



**Pennsylvania Association of School Administrators**  
*Proud Leadership for Pennsylvania Schools*

**Testimony on House Bill 855  
before the  
House Education Committee  
March 2, 2011**

Good morning Chairman Clymer, Chairman Roebuck and distinguished members of the House Education Committee. My name is Dr. Eric Eshbach. I serve as Superintendent of the Upper Adams School District, which is located in Adams County, and also serve on the Legislative Committee of the Pennsylvania Association of School Administrators (PASA). PASA represents school superintendents and other chief school administrators from across the Commonwealth.

We thank the Committee for the opportunity to share our thoughts on House Bill 855, which amends Section 1124 of the Public School Code to extend the list of criteria under which a district may suspend professional employees to include economic reasons. The bill also will permit districts, when suspending employees for economic reasons, to do so on the basis of their qualifications and performance rather than solely on the basis of seniority with the school district.

I want to start by stating that chief school administrators, working with their business managers and school boards, do not take pleasure in having to take actions to disassemble programs and services we helped to create and furlough staff that we may have selected and hired. We recognize this is one of the most difficult actions that any administrator must take. We understand the impact such actions have on our employees' lives and the impact on their families. We also recognize that these actions are disruptive to the provision of educational programming that administrators and boards believe are important to students enrolled in our districts.

However, we recognize that school districts across the state have already picked the low hanging fruit by not filling vacant positions, deferring maintenance, cancelling purchases, and

contracting out food services, transportation services and maintenance of building and grounds. Districts have already utilized their ability to furlough staff classified as non-professional, such as aides, custodial staff, bus drivers, cafeteria workers and maintenance staff. School districts also have eliminated or consolidated administrative positions such as those of assistant superintendent, assistant principal, principals and program director positions.

Districts also have utilized the formal process provided in Section 1124 of the School Code, which permits districts to alter or curtail programs with the approval of the Department of Education. Alteration/curtailments are permitted when a district demonstrates a decrease in district or individual program or course enrollments or when a district wants to reconfigure the grade levels assigned in each school building. When alteration/curtailments are approved, districts may furlough or suspend the effected professional employees on the basis of seniority within the school district. However, the conditions under which a district may obtain approval to alter or curtail programs are restricted and do not allow districts to reduce programs and staff due to districts having budget shortfalls.

Districts have largely run the course with these strategies. The only option left for many school districts now is to seek to reduce instructional staff, which constitutes the largest number of staff in school districts – and the largest portion of the budget.

We support the provision that permits districts to base furlough decisions upon staff qualifications and performance rather than solely on seniority. The last-in/first-out policy required by Section 1125.1 requires professional staff to be furloughed based on seniority, not effectiveness. The result of this current requirement is that newer teachers, those who in some cases actually have many years of experience, to be let go first, even if they are more effective than those who have served in the school district longer. If we are truly serious about maximizing student achievement while operating schools within our means, we must change this policy.

However, we believe it is important to protect employees from inappropriate actions designed solely to establish vacancies that permit others to be hired by the district. For that reason, we suggest that a provision be added to the bill that prohibits filling any position vacated as a result of an economic furlough or a comparable position with anyone except the furloughed employee for a period of not less than one year, unless the district obtains a waiver from the Secretary of Education.

In addition, since many collective bargaining agreements contain no lay-off clauses and others include provisions that require furloughs to be made on the basis of seniority, merely amending Sections 1124 and 1125.1 will not change the status quo in districts where this is the case due to the contract impairment prohibition in our state Constitution.

While the following recommendation will not address this issue immediately, a long-term solution would be to add a provision that was enacted in 1998 concerning collective bargaining in the School District of Philadelphia. We suggest adding a similar provision to House Bill 855 that applies to **all** classes of school districts. Section 696(k) of the Public School Code states that all provisions contained in existing collective bargaining agreements may not be extended and have no force or effect beyond the existing term of the contract. This language, if enacted for all school districts, also would provide that any agreements negotiated in the future do not require districts to negotiate matters related to reductions in force, staffing patterns and assignments, class schedules, academic calendar, use of technology, student assessment or teacher preparation time. Enactment of these provisions would allow school districts to adjust staffing based on ongoing enrollment changes, development of new technologies, evolving curriculum demands and resources. We know that current rules frequently result in the least experienced teachers being assigned to provide instruction to the most challenged students. This change in the School Code would alleviate that problem by permitting districts to assign their most highly qualified staff to work with their most challenged students.

In conclusion, chief school administrators do not relish having to advocate for the authority to take such actions. But given the fiscal realities that the Commonwealth, school districts and local taxpayers face, short of local associations voluntarily stepping up to renegotiate existing collective bargaining agreements with an offer to reduce costs, we have few other options.

Thank you for the opportunity to share our thoughts with you this morning.

# **Public School Code of 1949**

## **Article XI**

### **§ 6-696. Distress in school districts of the first class**

(k) Collective bargaining between employees and the school district of the first class shall be conducted in accordance with this subsection. For purposes of collective bargaining, as used in section 693 and this section: "professional employee" shall have the meaning given in section 1101(1), and "teacher" shall have the meaning given in section 1202-A.

(1) Whether or not a declaration of distress has been made under section 691(c), a collective bargaining agreement in effect on the effective date of this section shall not be extended and shall have no force or effect beyond the existing term of the contract notwithstanding any other law to the contrary. (Repealed. 2001, June 22, P.L. 530, No. 35, § 7, imd. effective.)

(2) No distressed school district of the first class shall be required to engage in collective bargaining negotiations or enter into memoranda of understanding or other agreements regarding any of the following issues:

(i) Contracts with third parties for the provision of goods or services, including educational services or the potential impact of such contracts on employees.

(ii) Decisions related to reductions in force.

(iii) Staffing patterns and assignments, class schedules, academic calendar, places of instruction, pupil assessment and teacher preparation time.

(iv) The use, continuation or expansion of programs designated by the School Reform Commission as pilot or experimental programs.

- (v) The approval or designation of a school as a charter or magnet school.
  - (vi) The use of technology to provide instructional or other services.
- (3) A collective bargaining agreement for professional employes entered into after the expiration of the agreement in effect on the date of the declaration of distress shall provide for the following:
- (i) A school day for professional employees that is equal to or exceeds the State average as determined by the department. An extension of the school day resulting from this requirement shall be used exclusively for instructional time for students.
  - (ii) The number of instructional days shall be equal to or exceed the State average number of instructional days.

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