



Changes to Furlough and Reinstatement Order

PA Public School Code Section 1125.1

Q: When do changes to educator furlough, reinstatement and realignment take effect?

A: If furlough, reinstatement and realignment are addressed in an existing collective bargaining agreement, the negotiated language is in effect until the contract expires.

If a contract addresses the issues but the agreement is expired or in status quo, the new provisions take effect immediately.

If furlough, reinstatement and realignment are not addressed in an agreement, the new law is in effect now.

Q: Which employees are affected by the changes?

A: All "professional employees" are affected. The PA Public School Code defines "professional employee" as certificated as teachers, supervisors, supervising principals, principals, assistant principals, vice-principals, directors of vocational education, dental hygienists, visiting teachers, home and school visitors, school counselors, child nutrition program specialists, school librarians, school secretaries the selection of whom is on the basis of merit as determined by eligibility lists and school nurses [Section 1101].

Q: Does the new language affect temporary professional employees?

A: Yes. It states that nothing in the law limits "the cause for which a temporary professional employe may be suspended."

Q: How does the law change the order of furloughs and reinstatement?

A: The law creates four categories of professional employees based on their two, most recent Act 82 evaluations. There is no longer one seniority list in a district. Instead, within each category, furlough decisions will be based on your seniority in the certification area in which you are currently working, and reinstatement decisions will be based on your seniority within the district.

Q: What are the categories?

- Category 1: Professional employees who have received two consecutive unsatisfactory ratings on their last two Act 82 performance ratings. (Unsatisfactory ratings are Failing and a second Needs Improvement within 10 years in the same certification area and with the same employer.)
- Category 2: Professional employees who received one unsatisfactory rating and one satisfactory rating on their last two performance ratings. (Satisfactory ratings are Distinguished, Proficient, and the first Needs Improvement within 10 years, within the same certification and with the same employer.)
- Category 3: Professional employees who received Proficient and Proficient, Proficient and Needs Improvement or Distinguished and Needs Improvement.
- Category 4: Professional employees who received Distinguished and Distinguished or Distinguished and Proficient.

Q: How will furloughed educators be reinstated to available positions?

A: The new law changes the way professional employees are recalled to vacant positions. Employees in the fourth category will be called back first, employees furloughed in the third category will be called back second, and so on. Employees in each category with the required certification will be called back by seniority within the school district.

Q: How do the new provisions affect staff realignment after layoffs?

A: Act 55 deletes the requirement that districts provide more senior employees the opportunity to fill positions for which they are certified and which are filled by less senior employees.

Q: How do the 2017 changes affect collective bargaining?

A: After the law is in effect, unions and school districts cannot negotiate contract language regarding suspension (furlough), reinstatement or realignment of professional employees that conflicts with the law. Once an existing contract containing conflicting provisions expires and during status quo, the contract provisions guiding suspensions, reinstatement and realignment are terminated.

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PA Public School Code Section 1124

Q: Did Act 55 expand a school board's authority to furlough professional employees?

A: Yes. The School Code already permits school districts to furlough/layoff/suspend professional employees when there is a significant drop in student enrollment, educational programs are curtailed or eliminated, schools are consolidated or when school districts are reorganized. Act 55 adds as the fifth cause for employee furloughs: "economic reasons that require a reduction in professional employees."

Q: How do school directors furlough professional employees for "economic reasons?"

The law does not define what constitutes "economic reasons." But when a board decides to lay off teachers and professional employees for economic reasons, they must:

- Approve furloughs by a majority vote of all school directors at a public meeting.
- Adopt a resolution stating their intent to furlough professional employees at least 60 days before it approves a final budget.
- The resolution must include the impact of proposed furloughs on academic programs, total cost savings expected from the proposed furlough, projected revenue for the next fiscal year, percentages of employees to be furloughed who are providing direct instruction to students and among administrative staff among other details.

Q: Are there other requirements before a district can lay off professional employees?

A: To lay off educators who provide instruction directly to students, school directors must suspend at least an equal percentage of administrative staff. There is a loophole, however. A board can apply to the Secretary of Education, and if the State Board of Education and Education Secretary agree that the district has streamlined administrative staff sufficiently, administrative staff furloughs can be waived. A board may also exempt any five administrative staff positions.

Q: Do the notice and administrative staff furlough requirements apply to all types of furloughs?

A: No. The vote at a public meeting and the administrative staff furlough requirements only apply when a board furloughs professional staff for "economic reasons."

Q: How does this section of the law affect collective bargaining agreements?

A: Collective bargaining agreements cannot prohibit the suspension of professional employees for economic reasons. An existing contract that prohibits suspending professional employees for economic reasons must be discontinued in a new contract, renewed agreement or during status quo following a contract's expiration.

Q: Can a school district use an employee's compensation to determine furlough order?

No.