
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 612 Session of
2011

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

AS AMENDED ON THIRD CONSIDERATION, MAY 10, 2011

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) In the case of a suspension under subsection (a) (5), the
20 following shall apply to any suspension of a professional
21 employee assigned to provide instruction directly to students:

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

27 (2) The Secretary of Education may grant a board of school
28 directors a waiver of paragraph (1) if the following apply:

29 (i) the Secretary of Education determines that compliance
30 with paragraph (1) is likely to cause significant harm to the

1 operations of the school district;

2 (ii) the Secretary of Education submits the determination to
3 the State Board of Education; and

4 (iii) the State Board of Education approves the
5 determination by a majority of its members.

6 (3) Any ~~five~~ THREE administrative staff positions selected ←
7 by the board of school directors shall be exempt from the
8 requirements of paragraphs (1) and (2).

9 (c) A board of school directors may suspend professional
10 employees under subsection (a) (5) only if the board of school
11 directors adopts, at a public meeting at which an opportunity
12 for public comment regarding the proposed suspension has been
13 provided, a resolution setting forth all of the following:

14 (1) The reason the suspension is necessary.

15 (2) The number and percentage of employees to be suspended
16 who are assigned to provide instruction directly to students.

17 (3) The number and percentage of employees to be suspended
18 who are administrative staff.

19 (4) The number and percentage of positions eliminated and a
20 description of each position eliminated.

21 (5) The academic subjects, courses or electives and
22 nonacademic activities that will be affected by the suspension.

23 (6) A description of other cost-saving actions undertaken by
24 the school district.

25 (7) The measures the school district will undertake to
26 minimize the impact on student achievement, if any, caused by a
27 suspension of professional employees assigned to provide
28 instruction directly to students.

29 (d) For purposes of subsections (b) and (c), "administrative
30 staff" shall include, but not be limited to, superintendents,

1 assistant superintendents, deputy superintendents, principals,
2 assistant principals, supervisors, managers, directors, AND ←
3 coordinators and any other staff who are not assigned to provide ←
4 instruction directly to students.

5 (e) Nothing in this section shall be construed to limit the
6 causes for which a temporary professional employe may be
7 suspended.

8 (F) FOLLOWING THE 2015-2016 SCHOOL YEAR, THE DEPARTMENT OF ←
9 EDUCATION SHALL CONDUCT A STUDY OF THE EFFECTIVENESS OF THE
10 PROVISIONS OF SUBSECTIONS (A) (5), (B), (C) AND (D) AND SECTION
11 1125.1 AND SHALL DELIVER A WRITTEN REPORT OF ITS FINDINGS,
12 INCLUDING ANY RECOMMENDATIONS FOR CHANGES TO SUBSECTIONS (A) (5),
13 (B), (C) AND (D) AND SECTION 1125.1, TO THE GOVERNOR, THE
14 CHAIRMAN AND MINORITY CHAIRMAN OF THE EDUCATION COMMITTEE OF THE
15 SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE EDUCATION
16 COMMITTEE OF THE HOUSE OF REPRESENTATIVES BY DECEMBER 31, 2016.

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

20 Section 1125.1. Persons to be Suspended.--(a) A board of ←
21 school directors shall exercise its discretion in suspending
22 professional employes under section 1124 so as to operate the
23 school entity in a cost effective and educationally effective
24 manner. Professional employes shall be suspended under section
25 1124 †(relating to causes for suspension) in inverse order of ←
26 seniority within the school entity of current employment, EXCEPT ←
27 AS PROVIDED UNDER SUBSECTION (A.1). Approved leaves of absence
28 shall not constitute a break in service for purposes of
29 computing seniority for suspension purposes. Seniority shall
30 continue to accrue during suspension and all approved leaves of

1 ~~absence.} based upon the school entity's evaluation of the~~ ←
2 ~~following factors in determining which employes will be~~
3 ~~suspended:~~

4 ~~(1) The professional employe's certification.~~

5 ~~(2) The professional employe's performance, including, but~~
6 ~~not limited to, performance under the Pennsylvania Value Added~~
7 ~~Assessment System and local school entity performance criteria.~~

8 ~~(3) For a professional employe who teaches subjects or grade~~
9 ~~levels that are not evaluated under the Pennsylvania Value Added~~
10 ~~Assessment System, whether the professional employe meets~~
11 ~~qualifications set forth by the school entity to teach a~~
12 ~~particular subject or grade level.~~

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

14 (A.1) FOR PROFESSIONAL EMPLOYES SUSPENDED UNDER SECTION ←
15 1124(A) (5), A BOARD OF SCHOOL DIRECTORS MAY SUSPEND WITHOUT
16 REGARD TO SENIORITY A PROFESSIONAL EMPLOYE WHOSE TWO MOST RECENT
17 CONSECUTIVE PERFORMANCE RATINGS ISSUED UNDER SECTION 1123 WERE
18 UNSATISFACTORY IF THE PROFESSIONAL EMPLOYE HAD AN OPPORTUNITY TO
19 COMPLETE A PERFORMANCE IMPROVEMENT PLAN PRIOR TO THE MOST RECENT
20 UNSATISFACTORY RATING.

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

25 †(c) [A] EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION ←
26 (A.1), A school entity shall realign its professional staff so
27 as to insure that more senior employes are provided with the
28 opportunity to fill positions for which they are certificated
29 and which are being filled by less senior employes.† ←

30 (d) (1) No suspended employe shall be prevented from

1 engaging in another occupation during the period of suspension.

2 (2) Suspended professional employes or professional employes
3 demoted for the reasons set forth in section ~~1124~~ 1124(A) (1), ←

4 (2), (3) AND (4) shall be reinstated on the basis of ~~†~~their ←
5 seniority within the school entity. No new appointment shall be

6 made while there is such a suspended or demoted professional
7 employe available who is properly certificated to fill such

8 vacancy. ~~† the school entity's evaluation of the criteria listed~~ ←
9 in subsection (a). For the purpose of this subsection, positions

10 from which professional employes are on approved leaves of
11 absence shall also be considered temporary vacancies.

12 PROFESSIONAL EMPLOYES SUSPENDED FOR THE REASONS SET FORTH UNDER ←
13 SECTION 1124(A) (5) MAY BE REINSTATED.

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

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

22 (e) Nothing contained in section 1125.1(a) through [(d)] (g)
23 shall be construed to supersede or preempt any provisions of a
24 collective bargaining agreement negotiated by a school entity
25 and an exclusive representative of the employes in accordance
26 with the act of July 23, 1970 (P.L.563, No.195), known as the
27 "Public Employe Relations Act[";], and in effect on the
28 effective date of subsection (g); however, no agreement shall
29 prohibit the right of a professional employe who is not a member
30 of a bargaining unit from retaining seniority rights under the

1 provisions of this act.

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

5 (g) Where a professional employe is suspended under this
6 section, the professional employe's position shall remain vacant
7 for at least one year; provided, that the school entity may
8 reinstate at any time the professional employe who was
9 suspended.

10 Section 3. This act shall take effect immediately.