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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 980

02/28/2013 Authored by Erickson, S., and Woodard
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; modifying unrequested leave of absence provisions for
1.3 teachers; amending Minnesota Statutes 2012, sections 122A.245, subdivision
1.4 1; 122A.40, subdivisions 5, 10, 11; 122A.41, subdivisions 2, 14; 123A.75,
1.5 subdivision 1; 179A.20, by adding a subdivision; repealing Minnesota Statutes
1.6 2012, section 122A.40, subdivision 11.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 122A.245, subdivision 1, is amended to
1.9 read:

1.10 Subdivision 1. **Requirements.** (a) To improve academic excellence, improve ethnic
1.11 and cultural diversity in the classroom, and close the academic achievement gap, the
1.12 Board of Teaching must approve qualified teacher preparation programs under this section
1.13 that are a means to acquire a two-year limited-term license, which the board may renew
1.14 one time for an additional one-year term, and to prepare for acquiring a standard license.

1.15 The following entities are eligible to participate under this section:

1.16 (1) a school district or charter school that forms a partnership with a college or
1.17 university that has a board-approved alternative teacher preparation program; or

1.18 (2) a school district or charter school, after consulting with a college or university
1.19 with a board-approved teacher preparation program, that forms a partnership with a
1.20 nonprofit corporation organized under chapter 317A for an education-related purpose that
1.21 has a board-approved teacher preparation program.

1.22 (b) Before participating in this program, a candidate must:

1.23 (1) have a bachelor's degree with a 3.0 or higher grade point average unless the
1.24 board waives the grade point average requirement based on board-adopted criteria;

2.1 (2) pass the reading, writing, and mathematics skills examination under section
2.2 122A.09, subdivision 4, paragraph (b); and

2.3 (3) obtain qualifying scores on applicable board-approved rigorous content area and
2.4 pedagogy examinations under section 122A.09, subdivision 4, paragraph (e).

2.5 (c) The Board of Teaching must issue a two-year limited-term license to a person
2.6 who enrolls in an alternative teacher preparation program. This limited-term license is not
2.7 a provisional license under section 122A.40 or 122A.41.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 Sec. 2. Minnesota Statutes 2012, section 122A.40, subdivision 5, is amended to read:

2.10 Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's
2.11 first teaching experience in Minnesota in a single district is deemed to be a probationary
2.12 period of employment, and, the probationary period in each district in which the teacher is
2.13 thereafter employed shall be one year. The school board must adopt a plan for written
2.14 evaluation of teachers during the probationary period that is consistent with subdivision
2.15 8. Evaluation must occur at least three times periodically throughout each school year
2.16 for a teacher performing services during that school year; the first evaluation must occur
2.17 within the first 90 days of teaching service. Days devoted to parent-teacher conferences,
2.18 teachers' workshops, and other staff development opportunities and days on which a
2.19 teacher is absent from school must not be included in determining the number of school
2.20 days on which a teacher performs services. Except as otherwise provided in paragraph
2.21 (b), during the probationary period any annual contract with any teacher may or may not
2.22 be renewed (1) as the school board shall see fit, or (2) consistent with the negotiated
2.23 unrequested leave of absence plan in effect under subdivision 10. However, the board
2.24 must give any such teacher whose contract it declines to renew for the following school
2.25 year written notice to that effect before July 1. If the teacher requests reasons for any
2.26 nonrenewal of a teaching contract, the board must give the teacher its reason in writing,
2.27 including a statement that appropriate supervision was furnished describing the nature and
2.28 the extent of such supervision furnished the teacher during the employment by the board,
2.29 within ten days after receiving such request. The school board may, after a hearing held
2.30 upon due notice, discharge a teacher during the probationary period for cause, effective
2.31 immediately, under section 122A.44.

2.32 (b) A board must discharge a probationary teacher, effective immediately, upon
2.33 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
2.34 license has been revoked due to a conviction for child abuse or sexual abuse.

3.1 (c) A probationary teacher whose first three years of consecutive employment are
 3.2 interrupted for active military service and who promptly resumes teaching consistent with
 3.3 federal reemployment timelines for uniformed service personnel under United States
 3.4 Code, title 38, section 4312(e), is considered to have a consecutive teaching experience
 3.5 for purposes of paragraph (a).

3.6 (d) A probationary teacher must complete at least 120 days of teaching service each
 3.7 year during the probationary period. Days devoted to parent-teacher conferences, teachers'
 3.8 workshops, and other staff development opportunities and days on which a teacher is
 3.9 absent from school do not count as days of teaching service under this paragraph.

3.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.11 Sec. 3. Minnesota Statutes 2012, section 122A.40, subdivision 10, is amended to read:

3.12 Subd. 10. **Negotiated unrequested leave of absence.** (a) The school board
 3.13 and the exclusive bargaining representative of the teachers ~~may~~ must negotiate a plan,
 3.14 consistent with subdivision 8, providing for unrequested leave of absence without pay or
 3.15 fringe benefits for as many teachers as may be necessary because of discontinuance of
 3.16 position, lack of pupils, financial limitations, or merger of classes caused by consolidation
 3.17 of districts. ~~Failing to successfully negotiate such a plan, the provisions of subdivision~~
 3.18 ~~11 shall apply.~~ The negotiated plan must not include provisions which would result in
 3.19 the exercise of seniority by a teacher holding only a provisional license, other than a
 3.20 vocational education license if required for the position, contrary to the provisions of
 3.21 ~~subdivision 11, paragraph (e), or the reinstatement of a teacher holding only a provisional~~
 3.22 ~~license, other than a vocational education license, contrary to the provisions of subdivision~~
 3.23 ~~11, paragraph (e) required for the position.~~ The provisions of section 179A.16 do not
 3.24 apply for the purposes of this subdivision.

3.25 (b) Beginning in the 2016-2017 school year and later, and notwithstanding any law to
 3.26 the contrary, a school board must place teachers on unrequested leave of absence based on
 3.27 their subject matter licensure fields and most recent evaluation outcomes and effectiveness
 3.28 category under subdivision 8, among other locally determined criteria, and may include
 3.29 both probationary teachers and continuing contract teachers within an effectiveness
 3.30 category. Notwithstanding section 13.43, subdivision 2, paragraph (a), clause (5), or
 3.31 any other law to the contrary, a teacher's effectiveness category and the underlying data
 3.32 on the individual teacher generated under the teacher evaluation process in subdivision
 3.33 8, paragraph (b), used to determine a teacher's effectiveness category for purposes of
 3.34 this subdivision are private data on individuals. For purposes of placing a teacher on
 3.35 unrequested leave of absence or recalling a teacher from unrequested leave of absence, a

4.1 school board is not required to reassign a teacher with more seniority to accommodate the
 4.2 seniority claims of a teacher who is similarly licensed and effective but with less seniority.
 4.3 Nothing in this paragraph permits a school board to use a teacher's remuneration as a basis
 4.4 for making unrequested leave of absence decisions. Any executed employment contract
 4.5 between the school board and the exclusive representative of the teachers must contain the
 4.6 negotiated unrequested leave of absence plan. The school board must publish in a readily
 4.7 accessible format the unrequested leave of absence plan it negotiates under this paragraph.

4.8 (c) A teacher who receives notice of being placed on unrequested leave of absence
 4.9 under paragraph (b) may submit to the board, within 14 days of receiving the notice, a
 4.10 written request for a hearing before a neutral hearing officer to establish whether the district
 4.11 met the following teacher evaluation requirements under subdivision 8: if the teacher is
 4.12 a probationary teacher, all evaluations required under subdivision 5 were provided; a
 4.13 three-year professional review cycle was established for the teacher; any summative
 4.14 evaluation of the teacher was performed by a qualified and trained evaluator; a peer review
 4.15 evaluation occurred in any year when the teacher was not evaluated by a qualified and
 4.16 trained evaluator; and if the teacher did not meet professional teaching standards, a teacher
 4.17 improvement process with goals and timelines was established. The school board and the
 4.18 exclusive representative of the teachers must agree on a panel of people and a process
 4.19 to select the person to hear the matter. The hearing officer must issue a decision within
 4.20 14 days of the request for the hearing. Nothing in this paragraph prevents a school board
 4.21 and the exclusive representative of the teachers from negotiating a different process for
 4.22 determining whether the teacher evaluation requirements listed in this paragraph were met.

4.23 (d) For purposes of this subdivision, a provisional license is a license to teach issued
 4.24 by the Board of Teaching under a waiver or variance.

4.25 **EFFECTIVE DATE.** This section is effective beginning in the 2016-2017 school
 4.26 year and later.

4.27 Sec. 4. Minnesota Statutes 2012, section 122A.40, subdivision 11, is amended to read:

4.28 Subd. 11. **Unrequested leave of absence.** (a) The board may place on unrequested
 4.29 leave of absence, without pay or fringe benefits, as many teachers as may be necessary
 4.30 because of discontinuance of position, lack of pupils, financial limitations, or merger
 4.31 of classes caused by consolidation or reorganization of districts under chapter 123A.
 4.32 The unrequested leave is effective at the close of the school year. In placing teachers on
 4.33 unrequested leave, the board is governed by the ~~following~~ provisions: in this subdivision.

4.34 (a) ~~(b)~~ The board may place probationary teachers on unrequested leave first in the
 4.35 inverse order of their employment. A teacher who has acquired continuing contract rights

5.1 must not be placed on unrequested leave of absence while probationary teachers are retained
5.2 in positions for which the teacher who has acquired continuing contract rights is licensed;

5.3 ~~(b)~~ (c) Teachers who have acquired continuing contract rights shall be placed on
5.4 unrequested leave of absence in fields in which they are licensed in the inverse order
5.5 in which they were employed by the school district. In the case of equal seniority, the
5.6 order in which teachers who have acquired continuing contract rights shall be placed on
5.7 unrequested leave of absence in fields in which they are licensed is negotiable;

5.8 ~~(e)~~ (d) Notwithstanding the provisions of paragraph ~~(b)~~ (c), a teacher is not entitled
5.9 to exercise any seniority when that exercise results in that teacher being retained by the
5.10 district in a field for which the teacher holds only a provisional license, as defined by the
5.11 board of teaching, unless that exercise of seniority results in the placement on unrequested
5.12 leave of absence of another teacher who also holds a provisional license in the same field.
5.13 The provisions of this paragraph do not apply to vocational education licenses; required
5.14 for the available positions.

5.15 ~~(d)~~ (e) Notwithstanding paragraphs ~~(a)~~, (b), ~~and (c)~~, and (d), if the placing of a
5.16 probationary teacher on unrequested leave before a teacher who has acquired continuing
5.17 rights, the placing of a teacher who has acquired continuing contract rights on unrequested
5.18 leave before another teacher who has acquired continuing contract rights but who has
5.19 greater seniority, or the restriction imposed by the provisions of paragraph ~~(e)~~ (d) would
5.20 place the district in violation of its affirmative action program, the district may retain the
5.21 probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

5.22 ~~(e)~~ (f) For purposes of placing a teacher on unrequested leave of absence or recalling
5.23 a teacher from unrequested leave of absence, nothing in this subdivision requires a school
5.24 board to reassign a teacher to accommodate the seniority claims of a teacher who is
5.25 similarly licensed and effective but with less seniority.

5.26 (g) Teachers placed on unrequested leave of absence must be reinstated to the
5.27 positions from which they have been given leaves of absence or, if not available, to
5.28 other available positions in the school district in fields in which they are licensed.
5.29 Reinstatement must be in the inverse order of placement on leave of absence. A teacher
5.30 must not be reinstated to a position in a field in which the teacher holds only a provisional
5.31 license, other than a vocational education license, while another teacher who holds a
5.32 nonprovisional license in the same field remains on unrequested leave. The order of
5.33 reinstatement of teachers who have equal seniority and who are placed on unrequested
5.34 leave in the same school year is negotiable;

5.35 ~~(f)~~ (h) Appointment of a new teacher must not be made while there is available, on
5.36 unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the

6.1 teacher fails to advise the school board within 30 days of the date of notification that a
 6.2 position is available to that teacher who may return to employment and assume the duties
 6.3 of the position to which appointed on a future date determined by the board;

6.4 ~~(g)~~ (i) A teacher placed on unrequested leave of absence may engage in teaching
 6.5 or any other occupation during the period of this leave;

6.6 ~~(h)~~ (j) The unrequested leave of absence must not impair the continuing contract
 6.7 rights of a teacher or result in a loss of credit for previous years of service;

6.8 ~~(i)~~ (k) Consistent with subdivision 10, the unrequested leave of absence of a teacher
 6.9 who is categorized as effective or better under subdivision 8, who is placed on unrequested
 6.10 leave of absence, and who is not reinstated shall continue for a period of five years,
 6.11 after which the right to reinstatement shall terminate terminates. The teacher's right to
 6.12 reinstatement shall also ~~terminate~~ terminates if the teacher fails to file with the board by
 6.13 April 1 of ~~any~~ each year a written statement requesting reinstatement;

6.14 (l) Consistent with subdivision 10, the unrequested leave of absence of a teacher
 6.15 who is categorized as ineffective or less under subdivision 8, who is placed on unrequested
 6.16 leave of absence, and who is not reinstated continues for the following school year
 6.17 only, after which the teacher's right to reinstatement terminates. The teacher's right to
 6.18 reinstatement also terminates if the teacher fails to file with the board by April 1 in that
 6.19 following school year a written statement requesting reinstatement.

6.20 ~~(j)~~ (m) The same provisions applicable to terminations of probationary or continuing
 6.21 contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of absence;

6.22 ~~(k)~~ (n) Nothing in this subdivision shall be construed to impair the rights of teachers
 6.23 placed on unrequested leave of absence to receive unemployment benefits if otherwise
 6.24 eligible.

6.25 **EFFECTIVE DATE.** This section is effective for the 2013-2014 through 2015-2016
 6.26 school years.

6.27 Sec. 5. Minnesota Statutes 2012, section 122A.41, subdivision 2, is amended to read:

6.28 Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in
 6.29 the public schools in cities of the first class during the first three years of consecutive
 6.30 employment shall be deemed to be in a probationary period of employment during which
 6.31 period any annual contract with any teacher may, or may not, be renewed (1) as the school
 6.32 board, after consulting with the peer review committee charged with evaluating the
 6.33 probationary teachers under subdivision 3, shall see fit, or (2) consistent with the negotiated
 6.34 plan for discontinuing or terminating teachers in effect under subdivision 14. The school
 6.35 site management team or the school board if there is no school site management team, shall

7.1 adopt a plan for a written evaluation of teachers during the probationary period according
 7.2 to subdivisions 3 and 5. Evaluation by the peer review committee charged with evaluating
 7.3 probationary teachers under subdivision 3 shall occur at least three times periodically
 7.4 throughout each school year for a teacher performing services during that school year; the
 7.5 first evaluation must occur within the first 90 days of teaching service. Days devoted to
 7.6 parent-teacher conferences, teachers' workshops, and other staff development opportunities
 7.7 and days on which a teacher is absent from school shall not be included in determining the
 7.8 number of school days on which a teacher performs services. The school board may, during
 7.9 such probationary period, discharge or demote a teacher for any of the causes as specified
 7.10 in this code. A written statement of the cause of such discharge or demotion shall be given
 7.11 to the teacher by the school board at least 30 days before such removal or demotion shall
 7.12 become effective, and the teacher so notified shall have no right of appeal therefrom.

7.13 (b) A probationary teacher whose first three years of consecutive employment are
 7.14 interrupted for active military service and who promptly resumes teaching consistent with
 7.15 federal reemployment timelines for uniformed service personnel under United States
 7.16 Code, title 38, section 4312(e), is considered to have a consecutive teaching experience
 7.17 for purposes of paragraph (a).

7.18 (c) A probationary teacher must complete at least 120 days of teaching service each
 7.19 year during the probationary period. Days devoted to parent-teacher conferences, teachers'
 7.20 workshops, and other staff development opportunities and days on which a teacher is
 7.21 absent from school do not count as days of teaching service under this paragraph.

7.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.23 Sec. 6. Minnesota Statutes 2012, section 122A.41, subdivision 14, is amended to read:

7.24 Subd. 14. **Services terminated by discontinuance or lack of pupils; preference**
 7.25 **given.** (a) ~~A teacher whose services are terminated on account of discontinuance of~~
 7.26 ~~position or lack of pupils must receive first consideration for other positions in the district~~
 7.27 ~~for which that teacher is qualified.~~ In the event it becomes necessary to discontinue one
 7.28 or more positions in the 2013-2014 through 2015-2016 school years, in making such
 7.29 discontinuance, teachers must receive first consideration for other positions in the district
 7.30 for which that teacher is qualified and must be discontinued in any department in the
 7.31 inverse order in which they were employed, unless.

7.32 (b) Beginning in the 2016-2017 school year and later, a board and the exclusive
 7.33 representative of teachers in the district must negotiate a plan providing otherwise,
 7.34 consistent with subdivision 5, for discontinuing and terminating teachers under this
 7.35 subdivision based on their subject matter licensure fields and most recent evaluation

8.1 outcomes and effectiveness category under subdivision 5, among other locally determined
8.2 criteria, and may include both probationary teachers and continuing contract teachers
8.3 within an effectiveness category. Notwithstanding section 13.43, subdivision 2, paragraph
8.4 (a), clause (5), or any other law to the contrary, a teacher's effectiveness category and
8.5 the underlying data on the individual teacher generated under the teacher evaluation
8.6 process in subdivision 5, paragraph (b), used to determine a teacher's effectiveness
8.7 category for purposes of this subdivision are private data on individuals. For purposes
8.8 of discharging, demoting, or recalling a teacher whose services are discontinued or
8.9 terminated under this subdivision, a school board is not required to reassign a teacher with
8.10 more seniority to accommodate the seniority claims of a teacher who is similarly licensed
8.11 and effective but with less seniority. Nothing in this paragraph permits a school board to
8.12 use a teacher's remuneration as a basis for discontinuing or terminating a teacher. Any
8.13 executed employment contract between the school board and the exclusive representative
8.14 of the teachers must contain the negotiated plan for discontinuing or terminating teachers.
8.15 The school board must publish in a readily accessible format any plan it negotiates for
8.16 discontinuing or terminating teachers under this paragraph.

8.17 (c) A teacher who receives notice of discontinuance or termination under paragraph
8.18 (b) may submit to the board, within 14 days of receiving the notice, a written request
8.19 for a hearing before a neutral hearing officer to establish whether the district met the
8.20 following teacher evaluation requirements under subdivision 5: if the teacher is a
8.21 probationary teacher, all evaluations required under subdivision 2 were provided; a
8.22 three-year professional review cycle was established for the teacher; any summative
8.23 evaluation of the teacher was performed by a qualified and trained evaluator; a peer review
8.24 evaluation occurred in any year when the teacher was not evaluated by a qualified and
8.25 trained evaluator; and if the teacher did not meet professional teaching standards, a teacher
8.26 improvement process with goals and timelines was established. The school board and the
8.27 exclusive representative of the teachers must agree on a panel of people and a process
8.28 to select the person to hear the matter. The hearing officer must issue a decision within
8.29 14 days of the request for the hearing. Nothing in this paragraph prevents a school board
8.30 and the exclusive representative of the teachers from negotiating a different process for
8.31 determining whether the teacher evaluation requirements listed in this paragraph were met.

8.32 (b) (d) Notwithstanding the provisions of clause paragraph (a), for the 2013-2014
8.33 through 2015-2016 school years, a teacher is not entitled to exercise any seniority when
8.34 that exercise results in that teacher being retained by the district in a field for which the
8.35 teacher holds only a provisional license, as defined by the Board of Teaching, unless that
8.36 exercise of seniority results in the termination of terminating the services, on account

9.1 of discontinuance of position or lack of pupils, of another teacher who also holds a
 9.2 provisional license in the same field. The provisions of this ~~clause~~ paragraph do not apply
 9.3 to vocational education licenses.

9.4 ~~(e)~~ (e) Notwithstanding the provisions of ~~clause~~ paragraph (a), for the 2013-2014
 9.5 through 2015-2016 school years, a teacher must not be reinstated to a position in a field
 9.6 in which the teacher holds only a provisional license, other than a vocational education
 9.7 license, while another teacher who holds a nonprovisional license in the same field is
 9.8 available for reinstatement.

9.9 **EFFECTIVE DATE.** This section is effective July 1, 2013, and applies to
 9.10 negotiated plans for discontinuing or terminating teachers agreed to on or after that date.

9.11 Sec. 7. Minnesota Statutes 2012, section 123A.75, subdivision 1, is amended to read:

9.12 Subdivision 1. **Teacher assignment.** (a) As of the effective date of a consolidation
 9.13 in which a district is divided or the dissolution of a district and its attachment to two or
 9.14 more existing districts, each teacher employed by an affected district shall be assigned to
 9.15 the newly created or enlarged district on the basis of a ratio of the pupils assigned to each
 9.16 district according to the new district boundaries. The district receiving the greatest number
 9.17 of pupils must be assigned the most effective teacher under section 122A.40, subdivision 8,
 9.18 with the greatest seniority, and the remaining teachers must be alternately assigned to each
 9.19 district from most to least effective and with most to least seniority within each category of
 9.20 effectiveness until the district receiving the fewest pupils has received its ratio of teachers
 9.21 who will not be retiring before the effective date of the consolidation or dissolution.

9.22 (b) Notwithstanding paragraph (a), the board and the exclusive representative of
 9.23 teachers in each district involved in the consolidation or dissolution and attachment may
 9.24 negotiate a plan for assigning teachers to each newly created or enlarged district.

9.25 (c) Notwithstanding any other law to the contrary, the provisions of this section apply
 9.26 only to the extent they are consistent with section 122A.40, subdivisions 8, 10, and 11.

9.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.28 Sec. 8. Minnesota Statutes 2012, section 179A.20, is amended by adding a subdivision
 9.29 to read:

9.30 Subd. 4a. **Unrequested leave of absence for teachers.** A school board and the
 9.31 exclusive representative of the teachers may not execute a contract unless the contract
 9.32 contains a plan for unrequested leave of absence under section 122A.40, subdivision 10,
 9.33 or a plan for discontinuing or terminating teachers under section 122A.41, subdivision 14.

10.1 **EFFECTIVE DATE.** This section is effective beginning in the 2016-2017 school
10.2 year and later.

10.3 Sec. 9. **REPEALER.**

10.4 Minnesota Statutes 2012, section 122A.40, subdivision 11, is repealed effective
10.5 for the 2016-2017 school year and later.

122A.40 EMPLOYMENT; CONTRACTS; TERMINATION.

Subd. 11. **Unrequested leave of absence.** The board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave is effective at the close of the school year. In placing teachers on unrequested leave, the board is governed by the following provisions:

(a) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. A teacher who has acquired continuing contract rights must not be placed on unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is licensed;

(b) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by the school district. In the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed is negotiable;

(c) Notwithstanding the provisions of paragraph (b), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the placement on unrequested leave of absence of another teacher who also holds a provisional license in the same field. The provisions of this paragraph do not apply to vocational education licenses;

(d) Notwithstanding paragraphs (a), (b), and (c), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of paragraph (c) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

(e) Teachers placed on unrequested leave of absence must be reinstated to the positions from which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are licensed. Reinstatement must be in the inverse order of placement on leave of absence. A teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field remains on unrequested leave. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year is negotiable;

(f) Appointment of a new teacher must not be made while there is available, on unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to that teacher who may return to employment and assume the duties of the position to which appointed on a future date determined by the board;

(g) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave;

(h) The unrequested leave of absence must not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service;

(i) The unrequested leave of absence of a teacher who is placed on unrequested leave of absence and who is not reinstated shall continue for a period of five years, after which the right to reinstatement shall terminate. The teacher's right to reinstatement shall also terminate if the teacher fails to file with the board by April 1 of any year a written statement requesting reinstatement;

(j) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of absence;

(k) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment benefits if otherwise eligible.