

## KEY CHANGES TO THE SCHOOL CODE BILL

### New Furlough/Suspension and Reinstatement Order for Professional Employees

PA Public School Code Section 1125.1

#### Furlough/Suspension

(a) Professional employees shall be suspended under section 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, on the professional employee's two most recent annual performance evaluations, consecutive ratings that are considered unsatisfactory pursuant to Act 82 shall be suspended first.

(2) After suspending professional employees under paragraph (1), each professional employee who received, on the professional employee's two most recent annual performance evaluations, one rating that is considered unsatisfactory pursuant to section 1123 and one rating that is considered satisfactory pursuant to Act 82 shall be suspended second.

(3) After suspending professional employees pursuant to paragraph (2), each professional employee who received, on the professional employee's two most recent annual performance evaluations, consecutive ratings which are considered satisfactory pursuant to Act 82 and which are either consecutive ratings of "proficient" or a combination of one rating of "proficient" or "distinguished" and one rating of "needs improvement" pursuant to Act 82 shall be suspended third.

(4) After suspending professional employees pursuant to paragraph (3), each professional employee who received, on the professional employee's two most recent annual performance evaluations, consecutive ratings which are considered satisfactory pursuant to Act 82, and which are consecutive ratings of "distinguished" or a combination of one rating of "proficient" and one rating of "distinguished" pursuant to Act 82 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 and within the area of certification required by law for the professional employee's current position shall be used to determine suspensions among professional employees with the same overall performance rating on the professional employee's two most recent annual performance evaluations pursuant to Act 82. An approved leave of absence shall not constitute a break in service for purposes of computing seniority for suspension purposes.

## Reinstatement

(d)(2) Suspended professional employees or professional employees demoted for the reasons set forth in section 1124 shall be reinstated in the following order, within the area of certification required by law for the vacancy being filled and within the school entity:

(i) Professional employees suspended pursuant to subsection (a)(4) shall be reinstated first, on the basis of their seniority within the school entity. [distinguished/distinguished or proficient/distinguished]

(ii) After reinstating professional employees under subclause (i), professional employees suspended pursuant to subsection (a)(3) shall be reinstated second, on the basis of their seniority within the school entity. [proficient/proficient or proficient/needs improvement or distinguished/needs improvement]

(iii) After reinstating professional employees under subclause (ii), professional employees suspended pursuant to subsection (a)(2) shall be reinstated third, on the basis of their seniority within the school entity. [Unsat/Sat]

(iv) After reinstating professional employees under subclause (iii), professional employees suspended pursuant to subsection (a)(1) shall be reinstated last, on the basis of their seniority within the school entity. [Unsat/Unsat]

## **District Process for Implementing New “Economic Reason” Educator Furloughs**

PA Public School Code Section 1124

(c) The following shall apply in the case of a suspension pursuant to “economic reasons” in which a board of school directors suspends professional employees who are assigned to provide instruction directly to students:

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

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

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

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

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

(3) Any five administrative staff positions selected by the board of school directors, one of whom shall be the business manager of the school district or another staff member with the primary responsibility of managing the business operations of the school district, shall be exempt from the requirements of paragraph (1).

(d) A board of school directors may suspend professional employees pursuant to “economic reasons” only if all of the following apply:

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

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

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

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

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

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

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

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

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

(iv) The number and percentage of employees to be suspended who are professional employees who are not assigned to provide instruction directly to students and who are not administrative staff.

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

(e) Following the 2021-2022 school year, the Legislative Budget and Finance Committee shall conduct a study of the effectiveness of the provisions of subsections (a)(5), (c) and (d) and section 1125.1, including whether these provisions of law are being used effectively by school districts to improve school district efficiency and the impact of these provisions on programs

offered to students, as well as the impact on programs that would have been offered to students if these provisions had not been enacted, if such information is available, and shall deliver a written report of its findings to the Governor, the chairperson and minority chairperson of the Education Committee of the Senate and the chairperson and minority chairperson of the Education Committee of the House of Representatives by December 31, 2022.

(f) The following apply:

(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 Employee 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.

Other Requirements:

- 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.

- A chief school administrator or other administrator who knowingly approves a suspension based on an employee's compensation shall have a letter from the Secretary of Education indicating the violation included as part of the individual's permanent employment record.

### **Limits to Collective Bargaining in New Furlough/Reinstatement Legislation**

PA Public School Code Sections 1124 and 1125.1

Under procedures for furloughs implemented for "economic reasons"

- Unions representing professional employees cannot negotiate to prohibit the suspension of professional employees for economic reasons for any other reason than those provided in Section 1124.

- "Economic furlough" provisions in effect in current professional employee collective bargaining agreements which are in conflict with Section 1124 shall be discontinued in new or renewed agreements, or in status quo.

**Under “persons to be suspended”**

- Collective bargaining agreements can only provide for seniority-based furlough, reinstatement and realignment based on the provisions of Section 1125.1.

- Seniority provisions in current collective bargaining agreements shall be discontinued in new or renewed agreements, or in status quo.