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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1495 Session of  
2017

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INTRODUCED BY BLOOM, SACCONI, KNOWLES, MILLARD, STAATS, PICKETT,  
MACKENZIE, KAUFFMAN, ORTITAY, CUTLER, WARD, TOPPER, FEE,  
ROTHMAN, GROVE, HICKERNELL, MENTZER, MCGINNIS, RYAN, DUSH,  
ZIMMERMAN, BENNINGHOFF, MOUL, SAYLOR AND COX, JUNE 5, 2017

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REFERRED TO COMMITTEE ON EDUCATION, JUNE 5, 2017

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

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

11 Section 1. Sections 1124, 1125.1 and 1131 of the act of  
12 March 10, 1949 (P.L.30, No.14), known as the Public School Code  
13 of 1949, are amended to read:

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

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

20 (2) curtailment or alteration of the educational program on

1 recommendation of the superintendent and on concurrence by the  
2 board of school directors, 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; [or]

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 employes[.]; or

15 (5) economic reasons that require a reduction in  
16 professional employes.

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

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

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

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

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

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

18 (i) The Secretary of Education determines that the school  
19 district's operations are already sufficiently streamlined or  
20 the suspension of administrative staff pursuant to paragraph (1)  
21 would cause harm to school stability and student programs.

22 (ii) The Secretary of Education submits the determination to  
23 the State Board of Education.

24 (iii) The State Board of Education approves the  
25 determination by a majority of its members.

26 (3) Any five administrative staff positions selected by the  
27 board of school directors, one of whom shall be the business  
28 manager of the school district or another staff member with the  
29 primary responsibility of managing the business operations of  
30 the school district, shall be exempt from the requirements of

1 paragraph (1).

2 (d) A board of school directors may suspend professional  
3 employees pursuant to subsection (a) (5) only if all of the  
4 following apply:

5 (1) The board of school directors approves the proposed  
6 suspensions by a majority vote of all school directors at a  
7 public meeting of the board of school directors.

8 (2) No later than sixty (60) days prior to the date of  
9 adoption of a final budget, the board of school directors has  
10 adopted a resolution of intent to suspend professional employees  
11 in the following fiscal year, which shall set forth the  
12 following:

13 (i) The economic conditions of the school district making  
14 the proposed suspensions necessary and how those economic  
15 conditions will be alleviated by the proposed suspensions,  
16 including:

17 (A) The total cost savings expected to result from the  
18 proposed suspensions.

19 (B) A description of other cost-saving actions taken by the  
20 board of school directors, if any.

21 (C) The projected expenditures of the school district for  
22 the following fiscal year with and without the proposed  
23 suspensions.

24 (D) The projected total revenues of the school district for  
25 the following fiscal year.

26 (ii) The number and percentage of employees to be suspended  
27 who are professional employees assigned to provide instruction  
28 directly to students.

29 (iii) The number and percentage of employees to be suspended  
30 who are administrative staff.

1 (iv) The number and percentage of employes to be suspended  
2 who are professional employes who are not assigned to provide  
3 instruction directly to students and who are not administrative  
4 staff.

5 (v) The impact of the proposed suspensions on academic  
6 programs to be offered to students following the proposed  
7 suspensions, as well as the impact on academic programs to be  
8 offered to students if the proposed suspensions are not  
9 undertaken, compared to the current school year, and the  
10 actions, if any, that will be taken to minimize the impact on  
11 student achievement.

12 (e) Following the 2021-2022 school year, the Legislative  
13 Budget and Finance Committee shall conduct a study of the  
14 effectiveness of the provisions of subsections (a) (5), (c) and  
15 (d) and section 1125.1, including whether these provisions of  
16 law are being used effectively by school districts to improve  
17 school district efficiency and the impact of these provisions on  
18 programs offered to students, as well as the impact on programs  
19 that would have been offered to students if these provisions had  
20 not been enacted, if such information is available, and shall  
21 deliver a written report of its findings to the Governor, the  
22 chairperson and minority chairperson of the Education Committee  
23 of the Senate and the chairperson and minority chairperson of  
24 the Education Committee of the House of Representatives by  
25 December 31, 2022.

26 (f) (1) A collective bargaining agreement negotiated by a  
27 school district and an exclusive representative of professional  
28 employes in accordance with the act of July 23, 1970 (P.L.563,  
29 No.195), known as the "Public Employe Relations Act," after the  
30 effective date of this subsection may not prohibit the

1 suspension of professional employes for economic reasons other  
2 than as provided for in this section.

3 (2) A provision in any agreement or contract in effect on  
4 the effective date of this subsection that prohibits the  
5 suspension of professional employes for economic reasons in  
6 conflict with this section shall be discontinued in any new or  
7 renewed agreement or contract or during the period of status quo  
8 following an expired contract.

9 Section 1125.1. Persons to be Suspended.--(a) Professional  
10 employes shall be suspended under section 1124 [(relating to  
11 causes for suspension) in inverse order of seniority within the  
12 school entity of current employment. Approved leaves of absence  
13 shall not constitute a break in service for purposes of  
14 computing seniority for suspension purposes.] in the following  
15 order, within the area of certification required by law for the  
16 professional employe's current position:

17 (1) Each professional employe who received, on the  
18 professional employe's two most recent annual performance  
19 evaluations, consecutive ratings that are considered  
20 unsatisfactory pursuant to section 1123 shall be suspended  
21 first.

22 (2) After suspending professional employes under paragraph  
23 (1), each professional employe who received, on the professional  
24 employe's two most recent annual performance evaluations, one  
25 rating that is considered unsatisfactory pursuant to section  
26 1123 and one rating that is considered satisfactory pursuant to  
27 section 1123 shall be suspended second.

28 (3) After suspending professional employes pursuant to  
29 paragraph (2), each professional employe who received, on the  
30 professional employe's two most recent annual performance

1 evaluations, consecutive ratings that are considered  
2 satisfactory pursuant to section 1123, but one of which is a  
3 rating of "needs improvement" pursuant to section 1123, shall be  
4 suspended third.

5 (4) After suspending professional employes pursuant to  
6 paragraph (3), each professional employe who received, on the  
7 professional employe's two most recent annual performance  
8 evaluations, consecutive ratings that are considered  
9 satisfactory pursuant to section 1123, and which are both  
10 ratings of "proficient" or "distinguished" pursuant to section  
11 1123, shall be suspended last.

12 (a.1) When more professional employes receive the same  
13 overall performance rating than there are suspensions, seniority  
14 within the school entity and within the area of certification  
15 required by law for the professional employe's current position  
16 shall be used to determine suspensions among professional  
17 employes with the same overall performance rating on the  
18 professional employe's two most recent annual performance  
19 evaluations pursuant to section 1123. An approved leave of  
20 absence shall not constitute a break in service for purposes of  
21 computing seniority for suspension purposes.

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

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

28 [(c) A school entity shall realign its professional staff so  
29 as to insure that more senior employes are provided with the  
30 opportunity to fill positions for which they are certificated

1 and which are being filled by less senior employes.]

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

4 (2) Suspended professional employes or professional employes  
5 demoted for the reasons set forth in section 1124 shall be  
6 reinstated [on the basis of their seniority within the school  
7 entity.] in the following order, within the area of  
8 certification required by law for the vacancy being filled and  
9 within the school entity:

10 (i) Professional employes suspended pursuant to subsection  
11 (a)(4) shall be reinstated first, on the basis of their  
12 seniority within the school entity.

13 (ii) After reinstating professional employes under subclause  
14 (i), professional employes suspended pursuant to subsection (a)  
15 (3) shall be reinstated second, on the basis of their seniority  
16 within the school entity.

17 (iii) After reinstating professional employes under  
18 subclause (ii), professional employes suspended pursuant to  
19 subsection (a)(2) shall be reinstated third, on the basis of  
20 their seniority within the school entity.

21 (iv) After reinstating professional employes under subclause  
22 (iii), professional employes suspended pursuant to subsection  
23 (a)(1) shall be reinstated last, on the basis of their seniority  
24 within the school entity.

25 No new appointment shall be made while there is such a suspended  
26 or demoted professional employe available who is properly  
27 certificated to fill such vacancy. For the purpose of this  
28 subsection, positions from which professional employes are on  
29 approved leaves of absence shall also be considered temporary  
30 vacancies.

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

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

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

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

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

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

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

30 (2) Upon the expiration, amendment or adoption of any

1 agreement or contract, a provision that provides for suspending,  
2 reinstating or realigning professional employes based on  
3 seniority in conflict with section 1124 or this section shall be  
4 discontinued in any new or renewed agreement or contract or  
5 during the period of status quo following an expired contract.

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

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

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

28 After hearing and argument and reviewing all the testimony  
29 filed or taken before him, the [Superintendent of Public  
30 Instruction] Secretary of Education shall enter such order,

1 either affirming or reversing the action of the board of school  
2 directors, as to him appears just and proper.

3 Section 2. This act shall take effect as follows:

4 (1) The addition of sections 1124(f) and 1125.1(g) of  
5 the act shall take effect immediately.

6 (2) This section shall take effect immediately.

7 (3) The remainder of this act shall take effect June 30,  
8 2017, or immediately, whichever is later.