

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 805 Session of 2015

INTRODUCED BY BLOOM, METCALFE, CUTLER, TRUITT, GROVE, MCGINNIS, SANKEY, KAUFFMAN, GRELL, HICKERNELL, MENTZER, FEE, GREINER, KNOWLES, TOPPER, TALLMAN, EVERETT, MACKENZIE, CHRISTIANA, MOUL, STAATS, SACCONI, DIAMOND, ZIMMERMAN, PHILLIPS-HILL, WARD, IRVIN, ROAE, RAPP, KILLION, JOZWIAK, REGAN, QUIGLEY, LAWRENCE, MARSICO, DUSH, MALONEY, KRIEGER, ORTITAY, GINGRICH AND SIMMONS, MARCH 23, 2015

REFERRED TO COMMITTEE ON EDUCATION, MARCH 23, 2015

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 and
 8 for persons to be suspended and to receive tenure, for
 9 collective bargaining agreements and for timing of appeal of
 10 suspension; and making editorial changes.

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

13 Section 1. Sections 1108 and 1121(b) of the act of March 10,
 14 1949 (P.L.30, No.14), known as the Public School Code of 1949,
 15 amended March 29, 1996 (P.L.47, No.16), are amended to read:

16 Section 1108. Temporary Professional Employees.--(a) It
 17 shall be the duty of the district superintendent to notify each
 18 temporary professional employe, at least twice each year during
 19 the period of his or her employment, of the professional

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

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

15 (2) A temporary professional employe initially employed by a
16 school district, on or after June 30, 1996, but prior to June
17 30, 2015, whose work has been certified by the district
18 superintendent to the secretary of the school district, during
19 the last four (4) months of the third year of such service, as
20 being satisfactory shall thereafter be a "professional employe"
21 within the meaning of this article.

22 (2.1) A temporary professional employe initially employed by
23 a school district, on or after June 30, 2015, whose work has
24 been certified by the district superintendent to the secretary
25 of the school district, during the last four (4) months of the
26 fifth year of such service, as being satisfactory shall
27 thereafter be a "professional employe" within the meaning of
28 this article.

29 (3) The attainment of the status under paragraph (1) [or],
30 (2) or (2.1) shall be recorded in the records of the board and

1 written notification thereof shall be sent also to the employe.
2 The employe shall then be tendered forthwith a regular contract
3 of employment as provided for professional employes. No
4 professional employe who has attained tenure status in any
5 school district of this Commonwealth shall thereafter be
6 required to serve as a temporary professional employe before
7 being tendered such a contract when employed by any other part
8 of the public school system of the Commonwealth.

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

16 (2) Any temporary professional employe employed by a school
17 district after June 30, 1996, but prior to June 30, 2015, who is
18 not tendered a regular contract of employment at the end of
19 three years of service, rendered as herein provided, shall be
20 given a written statement signed by the president and secretary
21 of the board of school directors and setting forth explicitly
22 the reason for such refusal.

23 (3) Any temporary professional employe employed by a school
24 district on or after June 30, 2015, who is not tendered a
25 regular contract of employment at the end of five (5) years of
26 service, rendered as herein provided, shall be given a written
27 statement signed by the president and secretary of the board of
28 school directors and setting forth explicitly the reason for
29 such refusal.

30 (d) Temporary professional employes shall for all purposes,

1 except tenure status, be viewed in law as full-time employes,
2 and shall enjoy all the rights and privileges of regular full-
3 time employes.

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

5 (b) (1) Each board of school directors in all school
6 districts shall hereafter enter into contracts, in writing, with
7 each professional employe initially employed by a school
8 district prior to June 30, 1996, who has satisfactorily
9 completed two (2) years of service in any school district of
10 this Commonwealth.

11 (2) Each board of school directors in all school districts
12 shall hereafter enter into contracts, in writing, with each
13 professional employe initially employed by a school district, on
14 or after June 30, 1996, but prior to June 30, 2015, who has
15 satisfactorily completed three (3) years of service in any
16 school district of this Commonwealth.

17 (3) Each board of school directors in all school districts
18 shall only hereafter enter into contracts, in writing, with each
19 professional employe initially employed by a school district, on
20 or after June 30, 2015, who has satisfactorily completed five
21 (5) years of service in any school district of this Commonwealth
22 and received overall performance ratings of "distinguished" or
23 "proficient" on both of the professional employe's two most
24 recent end-of-year performance evaluations pursuant to section
25 1123 at the school district of current employment.

26 * * *

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

29 Section 1124. Causes for Suspension.--(a) Any board of
30 school directors may suspend the necessary number of

1 professional employes, for any of the causes hereinafter
2 enumerated:

3 (1) substantial decrease in pupil enrollment in the school
4 district;

5 (2) curtailment or alteration of the educational program on
6 recommendation of the superintendent and on concurrence by the
7 board of school directors, as a result of substantial decline in
8 class or course enrollments or to conform with standards of
9 organization or educational activities required by law or
10 recommended by the Department of [Public Instruction] Education;

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

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

20 (5) economic reasons that require a reduction in
21 professional employes.

22 (a.1) A school district may not use an employe's
23 compensation in determining which professional employes to
24 suspend, but shall use the procedures in section 1125.1 to
25 determine the order in which professional employes are
26 suspended.

27 (b) Notwithstanding an existing or future provision in a
28 collective bargaining agreement or other similar employment
29 contract to the contrary, suspension of a professional employe
30 due to the curtailment or alteration of the educational program

1 as set forth in subsection (a) (2) may be effectuated without the
2 approval of the curtailment or alteration of the educational
3 program by the Department of Education, provided that, where an
4 educational program is altered or curtailed as set forth in
5 subsection (a) (2), the school district shall notify the
6 Department of Education of the actions taken pursuant to
7 subsection (a) (2). The Department of Education shall post all
8 notifications received from a school district pursuant to this
9 subsection on the Department of Education's publicly accessible
10 Internet website.

11 (c) (1) A collective bargaining agreement negotiated by a
12 school district and an exclusive representative of professional
13 employees in accordance with the act of July 23, 1970 (P.L.563,
14 No.195), known as the "Public Employe Relations Act," after the
15 effective date of this subsection may not prohibit the
16 suspension of professional employes for economic reasons other
17 than as provided for in this section.

18 (2) A provision in any agreement or contract in effect on
19 the effective date of this subsection that prohibits the
20 suspension of professional employes for economic reasons in
21 conflict with this section shall be discontinued in any new or
22 renewed agreement or contract or during the period of status quo
23 following an expired contract.

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

27 Section 1125.1. Persons to be Suspended.--(a) Professional
28 employes shall be suspended under section 1124 [(relating to
29 causes for suspension) in inverse order of seniority within the
30 school entity of current employment. Approved leaves of absence

1 shall not constitute a break in service for purposes of
2 computing seniority for suspension purposes.] in the following
3 order within the area of certification required by law for the
4 professional employe's current position:

5 (1) Each professional employe who received an overall
6 performance rating of "failing" on the professional employe's
7 most recent end-of-year performance rating shall be suspended
8 first.

9 (2) After suspending professional employes under paragraph
10 (1), each professional employe who received an overall
11 performance rating of "needs improvement" on the professional
12 employe's most recent end-of-year performance rating shall be
13 suspended second.

14 (3) After suspending professional employes under paragraph
15 (2), each professional employe who received an overall
16 performance rating of "proficient" on the professional employe's
17 most recent end-of-year performance rating shall be suspended
18 third.

19 (4) After suspending professional employes under paragraph
20 (3), each professional employe who received an overall
21 performance rating of "distinguished" on the professional
22 employe's most recent end-of-year performance rating shall be
23 suspended last.

24 (a.1) When more professional employes receive the same
25 overall performance rating than there are suspensions, seniority
26 within the school entity shall be used to determine suspensions
27 among professional employes with the same overall performance
28 rating on the employe's most recent performance evaluation
29 pursuant to section 1123.

30 (a.2) Seniority shall continue to accrue during suspension

1 and all approved leaves of absence.

2 (b) Where there is or has been a consolidation of schools,
3 departments or programs, all professional employes shall retain
4 the seniority rights they had prior to the reorganization or
5 consolidation.

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

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

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

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

1 position when offered.

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

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

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

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

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

21 (g) (1) No collective bargaining agreement negotiated by a
22 school district and an exclusive representative of the employes
23 in accordance with the "Public Employe Relations Act" after the
24 effective date of this subsection shall provide for suspending,
25 reinstating or realigning professional employes based on
26 seniority other than as provided for in this section.

27 (2) Upon the expiration, amendment or adoption of any
28 agreement or contract, a provision that provides for suspending,
29 reinstating or realigning professional employes based on
30 seniority in conflict with this section shall be discontinued in

1 any new or renewed agreement or contract or during the period of
2 status quo following an expired contract.

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

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

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

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

26 After hearing and argument and reviewing all the testimony
27 filed or taken before him, the [Superintendent of Public
28 Instruction] Secretary of Education shall enter such order,
29 either affirming or reversing the action of the board of school
30 directors, as to him appears just and proper.

1 Section 5. This act shall take effect as follows:

2 (1) The amendment or addition of sections 1124(c) and
3 1125.1(g) of the act shall take effect immediately.

4 (2) This section shall take effect immediately.

5 (3) The remainder of this act shall take effect July 1,
6 2015.