

2023 Legislative Session Issue Brief

Due process for teachers

Education Minnesota is here to protect due process

The vast majority of teachers do an incredible job under difficult circumstances. Due process is one of the most significant protections that teachers have in Minnesota, and is a quintessential right of union workers. Due process ensures that any employment termination is fair and objective, as it should be. It's also extremely important for an equitable workplace.

What is tenure?

- Due process protections, often called “tenure,” are earned by Minnesota Tier 3 and 4 licensed teachers after they have completed a three-year probationary period and have had no less than three evaluations per probationary year.
- Tenured teachers can be fired for specific reasons, including insubordination, set forth in state law and the tenure law provides them the right to challenge those reasons in a hearing.
- Tenure laws protect teachers who speak out honestly about the learning conditions in their schools and advocate for their students. They are what assures parents and the public they are getting the real story at conferences or PTA meetings. These laws are an educator’s First Amendment. They help provide the public with information to hold policymakers accountable for their decisions.
- Tenure laws also protect against discrimination and bias, which can be important when trying to recruit more people of color into the profession. They also protect teachers who teach difficult subject matter.

Layoff regulations

- Under Minnesota’s layoff law, Minnesota districts and local unions must negotiate a system of staff layoffs resulting from budget cuts. These systems may use seniority, licensure area, the district’s goals for racial diversity and other variables.
- Most districts use seniority-based systems because they level the playing field by taking subjectivity out of the layoff process. Seniority-based systems guard against abuses by those who would use “layoffs” as another way to fire those who advocate too fiercely for their students or are at the top of the pay scale. They also protect teachers from unfair termination due to cronyism, nepotism, personal vendettas, pregnancy, illness, gender, race, religion, sexual orientation—or because they just earn more than other colleagues.
- Education Minnesota supports new layoff equity legislation, which would allow schools to select up to 5 percent of staff who would belong to underrepresented racial, ethnic or other cultural groups to be exempt from layoffs or non-renewals for one or two years. A committee of both union representatives and administrators would determine exempt staff.


Due process protections under attack

The lawsuit *Forslund v. State of Minnesota* tried to challenge teachers’ rights to due process, but it was dismissed in 2019. The Minnesota Court of Appeals argued there was no evidence to support the claim that Minnesota’s due process statutes had any negative effect on the quality of education received by students. *Forslund* is one of similar lawsuits

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Education Minnesota is an affiliate of the American Federation of Teachers, the National Education Association and AFL-CIO.  3388



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supported by the Partnership for Education Justice and Students for Education Reform, which both receive funding from many anti-union foundations. These legal challenges are part of a broader, nationwide campaign to mislead the public about due process protections like tenure.

Teacher quality

Extreme lawmakers will say that teachers are the reason that some schools struggle. Rather than forcing teachers out of their jobs, policymakers who are truly interested in improving teaching quality should consider:

- Solving the educator shortage. Minnesota should invest in programs that encourage more people, especially people of color, to enter teaching and stay in the profession. Some ideas include free or affordable college education, tuition tax relief, education debt relief and grow-your-own programs.
- Focusing on what's really causing teachers to leave the profession. Teachers want respect and support in their classrooms and profession. And they need relief from standardized testing and redundant paperwork that takes away from student learning time.
- Improving Minnesota's tiered licensure system so it can both honor teacher preparation and recognize different pathways into teaching.
- Fully funding the 2011 Teacher Development and Evaluation law and lifting the cap on the Q Comp program. This law focuses on creating a cycle of continuous improvement for existing teachers. We should make sure that tenure is only granted to proven teachers, but getting rid of due process protections would hurt students by making it harder to attract qualified candidates and keep the best teachers in our schools