

No. 1996-16

AN ACT

SB 708

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for granting of tenure to professional employees, for causes for termination of professional contracts and for rating of professional employees.

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

Section 1. Section 1108 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended August 10, 1951 (P.L.1157, No.259) and January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 1108. Temporary Professional Employees.—(a) It shall be the duty of the district superintendent to notify each temporary professional employe, at least twice each year during the period of his or her employment, of the professional quality, professional progress, and rating of his or her services. No temporary professional employe shall be dismissed unless rated unsatisfactory, and notification, in writing, of such unsatisfactory rating shall have been furnished the employe within ten (10) days following the date of such rating. The rating of a temporary professional employe shall be done as provided in section one thousand one hundred twenty-three of this act.

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

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

(3) The attainment of [this status] *the status under paragraph (1) or (2)* shall be recorded in the records of the board and written notification thereof shall be sent also to the employe. The employe shall then be tendered forthwith a regular contract of employment as provided for professional employes. No professional employe who has attained tenure status in any school district of this Commonwealth shall thereafter be required to serve as a temporary professional employe 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 employe 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 employe employed by a school district after June 30, 1996, 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.

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

Section 2. Section 1121 of the act, amended September 28, 1951 (P.L.1551, No.395), is amended to read:

Section 1121. Contracts; Execution; Form.—*(a)* In all school districts, all contracts with professional employes shall be in writing, in duplicate, and shall be executed on behalf of the board of school directors by the president and secretary and signed by the professional employe.

(b) (1) Each board of school directors in all school districts shall hereafter enter into contracts, in writing, with each professional employe *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. [Said contracts shall contain only the following:]

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

(c) Contracts under subsection (b) shall contain only the following:

“IT IS AGREED by and between Professional Employe, and the Board of Directors (or Board of Public Education) of the school district of, Pennsylvania, that said professional employe shall, under the authority of the said board and its successors, and subject to the supervision and authority of the properly authorized superintendent of schools or supervising principal, serve as a professional employe in the said school district for a term ofmonths, for an annual compensation of \$....., payable monthly or semi-monthly during the school term or year, less the contribution required by law to be paid to the Public School Employes’ Retirement Fund, and less other proper deductions for loss of time.

“This contract is subject to the provisions of the ‘Public School Code of 1949’ and the amendments thereto.

“AND IT IS FURTHER AGREED by the parties hereto that none of the provisions of this act may be waived either orally or in writing, and that this contract shall continue in force year after year, with the right of the board of school directors (or board of public education) to increase the compensation over the compensation herein stated, from time to time, as may be provided under the provisions and proper operation of the established salary schedule, if any, for the school district, subject to the provisions of law, without invalidating any other provision of this contract, unless terminated by the professional employe by written resignation presented sixty (60) days before resignation becomes effective, or by the board of school directors (or board of public education) by official written notice presented to the professional employe: Provided, That the said notice shall designate the cause for the termination and shall state that an opportunity to be heard shall be granted if the said professional employe, within ten (10) days after receipt of the termination notice, presents a written request for such hearing.”

Section 3. Section 1122 of the act, amended July 26, 1961 (P.L.891, No.383), is amended to read:

Section 1122. Causes for Termination of Contract.—(a) The only valid causes for termination of a contract heretofore or hereafter entered into with a professional employe shall be immorality[,]; incompetency[,]; *unsatisfactory teaching performance based on two (2) consecutive ratings of the employe's teaching performance that are to include classroom observations, not less than four (4) months apart, in which the employe's teaching performance is rated as unsatisfactory*; intemperance[,]; cruelty[,]; persistent negligence[, *mental derangement,*] *in the performance of duties; wilful neglect of duties; physical or mental disability as documented by competent medical evidence, which after reasonable accommodation of such disability as required by law substantially interferes with the employe's ability to perform the essential functions of his employment*; advocacy of or participating in un-American or subversive doctrines[, **persistent and wilful violation of the school laws of this Commonwealth**]; *conviction of a felony or acceptance of a guilty plea or nolo contendere therefor; persistent and wilful violation of or failure to comply with school laws of this Commonwealth, including official directives and established policy of the board of directors*; on the part of the professional employe: Provided, That boards of school directors may terminate the service of any professional employe who has attained to the age of sixty-two except a professional employe who is a member of the old age and survivors insurance system pursuant to the provisions of the act, approved the first day of June, one thousand nine hundred fifty-six (Pamphlet Laws 1973). In such case the board may terminate the service of any such professional employe at the age of sixty-five or at the age at which the employe becomes eligible to receive full benefits under the Federal Social Security Act.

(b) Nothing within the foregoing enumeration of causes *in subsection (a)*, shall be interpreted to conflict with the retirement of professional employes

upon proper evidence of disability, or the election by professional employes to retire during the period of voluntary retirement, or the authority of the board of school directors to require professional employes to retire during said period of voluntary retirement, or the compulsion on the part of professional employes to retire at the attainment of age seventy.

Section 4. Section 1123 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 1123. Rating System.—In determining whether a professional employe shall be dismissed for incompetency *or unsatisfactory teaching performance as provided for in section 1122(a) of this act*, and in rating the services of a temporary professional employe, the professional employe or temporary professional employe shall be rated by an approved rating system which shall give due consideration to personality, preparation, technique, and pupil reaction, in accordance with standards and regulations for such scoring as defined by rating cards to be prepared by the Department of **[Public Instruction] Education**, and to be revised, from time to time, by the Department of **[Public Instruction] Education** with the cooperation and advice of a committee appointed by the **[Superintendent of Public Instruction] Secretary of Education**, including representation from district superintendents of schools, classroom teachers, school directors, school supervisors, *parents of school-age children enrolled in a public school, a representative from a college or department of education within a higher education institution located within this Commonwealth*, and such other groups or interests as the **[Superintendent of Public Instruction] Secretary of Education** may deem appropriate. Rating shall be done by or under the supervision of the superintendent of schools or, if so directed by him, the same may be done by an assistant superintendent, a supervisor, or a principal, who has supervision over the work of the professional employe or temporary professional employe who is being rated: Provided, That no unsatisfactory rating shall be valid unless approved by the district superintendent.

Section 5. Nothing contained in the amendment of sections 1108, 1122 and 1123 of the act shall supersede or preempt any provisions of an existing collective bargaining agreement between a school entity and an employee organization that is in effect on the effective date of this section. For the purpose of this subsection, a “school entity” shall mean a school district, joint school district, intermediate unit or area vocational-technical school.

Section 6. This act shall take effect immediately.

APPROVED—The 29th day of March, A.D. 1996.

THOMAS J. RIDGE