

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

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Legislative Document

No. 272

H. P. 222

House of Representatives, January 22, 1969

Referred to Committee on Education. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Tyndale of Kennebunkport.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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AN ACT Creating the Professional Practices Act for Teachers.

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Be it enacted by the People of the State of Maine, as follows:

R. S., T. 20, c. 215, additional. Title 20 of the Revised Statutes is amended by adding a new chapter 215 to read as follows:

CHAPTER 215  
PROFESSIONAL PRACTICES ACT FOR TEACHERS

§ 2051. Purpose

It is the intent and purpose of the Legislature that teaching in the public school system and its related services including administering and supervising are professional services and are so designated.

§ 2052. Definitions

As used in this chapter unless the context requires otherwise:

1. Administrator. "Administrator" means any teacher the majority of whose employed time is devoted to serve as superintendent, assistant superintendent, assistant to the superintendent, supervisor, principal, vice-principal or any comparable administrative position as aforementioned.

2. Superintendent. "Superintendent" means the superintendent of any Maine school system, or in his absence, the person designated to fulfill his functions.

3. Teacher. "Teacher" means any person certified employable in the public schools of this State pursuant to regulations of the State Board of Education,

except persons holding a probationary employment status, conditional or comparable certificate and persons acting as a superintendent of schools, who is under contract of employment with a board of school directors or school committee in any school system of this State.

§ 2053. Failure to complete term

Any teacher, including probationary teachers, under contract to teach in a public school who fails, without just cause, to complete the term for which the teacher contracted to teach shall have his certificate suspended for a period of one year by the Commissioner of Education. He shall be entitled to a hearing with the Commissioner of Education if he requests one in writing.

§ 2054. Probationary teachers

1. Nomination. The superintendent shall nominate all probationary teachers, subject to such regulations governing salaries and qualifications of teachers as the school committee or school directors shall make, upon approval of nomination by said committee or directors. He may employ teachers so nominated, subject to approval of the school committee or school directors. An initial probationary period in any system shall not exceed 3 years.

2. Probation. Any teacher who has successfully achieved continuing contract status in any school system in Maine will be placed on probation for not more than 19 months, if said teacher accepts employment with similar certification requirements in another school system or returns to employment after interrupted service of not more than 5 years in the former school system.

3. Notification. Probationary teachers shall be notified no later than 7 months from the effective beginning date of the contract of the intent of the superintendent not to nominate such individual for employment by the school district the following year. Failure to notify in writing prior to the time limits imposed above shall extend the contract automatically for one year.

4. Written statement. The superintendent so requested in writing by a probationary teacher shall provide any probationary teacher not nominated for employment with a written statement citing specific cause for not recommending contract renewal. If specific reasons are not given, the decision may be contested by the probationary teacher.

§ 2055. Personnel on continuing contract status

In the event that a teacher on continuing contract is assigned a position having other certification requirements, the teacher shall retain continuing contract status in the previous position, but may be required to serve a probationary term of employment not exceeding 3 years in the new position. Once the probationary period in the new position has been completed, said individual will have attained continuing contract status within that position.

Failure to take action to offer or deny a continuing contract prior to March 1st shall cause the contract to be extended automatically for one year and similarly in subsequent years, although the right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties. If a continuing contract is offered the teacher he shall accept

or reject the offer on or before April 1st. Notice of intent not to extend the contract must be given before March 1st.

§ 2056. Causes for dismissal

1. Causes. No teacher including a probationary teacher may be dismissed during a school year nor any continuing teacher be denied a contract offer, except for cause. Cause may be:

- A. Incompetence;
- B. Immoral conduct;
- C. Teacher conduct which in fact impairs his ability to teach in the school;
- D. Failure to attend to duties or failure to carry out reasonable orders and directions of the superintendent and the school board;
- E. Physical or mental disability, as established by competent medical evidence;
- F. Elimination of the position to which the teacher was appointed if no other position exists to which he may be appointed, if qualified provided 90 days' notice is given;
- G. Loss or certification;
- H. A violation of the Code of Ethics of the Education Profession as interpreted from the written code of the profession.

§ 2057. Evaluation

It is the responsibility of administrators to supervise and evaluate the performance of each teacher, to bring to his attention verbally and then in writing if necessary, any cause which might lead to future dismissal or nonextension or contract, to assist the teacher to remove the cause if possible and allow time for correction. In determining whether the professional performance of a teacher is competent, consideration shall be given to regular and special written evaluation reports which shall be prepared in accordance with the policy and procedures of the employing school board.

§ 2058. Teacher suspension

Whenever a superintendent has reason to believe that cause exists for the dismissal of a teacher and when he is of the opinion that the immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without notice and without hearing. The superintendent shall notify the teacher in writing of the suspension.

Within 5 days after suspension except by mutual consent of the superintendent and the teacher, the superintendent shall begin proceedings to effect the teacher's dismissal.

If sufficient grounds for dismissal are not found to exist by the employing school board, the teacher shall be reinstated without loss of compensation and the personnel record of the teacher will be expunged regarding this case.

**§ 2059. Review**

No school committee or school directors shall dismiss or fail to reemploy a continuing contract teacher without first reviewing and considering the recommendation of the superintendent. Fifteen days prior to recommending to a board that it dismiss any teacher including a probationary teacher or not reemploy a continuing contract teacher, the superintendent shall give written notice to the individual, by registered or certified mail or deliver in the presence of a witness, his recommendation stating the cause therefor, and advising the person of his right to review by the Professional Practices Commission.

**§ 2060. Hearing**

Within 5 days from the date the superintendent's recommendation is issued, the individual as identified in section 2059 or the superintendent may request a hearing before the Professional Practices Commission by making a written request for a hearing to the Commissioner of Education. If no timely request for a review is made, the teacher or the superintendent waives the right to review and the superintendent shall file his recommendation with the school board. If a request for a review is made, the superintendent need not file his formal recommendation with the school board until a report of the Professional Practices Commission is filed with him.

**§ 2061. Commission**

The State Board of Education shall appoint a Professional Practices Commission no later than August 1st each year of 9 members and provide 9 alternates from a list of 45 names, 5 names for each position, submitted initially no later than June 1st by the state association representing the majority of the teachers. Thereafter, 12 names per year shall be submitted by June 1st each year to fill the terms of office on the Professional Practices Commission. A person in order to be qualified for appointment to the commission or designated as an alternate must have 5 years of service prior to initial appointment, shall hold a certificate authorizing him to teach in the State of Maine or be a member of the faculty of an approved teacher education institution in Maine. The commission shall be composed of 4 teachers, a minimum of 3 classroom teachers and one teacher from the special services area, 3 school administrators, one member of faculties representing Maine colleges or universities approved for teacher education, and one member representing the Maine Advisory Committee on Teacher Education and Certification. Initial appointments shall be: 3 for one year; 3 for 2 years; and 3 for 3 years. After the original appointment a full term of office for members and alternates shall be 3 years. A member may be reappointed to the commission for only one time. No member of the Professional Practices Commission will be allowed to hear a case involving their own legal residence or place of employment. The list of alternates will be used to fill a vacancy for an unexpired term of office.

The Professional Practices Commission shall annually select a chairman, vice-chairman and secretary. Meetings shall be held at the call of the Commissioner or Deputy Commissioner of Education, the Professional Practices

Commission chairman or upon request in writing of a majority of the commission. It shall adopt its own rules of order and procedure not inconsistent with this chapter.

Any member or alternate of the Professional Practices Commission can be removed by the State Board of Education after a hearing.

The Professional Practices Commission shall hear and shall make recommendations regarding a pending dismissal or nonextension of contract if requested to do so by either interested party.

All proceedings brought under this chapter shall be financed by the fees collected from the issuance of teacher certificates. No panel member of the Professional Practices Commission shall forfeit any salary or sick leave benefits for performing his duties as a panel member.

Immediate expenses incurred by the employer of commission members as a result of service on the commission shall be reimbursed to the employer by the Commissioner of Education. Expenses incurred by commission members such as travel, meals and lodgings will be reimbursed according to prevailing state practice.

The Commissioner of Education shall receive and account for all moneys derived from the collection of certification fees and shall pay the same, as provided by law, to the Treasurer of State, who shall keep such moneys in a separate fund to be known as the "Professional Practices Commission Fund." The Commissioner of Education shall receive an allowance for clerical hire as recommended by the commission in addition to the expenses provided in the preceding paragraph. The Commissioner of Education may make other expenditures from this fund, upon itemized vouchers approved by the commission, which in the opinion of the Commissioner of Education are reasonably necessary for the proper performance of its duties under this chapter. If any such funds are not expended during the year in which they were collected, the unexpended balance shall not lapse, but shall be carried as a continuing account available for the purposes specified, until expended.

#### § 2062. Request for review

If a request for review is made, the Commissioner of Education or, in his absence, the Deputy Commissioner of Education shall call into session the 9-member Professional Practices Commission. Seven of 9 members will constitute a quorum.

The teacher and the superintendent may each challenge not more than 3 members of the Professional Practices Commission and the Commissioner of Education shall not appoint any challenged person to the panel. If a panel member is challenged or unable to attend a hearing, his alternate shall serve in his stead.

#### § 2063. Hearing

Within 15 days following its designation, the panel shall conduct a hearing to determine whether cause for dismissal or nonextension of contract exists,

and shall prepare and file a written report of its findings and its recommendation for a decision with the teacher, the superintendent involved and the Commissioner of Education.

The chairman, acting on behalf of the panel, shall have the authority to subpoena and swear witnesses.

The teacher and the superintendent are entitled to be heard and to call witnesses in their behalf. A fair hearing shall be held and the technical rules of evidence need not apply.

The State Department of Education shall furnish the panel with any assistance which is reasonably required to conduct the hearing.

All parties shall be entitled to counsel at every stage of the proceedings established by this section. Each party to the case using personal legal counsel will be liable for his expenses. Hearings shall be in executive session unless both parties agree in writing that they be open to the public.

#### § 2064. Recommendations

Within 5 days after the superintendent receives the report of the panel he shall either withdraw his charges against the teacher and so notify him in writing or file his final recommendation with the school board along with a copy of the panel's report.

Within 7 days after receipt of the recommendations of the superintendent and the report of the panel, the employing school board shall notify the teacher by certified mail or deliver in the presence of a witness, the recommendation of the superintendent.

The teacher may, within 5 days after receipt of the board notice, request in writing a hearing before the board.

Within 7 days after receipt of such request the board shall set a time and place for a hearing within 7 days and notify the superintendent and the teacher of the same.

The board may act without a hearing if the teacher does not make a timely request for one.

#### § 2065. Hearing

The following provisions may apply to any hearing conducted by the school board pursuant to section 2062.

1. Report as evidence. The report of the review panel may be considered as evidence;
2. Counsel. The teacher, superintendent, and the school board may be represented by counsel;
3. Decision. At the conclusion of the hearing the school board shall, within 5 days, render a written decision based on the evidence.

A copy of the decision shall be given to the teacher and the superintendent.

**§ 2066. Appeal**

A teacher aggrieved by the decision of the school board may apply to the District Court within 30 days after the action complained of has been taken, by a sworn petition setting forth that such action is illegal, unreasonable or arbitrary, and specifying the grounds upon which the petition rests.