

CHAPTER 125

TEACHERS

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125.032 LICENSURE; COMMUNITY EDUCATION INSTRUCTORS.

Subdivision 1. **Exemption.** Notwithstanding the provisions of any law to the contrary and except as otherwise provided in this section, a person who teaches in a community education program established pursuant to sections 121.85 to 121.88 is exempt from all licensure requirements.

Subd. 2. **Exceptions.** A person who teaches in a community education program which qualifies for aid pursuant to section 124.26 shall continue to meet licensure requirements as a teacher. A person who teaches in an early childhood and family education program which is offered through a community education program and which qualifies for per capita aid pursuant to section 124.271 shall continue to meet licensure requirements as a teacher. A person who teaches in a community education course which is offered for credit for graduation to persons under 18 years of age shall continue to meet licensure requirements as a teacher. A person who teaches a driver training course which is offered through a community education program to persons under 18 years of age shall be licensed by the board of teaching. A license which is required for an instructor in a community education program pursuant to this subdivision shall not be construed to bring an individual within the definition of a teacher for purposes of section 125.12, subdivision 1, or section 125.17, subdivision 1, clause (a). A community education instructor shall not be defined as a teacher pursuant to section 179.63, subdivision 13, or be a member of a teacher bargaining unit solely as a result of that individual's employment in a community education program.

History: 1983 c 314 art 7 s 27

125.05 BOARD TO ISSUE LICENSES.

[For text of subs 1 to 4, see M.S.1982]

Subd. 5. **Provisional licenses; prohibited.** The board of teaching shall grant no new provisional licenses. By January 15, 1984, the state board and commissioner of education shall submit a report to the education committees of the legislature with recommendations on provisional licenses.

History: 1983 c 314 art 7 s 28

125.055 TEMPORARY LICENSURE RULES.

The state board for vocational education may adopt temporary licensure rules, according to sections 14.29 to 14.36, when necessary to implement entirely new programs for emerging occupations which will promote economic development in Minnesota. The state board shall notify the education committees of the legislature of each program for which it intends to adopt temporary licensure rules.

History: 1983 c 314 art 5 s 13

125.12 EMPLOYMENT; CONTRACTS, TERMINATION.

[For text of subd 1, see M.S.1982]

Subd. 1a. **Nonprovisional license defined.** For purposes of this section, "non-provisional license" shall mean an entrance, continuing, or life license.

[For text of subs 2 to 6, see M.S.1982]

Subd. 6a. **Negotiated unrequested leave of absence.** The school board and the exclusive bargaining representative of the teachers may negotiate a plan providing for unrequested leave of absence without pay or fringe benefits for as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. Failing to successfully negotiate such a plan, the provisions of subdivision 6b shall apply. The negotiated plan shall not include provisions which would result in the exercise of seniority by a teacher holding a provisional license, other than a vocational education license, contrary to the provisions of subdivision 6b, clause (c), or the reinstatement of a teacher holding a provisional license, other than a vocational education license, contrary to the provisions of subdivision 6b, clause (e). The provisions of section 179.72 shall not apply for the purposes of this subdivision.

Subd. 6b. **Unrequested leave of absence.** The school board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave shall be effective at the close of the school year. In placing teachers on unrequested leave, the board shall be governed by the following provisions:

(a) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. No teacher who has acquired continuing contract rights shall be placed on unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is licensed;

(b) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by the school district. In the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed shall be negotiable;

(c) Notwithstanding the provisions of clause (b), no teacher shall be entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the placement on unrequested leave of absence of another teacher who also holds a provisional license in the same field. The provisions of this clause shall not apply to vocational education licenses;

(d) Notwithstanding clauses (a), (b) and (c), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of clause (c) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

(e) Teachers placed on unrequested leave of absence shall be reinstated to the positions from which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are licensed. Reinstatement shall be in the inverse order of placement on leave of absence. No teacher shall be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field remains on unrequested leave. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year shall be negotiable;

(f) No appointment of a new teacher shall be made while there is available, on unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to that teacher, that he or she may return to employment and that he or she will assume the duties of the position to which appointed on a future date determined by the board;

(g) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave;

(h) The unrequested leave of absence shall not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service;

(i) The unrequested leave of absence of a teacher who is placed on unrequested leave of absence prior to January 1, 1978 and who is not reinstated shall continue for a period of two years after which the right to reinstatement shall terminate. The unrequested leave of absence of a teacher who is placed on unrequested leave of absence on or after January 1, 1978 and who is not reinstated shall continue for a period of five years, after which the right to reinstatement shall terminate; provided the teacher's right to reinstatement shall also terminate if he or she fails to file with the board by April 1 of any year a written statement requesting reinstatement;

(j) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 3 and 4 shall apply to placement on unrequested leave of absence;

(k) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment compensation if otherwise eligible.

[For text of subs 7 to 14, see M.S.1982]

History: 1983 c 314 art 7 s 29-31

125.17 TEACHER TENURE ACT; CITIES OF THE FIRST CLASS; DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of the following subdivisions in this section shall be defined as follows:

(a) **Teachers.** The term "teacher" includes every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as placement teacher and visiting teacher. Persons regularly employed as counselors and school librarians shall be covered by these sections as teachers if licensed as teachers or as school librarians.

(b) **School board.** The term "school board" includes a majority in membership of any and all boards or official bodies having the care, management, or control over public schools.

(c) **Demote.** The word "demote" means to reduce in rank or to transfer to a lower branch of the service or to a position carrying a lower salary or compensation.

(d) **Nonprovisional license.** For purposes of this section, "nonprovisional license" shall mean an entrance, continuing, or life license.

[For text of subs 2 to 10, see M.S.1982]

Subd. 11. **Services terminated by discontinuance or lack of pupils; preference given.** (a) Any teacher whose services are terminated on account of discontinuance of position or lack of pupils shall receive first consideration for other positions in the district for which that teacher is qualified. In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers shall be discontinued in any department in the inverse order in which they were employed.

(b) Notwithstanding the provisions of clause (a), no teacher shall be entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause shall not apply to vocational education licenses.

(c) Notwithstanding the provisions of clause (a), no teacher shall be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field is available for reinstatement.

[For text of subd 12, see M.S.1982]

History: 1983 c 314 art 7 s 32,33

125.60 EXTENDED LEAVES OF ABSENCE.

[For text of subd 1, see M.S.1982]

Subd. 2. The board of any district may grant an extended leave of absence without salary to any full or part time elementary, secondary or area vocational-technical school teacher who has been employed by the district for at least five years and has at least ten years of allowable service, as defined in section 354.05, subdivision 13, or the bylaws of the appropriate retirement association or ten years of full time teaching service in Minnesota public elementary, secondary and area vocational-technical schools. The maximum duration of an extended leave of absence pursuant to this section shall be determined by mutual agreement of the board and the teacher at the time the leave is granted and shall be at least three but no more than five years. An extended leave of absence pursuant to this section shall be taken by mutual consent of the board and the teacher and may be granted only once. If the school board denies a teacher's request, it shall provide reasonable justification for the denial.

[For text of subd 2a, see M.S.1982]

Subd. 3. **Reinstatement.** Except as provided in subdivisions 6a and 6b, a teacher on an extended leave of absence pursuant to this section shall have the

right to be reinstated to a position for which the teacher is licensed at the beginning of any school year which immediately follows a year of the extended leave of absence, unless the teacher is discharged or placed on unrequested leave of absence or the contract is terminated pursuant to section 125.12 or 125.17 while the teacher is on the extended leave. The board shall not be obligated to reinstate any teacher who is on an extended leave of absence pursuant to this section, unless the teacher advises the board of the intention to return before February 1 in the school year preceding the school year in which the teacher wishes to return. The board shall notify the commissioner within 30 days of being notified that a teacher intends to return from an extended leave.

[For text of subds 4 to 6b, see M.S.1982]

Subd. 7. Application procedures; limits. No school board shall grant an extended leave of absence pursuant to this section without applying for and receiving authorization from the commissioner of education. The commissioner of education shall establish procedures for applications and shall approve or disapprove applications pursuant to this subdivision within the limits of the appropriation for the purposes of sections 354.094 and 354A.091. Each application shall state whether or not the teacher requesting the extended leave of absence pursuant to this section intends to pay the employee contribution and requests state payment of the employer contribution into the teacher's retirement fund pursuant to section 354.094 or 354A.091 in order to receive retirement service credit for years spent on leave. The commissioner shall approve no more than 250 applications for extended leaves beginning in the 1983-1984 school year for teachers who intend to pay employee contributions and request state payment of employer contributions.

If more than 250 applications for extended leaves beginning in any school year are received by March 15 of the preceding school year, the commissioner may decide which applications to approve according to the order of receipt, a method ensuring participation by teachers from the maximum possible number of districts, random allotment or any combination of these methods. Applications received by the commissioner after March 15 shall be considered for approval according to the order of receipt within the limits prescribed by this subdivision.

The commissioner shall not approve any applications for extended leaves beginning in the 1984-1985 or any subsequent school year for teachers who intend to pay employee contributions and request state payment of employer contributions. There is no limit on the number of applications which may be approved for extended leaves for teachers who do not intend to pay employee contributions or who do not request state payment of employer contributions.

[For text of subd 8, see M.S.1982]

History: 1983 c 314 art 10 s 1-3

125.611 TEACHER EARLY RETIREMENT INCENTIVE PROGRAM.

Subdivision 1. Criteria. For purposes of this section, "teacher" means a teacher as defined in section 125.03, subdivision 1, who:

(a) is employed in the public elementary, secondary or area vocational-technical schools in the state and

(b) either

(1)(i) has not less than 15 total years of full time teaching service in elementary, secondary and area vocational-technical schools, or at least 15 years of

allowable service as defined in sections 354.05, subdivision 13; 354.092; 354.093; 354.094; 354.53; 354.531; 354.66; 354A.011, subdivision 4; 354A.091; 354A.092; 354A.093; 354A.094; or Laws 1982, chapter 578, article II, section 1 and

(ii) has or will have attained the age of 55 years but less than 65 years as of the June 30 in the school year during which an application for an early retirement incentive is made, or

(2) has not less than 30 total years of full time teaching service in elementary, secondary and area vocational-technical schools, or at least 30 years of allowable service as defined in sections 354.05, subdivision 13; 354.092; 354.093; 354.094; 354.53; 354.531; 354.66; 354A.011, subdivision 4; 354A.091; 354A.092; 354A.093; 354A.094; or Laws 1982, chapter 578, article II, section 1.

[For text of subds 2 to 7, see M.S.1982]

Subd. 8. Payment; reduction. An eligible teacher who is offered and accepts an early retirement incentive contract pursuant to subdivision 7 shall receive an early retirement incentive in the amount of \$10,000. This amount shall be reduced by \$500 for each year that a teacher is over the age of 55 years to a maximum age of 60 years and by an additional \$1,500 for each year that a teacher is over the age of 60 years. The age of the teacher shall be determined as of the June 30 in the school year during which the application for the early retirement incentive is made.

Subd. 9. Desegregation districts. Notwithstanding the provisions of subdivision 8, beginning in the 1983-1984 school year, an eligible teacher who is employed by a school district which is implementing a desegregation plan ordered by federal court or approved by the state board, and who is offered and accepts an early retirement incentive contract pursuant to subdivision 7, shall receive an early retirement incentive in the amount of \$12,500. This amount shall be reduced by \$625 for each year that a teacher is over the age of 55 years to a maximum age of 60 years and by an additional \$1,875 for each year that a teacher is over the age of 60 years. The age of the teacher shall be determined as of the June 30 in the school year during which the application for the early retirement incentive is made.

[For text of subds 10 to 12, see M.S.1982]

History: 1983 c 67 s 1; 1983 c 314 art 10 s 4,5