional employe on the date the professional employe
6 was suspended or demoted, with the highest rated employes
7 reinstated first, except seniority within the school entity[.]
8 shall be used to make reinstatement decisions among teachers
9 with the same overall performance rating on their most recent
10 end-of-year performance evaluation within the area of
11 certification required by law for the vacancy to be filled. No
12 new appointment shall be made while there is such a suspended or
13 demoted professional employe available who is properly
14 certificated to fill such vacancy. For the purpose of this
15 subsection, positions from which professional employes are on
16 approved leaves of absence shall also be considered temporary
17 vacancies.

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

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

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

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

30 (2) supersede or preempt any provisions of a collective

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

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

11 (g) (1) No collective bargaining agreement negotiated by a
12 school district and no exclusive representative of the employes
13 in accordance with the "Public Employe Relations Act" after the
14 effective date of this subsection shall provide for suspending,
15 reinstating or realigning professional employes based on
16 seniority other than as provided for in this section.

17 (2) Upon the expiration, amendment or adoption of any
18 agreement or contract, a provision that provides for suspending,
19 reinstating or realigning professional employes based on
20 seniority in conflict with this section shall be discontinued in
21 any new or renewed agreement or contract or during the period of
22 status quo following an expired contract.

23 Section 1131. Appeals to [Superintendent of Public
24 Instruction] Secretary of Education.--In case the professional
25 employe concerned considers himself or herself aggrieved by the
26 action of the board of school directors, an appeal by petition,
27 setting forth the grounds for such appeal, may be taken to the
28 [Superintendent of Public Instruction] Secretary of Education at
29 Harrisburg. Such appeal shall be filed within [thirty (30)]
30 fifteen (15) days after receipt by registered mail of the

1 written notice of the decision of the board. A copy of such
2 appeal shall be served by registered mail on the secretary of
3 the school board.

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

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

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

20 Section 2. This act shall take effect as follows:

21 (1) The amendment or addition of sections 1124(c) and
22 1125.1(g) of the act shall take effect immediately.

23 (2) This section shall take effect immediately.

24 (3) The remainder of this act shall take effect June 30,
25 2017, or immediately, whichever is later.