

## CHAPTER 1151

## TEACHERS' CONTRACTS

S. F. 205

AN ACT relating to the issuance, continuation, and termination of teachers' contracts.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section two hundred seventy-nine point thirteen (279.13), Code  
2 1975, is amended by striking the section and inserting in lieu thereof the  
3 following:

4 **279.13 Contracts with teachers—automatic continuation.**

5 1. Contracts with teachers, which for the purpose of this section means all  
6 certificated employees of a school district and nurses employed by the board,  
7 excluding superintendents, assistant superintendents, principals, and assistant  
8 principals, shall be in writing and shall state the number of contract days, the  
9 annual compensation to be paid, and any other matters as may be mutually  
10 agreed upon. The contract may include employment for a term not exceeding the  
11 ensuing school year, except as otherwise authorized.

12 The contract is invalid if the teacher is under contract with another board of  
13 directors to teach during the same time period until a release from the other  
14 contract is achieved. The contract shall be signed by the president of the board  
15 when tendered, and after it is signed by the teacher, the contract shall be filed  
16 with the secretary of the board before the teacher enters into performance under  
17 the contract.

18 2. The contract shall remain in force and effect for the period stated in the  
19 contract and shall be automatically continued for equivalent periods except as  
20 modified or terminated by mutual agreement of the board of directors and the  
21 teacher or as terminated in accordance with the provisions specified in this  
22 chapter. A contract shall not be offered by the employing board to a teacher  
23 under its jurisdiction prior to March fifteenth of any year. A teacher who has not  
24 accepted a contract for the ensuing school year tendered by the employing board  
25 may resign effective at the end of the current school year by filing a written  
26 resignation with the secretary of the board. The resignation must be filed not later  
27 than the last day of the current school year or the date specified by the employing  
28 board for return of the contract, whichever date occurs first. However, a teacher  
29 shall not be required to return a contract to the board or to resign less than  
30 twenty-one days after the contract has been offered.

31 3. The board shall establish evaluation criteria and shall implement evaluation  
32 procedures. If an exclusive bargaining representative has been certified, the board  
33 shall negotiate in good faith with respect to evaluation procedures pursuant to  
34 chapter twenty (20) of the Code.

35 4. The superintendent or the superintendent's designee shall notify the teacher  
36 not later than March fifteenth that the superintendent will recommend in writing  
37 to the board at a regular or special meeting of the board held not later than  
38 March thirty-first that the teacher's continuing contract be terminated effective at  
39 the end of the current school year.

40 5. Such notification shall be in writing and shall be personally delivered to the  
41 teacher, or mailed by certified mail. The notification shall be complete when  
42 received by the teacher. The notification and the recommendation to terminate  
43 shall contain a short and plain statement of the reasons, which shall be for just  
44 cause, why the recommendation is being made. The notification shall be given at  
45 or before the time the recommendation is given to the board.

46 As a part of the termination proceedings, the teacher's complete personnel file  
47 of employment by that board shall be available to the teacher, which file shall

48 contain a record of all periodic evaluations between the teacher and appropriate  
49 supervisors.

50 Within five days of the receipt of the written notice that the superintendent is  
51 recommending termination of the contract, the teacher may request, in writing to  
52 the secretary of the board, a private hearing with the board. The private hearing  
53 shall not be subject to chapter twenty-eight A (28A) of the Code and shall be held  
54 no sooner than ten days and no later than twenty days following the receipt of  
55 the request unless the parties otherwise agree. The secretary of the board shall  
56 notify the teacher in writing of the date, time, and location of the private hearing,  
57 and at least five days before the hearing shall also furnish to the teacher any  
58 documentation which may be presented to the board at the private hearing and a  
59 list of persons who may address the board in support of the superintendent's  
60 recommendation at the private hearing. At least three days before the hearing, the  
61 teacher shall provide any documentation he or she expects to present at the  
62 private hearing, along with the names of any persons who may address the board  
63 on behalf of the teacher. This exchange of information shall be at the time  
64 specified unless otherwise agreed.

65 6. The participants at the private hearing shall be at least a majority of the  
66 members of the board, their legal representatives, if any, the superintendent, the  
67 superintendent's designated representatives, if any, the teacher's immediate  
68 supervisor, the teacher, the teacher's representatives, if any, and the witnesses for  
69 the parties. The evidence at the private hearing shall be limited to the specific  
70 reasons stated in the superintendent's notice of recommendation of termination.  
71 No participant in the hearing shall be liable for any damages to any person if any  
72 statement at the hearing is determined to be erroneous as long as the statement  
73 was made in good faith. The superintendent shall present evidence and argument  
74 on all issues involved and the teacher may cross-examine, respond and present  
75 evidence and argument in his or her behalf relevant to all issues involved.  
76 Evidence may be by stipulation of the parties and informal settlement may be  
77 made by stipulation, consent, or default or by any other method agreed upon by  
78 the parties in writing. The board shall employ a certified shorthand reporter to  
79 keep a record of the private hearing. The proceedings or any part thereof shall be  
80 transcribed at the request of either party with the expense of transcription  
81 charged to the requesting party.

82 The presiding officer of the board may administer oaths in the same manner  
83 and with like effect and under the same penalties as in the case of magistrates  
84 exercising criminal or civil jurisdiction. The board shall cause subpoenas to be  
85 issued for such witnesses and the production of such books and papers as either  
86 the board or the teacher may designate. The subpoenas shall be signed by the  
87 presiding officer of the board.

88 In case a witness is duly subpoenaed and refuses to attend, or in case a witness  
89 appears and refuses to testify or to produce required books or papers, the board  
90 shall, in writing, report such refusal to the district court of the county in which  
91 the administrative office of the school district is located, and the court shall  
92 proceed with the person or witness as though the refusal had occurred in a  
93 proceeding legally pending before the court.

94 The board shall not be bound by common law or statutory rules of evidence or  
95 by technical or formal rules of procedure, but it shall hold the hearing in such  
96 manner as is best suited to ascertain and conserve the substantial rights of the  
97 parties. Process and procedure under this section shall be as summary as  
98 reasonably may be.

99 At the conclusion of the private hearing, the superintendent and the teacher  
100 may file written briefs and arguments with the board within three days or such  
101 other time as may be agreed upon.

102 If the teacher fails to timely request a private hearing or does not appear at the  
103 private hearing, the board may proceed and make a determination upon the  
104 superintendent's recommendation, which determination in that case shall be not

105 later than April tenth, or not later than five days after the scheduled date for the  
106 private hearing, whichever is applicable. The board shall convene in open session  
107 and by roll call vote determine the termination or continuance of the teacher's  
108 contract.

109 Within five days after the private hearing, the board shall, in executive session,  
110 meet to make a final decision upon the recommendation and the evidence as  
111 herein provided. The board shall also consider any written brief and arguments  
112 submitted by the superintendent and the teacher.

113 The record for a private hearing shall include:

114 a. All pleadings, motions and intermediate rulings.

115 b. All evidence received or considered and all other submissions.

116 c. A statement of all matters officially noticed.

117 d. All questions and offers of proof, objections and rulings thereon.

118 e. All findings and exceptions.

119 f. Any decision, opinion, or conclusion by the board.

120 g. Findings of fact shall be based solely on the evidence in the record and on  
121 matters officially noticed in the record.

122 The decision of the board shall be in writing and shall include findings of fact  
123 and conclusions of law, separately stated. Findings of fact, if set forth in statutory  
124 language, shall be accompanied by a concise and explicit statement of the  
125 underlying facts and supporting the findings. Each conclusion of law shall be  
126 supported by cited authority or by reasoned opinion.

127 When the board has reached a decision, opinion, or conclusion, it shall  
128 convene in open meeting and by roll call vote determine the continuance or  
129 discontinuance of the teacher's contract. The record of the private conference and  
130 findings of fact and exceptions shall be exempt from the provisions of chapter  
131 sixty-eight A (68A) of the Code. The secretary of the board shall immediately  
132 mail notice of the board's action to the teacher.

133 7. If the teacher is no longer a probationary teacher, the teacher may, within  
134 ten days, appeal the determination of the board to an adjudicator by filing a  
135 notice of appeal with the secretary of the board. The notice of appeal shall  
136 contain a concise statement of the action which is the subject of the appeal, the  
137 particular board action appealed from, the grounds on which relief is sought and  
138 the relief sought.

139 Within five days following receipt by the secretary of the notice of appeal, the  
140 board or the board's legal representative, if any, and the teacher or the teacher's  
141 representative, if any, may select an adjudicator who resides within the  
142 boundaries of the merged area in which the school district is located. If an  
143 adjudicator cannot be mutually agreed upon within the five-day period, the  
144 secretary shall notify the chairperson of the public employment relations board  
145 by transmitting the notice of appeal, and the chairperson of the public  
146 employment relations board shall within five days provide a list of five  
147 adjudicators to the parties. Within three days from receipt of the list of  
148 adjudicators, the parties shall select an adjudicator by alternately removing a  
149 name from the list until only one name remains. The person whose name remains  
150 shall be the adjudicator. The parties shall determine by lot which party shall  
151 remove the first name from the list submitted by the chairperson of the public  
152 employment relations board. The secretary of the board shall inform the  
153 chairperson of the public employee relations board of the name of the adjudicator  
154 selected.

155 If the teacher does not timely request an appeal to an adjudicator the decision,  
156 opinion, or conclusion of the board shall become final and binding.

157 Within thirty days after filing the notice of appeal, or within further time  
158 allowed by the adjudicator, the board shall transmit to the adjudicator the  
159 original or a certified copy of the entire record of the private hearing which may  
160 be the subject of the petition. By stipulation of the parties to review the  
161 proceedings, the record of the case may be shortened. The adjudicator may

162 require or permit subsequent corrections or additions to the shortened record.

163 The record certified and filed by the board shall be the record upon which the  
164 appeal shall be heard and no additional evidence shall be heard by the  
165 adjudicator. In such appeal to the adjudicator, especially when considering the  
166 credibility of witnesses, the adjudicator shall give weight to the fact findings of  
167 the board; but shall not be bound by them.

168 Before the date set for hearing a petition for review of board action, which  
169 shall be within ten days after receipt of the record unless otherwise agreed or  
170 unless the adjudicator orders additional evidence be taken before the board,  
171 application may be made to the adjudicator for leave to present evidence in  
172 addition to that found in the record of the case. If it is shown to the adjudicator  
173 that the additional evidence is material and that there were good reasons for  
174 failure to present it in the private hearing before the board, the adjudicator may  
175 order that the additional evidence be taken before the board upon conditions  
176 determined by the adjudicator. The board may modify its findings and decision  
177 in the case by reason of the additional evidence and shall file that evidence and  
178 any modifications, new findings, or decisions, with the adjudicator and mail  
179 copies of the new findings or decisions to the teacher.

180 The adjudicator may affirm board action or remand to the board for further  
181 proceedings. The adjudicator shall reverse, modify, or grant any appropriate relief  
182 from the board action if substantial rights of the teacher have been prejudiced  
183 because the board action is:

184 a. In violation of a board rule or policy or contract; or

185 b. Unsupported by a preponderance of the competent evidence in the record  
186 made before the board when that record is viewed as a whole; or

187 c. Unreasonable, arbitrary or capricious or characterized by an abuse of  
188 discretion or a clearly unwarranted exercise of discretion.

189 The adjudicator shall, within fifteen days after the hearing, make a decision  
190 and shall give a copy of the decision to the teacher and the secretary of the board.  
191 The decision of the adjudicator shall become the final and binding decision of the  
192 board unless either party within ten days notifies the secretary of the board that  
193 the decision is rejected. The board may reject the decision by majority vote, by  
194 roll call, in open meeting and entered into the minutes of the meeting. The board  
195 shall immediately notify the teacher of its decision by certified mail. The teacher  
196 may reject the adjudicator's decision by notifying the board's secretary in writing  
197 within ten days of the filing of such decision.

198 All costs of the adjudicator shall be shared equally by the teacher and the  
199 board.

200 8. If either party rejects the adjudicator's decision, the rejecting party shall,  
201 within thirty days of the initial filing of such decision, appeal to the district court  
202 of the county in which the administrative office of the school district is located.  
203 The notice of appeal shall be immediately mailed by certified mail to the other  
204 party. The adjudicator shall transmit to the reviewing court the original or a  
205 certified copy of the entire record which may be the subject of the petition. By  
206 stipulation of all parties to the review proceedings, the record of such a case may  
207 be shortened. A party unreasonably refusing to stipulate to limit the record may  
208 be taxed by the court for the additional cost. The court may require or permit  
209 subsequent corrections or additions to the shortened record.

210 In proceedings for judicial review of the adjudicator's decision, the court shall  
211 not hear any further evidence but shall hear the case upon the certified record. In  
212 such judicial review, especially when considering the credibility of witnesses, the  
213 court shall give weight to the fact findings of the board; but shall not be bound  
214 by them. The court may affirm the adjudicator's decision or remand to the  
215 adjudicator or the board for further proceedings upon conditions determined by  
216 the court. The court shall reverse, modify, or grant any other appropriate relief  
217 from the board decision or the adjudicator's decision equitable or legal and  
218 including declaratory relief if substantial rights of the petitioner have been

219 prejudiced because the action is:  
220 a. In violation of constitutional or statutory provisions; or  
221 b. In excess of the statutory authority of the board or the adjudicator; or  
222 c. In violation of a board rule or policy or contract; or  
223 d. Made upon unlawful procedure; or  
224 e. Affected by other error of law; or  
225 f. Unsupported by a preponderance of the competent evidence in the record  
226 made before the board and the adjudicator when that record is viewed as a  
227 whole; or  
228 g. Unreasonable, arbitrary or capricious or characterized by an abuse of  
229 discretion or a clearly unwarranted exercise of discretion.  
230 An aggrieved or adversely affected party to the judicial review proceeding may  
231 obtain a review of any final judgment of the district court by appeal to the  
232 supreme court. The appeal shall be taken as in other civil cases, although the  
233 appeal may be taken regardless of the amount involved.  
234 9. The first two consecutive years of employment of a teacher in the same  
235 school district are a probationary period. However, a board of directors may  
236 waive the probationary period for any teacher who previously has served a  
237 probationary period in another school district and the board may extend the  
238 probationary period for an additional year with the consent of the teacher. In the  
239 case of the termination of a probationary teacher's contract, the provisions of  
240 subsections four (4), five (5), and six (6), of this section shall apply. The board's  
241 decision shall be final and binding unless the termination was based upon an  
242 alleged violation of a constitutionally guaranteed right of the teacher or an  
243 alleged violation of public employee rights of the teacher under section twenty  
244 point ten (20.10) of the Code.

1 SEC. 2. Section two hundred seventy-nine point twenty-four (279.24), Code  
2 1975, is amended by striking the section and inserting in lieu thereof the  
3 following:

4 **279.24 Discharge of teacher.** A teacher may be discharged at any time  
5 during the contract year for just cause. The superintendent or the  
6 superintendent's designee, shall notify the teacher immediately that the  
7 superintendent will recommend in writing to the board at a regular or special  
8 meeting of the board held not more than fifteen days after notification has been  
9 given to the teacher that the teacher's continuing contract be terminated effective  
10 immediately following a decision of the board. The procedure for dismissal shall  
11 be as provided in subsections five (5) through nine (9) of section two hundred  
12 seventy-nine point thirteen (279.13) of the Code. The superintendent may suspend  
13 a teacher under this section pending hearing and determination by the board.

Approved May 21, 1976