

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 809

Introduced by Lautenbaugh, 18.

Read first time January 05, 2012

Committee: Education

A BILL

- 1 FOR AN ACT relating to schools; to amend sections 79-828 and 79-829,
- 2 Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to evaluation of certificated
- 4 employees; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-828, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-828 (1) The contract of a probationary certificated
4 employee shall be deemed renewed and remain in full force and effect
5 unless amended or not renewed in accordance with sections 79-824 to
6 79-842.

7 (2) The purpose of the probationary period is to allow
8 the employer an opportunity to evaluate, assess, and assist the
9 employee's professional skills and work performance prior to the
10 employee obtaining permanent status.

11 All probationary certificated employees employed by ~~Class~~
12 ~~I, II, III, and VI school districts~~ any class of school district
13 shall, during each year of probationary employment, be evaluated at
14 least once each semester, unless the probationary certificated
15 employee is a superintendent, in accordance with the procedures
16 outlined below:

17 The probationary certificated employee shall be observed
18 and evaluation shall be based upon actual classroom observations by a
19 school district administrator, unless otherwise agreed to in a
20 collective-bargaining agreement, for an entire instructional period.
21 a minimum of ninety minutes per semester with no one observation
22 being less than thirty minutes. If deficiencies are noted in the work
23 performance of any probationary certificated employee, the evaluator
24 shall provide the ~~teacher or administrator~~ probationary certificated
25 employee at the time of the observation with a list of deficiencies,

1 a list of suggestions for improvement and assistance in overcoming
2 the deficiencies, and followup evaluations and assistance when
3 deficiencies remain.

4 If the probationary certificated employee is a
5 superintendent, he or she shall be evaluated twice during the first
6 year of employment and at least once annually thereafter.

7 Any certificated employee employed prior to September 1,
8 1982, by the school board of any Class I, II, III, or VI school
9 district shall serve the probationary period required by law prior to
10 such date and shall not be subject to any extension of probation.

11 (3) If the school board or the superintendent or
12 superintendent's designee determines that it is appropriate to
13 consider whether the contract of a probationary certificated employee
14 or the superintendent should be amended or not renewed for the next
15 school year, such certificated employee shall be given written notice
16 that the school board will consider the amendment or nonrenewal of
17 such certificated employee's contract for the ensuing school year.
18 Upon request of the certificated employee, notice shall be provided
19 which shall contain the written reasons for such proposed amendment
20 or nonrenewal and shall be sufficiently specific so as to provide
21 such employee the opportunity to prepare a response and the reasons
22 set forth in the notice shall be employment related.

23 (4) The school board may elect to amend or not renew the
24 contract of a probationary certificated employee for any reason it
25 deems sufficient if such nonrenewal is not for constitutionally

1 impermissible reasons, and such nonrenewal shall be in accordance
2 with sections 79-824 to 79-842. Amendment or nonrenewal for reason of
3 reduction in force shall be subject to sections 79-824 to 79-842 and
4 79-846 to 79-849.

5 (5) Within seven calendar days after receipt of the
6 notice, the probationary certificated employee may make a written
7 request to the secretary of the school board or to the superintendent
8 or superintendent's designee for a hearing before the school board.

9 (6) Prior to scheduling of action or a hearing on the
10 matter, if requested, the notice of possible amendment or nonrenewal
11 and the reasons supporting possible amendment or nonrenewal shall be
12 considered a confidential employment matter as provided in sections
13 79-539, 79-8,109, and 84-1410 and shall not be released to the public
14 or any news media.

15 (7) At any time prior to the holding of a hearing or
16 prior to final determination by the school board to amend or not
17 renew the contract involved, the probationary certificated employee
18 may submit a letter of resignation for the ensuing year, which
19 resignation shall be accepted by the school board.

20 (8) The probationary certificated employee shall be
21 afforded a hearing which shall not be required to meet the
22 requirements of a formal due process hearing as set forth in section
23 79-832 but shall be subject to section 79-834.

24 Sec. 2. Section 79-829, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-829 (1) The contract of a permanent certificated
2 employee shall be deemed continuing and shall be renewed and remain
3 in full force and effect unless amended or terminated in accordance
4 with the provisions of sections 79-824 to 79-842. The school board by
5 a vote of the majority of its members may determine that such
6 permanent certificated employee's contract shall be amended or
7 terminated for any of the following reasons: ~~(1)-(a)~~ Just cause as
8 defined in section 79-824; ~~(2)-(b)~~ reduction in force as set forth in
9 sections 79-846 to 79-849, or change of leave-of-absence policies;
10 ~~(3)-(c)~~ failure of the certificated employee upon written request of
11 the school board or the administrators of the school district to
12 accept employment for the next school year within the time designated
13 in the request, except that the certificated employee shall not be
14 required to signify such acceptance prior to March 15 of each year;
15 or ~~(4)-(d)~~ revocation or suspension by the State Board of Education
16 of the certificate of a certificated employee whose duties require
17 such a certificate.

18 (2) To help determine whether just cause as defined in
19 section 79-824 exists for purposes of subsection (1) of this section,
20 all permanent certificated employees employed by any class of school
21 district shall, during each year of employment, be evaluated at least
22 once each school year in accordance with the procedures outlined
23 below:

24 The permanent certificated employee shall be observed and
25 evaluation shall be based upon actual classroom observations by a

1 school district administrator, unless otherwise agreed to in a
2 collective-bargaining agreement, for a minimum of ninety minutes per
3 year with no one observation being less than thirty minutes. If
4 deficiencies are noted in the work performance of any such permanent
5 certificated employee, the evaluator shall provide such employee at
6 the time of the observation with a list of deficiencies, a list of
7 suggestions for improvement and assistance in overcoming the
8 deficiencies, and followup evaluations and assistance when
9 deficiencies remain.

10 Sec. 3. Original sections 79-828 and 79-829, Reissue
11 Revised Statutes of Nebraska, are repealed.