

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 612** Session of  
2011

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INTRODUCED BY FOLMER, SMUCKER, M. WHITE, RAFFERTY, EICHELBERGER,  
WAUGH, EARLL, PICCOLA, BRUBAKER, D. WHITE, ALLOWAY, VANCE,  
McILHINNEY, WARD, BROWNE, MENSCH AND YAW, FEBRUARY 18, 2011

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AS AMENDED ON THIRD CONSIDERATION, MAY 9, 2011

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## 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 causes for suspension and for persons to be  
7 suspended.

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

10 Section 1. Section 1124 of the act of March 10, 1949  
11 (P.L.30, No.14), known as the Public School Code of 1949,  
12 amended August 8, 1963 (P.L.564, No.299), is amended to read:

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

17 (1) Substantial decrease in pupil enrollment in the school  
18 district;

19 (2) Curtailment or alteration of the educational program on  
20 recommendation of the superintendent, concurred in by the board

1 of school directors, approved by the Department of [Public  
2 Instruction] Education, as a result of substantial decline in  
3 class or course enrollments or to conform with standards of  
4 organization or educational activities required by law or  
5 recommended by the Department of [Public Instruction] Education;

6 (3) Consolidation of schools, whether within a single  
7 district, through a merger of districts, or as a result of joint  
8 board agreements, when such consolidation makes it unnecessary  
9 to retain the full staff of professional employees.

10 (4) When new school districts are established as the result  
11 of reorganization of school districts pursuant to Article II.,  
12 subdivision (i) of this act, and when such reorganization makes  
13 it unnecessary to retain the full staff of professional  
14 employees.

15 (5) Economic reasons, as part of a plan to reduce or control  
16 school district costs. A school district may not use costs as  
17 the sole factor in determining which professional employees to  
18 suspend.

19 (b) ~~(1)~~—The IN THE CASE OF A SUSPENSION UNDER SUBSECTION ←  
20 (A) (5), THE following shall apply to any suspension of a  
21 professional employe assigned to provide instruction directly to  
22 students:

23 ~~(i)~~ (1) A board of school directors may suspend the ←  
24 necessary number of professional employes assigned to provide  
25 instruction directly to students only if the board of school  
26 directors also suspends at least an equal percentage proportion  
27 of administrative staff.

28 ~~(ii)~~ (2) The Secretary of Education may grant a board of ←  
29 school directors a waiver of subparagraph ~~(i)~~ PARAGRAPH (1) if ←  
30 the following apply:

1 ~~(A)~~ (I) the Secretary of Education determines that ←  
2 compliance with subparagraph (i) PARAGRAPH (1) is likely to ←  
3 cause significant harm to the operations of the school district;

4 ~~(B)~~ (II) the Secretary of Education submits the ←  
5 determination to the State Board of Education ; and

6 ~~(C)~~ (III) the State Board of Education approves the ←  
7 determination by a majority of its members.

8 (3) ANY FIVE ADMINISTRATIVE STAFF POSITIONS SELECTED BY THE ←  
9 BOARD OF SCHOOL DIRECTORS SHALL BE EXEMPT FROM THE REQUIREMENTS  
10 OF PARAGRAPHS (1) AND (2).

11 (C) A BOARD OF SCHOOL DIRECTORS MAY SUSPEND PROFESSIONAL  
12 EMPLOYES UNDER SUBSECTION (A) (5) ONLY IF THE BOARD OF SCHOOL  
13 DIRECTORS ADOPTS, AT A PUBLIC MEETING AT WHICH AN OPPORTUNITY  
14 FOR PUBLIC COMMENT REGARDING THE PROPOSED SUSPENSION HAS BEEN  
15 PROVIDED, A RESOLUTION SETTING FORTH ALL OF THE FOLLOWING:

16 (1) THE REASON THE SUSPENSION IS NECESSARY.

17 (2) THE NUMBER AND PERCENTAGE OF EMPLOYES TO BE SUSPENDED  
18 WHO ARE ASSIGNED TO PROVIDE INSTRUCTION DIRECTLY TO STUDENTS.

19 (3) THE NUMBER AND PERCENTAGE OF EMPLOYES TO BE SUSPENDED  
20 WHO ARE ADMINISTRATIVE STAFF.

21 (4) THE NUMBER AND PERCENTAGE OF POSITIONS ELIMINATED AND A  
22 DESCRIPTION OF EACH POSITION ELIMINATED.

23 (5) THE ACADEMIC SUBJECTS, COURSES OR ELECTIVES AND  
24 NONACADEMIC ACTIVITIES THAT WILL BE AFFECTED BY THE SUSPENSION.

25 (6) A DESCRIPTION OF OTHER COST-SAVING ACTIONS UNDERTAKEN BY  
26 THE SCHOOL DISTRICT.

27 (7) THE MEASURES THE SCHOOL DISTRICT WILL UNDERTAKE TO  
28 MINIMIZE THE IMPACT ON STUDENT ACHIEVEMENT, IF ANY, CAUSED BY A  
29 SUSPENSION OF PROFESSIONAL EMPLOYES ASSIGNED TO PROVIDE  
30 INSTRUCTION DIRECTLY TO STUDENTS.

1 ~~(2)~~ (D) For purposes of this subsection SUBSECTIONS (B) AND ←  
2 (C), "administrative staff" shall include, but not be limited  
3 to, superintendents, assistant superintendents, deputy  
4 superintendents, principals, assistant principals, supervisors,  
5 managers, directors, coordinators and any other staff who are  
6 not assigned to provide instruction directly to students.

7 (E) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE ←  
8 CAUSES FOR WHICH A TEMPORARY PROFESSIONAL EMPLOYE MAY BE  
9 SUSPENDED.

10 Section 2. Section 1125.1 of the act, amended or added  
11 November 20, 1979 (P.L.465, No.97) and July 10, 1986 (P.L.1270,  
12 No.117), is amended to read:

13 Section 1125.1. Persons to be Suspended.--(a) A BOARD OF ←  
14 SCHOOL DIRECTORS SHALL EXERCISE ITS DISCRETION IN SUSPENDING  
15 PROFESSIONAL EMPLOYEES UNDER SECTION 1124 SO AS TO OPERATE THE  
16 SCHOOL ENTITY IN A COST-EFFECTIVE AND EDUCATIONALLY EFFECTIVE  
17 MANNER. Professional employes shall be suspended under section  
18 1124 [(relating to causes for suspension) in inverse order of  
19 seniority within the school entity of current employment.  
20 Approved leaves of absence shall not constitute a break in  
21 service for purposes of computing seniority for suspension  
22 purposes. Seniority shall continue to accrue during suspension  
23 and all approved leaves of absence.] based upon the school  
24 entity's evaluation of the following factors in determining  
25 which employes will be suspended:

- 26 (1) The professional employe's certification.  
27 (2) The professional employe's performance, including, but  
28 not limited to, performance under the Pennsylvania Value Added  
29 Assessment System and local school entity performance criteria.  
30 (3) For a professional employe who teaches subjects or grade

1 levels that are not evaluated under the Pennsylvania Value Added  
2 Assessment System, whether the professional employe meets  
3 qualifications set forth by the school entity to teach a  
4 particular subject or grade level.

5 (4) Specific qualifications set forth by the school entity.

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

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

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

16 (2) Suspended professional employes or professional employes  
17 demoted for the reasons set forth in section 1124 shall be  
18 reinstated on the basis of [their seniority within the school  
19 entity. No new appointment shall be made while there is such a  
20 suspended or demoted professional employe available who is  
21 properly certificated to fill such vacancy.] the school entity's  
22 evaluation of the criteria listed in subsection (a). For the  
23 purpose of this subsection, positions from which professional  
24 employes are on approved leaves of absence shall also be  
25 considered temporary vacancies.

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

30 (4) A suspended employe enrolled in a college program during

1 a period of suspension and who is recalled shall be given the  
2 option of delaying his return to service until the end of the  
3 current semester.

4 (e) Nothing contained in section 1125.1(a) through [(d)] (G) ←  
5 shall be construed to supersede or preempt any provisions of a  
6 collective bargaining agreement negotiated by a school entity  
7 and an exclusive representative of the employes in accordance  
8 with the act of July 23, 1970 (P.L.563, No.195), known as the  
9 "Public Employe Relations Act[";]," and in effect on the  
10 effective date of subsection (g); however, no agreement shall  
11 prohibit the right of a professional employe who is not a member  
12 of a bargaining unit from retaining seniority rights under the  
13 provisions of this act.

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

17 (g) Where a professional employe is suspended under this  
18 section, the professional employe's position shall remain vacant  
19 for at least one year; provided, that the school entity may  
20 reinstate at any time the professional employe who was  
21 suspended.

22 Section 3. This act shall take effect ~~in 60 days~~ ←  
23 IMMEDIATELY. ←