
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 708 Session of
1995

INTRODUCED BY HART, JUBELIRER, HELFRICK, HECKLER, BRIGHTBILL,
BAKER AND MOWERY, MARCH 7, 1995

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 11, 1996

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," further providing for granting of
6 tenure to professional employees, for causes for termination
7 of professional contracts and for rating of professional
8 employees.

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

11 Section 1. Section 1108 of the act of March 10, 1949
12 (P.L.30, No.14), known as the Public School Code of 1949,
13 amended August 10, 1951 (P.L.1157, No.259) and January 14, 1970
14 (1969 P.L.468, No.192), is 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 employee, 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

1 services. No temporary professional employe shall be dismissed
2 unless rated unsatisfactory, and notification, in writing, of
3 such unsatisfactory rating shall have been furnished the employe
4 within ten (10) days following the date of such rating. The
5 rating of a temporary professional employe shall be done as
6 provided in section one thousand one hundred twenty-three of
7 this act.

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

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

20 (3) The attainment of [this status] the status under
21 paragraph (1) or (2) shall be recorded in the records of the
22 board and written notification thereof shall be sent also to the
23 employe. The employe shall then be tendered forthwith a regular
24 contract of employment as provided for professional employes. No
25 professional employe who has attained tenure status in any
26 school district of this Commonwealth shall thereafter be
27 required to serve as a temporary professional employe before
28 being tendered such a contract when employed by any other part
29 of the public school system of the Commonwealth.

30 (c) (1) Any temporary professional employe employed by a

1 school district prior to June 30, 1996, who is not tendered a
2 regular contract of employment at the end of two years of
3 service, rendered as herein provided, shall be given a written
4 statement signed by the president and secretary of the board of
5 school directors and setting forth explicitly the reason for
6 such refusal.

7 (2) Any temporary professional employe employed by a school
8 district after June 30, 1996, who is not tendered a regular
9 contract of employment at the end of three years of service,
10 rendered as herein provided, shall be given a written statement
11 signed by the president and secretary of the board of school
12 directors and setting forth explicitly the reason for such
13 refusal.

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

18 Section 2. Section 1121 of the act, amended September 28,
19 1951 (P.L.1551, No.395), is amended to read:

20 Section 1121. Contracts; Execution; Form.--(a) In all
21 school districts, all contracts with professional employes shall
22 be in writing, in duplicate, and shall be executed on behalf of
23 the board of school directors by the president and secretary and
24 signed by the professional employe.

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

1 following:]

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

8 (c) Contracts under subsection (b) shall contain only the
9 following:

10 "IT IS AGREED by and between
11 Professional Employe, and the Board of Directors (or Board of
12 Public Education) of the school district of
13, Pennsylvania, that said professional
14 employe shall, under the authority of the said board and its
15 successors, and subject to the supervision and authority of the
16 properly authorized superintendent of schools or supervising
17 principal, serve as a professional employe in the said school
18 district for a term ofmonths, for an annual
19 compensation of \$....., payable monthly or semi-monthly
20 during the school term or year, less the contribution required
21 by law to be paid to the Public School Employees' Retirement
22 Fund, and less other proper deductions for loss of time.

23 "This contract is subject to the provisions of the 'Public
24 School Code of 1949' and the amendments thereto.

25 "AND IT IS FURTHER AGREED by the parties hereto that none of
26 the provisions of this act may be waived either orally or in
27 writing, and that this contract shall continue in force year
28 after year, with the right of the board of school directors (or
29 board of public education) to increase the compensation over the
30 compensation herein stated, from time to time, as may be

1 provided under the provisions and proper operation of the
2 established salary schedule, if any, for the school district,
3 subject to the provisions of law, without invalidating any other
4 provision of this contract, unless terminated by the
5 professional employe by written resignation presented sixty (60)
6 days before resignation becomes effective, or by the board of
7 school directors (or board of public education) by official
8 written notice presented to the professional employe: Provided,
9 That the said notice shall designate the cause for the
10 termination and shall state that an opportunity to be heard
11 shall be granted if the said professional employe, within ten
12 (10) days after receipt of the termination notice, presents a
13 written request for such hearing."

14 Section 3. Section 1122 of the act, amended July 26, 1961
15 (P.L.891, No.383), is amended to read:

16 Section 1122. Causes for Termination of Contract.--(a) The
17 only valid causes for termination of a contract heretofore or
18 hereafter entered into with a professional employe shall be
19 immorality[,]; incompetency[,]; unsatisfactory teaching
20 performance based on two (2) consecutive ratings of the
21 employe's teaching performance that are to include classroom
22 observations, not less than four (4) months apart, in which the
23 employe's teaching performance is rated as unsatisfactory;
24 intemperance[,]; cruelty[,]; persistent negligence[, mental
25 derangement,] in the performance of duties; wilful neglect of
26 duties; physical or mental disability as documented by competent
27 medical evidence, which after reasonable accommodation of such
28 disability as required by law substantially interferes with the
29 employe's ability to perform the essential functions of his
30 employment; advocacy of or participating in un-American or

1 subversive doctrines[, persistent and wilful violation of the
2 school laws of this Commonwealth]; conviction of a felony or
3 acceptance of a guilty plea or nolo contendere therefor;
4 persistent and wilful violation of or failure to comply with
5 school laws of this Commonwealth (including official directives
6 and established policy of the board of directors); on the part
7 of the professional employe: Provided, That boards of school
8 directors may terminate the service of any professional employe
9 who has attained to the age of sixty-two except a professional
10 employe who is a member of the old age and survivors insurance
11 system pursuant to the provisions of the act, approved the first
12 day of June, one thousand nine hundred fifty-six (Pamphlet Laws
13 1973). In such case the board may terminate the service of any
14 such professional employe at the age of sixty-five or at the age
15 at which the employe becomes eligible to receive full benefits
16 under the Federal Social Security Act.

17 (b) Nothing within the foregoing enumeration of causes in
18 subsection (a), shall be interpreted to conflict with the
19 retirement of professional employes upon proper evidence of
20 disability, or the election by professional employes to retire
21 during the period of voluntary retirement, or the authority of
22 the board of school directors to require professional employes
23 to retire during said period of voluntary retirement, or the
24 compulsion on the part of professional employes to retire at the
25 attainment of age seventy.

26 Section 4. Section 1123 of the act, amended January 14, 1970
27 (1969 P.L.468, No.192), is amended to read:

28 Section 1123. Rating System.--In determining whether a
29 professional employe shall be dismissed for incompetency or
30 unsatisfactory teaching performance as provided for in section

1 1122(a) of this act, and in rating the services of a temporary
2 professional employe, the professional employe or temporary
3 professional employe shall be rated by an approved rating system
4 which shall give due consideration to personality, preparation,
5 technique, and pupil reaction, in accordance with standards and
6 regulations for such scoring as defined by rating cards to be
7 prepared by the Department of [Public Instruction] Education,
8 and to be revised, from time to time, by the Department of
9 [Public Instruction] Education with the cooperation and advice
10 of a committee appointed by the [Superintendent of Public
11 Instruction] Secretary of Education, including representation
12 from district superintendents of schools, classroom teachers,
13 school directors, school supervisors, parents of school-age
14 children ENROLLED IN A PUBLIC SCHOOL, A REPRESENTATIVE FROM A <—
15 COLLEGE OR DEPARTMENT OF EDUCATION WITHIN A HIGHER EDUCATION
16 INSTITUTION LOCATED WITHIN THIS COMMONWEALTH, and such other
17 groups or interests as the [Superintendent of Public
18 Instruction] Secretary of Education may deem appropriate. Rating
19 shall be done by or under the supervision of the superintendent
20 of schools or, if so directed by him, the same may be done by an
21 assistant superintendent, a supervisor, or a principal, who has
22 supervision over the work of the professional employe or
23 temporary professional employe who is being rated: Provided,
24 That no unsatisfactory rating shall be valid unless approved by
25 the district superintendent.

26 Section 5. Nothing contained in the amendment of sections
27 1108, 1122 and 1123 of the act shall supersede or preempt any
28 provisions of an existing collective bargaining agreement
29 between a school entity and an employee organization. For the
30 purpose of this subsection, a "school entity" shall mean a

- 1 school district, joint school district, intermediate unit or
- 2 area vocational-technical school.
- 3 Section 6. This act shall take effect immediately.