

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,
SIMMONS, GABLER, RADER, B. MILLER, BENNINGHOFF, SCHEMEL,
SAYLOR AND GILLESPIE, MARCH 23, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 17, 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 employee, at least twice each year during~~

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

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

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

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

30 ~~(3) The attainment of the status under paragraph (1) [or],~~

~~(2) or (2.1) shall be recorded in the records of the board and written notification thereof shall be sent also to the employee. The employee shall then be tendered forthwith a regular contract of employment as provided for professional employees. No professional employee who has attained tenure status in any school district of this Commonwealth shall thereafter be required to serve as a temporary professional employee before being tendered such a contract when employed by any other part of the public school system of the Commonwealth.~~

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

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

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

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

~~Section 1121. Contracts; Execution; Form. * * *~~

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

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

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

~~* * *~~

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

~~Section 1124. Causes for Suspension. (a) Any board of~~

~~school directors may suspend the necessary number of professional employees, for any of the causes hereinafter enumerated:~~

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

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

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

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

~~(5) economic reasons that require a reduction in professional employees.~~

~~(a.1) A school district may not use an employee's compensation in determining which professional employees to suspend, but shall use the procedures in section 1125.1 to determine the order in which professional employees are suspended.~~

~~(b) Notwithstanding an existing or future provision in a collective bargaining agreement or other similar employment contract to the contrary, suspension of a professional employee~~

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

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

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

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

~~Section 1125.1. Persons to be Suspended. (a) Professional employes shall be suspended under section 1124 [(relating to causes for suspension) in inverse order of seniority within the~~

~~school entity of current employment. Approved leaves of absence shall not constitute a break in service for purposes of computing seniority for suspension purposes.] in the following order within the area of certification required by law for the professional employee's current position:~~

~~(1) Each professional employee who received an overall performance rating of "failing" on the professional employee's most recent end of year performance rating shall be suspended first.~~

~~(2) After suspending professional employees under paragraph (1), each professional employee who received an overall performance rating of "needs improvement" on the professional employee's most recent end of year performance rating shall be suspended second.~~

~~(3) After suspending professional employees under paragraph (2), each professional employee who received an overall performance rating of "proficient" on the professional employee's most recent end of year performance rating shall be suspended third.~~

~~(4) After suspending professional employees under paragraph (3), each professional employee who received an overall performance rating of "distinguished" on the professional employee's most recent end of year performance rating shall be suspended last.~~

~~(a.1) When more professional employees receive the same overall performance rating than there are suspensions, seniority within the school entity shall be used to determine suspensions among professional employees with the same overall performance rating on the employee's most recent performance evaluation pursuant to section 1123.~~

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

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

~~{(c) A school entity shall realign its professional staff so as to insure that more senior employees are provided with the opportunity to fill positions for which they are certificated and which are being filled by less senior employees.}~~

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

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

~~(3) To be considered available a suspended professional employee must annually report to the governing board in writing~~

~~his current address and his intent to accept the same or similar position when offered.~~

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

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

~~(1) limit the cause for which a temporary professional employee may be suspended; or~~

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

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

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

~~(2) Upon the expiration, amendment or adoption of any agreement or contract, a provision that provides for suspending, reinstating or realigning professional employees based on~~

~~seniority in conflict with this section shall be discontinued in any new or renewed agreement or contract or during the period of status quo following an expired contract.~~

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

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

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

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

~~After hearing and argument and reviewing all the testimony filed or taken before him, the [Superintendent of Public Instruction] Secretary of Education shall enter such order, either affirming or reversing the action of the board of school~~

1 ~~directors, as to him appears just and proper.~~

2 ~~Section 5. This act shall take effect as follows:~~

3 ~~(1) The amendment or addition of sections 1124(c) and~~
4 ~~1125.1(g) of the act shall take effect immediately.~~

5 ~~(2) This section shall take effect immediately.~~

6 ~~(3) The remainder of this act shall take effect June 30,~~
7 ~~2015.~~

8 SECTION 1. SECTIONS 1108 AND 1121(B) OF THE ACT OF MARCH 10, <--
9 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949,
10 AMENDED MARCH 29, 1996 (P.L.47, NO.16), ARE AMENDED TO READ:

11 SECTION 1108. TEMPORARY PROFESSIONAL EMPLOYEES.--(A) IT
12 SHALL BE THE DUTY OF THE DISTRICT SUPERINTENDENT TO NOTIFY EACH
13 TEMPORARY PROFESSIONAL EMPLOYEE, AT LEAST TWICE EACH YEAR DURING
14 THE PERIOD OF HIS OR HER EMPLOYMENT, OF THE PROFESSIONAL
15 QUALITY, PROFESSIONAL PROGRESS, AND RATING OF HIS OR HER
16 SERVICES. NO TEMPORARY PROFESSIONAL EMPLOYEE SHALL BE DISMISSED
17 UNLESS RATED UNSATISFACTORY, AND NOTIFICATION, IN WRITING, OF
18 SUCH UNSATISFACTORY RATING SHALL HAVE BEEN FURNISHED THE EMPLOYEE
19 WITHIN TEN (10) DAYS FOLLOWING THE DATE OF SUCH RATING. THE
20 RATING OF A TEMPORARY PROFESSIONAL EMPLOYEE SHALL BE DONE AS
21 PROVIDED IN SECTION ONE THOUSAND ONE HUNDRED TWENTY-THREE OF
22 THIS ACT.

23 (B) (1) A TEMPORARY PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED
24 BY A SCHOOL DISTRICT PRIOR TO JUNE 30, 1996, WHOSE WORK HAS BEEN
25 CERTIFIED BY THE DISTRICT SUPERINTENDENT TO THE SECRETARY OF THE
26 SCHOOL DISTRICT, DURING THE LAST FOUR (4) MONTHS OF THE SECOND
27 YEAR OF SUCH SERVICE, AS BEING SATISFACTORY SHALL THEREAFTER BE
28 A "PROFESSIONAL EMPLOYEE" WITHIN THE MEANING OF THIS ARTICLE.

29 (2) A TEMPORARY PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY A
30 SCHOOL DISTRICT, ON OR AFTER JUNE 30, 1996, BUT PRIOR TO JUNE

1 30, 2015, WHOSE WORK HAS BEEN CERTIFIED BY THE DISTRICT
2 SUPERINTENDENT TO THE SECRETARY OF THE SCHOOL DISTRICT, DURING
3 THE LAST FOUR (4) MONTHS OF THE THIRD YEAR OF SUCH SERVICE, AS
4 BEING SATISFACTORY SHALL THEREAFTER BE A "PROFESSIONAL EMPLOYEE"
5 WITHIN THE MEANING OF THIS ARTICLE.

6 (2.1) A TEMPORARY PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY
7 A SCHOOL DISTRICT, ON OR AFTER JUNE 30, 2015, WHOSE WORK HAS
8 BEEN CERTIFIED BY THE DISTRICT SUPERINTENDENT TO THE SECRETARY
9 OF THE SCHOOL DISTRICT, DURING THE LAST FOUR (4) MONTHS OF THE
10 THIRD YEAR OF SUCH SERVICE, OR, IN THE CASE OF A TEMPORARY
11 PROFESSIONAL EMPLOYEE WHOSE TEMPORARY PROFESSIONAL STATUS WAS
12 EXTENDED FOR ONE ADDITIONAL YEAR BY THE DISTRICT SUPERINTENDENT
13 PURSUANT TO PARAGRAPH (2.2), DURING THE LAST FOUR (4) MONTHS OF
14 THE FOURTH YEAR OF SUCH SERVICE, AS BEING SATISFACTORY SHALL
15 THEREAFTER BE A "PROFESSIONAL EMPLOYEE" WITHIN THE MEANING OF
16 THIS ARTICLE.

17 (2.2) THE DISTRICT SUPERINTENDENT MAY EXTEND THE TEMPORARY
18 PROFESSIONAL STATUS OF AN EMPLOYEE BY ONE ADDITIONAL YEAR WHEN,
19 IN THE PROFESSIONAL JUDGMENT OF THE DISTRICT SUPERINTENDENT,
20 FURTHER EVALUATION OF THE TEMPORARY PROFESSIONAL EMPLOYEE IS
21 NECESSARY PRIOR TO CERTIFYING THE WORK OF THE TEMPORARY
22 PROFESSIONAL EMPLOYEE AS SATISFACTORY. TO EXTEND THE TEMPORARY
23 PROFESSIONAL STATUS OF AN EMPLOYEE UNDER THIS PARAGRAPH, THE
24 DISTRICT SUPERINTENDENT MUST PROVIDE THE TEMPORARY PROFESSIONAL
25 EMPLOYEE, DURING THE LAST FOUR (4) MONTHS OF THE THIRD YEAR OF
26 THE TEMPORARY PROFESSIONAL EMPLOYEE'S SERVICE, WITH A WRITTEN
27 STATEMENT, SIGNED BY THE DISTRICT SUPERINTENDENT, SETTING FORTH
28 THE SPECIFIC REASON FOR THE EXTENSION.

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 EMPLOYEE.
2 THE EMPLOYEE SHALL THEN BE TENDERED FORTHWITH A REGULAR CONTRACT
3 OF EMPLOYMENT AS PROVIDED FOR PROFESSIONAL EMPLOYEES. NO
4 PROFESSIONAL EMPLOYEE WHO HAS ATTAINED TENURE STATUS IN ANY
5 SCHOOL DISTRICT OF THIS COMMONWEALTH SHALL THEREAFTER BE
6 REQUIRED TO SERVE AS A TEMPORARY PROFESSIONAL EMPLOYEE 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 EMPLOYEE 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 EMPLOYEE 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 EMPLOYEE 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 THREE (3) YEARS OF
26 SERVICE, OR, IN THE CASE OF A TEMPORARY PROFESSIONAL EMPLOYEE
27 WHOSE TEMPORARY PROFESSIONAL STATUS WAS EXTENDED FOR ONE
28 ADDITIONAL YEAR BY THE DISTRICT SUPERINTENDENT PURSUANT TO
29 SUBSECTION (B) (2.2), AT THE END OF FOUR (4) YEARS OF SERVICE,
30 RENDERED AS HEREIN PROVIDED, SHALL BE GIVEN A WRITTEN STATEMENT

1 SIGNED BY THE PRESIDENT AND SECRETARY OF THE BOARD OF SCHOOL
2 DIRECTORS AND SETTING FORTH EXPLICITLY THE REASON FOR SUCH
3 REFUSAL.

4 (D) TEMPORARY PROFESSIONAL EMPLOYEES SHALL FOR ALL PURPOSES,
5 EXCEPT TENURE STATUS, BE VIEWED IN LAW AS FULL-TIME EMPLOYEES,
6 AND SHALL ENJOY ALL THE RIGHTS AND PRIVILEGES OF REGULAR FULL-
7 TIME EMPLOYEES.

8 SECTION 1121. CONTRACTS; EXECUTION; FORM.--* * *

9 (B) (1) EACH BOARD OF SCHOOL DIRECTORS IN ALL SCHOOL
10 DISTRICTS SHALL HEREAFTER ENTER INTO CONTRACTS, IN WRITING, WITH
11 EACH PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY A SCHOOL
12 DISTRICT PRIOR TO JUNE 30, 1996, WHO HAS SATISFACTORILY
13 COMPLETED TWO (2) YEARS OF SERVICE IN ANY SCHOOL DISTRICT OF
14 THIS COMMONWEALTH.

15 (2) EACH BOARD OF SCHOOL DIRECTORS IN ALL SCHOOL DISTRICTS
16 SHALL HEREAFTER ENTER INTO CONTRACTS, IN WRITING, WITH EACH
17 PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY A SCHOOL DISTRICT, ON
18 OR AFTER JUNE 30, 1996, BUT PRIOR TO JUNE 30, 2015, WHO HAS
19 SATISFACTORILY COMPLETED THREE (3) YEARS OF SERVICE IN ANY
20 SCHOOL DISTRICT OF THIS COMMONWEALTH.

21 (3) EACH BOARD OF SCHOOL DIRECTORS IN ALL SCHOOL DISTRICTS
22 SHALL ONLY HEREAFTER ENTER INTO CONTRACTS, IN WRITING, WITH EACH
23 PROFESSIONAL EMPLOYEE INITIALLY EMPLOYED BY A SCHOOL DISTRICT, ON
24 OR AFTER JUNE 30, 2015, WHO HAS SATISFACTORILY COMPLETED THREE
25 (3) YEARS OF SERVICE OR, IN THE CASE OF A TEMPORARY PROFESSIONAL
26 EMPLOYEE WHOSE TEMPORARY PROFESSIONAL CONTRACT IS EXTENDED BY THE
27 DISTRICT SUPERINTENDENT FOR ONE ADDITIONAL YEAR AND WHO HAS
28 SATISFACTORILY COMPLETED FOUR (4) YEARS OF SERVICE, IN ANY
29 SCHOOL DISTRICT OF THIS COMMONWEALTH AND RECEIVED OVERALL
30 PERFORMANCE RATINGS OF "DISTINGUISHED" OR "PROFICIENT" ON BOTH

1 OF THE PROFESSIONAL EMPLOYEE'S TWO (2) MOST RECENT END-OF-YEAR
2 PERFORMANCE EVALUATIONS PURSUANT TO SECTION 1123 AT THE SCHOOL
3 DISTRICT OF CURRENT EMPLOYMENT.

4 * * *

5 SECTION 2. SECTION 1124 OF THE ACT, AMENDED JUNE 30, 2012
6 (P.L.684, NO.82), IS AMENDED TO READ:

7 SECTION 1124. CAUSES FOR SUSPENSION.--(A) ANY BOARD OF
8 SCHOOL DIRECTORS MAY SUSPEND THE NECESSARY NUMBER OF
9 PROFESSIONAL EMPLOYEES, FOR ANY OF THE CAUSES HEREINAFTER
10 ENUMERATED:

11 (1) SUBSTANTIAL DECREASE IN PUPIL ENROLLMENT IN THE SCHOOL
12 DISTRICT;

13 (2) CURTAILMENT OR ALTERATION OF THE EDUCATIONAL PROGRAM ON
14 RECOMMENDATION OF THE SUPERINTENDENT AND ON CONCURRENCE BY THE
15 BOARD OF SCHOOL DIRECTORS, AS A RESULT OF SUBSTANTIAL DECLINE IN
16 CLASS OR COURSE ENROLLMENTS OR TO CONFORM WITH STANDARDS OF
17 ORGANIZATION OR EDUCATIONAL ACTIVITIES REQUIRED BY LAW OR
18 RECOMMENDED BY THE DEPARTMENT OF [PUBLIC INSTRUCTION] EDUCATION;

19 (3) CONSOLIDATION OF SCHOOLS, WHETHER WITHIN A SINGLE
20 DISTRICT, THROUGH A MERGER OF DISTRICTS, OR AS A RESULT OF JOINT
21 BOARD AGREEMENTS, WHEN SUCH CONSOLIDATION MAKES IT UNNECESSARY
22 TO RETAIN THE FULL STAFF OF PROFESSIONAL EMPLOYEES; [OR]

23 (4) WHEN NEW SCHOOL DISTRICTS ARE ESTABLISHED AS THE RESULT
24 OF REORGANIZATION OF SCHOOL DISTRICTS PURSUANT TO ARTICLE II.,
25 SUBDIVISION (I) OF THIS ACT, AND WHEN SUCH REORGANIZATION MAKES
26 IT UNNECESSARY TO RETAIN THE FULL STAFF OF PROFESSIONAL
27 EMPLOYES[.]; OR

28 (5) ECONOMIC REASONS THAT REQUIRE A REDUCTION IN
29 PROFESSIONAL EMPLOYEES, PROVIDED THAT A PROFESSIONAL EMPLOYEE WHO
30 RECEIVED AN OVERALL PERFORMANCE RATING OF "DISTINGUISHED" ON AT

1 LEAST TWO (2) OF THE PROFESSIONAL EMPLOYEE'S MOST RECENT THREE
2 (3) END-OF-YEAR PERFORMANCE RATINGS MAY NOT BE SUSPENDED FOR
3 ECONOMIC REASONS UNDER THIS PARAGRAPH.

4 (A.1) A SCHOOL DISTRICT MAY NOT USE AN EMPLOYEE'S
5 COMPENSATION IN DETERMINING WHICH PROFESSIONAL EMPLOYEES TO
6 SUSPEND, BUT SHALL USE THE PROCEDURES IN SECTION 1125.1 TO
7 DETERMINE THE ORDER IN WHICH PROFESSIONAL EMPLOYEES ARE
8 SUSPENDED.

9 (B) NOTWITHSTANDING AN EXISTING OR FUTURE PROVISION IN A
10 COLLECTIVE BARGAINING AGREEMENT OR OTHER SIMILAR EMPLOYMENT
11 CONTRACT TO THE CONTRARY, SUSPENSION OF A PROFESSIONAL EMPLOYEE
12 DUE TO THE CURTAILMENT OR ALTERATION OF THE EDUCATIONAL PROGRAM
13 AS SET FORTH IN SUBSECTION (A) (2) MAY BE EFFECTUATED WITHOUT THE
14 APPROVAL OF THE CURTAILMENT OR ALTERATION OF THE EDUCATIONAL
15 PROGRAM BY THE DEPARTMENT OF EDUCATION, PROVIDED THAT, WHERE AN
16 EDUCATIONAL PROGRAM IS ALTERED OR CURTAILED AS SET FORTH IN
17 SUBSECTION (A) (2), THE SCHOOL DISTRICT SHALL NOTIFY THE
18 DEPARTMENT OF EDUCATION OF THE ACTIONS TAKEN PURSUANT TO
19 SUBSECTION (A) (2). THE DEPARTMENT OF EDUCATION SHALL POST ALL
20 NOTIFICATIONS RECEIVED FROM A SCHOOL DISTRICT PURSUANT TO THIS
21 SUBSECTION ON THE DEPARTMENT OF EDUCATION'S PUBLICLY ACCESSIBLE
22 INTERNET WEBSITE.

23 (C) THE FOLLOWING SHALL APPLY IN THE CASE OF A SUSPENSION
24 UNDER SUBSECTION (A) (5) IN WHICH A BOARD OF SCHOOL DIRECTORS
25 SUSPENDS PROFESSIONAL EMPLOYEES WHO ARE ASSIGNED TO PROVIDE
26 INSTRUCTION DIRECTLY TO STUDENTS:

27 (1) A BOARD OF SCHOOL DIRECTORS MAY SUSPEND THE NECESSARY
28 NUMBER OF PROFESSIONAL EMPLOYEES ASSIGNED TO PROVIDE INSTRUCTION
29 DIRECTLY TO STUDENTS ONLY IF THE BOARD OF SCHOOL DIRECTORS ALSO
30 SUSPENDS AT LEAST AN EQUAL PERCENTAGE PROPORTION OF

1 ADMINISTRATIVE STAFF.

2 (2) THE SECRETARY OF EDUCATION MAY GRANT A BOARD OF SCHOOL
3 DIRECTORS A WAIVER OF PARAGRAPH (1) IF THE FOLLOWING APPLY:

4 (I) THE SECRETARY OF EDUCATION DETERMINES THAT THE SCHOOL
5 DISTRICT'S OPERATIONS ARE ALREADY SUFFICIENTLY STREAMLINED;

6 (II) THE SECRETARY OF EDUCATION SUBMITS THE DETERMINATION TO
7 THE STATE BOARD OF EDUCATION; AND

8 (III) THE STATE BOARD OF EDUCATION APPROVES THE
9 DETERMINATION BY A MAJORITY OF ITS MEMBERS.

10 (3) ANY FIVE ADMINISTRATIVE STAFF POSITIONS SELECTED BY THE
11 BOARD OF SCHOOL DIRECTORS SHALL BE EXEMPT FROM THE REQUIREMENTS
12 OF PARAGRAPHS (1) AND (2).

13 (D) IN THE CASE OF A SUSPENSION UNDER SUBSECTION (A) (5), A
14 BOARD OF SCHOOL DIRECTORS MAY SUSPEND THE NECESSARY NUMBER OF
15 PROFESSIONAL EMPLOYEES ONLY BY A MAJORITY VOTE AT A PUBLIC
16 MEETING OF THE BOARD OF SCHOOL DIRECTORS.

17 (E) FOLLOWING THE 2019-2020 SCHOOL YEAR, THE LEGISLATIVE
18 BUDGET AND FINANCE COMMITTEE SHALL CONDUCT A STUDY OF THE
19 EFFECTIVENESS OF THE PROVISIONS OF SECTIONS 1124(A) (5), (C) AND
20 (D) AND 1125.1 AND SHALL DELIVER A WRITTEN REPORT OF ITS
21 FINDINGS, INCLUDING WHETHER THESE PROVISIONS OF LAW ARE BEING
22 USED EFFECTIVELY BY SCHOOL DISTRICTS TO IMPROVE SCHOOL DISTRICT
23 EFFICIENCY, TO THE GOVERNOR, THE CHAIRMAN AND MINORITY CHAIRMAN
24 OF THE EDUCATION COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
25 MINORITY CHAIRMAN OF THE EDUCATION COMMITTEE OF THE HOUSE OF
26 REPRESENTATIVES BY DECEMBER 31, 2020.

27 (F) (1) A COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY A
28 SCHOOL DISTRICT AND AN EXCLUSIVE REPRESENTATIVE OF PROFESSIONAL
29 EMPLOYEES IN ACCORDANCE WITH THE ACT OF JULY 23, 1970 (P.L.563,
30 NO.195), KNOWN AS THE "PUBLIC EMPLOYE RELATIONS ACT," AFTER THE

EFFECTIVE DATE OF THIS SUBSECTION MAY NOT PROHIBIT THE
SUSPENSION OF PROFESSIONAL EMPLOYEES FOR ECONOMIC REASONS OTHER
THAN AS PROVIDED FOR IN THIS SECTION.

(2) A PROVISION IN ANY AGREEMENT OR CONTRACT IN EFFECT ON
THE EFFECTIVE DATE OF THIS SUBSECTION THAT PROHIBITS THE
SUSPENSION OF PROFESSIONAL EMPLOYEES FOR ECONOMIC REASONS IN
CONFLICT WITH THIS SECTION SHALL BE DISCONTINUED IN ANY NEW OR
RENEWED AGREEMENT OR CONTRACT OR DURING THE PERIOD OF STATUS QUO
FOLLOWING AN EXPIRED CONTRACT.

SECTION 3. SECTION 1125.1 OF THE ACT, AMENDED OR ADDED
NOVEMBER 20, 1979 (P.L.465, NO.97) AND JULY 10, 1986 (P.L.1270,
NO.117), IS AMENDED TO READ:

SECTION 1125.1. PERSONS TO BE SUSPENDED.-- (A) PROFESSIONAL
EMPLOYEES SHALL BE SUSPENDED UNDER SECTION 1124 [(RELATING TO
CAUSES FOR SUSPENSION) IN INVERSE ORDER OF SENIORITY WITHIN THE
SCHOOL ENTITY OF CURRENT EMPLOYMENT. APPROVED LEAVES OF ABSENCE
SHALL NOT CONSTITUTE A BREAK IN SERVICE FOR PURPOSES OF
COMPUTING SENIORITY FOR SUSPENSION PURPOSES.] AS FOLLOWS, WITHIN
THE AREA OF CERTIFICATION REQUIRED BY LAW FOR THE PROFESSIONAL
EMPLOYEE'S CURRENT POSITION:

(1) (I) EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "FAILING" ON THE PROFESSIONAL EMPLOYEE'S
MOST RECENT END-OF-YEAR PERFORMANCE RATING SHALL BE SUSPENDED
FIRST.

(II) AFTER SUSPENDING PROFESSIONAL EMPLOYEES UNDER SUBCLAUSE
(I), EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "NEEDS IMPROVEMENT" ON THE PROFESSIONAL
EMPLOYEE'S MOST RECENT END-OF-YEAR PERFORMANCE RATING SHALL BE
SUSPENDED SECOND.

(III) WHEN MORE PROFESSIONAL EMPLOYEES RECEIVE THE SAME

1 OVERALL PERFORMANCE RATING THAN THERE ARE SUSPENSIONS, SENIORITY
2 WITHIN THE SCHOOL ENTITY SHALL BE USED TO DETERMINE SUSPENSIONS
3 AMONG PROFESSIONAL EMPLOYEES WITH THE SAME OVERALL PERFORMANCE
4 RATING ON THE EMPLOYEE'S MOST RECENT PERFORMANCE EVALUATION
5 PURSUANT TO SECTION 1123, PROVIDED THAT APPROVED LEAVES OF
6 ABSENCE SHALL NOT CONSTITUTE A BREAK IN SERVICE FOR PURPOSES OF
7 COMPUTING SENIORITY FOR SUSPENSION PURPOSES.

8 (2) AFTER SUSPENDING PROFESSIONAL EMPLOYEES UNDER CLAUSE (1),
9 EACH PROFESSIONAL EMPLOYEE WHO RECEIVED AN OVERALL PERFORMANCE
10 RATING OF "PROFICIENT" OR "DISTINGUISHED" ON THE PROFESSIONAL
11 EMPLOYEE'S MOST RECENT END-OF-YEAR PERFORMANCE RATING SHALL BE
12 SUSPENDED IN INVERSE ORDER OF SENIORITY WITHIN THE SCHOOL ENTITY
13 OF CURRENT EMPLOYMENT, PROVIDED THAT APPROVED LEAVES OF ABSENCE
14 SHALL NOT CONSTITUTE A BREAK IN SERVICE FOR PURPOSES OF
15 COMPUTING SENIORITY FOR SUSPENSION PURPOSES.

16 (A.1) SENIORITY SHALL CONTINUE TO ACCRUE DURING SUSPENSION
17 AND ALL APPROVED LEAVES OF ABSENCE.

18 (B) WHERE THERE IS OR HAS BEEN A CONSOLIDATION OF SCHOOLS,
19 DEPARTMENTS OR PROGRAMS, ALL PROFESSIONAL EMPLOYEES 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 EMPLOYEES ARE PROVIDED WITH THE
24 OPPORTUNITY TO FILL POSITIONS FOR WHICH THEY ARE CERTIFICATED
25 AND WHICH ARE BEING FILLED BY LESS SENIOR EMPLOYEES.]

26 (D) (1) NO SUSPENDED EMPLOYEE SHALL BE PREVENTED FROM
27 ENGAGING IN ANOTHER OCCUPATION DURING THE PERIOD OF SUSPENSION.

28 (2) SUSPENDED PROFESSIONAL EMPLOYEES OR PROFESSIONAL EMPLOYEES
29 DEMOTED FOR THE REASONS SET FORTH IN SECTION 1124 SHALL BE
30 REINSTATED [ON THE BASIS OF THEIR SENIORITY WITHIN THE SCHOOL

ENTITY.] AS FOLLOWS:

(I) PROFESSIONAL EMPLOYEES WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "PROFICIENT" OR "DISTINGUISHED" ON THEIR
MOST RECENT END-OF-YEAR PERFORMANCE EVALUATIONS SHALL BE
REINSTATED FIRST IN ORDER OF SENIORITY WITHIN THE AREA OF
CERTIFICATION REQUIRED FOR THE VACANCY BEING FILLED AND WITHIN
THE SCHOOL ENTITY.

(II) AFTER REINSTATING PROFESSIONAL EMPLOYEES UNDER SUBCLAUSE
(I), PROFESSIONAL EMPLOYEES WHO RECEIVED AN OVERALL PERFORMANCE
RATING OF "NEEDS IMPROVEMENT" ON THEIR MOST RECENT END-OF-YEAR
PERFORMANCE EVALUATIONS SHALL BE REINSTATED SECOND IN ORDER OF
SENIORITY WITHIN THE AREA OF CERTIFICATION REQUIRED FOR THE
VACANCY BEING FILLED AND WITHIN THE SCHOOL ENTITY.

(III) AFTER REINSTATING PROFESSIONAL EMPLOYEES UNDER
SUBCLAUSE (II), PROFESSIONAL EMPLOYEES WHO RECEIVED AN OVERALL
PERFORMANCE RATING OF "FAILING" ON THEIR MOST RECENT END-OF-YEAR
PERFORMANCE EVALUATIONS SHALL BE REINSTATED LAST IN ORDER OF
SENIORITY WITHIN THE AREA OF CERTIFICATION REQUIRED FOR THE
VACANCY BEING FILLED AND WITHIN THE SCHOOL ENTITY.

NO NEW APPOINTMENT SHALL BE MADE WHILE THERE IS SUCH A SUSPENDED
OR DEMOTED PROFESSIONAL EMPLOYEE AVAILABLE WHO IS PROPERLY
CERTIFICATED TO FILL SUCH VACANCY. FOR THE PURPOSE OF THIS
SUBSECTION, POSITIONS FROM WHICH PROFESSIONAL EMPLOYEES ARE ON
APPROVED LEAVES OF ABSENCE SHALL ALSO BE CONSIDERED TEMPORARY
VACANCIES.

(3) TO BE CONSIDERED AVAILABLE A SUSPENDED PROFESSIONAL
EMPLOYEE MUST ANNUALLY REPORT TO THE GOVERNING BOARD IN WRITING
HIS CURRENT ADDRESS AND HIS INTENT TO ACCEPT THE SAME OR SIMILAR
POSITION WHEN OFFERED.

(4) A SUSPENDED EMPLOYEE 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 EMPLOYEE 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 EMPLOYEES IN ACCORDANCE WITH THE
11 ACT OF JULY 23, 1970 (P.L.563, NO.195), KNOWN AS THE "PUBLIC
12 EMPLOYEE RELATIONS ACT"; HOWEVER, NO AGREEMENT SHALL PROHIBIT THE
13 RIGHT OF A PROFESSIONAL EMPLOYEE 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 EMPLOYEES
21 IN ACCORDANCE WITH THE "PUBLIC EMPLOYEE RELATIONS ACT" AFTER THE
22 EFFECTIVE DATE OF THIS SUBSECTION SHALL PROVIDE FOR SUSPENDING,
23 REINSTATING OR REALIGNING PROFESSIONAL EMPLOYEES 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 EMPLOYEES 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 (H) IF A PROFESSIONAL EMPLOYEE IS SUSPENDED UNDER THIS
2 SECTION, THE PROFESSIONAL EMPLOYEE'S POSITION SHALL REMAIN VACANT
3 FOR AT LEAST ONE YEAR, PROVIDED THAT THE SCHOOL ENTITY MAY
4 REINSTATE AT ANY TIME THE PROFESSIONAL EMPLOYEE WHO WAS
5 SUSPENDED.

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 EMPLOYEE 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 AS FOLLOWS:

5 (1) THE AMENDMENT OR ADDITION OF SECTIONS 1124(F) AND
6 1125.1(G) OF THE ACT SHALL TAKE EFFECT IMMEDIATELY.

7 (2) THE AMENDMENT OF SECTIONS 1108 AND 1121 SHALL TAKE
8 EFFECT JUNE 30, 2015.

9 (3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

10 (4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JUNE 30,
11 2016.