
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2151 Session of
2015

INTRODUCED BY BLOOM, MUSTIO, CUTLER, WARD, TOPPER, FEE, ORTITAY,
HICKERNELL, MAHONEY, ROTHMAN, KNOWLES, A. HARRIS, OBERLANDER,
TRUITT, MENTZER, KAUFFMAN, GROVE, MCGINNIS, STAATS, KLUNK,
RADER, JOZWIAK, REGAN, TALLMAN, HELM, MACKENZIE, PHILLIPS-
HILL, EVERETT AND ZIMMERMAN, JUNE 9, 2016

REFERRED TO COMMITTEE ON EDUCATION, JUNE 9, 2016

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, for
8 persons to be suspended and for appeals to superintendent of
9 public instruction; and making editorial changes.

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

12 Section 1. Sections 1108 and 1121(b) of the act of March 10,
13 1949 (P.L.30, No.14), known as the Public School Code of 1949,
14 amended March 29, 1996 (P.L.47, No.16), are 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 employe, 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
20 services. No temporary professional employe shall be dismissed

1 unless rated unsatisfactory, and notification, in writing, of
2 such unsatisfactory rating shall have been furnished the employe
3 within ten (10) days following the date of such rating. The
4 rating of a temporary professional employe shall be done as
5 provided in section one thousand one hundred twenty-three of
6 this act.

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

13 (2) A temporary professional employe initially employed by a
14 school district, on or after June 30, 1996, but prior to June
15 30, 2016, whose work has been certified by the district
16 superintendent to the secretary of the school district, during
17 the last four (4) months of the third year of such service, as
18 being satisfactory shall thereafter be a "professional employe"
19 within the meaning of this article.

20 (2.1) A temporary professional employe initially employed by
21 a school district, on or after June 30, 2016, whose work has
22 been certified by the district superintendent to the secretary
23 of the school district during the last four (4) months of the
24 third year of such service, or, in the case of a temporary
25 professional employe whose temporary professional status was
26 extended for one additional year by the district superintendent
27 pursuant to paragraph (2.2), during the last four (4) months of
28 the fourth year of such service, as being satisfactory shall
29 thereafter be a "professional employe" within the meaning of
30 this article.

1 (2.2) The district superintendent may extend the temporary
2 professional status of an employe by one additional year when,
3 in the professional judgment of the district superintendent,
4 further evaluation of the temporary professional employe is
5 necessary prior to certifying the work of the temporary
6 professional employe as satisfactory. To extend the temporary
7 professional status of an employe under this paragraph, the
8 district superintendent must provide the temporary professional
9 employe, during the last four (4) months of the third year of
10 the temporary professional employe's service, with a written
11 statement, signed by the district superintendent, setting forth
12 the specific reason for the extension.

13 (3) The attainment of the status under paragraph (1) [or],
14 (2) or (2.1) shall be recorded in the records of the board and
15 written notification thereof shall be sent also to the employe.
16 The employe shall then be tendered forthwith a regular contract
17 of employment as provided for professional employes. No
18 professional employe who has attained tenure status in any
19 school district of this Commonwealth shall thereafter be
20 required to serve as a temporary professional employe before
21 being tendered such a contract when employed by any other part
22 of the public school system of the Commonwealth.

23 (c) (1) Any temporary professional employe employed by a
24 school district prior to June 30, 1996, who is not tendered a
25 regular contract of employment at the end of two 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 (2) Any temporary professional employe employed by a school

1 district after June 30, 1996, but prior to June 30, 2016, who is
2 not tendered a regular contract of employment at the end of
3 three years of service, rendered as herein provided, shall be
4 given a written statement signed by the president and secretary
5 of the board of school directors and setting forth explicitly
6 the reason for such refusal.

7 (3) Any temporary professional employe employed by a school
8 district on or after June 30, 2016, who is not tendered a
9 regular contract of employment at the end of three (3) years of
10 service, or, in the case of a temporary professional employe
11 whose temporary professional status was extended for one
12 additional year by the district superintendent pursuant to
13 subsection (b) (2.2), at the end of four (4) years of service,
14 rendered as herein provided, shall be given a written statement
15 signed by the president and secretary of the board of school
16 directors and setting forth explicitly the reason for such
17 refusal.

18 (d) Temporary professional employes shall for all purposes,
19 except tenure status, be viewed in law as full-time employes,
20 and shall enjoy all the rights and privileges of regular full-
21 time employes.

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

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

29 (2) Each board of school directors in all school districts
30 shall hereafter enter into contracts, in writing, with each

1 professional employe initially employed by a school district, on
2 or after June 30, 1996, but prior to June 30, 2016, who has
3 satisfactorily completed three (3) years of service in any
4 school district of this Commonwealth.

5 (3) Each board of school directors in all school districts
6 shall only hereafter enter into contracts, in writing, with each
7 professional employe initially employed by a school district, on
8 or after June 30, 2016, who has satisfactorily completed three
9 (3) years of service or, in the case of a temporary professional
10 employe whose temporary professional contract is extended by the
11 district superintendent for one additional year and who has
12 satisfactorily completed four (4) years of service, in any
13 school district of this Commonwealth and received overall
14 performance ratings of "distinguished" or "proficient" on both
15 of the professional employe's two (2) most recent end-of-year
16 performance evaluations pursuant to section 1123 at the school
17 district of current employment.

18 * * *

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

21 Section 1124. Causes for Suspension.--(a) Any board of
22 school directors may suspend the necessary number of
23 professional employes, for any of the causes hereinafter
24 enumerated:

25 (1) substantial decrease in pupil enrollment in the school
26 district;

27 (2) curtailment or alteration of the educational program on
28 recommendation of the superintendent and on concurrence by the
29 board of school directors, as a result of substantial decline in
30 class or course enrollments or to conform with standards of

1 organization or educational activities required by law or
2 recommended by the Department of [Public Instruction] Education;

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

7 (4) when new school districts are established as the result
8 of reorganization of school districts pursuant to Article II.,
9 subdivision (i) of this act, and when such reorganization makes
10 it unnecessary to retain the full staff of professional
11 employes[.]; or

12 (5) economic reasons that require a reduction in
13 professional employes, provided that a professional employe who
14 received an overall performance rating of "distinguished" on at
15 least two (2) of the professional employe's most recent three
16 (3) end-of-year performance ratings may not be suspended for
17 economic reasons under this paragraph.

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

23 (b) Notwithstanding an existing or future provision in a
24 collective bargaining agreement or other similar employment
25 contract to the contrary, suspension of a professional employe
26 due to the curtailment or alteration of the educational program
27 as set forth in subsection (a) (2) may be effectuated without the
28 approval of the curtailment or alteration of the educational
29 program by the Department of Education, provided that, where an
30 educational program is altered or curtailed as set forth in

1 subsection (a) (2), the school district shall notify the
2 Department of Education of the actions taken pursuant to
3 subsection (a) (2). The Department of Education shall post all
4 notifications received from a school district pursuant to this
5 subsection on the Department of Education's publicly accessible
6 Internet website.

7 (c) The following shall apply in the case of a suspension
8 under subsection (a) (5) in which a board of school directors
9 suspends professional employes who are assigned to provide
10 instruction directly to students:

11 (1) A board of school directors may suspend the necessary
12 number of professional employes assigned to provide instruction
13 directly to students only if the board of school directors also
14 suspends at least an equal percentage proportion of
15 administrative staff.

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

18 (i) the Secretary of Education determines that the school
19 district's operations are already sufficiently streamlined;

20 (ii) the Secretary of Education submits the determination to
21 the State Board of Education; and

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

24 (3) Any five administrative staff positions selected by the
25 board of school directors shall be exempt from the requirements
26 of paragraphs (1) and (2).

27 (d) In the case of a suspension under subsection (a) (5), a
28 board of school directors may suspend the necessary number of
29 professional employes only by a majority vote at a public
30 meeting of the board of school directors.

1 (e) Following the 2019-2020 school year, the Legislative
2 Budget and Finance Committee shall conduct a study of the
3 effectiveness of the provisions of sections 1124(a)(5), (c) and
4 (d) and 1125.1 and shall deliver a written report of its
5 findings, including whether these provisions of law are being
6 used effectively by school districts to improve school district
7 efficiency, to the Governor, the chairman and minority chairman
8 of the Education Committee of the Senate and the chairman and
9 minority chairman of the Education Committee of the House of
10 Representatives by December 31, 2020.

11 (f) (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.] as follows, within
3 the area of certification required by law for the professional
4 employee's current position:

5 (1) (i) 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 (ii) After suspending professional employes under subclause
10 (i), 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 (iii) When more professional employes receive the same
15 overall performance rating than there are suspensions, seniority
16 within the school entity shall be used to determine suspensions
17 among professional employes with the same overall performance
18 rating on the employe's most recent performance evaluation
19 pursuant to section 1123, provided that approved leaves of
20 absence shall not constitute a break in service for purposes of
21 computing seniority for suspension purposes.

22 (2) After suspending professional employes under clause (1),
23 each professional employe who received an overall performance
24 rating of "proficient" or "distinguished" on the professional
25 employe's most recent end-of-year performance rating shall be
26 suspended in inverse order of seniority within the school entity
27 of current employment, provided that approved leaves of absence
28 shall not constitute a break in service for purposes of
29 computing seniority for suspension purposes.

30 (a.1) 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 within the school
15 entity.] as follows:

16 (i) Professional employes who received an overall
17 performance rating of "proficient" or "distinguished" on their
18 most recent end-of-year performance evaluations shall be
19 reinstated first in order of seniority within the area of
20 certification required for the vacancy being filled and within
21 the school entity.

22 (ii) After reinstating professional employes under subclause
23 (i), professional employes who received an overall performance
24 rating of "needs improvement" on their most recent end-of-year
25 performance evaluations shall be reinstated second in order of
26 seniority within the area of certification required for the
27 vacancy being filled and within the school entity.

28 (iii) After reinstating professional employes under
29 subclause (ii), professional employes who received an overall
30 performance rating of "failing" on their most recent end-of-year

1 performance evaluations shall be reinstated last in order of
2 seniority within the area of certification required for the
3 vacancy being filled and within the school entity.

4 No new appointment shall be made while there is such a suspended
5 or demoted professional employe available who is properly
6 certificated to fill such vacancy. For the purpose of this
7 subsection, positions from which professional employes are on
8 approved leaves of absence shall also be considered temporary
9 vacancies.

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

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

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

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

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

30 (f) A decision to suspend in accordance with this section

1 shall be considered an adjudication within the meaning of the
2 "Local Agency Law."

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

9 (2) Upon the expiration, amendment or adoption of any
10 agreement or contract, a provision that provides for suspending,
11 reinstating or realigning professional employes based on
12 seniority in conflict with this section shall be discontinued in
13 any new or renewed agreement or contract or during the period of
14 status quo following an expired contract.

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

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

21 Section 1131. Appeals to [Superintendent of Public
22 Instruction] Secretary of Education.--In case the professional
23 employe concerned considers himself or herself aggrieved by the
24 action of the board of school directors, an appeal by petition,
25 setting forth the grounds for such appeal, may be taken to the
26 [Superintendent of Public Instruction] Secretary of Education at
27 Harrisburg. Such appeal shall be filed within [thirty (30)]
28 fifteen (15) days after receipt by registered mail of the
29 written notice of the decision of the board. A copy of such
30 appeal shall be served by registered mail on the secretary of

1 the school board.

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

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

13 After hearing and argument and reviewing all the testimony
14 filed or taken before him, the [Superintendent of Public
15 Instruction] Secretary of Education shall enter such order,
16 either affirming or reversing the action of the board of school
17 directors, as to him appears just and proper.

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

19 (1) The amendment or addition of sections 1124(f) and
20 1125.1(g) of the act shall take effect immediately.

21 (2) This section shall take effect immediately.

22 (3) The remainder of this act shall take effect June 30,
23 2016, or immediately, whichever is later.