

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1722 Session of
2013

INTRODUCED BY KRIEGER, SACCONI, GROVE, BLOOM, CUTLER, AUMENT,
STERN, ROAE, EVERETT, COX, METCALFE, R. MILLER, HICKERNELL,
GRELL, SWANGER, BARRAR, CLYMER, WATSON, TALLMAN, C. HARRIS,
DENLINGER, KIRKLAND, V. BROWN AND B. BOYLE,
SEPTEMBER 30, 2013

REFERRED TO COMMITTEE ON EDUCATION, SEPTEMBER 30, 2013

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 contracts, execution and form, for causes for
7 suspension and for persons to be suspended and to receive
8 tenure, for collective bargaining agreements and for timing
9 of appeal of suspension; and making editorial changes.

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

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

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

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

1 this Commonwealth.

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)] five (5) years of service in any school district of this
7 Commonwealth.

8 * * *

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

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

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

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

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

27 (4) when new school districts are established as the result
28 of reorganization of school districts pursuant to Article II.,
29 subdivision (i) of this act, and when such reorganization makes
30 it unnecessary to retain the full staff of professional

1 employees[.]; or
2 (5) economic reasons that require a reduction in
3 professional employes.

4 * * *

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

8 Section 1125.1. Persons to be Suspended.--(a) Professional
9 employes shall be suspended under section 1124 [(relating to
10 causes for suspension) in inverse order of seniority within the
11 school entity of current employment. Approved leaves of absence
12 shall not constitute a break in service for purposes of
13 computing seniority for suspension purposes.] based upon the
14 professional employe's performance evaluations pursuant to
15 section 1123 within the professional employe's areas of
16 certification. Seniority shall continue to accrue during
17 suspension and all approved leaves of absence.

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

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

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

28 (2) Suspended professional employes or professional employes
29 demoted for the reasons set forth in section 1124 shall be
30 reinstated on the basis of their [seniority] performance

1 evaluation within their areas of certification, followed next by
2 seniority within the school entity. No new appointment shall be
3 made while there is such a suspended or demoted professional
4 employe available who is properly certificated to fill such
5 vacancy. For the purpose of this subsection, positions from
6 which professional employes are on approved leaves of absence
7 shall also be considered temporary vacancies.

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

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

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

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

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

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

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

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

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

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

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

29 After hearing and argument and reviewing all the testimony
30 filed or taken before him, the [Superintendent of Public

1 Instruction] Secretary of Education shall enter such order,
2 either affirming or reversing the action of the board of school
3 directors, as to him appears just and proper.

4 Section 5. This act shall take effect immediately.