

Conditions of Continuing Employment for K-12 Teachers

“Continuing contract rights” and “tenure rights” offer equivalent procedural protections

Two sections of Minnesota Statutes govern conditions of continuing employment for licensed K-12 teachers in Minnesota’s public schools. [Section 122A.40](#) contains general provisions for all teachers’ continuing contract rights except those teachers teaching in the three first-class city school districts of Minneapolis, St. Paul, and Duluth. [Section 122A.41](#), which contains similar provisions, governs the tenure rights of teachers teaching in the three first-class city school districts. The terms “continuing contract rights” and “tenure rights” mean that a school district may not dismiss a teacher from a teaching position without first demonstrating the cause for that dismissal. The two terms are equivalent in the procedural protections they afford and are used interchangeably by educators, the courts, and others.

A newly licensed probationary teacher must successfully complete three consecutive years of continuous employment

Under state law, after a newly licensed probationary teacher successfully completes three years of continuous employment, she or he becomes a continuing contract teacher if employed by a nonfirst-class city school district, or a tenured teacher if employed by a first-class city school district. During the probationary period, a school district has considerable discretion in deciding whether or not to renew the probationary teacher’s employment contract. A school district under section [122A.40](#) must notify a probationary teacher before July 1 that it will not renew the teacher’s contract. Once a teacher receives a continuing contract or tenure, the teacher becomes entitled to a number of employment-related protections, including bumping rights and just cause and due process guarantees.

Teachers’ continuing contracts remain in effect unless a specified circumstance arises

The continuing contracts of teachers in nonfirst-class city school districts under section [122A.40](#) remain in full force and effect unless:

- the school board and the teacher modify the contract;
- the school board terminates the teacher for inefficiency before April 1, neglect of duty, conduct unbecoming a teacher, or other grounds making the teacher unfit;
- the school board places the teacher on an unrequested leave of absence before July 1;
- the school board temporarily suspends the teacher and places the teacher on a leave of absence for health reasons;
- the school board immediately discharges the teacher for immoral conduct, conduct unbecoming a teacher, failure to teach, gross inefficiency, willful neglect of duty, or continuing physical or mental disability; or
- the teacher resigns before April 1 or, if a collective bargaining agreement is not settled, the teacher resigns within 30 days of when an agreement is ratified or July 15, whichever is first.

Tenured teachers cannot be discharged or demoted except for cause

Tenured teachers in first-class city school districts under section [122A.41](#) may be discharged or demoted for:

- immoral character, conduct unbecoming a teacher, or insubordination;
- failure to teach;
- inefficiency in teaching or in management of a school;
- affliction with a communicable disease; and
- discontinuance of position or lack of pupils.

School boards must follow procedures when terminating, discharging, or demoting a teacher

A teacher facing termination or immediate discharge in a nonfirst-class city school district can request a public or private hearing before the school board or an arbitrator. The board and the teacher may have counsel, who can examine witnesses and present arguments. A school board must base a decision to dismiss a teacher upon substantial and competent evidence in the hearing record. The teacher may appeal a board decision to the state courts.

The Minneapolis, St. Paul, and Duluth school boards can discharge or demote a teacher only after a full public or private hearing before the board or an arbitrator, at the teacher's election. The board may suspend a teacher against whom it has filed charges. The board and the teacher may have counsel, who can examine witnesses and present arguments, and both parties have the right to a written record. A vote by a majority of school board members is needed to discharge or demote a teacher. The teacher may appeal a board decision to the state courts.

An arbitrator who conducts a hearing must decide, based upon a preponderance of the evidence, whether to terminate, discharge, or demote the teacher. The arbitrator's decision is final and binding on the parties, and may not be appealed except on technical grounds.

Teachers may be placed on an unrequested leave of absence according to a negotiated or statutory plan

A school board may place a teacher on an unrequested leave of absence, without pay or fringe benefits, when the board discontinues the teacher's position, lacks sufficient students, faces financial limitations, or merges classes as a result of consolidating districts. If the school board and the teachers' exclusive bargaining representative fail to negotiate an unrequested leave of absence plan, then statutory terms control. A board must hold a public hearing on unrequested leaves before July 1. A majority roll call vote of the full board is needed to place teachers on leave.

Teachers are placed on leave based on the inverse order of their employment and on their areas of certification. Teachers' seniority applies to each area in which the teacher is certified. Teachers must be recalled to their positions, or other available positions, in the inverse order in which they were placed on leave; most senior teachers are recalled first. This seniority-based system rewards teachers with the longest service by giving them maximum employment security. Statutory terms governing resignations, leaves, certification, seniority and part-time experience, teachers' bumping rights, and districts' ability to realign positions also affect staff reduction decisions.

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