

STATE OF NEW YORK

6595

2019-2020 Regular Sessions

IN ASSEMBLY

March 12, 2019

Introduced by M. of A. D'URSO -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the abolition of offices or positions and the seniority rights of teachers and teaching assistants within a certain tenure area

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 2510 of the education law, as
2 added by chapter 762 of the laws of 1950, is amended to read as follows:

3 2. Whenever a board of education abolishes a position under this chap-
4 ter, the services of the teacher having the least seniority in the
5 system within the tenure of the position abolished shall be
6 discontinued; except that where a position is abolished in the tenure
7 area of a teacher assigned to teach English as a second language, bilin-
8 qual education or a foreign language and the trustee or board of educa-
9 tion determines that retention of a teacher qualified to teach English
10 as a second language, bilingual education or a specific language other
11 than English is needed to provide instruction, the services of the least
12 senior teacher in the tenure area of the position abolished who does not
13 hold the appropriate certificate to teach in that position shall be
14 discontinued.

15 § 2. Paragraph (a) of subdivision 3 of section 2510 of the education
16 law, as amended by chapter 236 of the laws of 1993, is amended to read
17 as follows:

18 (a) If an office or position is abolished or if it is consolidated
19 with another position without creating a new position, the person fill-
20 ing such position at the time of its abolishment or consolidation shall
21 be placed upon a preferred eligible list of candidates for appointment
22 to a vacancy that then exists or that may thereafter occur in an office
23 or position similar to the one which such person filled without
24 reduction in salary or increment, provided the record of such person has
25 been one of faithful, competent service in the office or position he or
26 she has filled. The persons on such preferred list shall be reinstated
27 or appointed to such vacancies in such corresponding or similar posi-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09308-01-9

tions in the order of their length of service in the system at any time within seven years from the date of abolition or consolidation of such office or position; except that a new position in which certification to teach a specific language other than English, English as a second language or bilingual education is required by the school district shall not be deemed similar pursuant to this subdivision to a position that did not require such certification. Notwithstanding any other provision of law to the contrary, in the event that a member of the New York state teachers' retirement system, who is receiving a disability retirement allowance, shall have such disability retirement allowance rescinded, such member shall be placed upon such preferred eligible list as of the effective date of his or her disability retirement.

§ 3. Subdivisions 2, 3 and 4 of section 2585 of the education law, as amended by chapter 820 of the laws of 1947, subdivisions 2 and 3 as renumbered by chapter 762 of the laws of 1950, and subdivision 4 as renumbered by chapter 521 of the laws of 1976, are amended to read as follows:

2. If a board of education abolishes an office or position and creates another office or position for the performance of duties similar to those performed in the office or position abolished, the person filling such office or position at the time of its abolishment shall be appointed to the office or position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled; except that a new position in which certification to teach a specific language other than English, English as a second language or bilingual education is required by the school district shall not be deemed similar pursuant to this subdivision to a position that did not require such certification.

3. Whenever a board of education abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued; except that where a position is abolished in the tenure area of a teacher assigned to teach English as a second language, bilingual education or a foreign language and the trustee or board of education determines that retention of a teacher qualified to teach English as a second language, bilingual education or a specific language other than English is needed to provide instruction, the services of the least senior teacher in the tenure area of the position abolished who does not hold the appropriate certificate to teach in that position shall be discontinued.

4. If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled; except that a new position in which certification to teach a specific language other than English, English as a second language or bilingual education is required by the school district shall not be deemed similar pursuant to this subdivision to a position that did not require such certification. The persons on such preferred list shall be reinstated or appointed to such corresponding or similar positions in the order of their length of service in the system.

1 § 4. Subdivision 2 of section 2588 of the education law, as added by
2 chapter 521 of the laws of 1976, is amended to read as follows:

3 2. If a position within a tenure area is abolished and another posi-
4 tion is created in such area for the performance of duties similar to
5 those performed in the abolished position, the person filling such
6 office or position at the time of its abolition shall be appointed to
7 the position thus created without reduction in salary or increment,
8 provided the record of such person has been one of faithful, competent
9 service in the office or position he or she has filled; except that a
10 new position in which certification to teach a specific language other
11 than English, English as a second language or bilingual education is
12 required by the school district shall not be deemed similar pursuant to
13 this subdivision to a position that did not require such certification.

14 § 5. Paragraph (a) of subdivision 3 of section 2588 of the education
15 law, as added by chapter 521 of the laws of 1976, is amended to read as
16 follows:

17 (a) Whenever a teaching position is abolished under this chapter, the
18 services of the person holding a position within the tenure area of the
19 position which is to be abolished who has the least seniority in the
20 city school district, including all full-time equivalent substitute
21 service and all full-time equivalent service as a paraprofessional,
22 shall be discontinued, provided that the services of a person who has
23 acquired tenure within such tenure area shall not be discontinued if
24 another person holding a position within such tenure area has not
25 acquired tenure; except that where a position is abolished in the tenure
26 area of a teacher assigned to teach bilingual education, English as a
27 second language or a foreign language and the trustee or board of educa-
28 tion determines that retention of a teacher qualified to teach English
29 as a second language, bilingual education or a specific language other
30 than English is needed to provide instruction, the services of the least
31 senior teacher in the tenure area of the position abolished who does not
32 hold the appropriate certificate to teach in that position shall be
33 discontinued.

34 § 6. Subdivision 7 of section 2588 of the education law, as amended by
35 chapter 783 of the laws of 1981, is amended to read as follows:

36 7. If an office or position is abolished or if it is consolidated with
37 another position without creating a new position, the person filling
38 such position at the time of its abolition or consolidation, or a person
39 displaced by a person with higher seniority as provided in this section,
40 shall be placed upon a preferred eligible list of candidates for
41 appointment to a vacancy that then exists or that may thereafter occur
42 in the tenure area of such position, without reduction in salary or
43 increment, provided the record of such person has been one of faithful,
44 competent service in the office or position he or she has filled; except
45 that a new position in which certification to teach a specific language
46 other than English, English as a second language or bilingual education
47 is required by the school district shall not be deemed similar pursuant
48 to this subdivision to a position that did not require such certifi-
49 ication. The persons on such preferred list shall be reinstated or
50 appointed to such vacancies in the order of their length of service in
51 the city school district, including all full-time equivalent substitute
52 service and all full-time equivalent service as a paraprofessional,
53 provided that in the case of vacancies in principalship positions under
54 the jurisdiction of a community school board, such persons shall be
55 reinstated or reappointed in order of their length of service in the
56 tenure area of the position in the community district and provided that

1 intermediate supervisors properly assigned or appointed on or after the
2 effective date of this subdivision to positions in a community district
3 and who have been placed on a preferred eligible list shall be entitled
4 to reinstatement or reappointment to vacancies in their tenure area
5 within that community district in order of their length of service in
6 the tenure area of the position in the community district.

7 § 7. Subdivisions 1 and 2 of section 3013 of the education law, as
8 added by chapter 737 of the laws of 1992, are amended to read as
9 follows:

10 1. If a trustee, board of trustees, board of education or board of
11 cooperative educational services abolishes an office or position and
12 creates another office or position for the performance of duties similar
13 to those performed in the office or position abolished, the person fill-
14 ing such office or position at the time of its abolishment shall be
15 appointed to the office or position thus created without reduction in
16 salary or increment, provided the record of such person has been one of
17 faithful, competent service in the office or position he or she has
18 filled; except that a new position in which certification to teach a
19 specific language other than English, English as a second language or
20 bilingual education is required by the school district shall not be
21 deemed similar pursuant to this subdivision to a position that did not
22 require such certification.

23 2. Whenever a trustee, board of [~~trustee~~] trustees, board of education
24 or board of cooperative educational services abolishes a position under
25 this chapter, the services of the teacher having the least seniority in
26 the system within the tenure of the position abolished shall be discon-
27 tinued; except that where a position is abolished in the tenure area of
28 a teacher assigned to teach bilingual education, English as a second
29 language or a foreign language and the trustee or board of education
30 determines that retention of a teacher qualified to teach English as a
31 second language, bilingual education or a specific language other than
32 English is needed to provide instruction, the services of the least
33 senior teacher in the tenure area of the position abolished who does not
34 hold the appropriate certificate to teach in that position shall be
35 discontinued.

36 § 8. Paragraph (a) of subdivision 3 of section 3013 of the education
37 law, as added by chapter 737 of the laws of 1992, is amended to read as
38 follows:

39 (a) If an office or position is abolished or if it is consolidated
40 with another position without creating a new position, the person fill-
41 ing such position at the time of its abolishment or consolidation shall
42 be placed upon a preferred eligible list of candidates for appointment
43 to a vacancy that then exists or that may thereafter occur in an office
44 or position similar to the one which such person filled without
45 reduction in salary or increment, provided the record of such person has
46 been one of faithful, competent service in the office or position he or
47 she has filled. The persons on such preferred list shall be reinstated
48 or appointed to such vacancies in such corresponding or similar posi-
49 tions in the order of their length of service in the system at any time
50 within seven years from the date of abolition or consolidation of such
51 office or position; except that a new position in which certification to
52 teach a specific language other than English, English as a second
53 language or bilingual education is required by the school district shall
54 not be deemed similar pursuant to this subdivision to a position that
55 did not require such certification.

56 § 9. This act shall take effect immediately.