
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 5 Session of
2015

INTRODUCED BY AUMENT, CORMAN, SCARNATI, SMUCKER, WAGNER, FOLMER,
WHITE, BARTOLOTTA, MENSCH, RAFFERTY, EICHELBERGER, VANCE,
YAW, STEFANO AND ALLOWAY, MARCH 23, 2015

REFERRED TO 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
20 quality, professional progress, and rating of his or her
21 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, 2015, 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, 2015, 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 fifth year of such service, as being satisfactory shall
25 thereafter be a "professional employe" within the meaning of
26 this article.

27 (3) The attainment of the status under paragraph (1) [or],
28 (2) or (2.1) shall be recorded in the records of the board and
29 written notification thereof shall be sent also to the employe.
30 The employe shall then be tendered forthwith a regular contract

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

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

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

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

28 (d) Temporary professional employes shall for all purposes,
29 except tenure status, be viewed in law as full-time employes,
30 and shall enjoy all the rights and privileges of regular full-

1 time employes.

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

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

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

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

24 * * *

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

27 Section 1124. Causes for Suspension.--(a) Any board of
28 school directors may suspend the necessary number of
29 professional employes, for any of the causes hereinafter
30 enumerated:

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

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

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

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

18 (5) economic reasons that require a reduction in
19 professional employes.

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

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

1 program by the Department of Education, provided that, where an
2 educational program is altered or curtailed as set forth in
3 subsection (a)(2), the school district shall notify the
4 Department of Education of the actions taken pursuant to
5 subsection (a)(2). The Department of Education shall post all
6 notifications received from a school district pursuant to this
7 subsection on the Department of Education's publicly accessible
8 Internet website.

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

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

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

25 Section 1125.1. Persons to be Suspended.--(a) Professional
26 employes shall be suspended under section 1124 [(relating to
27 causes for suspension) in inverse order of seniority within the
28 school entity of current employment. Approved leaves of absence
29 shall not constitute a break in service for purposes of
30 computing seniority for suspension purposes.] in the following

1 order within the area of certification required by law for the
2 professional employe's current position:

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

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

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

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

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

28 (a.2) Seniority shall continue to accrue during suspension
29 and all approved leaves of absence.

30 (b) Where there is or has been a consolidation of schools,

1 departments or programs, all professional employes shall retain
2 the seniority rights they had prior to the reorganization or
3 consolidation.

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

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

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

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

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

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

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

25 (2) Upon the expiration, amendment or adoption of any
26 agreement or contract, a provision that provides for suspending,
27 reinstating or realigning professional employes based on
28 seniority in conflict with this section shall be discontinued in
29 any new or renewed agreement or contract or during the period of
30 status quo following an expired contract.

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

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

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

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

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

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

30 (1) The amendment or addition of sections 1124(c) and

1 1125.1(g) of the act shall take effect immediately.

2 (2) This section shall take effect immediately.

3 (3) The remainder of this act shall take effect July 1,
4 2015.