

Member Rights Unrequested Leave of Absence/Non-Renewal

For all districts except Duluth, Minneapolis, Rochester and St. Paul.



**THE VOICE FOR PROFESSIONAL
EDUCATORS AND STUDENTS**

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**RULE NUMBER ONE
DO NOT VOLUNTARILY RESIGN**

**RULE NUMBER TWO
DO NOT VOLUNTARILY
ACCEPT A REDUCED CONTRACT**

**RULE NUMBER THREE
WHEN IN DOUBT, CONTACT YOUR
EDUCATION MINNESOTA FIELD OFFICE**

Teacher Continuing Contract and Seniority Rights

When a school district begins reducing teaching positions, there is a great deal of concern about the unrequested leave of absence (ULA)/Non-Renewal process and the rights of individual teachers.

If you have questions about seniority or the ULA/Non-Renewal process: Contact your Local President or your Member Rights Advocate for assistance!

- **Do not voluntarily resign.** This is important for probationary as well as continuing contract teachers. Resigning could jeopardize your eligibility for unemployment compensation benefits. Resigning permanently severs your relationship with the school district. By resigning, you are forfeiting any right you might have to be recalled to an open position.
- **Do not voluntarily reduce your work time** (i.e., full-time to half-time). This could jeopardize your right to be recalled to the full extent of your position.
- It is possible for probationary teachers to simply have their contracts non-renewed. Written notification of non-renewal must occur before July 1. If you are notified that your contract is non-renewed, immediately contact your Local President or Member Rights Advocate for assistance.
- Written notification is generally required when a school district proposes to place a continuing contract teacher on ULA. The teacher then has limited time to request a hearing challenging the proposal. Look to the collective bargaining agreement (CBA) for the ULA notification and hearing procedures that apply.
- Don't assume that the information you receive from the district is accurate or complete. If you received notification about non-renewal or ULA/Non-Renewal, don't wait and don't resign – protect your rights under your contract and state statute by immediately contacting your Local President or Member Rights Advocate for assistance.
- If you are placed on ULA, it is in your best interest to monitor School Board action and postings over the summer months. Watch for open positions and assert your right to be recalled to any position for which you are licensed. Contact your Local President or Member Rights Advocate if you believe you have not been offered recall to a position you are licensed for.

Are you a probationary teacher?

Minnesota Statutes § 122A.40 states:

“Subd. 5(a). Probationary Period. The first three consecutive years of a teacher’s first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and, the probationary period in each district in which the teacher is thereafter employed shall be one year.”

It should be noted that:

- Any licensed teacher—full-time, part-time (even one hour a day), Title I, etc.—can earn continuing contract status. The exceptions are Community Education Early Childhood-Family Education (ECFE) and Adult Basic Education (ABE) teachers and those not licensed by PELSB (occupational therapists, physical therapists, music therapists, art therapists, and audiologists).
- Time spent as a long-term substitute may be eligible toward achieving continuing contract status if the teacher works an entire school year to replace a single teacher.
- A probationary teacher must complete at least 120 days of teaching service each year during a probationary period. Days devoted to parent-teacher conferences, teachers’ workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this section. During the peacetime emergency of 2019-20 and 2020-21 there were some days designated as instructional even though they were used for planning, and these days do count toward probation.
- Unless the contract specifies otherwise, probationary teachers do not hold seniority over other probationary teachers.
- A teacher who has completed three consecutive years in a Minnesota school district, must serve only a one-year probationary period in any other Minnesota school district (except in Duluth, Minneapolis, Rochester and St. Paul).
- If a district wants to nonrenew a teacher in their final year of probation, it must provide written notice of board action before July 1, stating that their contract is being nonrenewed. If such a notice is not received, the teacher automatically has a contract for the next year and is no longer probationary.
- A teacher whose first three years of consecutive employment are interrupted for active military service and who promptly resumes teaching under federal reemployment guidelines is considered to have a consecutive teaching experience.
- A teacher whose first three years of consecutive employment are interrupted for maternity, paternity, or medical leave and who resumes teaching within 12 months of when the leave began is considered to have consecutive teaching experience.

Other rights and protections for probationary teachers

- A probationary teacher may request the reasons for their termination from the School Board. Consult with your Local President or Member Rights Advocate before taking this action. (See sample letter #4)
- Probationary teachers may be placed on Unrequested Leave of Absence if such a practice is allowed by the contract.
- Begin your preparation to search for a new position by collecting written recommendations from your immediate supervisor and other professionals who have first-hand knowledge of your teaching performance.

Are you a continuing contract teacher?

Teachers who teach in Duluth, Minneapolis, Rochester and St. Paul (cities of the first class) are covered by a different statute, Minnesota Statutes § 122A.41. These teachers have “tenure” rights, rather than “continuing contract” rights.

Minnesota statute allows school districts to place teachers on unrequested leave of absence for one of four reasons: discontinuance of position, lack of pupils, merger of classes caused by consolidation of districts and/or financial limitations. The statute previously contained a default procedure for layoffs, but that process has now been replaced with the obligation for school districts and exclusive representatives to negotiate a plan providing for ULA.

Check your contract first for specific language about ULA procedures. Beginning with the 2019-21 collective bargaining agreements, ULA procedure will be solely governed by the ULA provisions in the CBA unless affected by future legislation.

Other rights and protections for continuing contract teachers

- Continuing contract teachers accrue seniority in all areas for which they are licensed for the entire number of years of continuous employment in the district, unless your contract provides otherwise.
- A teacher’s seniority date is their first day of actual service in the district, unless your contract specifies a different date.
- Part-time teachers accrue a full year of seniority for each year of continuous employment in the district, unless your contract provides otherwise.
- In the case of equal seniority, see your contract for the tie-breaking procedure(s) to be used.
- A school district might have to realign teachers in order to retain the most senior teacher. Check your contract for realignment procedures.

Continuing contract teachers have recall rights

- Under the previous law, continuing contract teachers were recalled in the inverse order of placement on unrequested leave of absence. Teachers were eligible for recall for a period of five years. Check your contract for current rules.
- A teacher can be recalled to any position for which the teacher is licensed, unless your contract has other specifications. A district may seek an Out of Field Permission under applicable law, but it is not required. (See Minn. R. 8710.0320)
- Teachers who acquire a new license should immediately notify the school district and request reinstatement if there is a vacant position. (See sample letter #3)
- Most contracts will provide that no new teacher may be hired while there is a teacher on unrequested leave of absence who is licensed to fill a vacancy.

What should a teacher on recall do?

1. Monitor School Board meetings and district postings during the summer. If a position becomes available, make sure you are recalled. If not, contact your Local President/MRA and Field Staff immediately to assist you in challenging the district’s failure to recall you.

2. If required by the contract, send a letter to the school district requesting reinstatement when available, (the statute used to contain an April 1 deadline). Notify the school district about any changes in your license immediately. (See sample letter #3). Keep a copy of the letter for your file. You may teach in another district, substitute teach or change occupations and not forfeit your recall rights. However, the district is not required to hold a position for you if you are under contract with another district at the time the opening is offered.
3. Make sure the school district has your current mailing address on file. If the school district cannot find you, then it has no obligation to recall you.
4. Maintain your Education Minnesota membership. You are not required to maintain membership while on ULA/Non-Renewal for the local union to enforce the terms and conditions of the CBA on your behalf. However, membership includes your right to legal services if you need them for an individual challenge, an MDE complaint or licensure matter. <http://www.educationminnesota.org/en/membership.aspx>
5. If you are recalled, you have 30 days to accept the offered position, unless your contract identifies a different number of days. (See sample letter #6)

ULA Procedure/Challenges

1. The contract will contain the relevant procedures for proposing and placing you on ULA.
2. There will be a mechanism in the contract for challenging a decision (either through a hearing or arbitration).
3. Challenging the decision will maintain the timeline for preserving your rights. There are many possible reasons to challenge a school district's ULA decision. Contact your Field Staff for assistance in determining if there are legal grounds for such a challenge.
4. Education Minnesota will advise you regarding the legal feasibility of a ULA challenge. Work with your Member Rights Advocate and Field Staff to determine the best course of action for your individual situation. Sample letter #2 provides an example of how to request a hearing.

Resignation or Voluntary Reduction of Contract

If you are asked to resign or reduce your contract – contact your Member Rights Advocate or Field Staff for assistance.

ABOVE ALL – DO NOT RESIGN!!

If you resign, you forfeit:

- Your right to be recalled.
- Your seniority as a full-time teacher in the district.
- And possibly your unemployment compensation.
- And at that point there is nothing anyone can do to help you.

Other Considerations

Fringe Benefits:

Medical, dental, disability, and term life insurance, or other benefits, are deferred benefits that you have already earned. You may be covered up to the beginning of the new school year. Check your contract for specific language.

The school district is legally required to notify you in writing about your COBRA rights.

This law allows you to carry your insurance another 18 months beyond the expiration date of the insurance by paying the full premium yourself (state and federal insurance laws).

ULA or NON-RENEWAL SAMPLE LETTERS

Continuing Contract and Probationary Teachers

Sample	Subject
#1	Full-time teacher placed on ULA and accepting a part-time position
#2	Continuing contract teacher requesting a hearing
#3	Letter to be sent to the district requesting consideration for recall
#4	Probationary teacher's request for reasons for nonrenewal
#5	Rejection of reduced contract
#6	Letter accepting a recall offer

SAMPLE LETTER #1

Full-Time Teacher Placed on ULA and Accepting a Part-Time Position

_____ Date

_____, Chairperson

Board of Education

Independent School District No. _____

_____, MN _____

Dear _____:

I am accepting the _____ (position fraction, i.e., 1/2)
_____ teaching position with Independent School District No.
_____ for the 20____ - 20____ school year.

My acceptance of this position should not be considered a waiver of my continuing contract rights for reinstatement to any full-time position for which I am licensed or to additional part-time positions which restore me to a 1.0 teaching position.

Sincerely,

(Signature)

cc:

_____, Superintendent

_____, Education Minnesota Field Staff

_____, Member Rights Advocate

_____, Local President

(Please retain a copy for your professional file)

SAMPLE LETTER #2

If the contract provides for a hearing to challenge a ULA rather than arbitration, you need to individually make a request for a hearing to a Board Member with either a witness or a signed receipt to verify delivery OR send via certified mail with return receipt requested. The district may also designate another approved method to request such a hearing.

Continuing Contract Teacher Requesting a Hearing on Proposed Unrequested Leave of Absence

_____ Date

_____, Board Member

Board of Education
Independent School District No. _____

_____, MN _____

Dear _____:

I hereby request a public hearing on the Board's proposal to terminate my employment and place me on Unrequested Leave of Absence.

I will be represented at the hearing by Education Minnesota. Please contact my representative to arrange a mutually acceptable hearing date. My representative's address and phone number follow:

_____, Education Minnesota Field Staff

_____ Field office address and phone number

Sincerely,

cc:

_____, Superintendent

_____, Education Minnesota Field Staff

_____, Local President

(Retain a copy for your professional file)

SAMPLE LETTER #3

Check your contract for required notification date.
Under the former statute, the deadline was April 1
of any year.

Annual Request for Reinstatement

_____ Date

_____, Board Chairperson

Board of Education

Independent School District No. _____

_____, MN _____

Dear _____:

In compliance with the existing Master Contract, I wish to notify District No. _____ that I
am prepared to return to work as a teacher for the 20____ - 20____ school year.

I have had no change in licensure. (If the teacher has added credits or added another
license, BE SURE to mention this here instead of the previous statement.)

Please send me any notices of current openings for which I am eligible for recall.

Thank you.

Sincerely,

(Signature)

(Current Address)

cc:

_____, Superintendent

_____, Education Minnesota Field Staff

_____, Local President

(Retain a copy for your professional file)

SAMPLE LETTER #4

Consult with Field Staff before sending this letter

Probationary Teacher-Request for Reasons for Nonrenewal

_____ Date

_____, Board Chairperson

Board of Education

Independent School District No. _____

_____, MN _____

Dear _____:

According to the letter I received from _____
on _____, my contract will not be renewed for the school year 20____-
20____ with Independent School District No. _____.

Under Minnesota Statutes § 122A.40, Subd. 5, the School Board shall give any teacher whose contract it declines to renew for the following school year written notice to that effect before July 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the School Board shall give the teacher its reason in writing within ten (10) days after receiving such request.

I hereby request the reasons that my contract is not being renewed.

Sincerely,

(Signature)

(Current Address)

cc:

_____, Superintendent

_____, Education Minnesota Field Staff

_____, Local President

(Retain a copy for your professional file)

SAMPLE LETTER #5

*Make sure that your contract language gives you the right to decline a part-time position and that you are not waiving any rights to future positions before you send this letter.

Rejection of Reduced Contract Accepting Unrequested Leave Status

_____ Date

_____, Chairperson
Board of Education
Independent School District No. _____

_____, MN _____

Dear _____:

I have been offered a _____ (insert fraction of time, i.e., 1/3) _____ -
time position in _____ (subject) _____ to teach in District No.
_____ for the school year 20____ - 20_____.

With regret, I decline the _____ (insert fraction of time, i.e., 1/3) _____
and accept placement on unrequested leave of absence for my full FTEs. I understand that I
am entitled to five (5) years of recall rights to that position.

I have enjoyed my teaching experience with the _____
School District and hope that I can return to employment here soon.

Sincerely,

(Signature) _____

cc:

_____, Superintendent
_____, Education Minnesota Field Staff
_____, Local President

(Retain a copy for your professional file)

SAMPLE LETTER #6

*Make sure that your contract language gives you the right to accept a part-time position and that you are not waiving any rights to future before you send this letter.

Accepting Recall Offer

_____ Date

_____, Chairperson
Board of Education
Independent School District No. _____

_____, MN _____

Dear _____:

I have received a recall notice for a _____ F.T.E. position in _____ (subject)
_____ in District No. _____ for the school year 20____ - 20_____.

I am accepting the _____ F.T.E. teaching position with Independent School District No.
_____ for the 20____ - 20_____ school year.

(If the recall is for less than full-time, include the following paragraph...)

My acceptance of this position should not be considered a waiver of my continuing contract rights guaranteed by Minnesota Statutes for reinstatement to any full-time position for which I am licensed or to additional part-time positions which restore me to a 1.0 teaching position.

Sincerely,

(Signature)

cc:

_____, Superintendent
_____, Education Minnesota Field Staff
_____, Local President

(Retain a copy for your professional file)

UNEMPLOYMENT INSURANCE/ *Minnesota CareerForce* INFORMATION

The following is information that eligible teachers should be aware of in regard to filing for Unemployment Insurance this year:

1. Teachers who have been terminated or placed on unrequested leave are eligible immediately after the school term has been completed. Drawing summer checks does not remove eligibility. Individuals may not apply until they are out of work (end of school year).
2. Be aware resignation may impact eligibility. Determination is on a case-by-case basis.
3. Unemployment Insurance--where to apply: www.uimn.org or by phone 651-296-3644 (Twin Cities area) or 1-877-898-9090 (Greater Minnesota). The applicant self-service system is available Monday through Friday, 6:00 am to 6:00 pm.

Call UI Customer Service whenever you have questions about your benefits:
Monday through Friday, 8 a.m. to 4:30 p.m.

To talk to a representative:

Enter your Social Security number and password followed by the # sign (if you do not have a benefit account press 2 after you enter your Social Security number, then press 0);

1. Press 2 for other options;
2. Press 3 for answers to commonly asked questions or to speak with a representative;
3. Press 0 to speak to a representative.
4. Information needed for filing:
 - a) Social Security Number
 - b) Name of employer - School District Number
 - c) Letter of termination or unrequested leave letter
 - d) Driver license number or other state government ID number
 - e) Employment History for the past 18 months
 - f) Union name/number
 - g) Bank account number-if choosing direct deposit
 - h) Mailing address, telephone number, birth date
 - i) If you were in the military in the last 18 months, you will need information from your DD-214 member 4

*see How to Apply for Unemployment Insurance Benefits brochure

<http://www.uimn.org/ui/HowToApplyForUI.pdf>

Minnesota CareerForce
www.careerforcemn.com/locations

CareerForce is a collaborative partnership between the Department of Employment and Economic Development, the Minnesota Association of Workforce Boards, and the Governor's Workforce Development Board. CareerForce and its partners provide a wide range of career development and talent services. Information about Minnesota CareerForce locations and resources in your community is available on the website.



Minnesota's Career Resource

RESOURCE INFORMATION

Bridge to Benefits Minnesota
<http://mn.bridgetobenefits.org/Home2.html>

Bridge to Benefits is a multi-state project by Children's Defense Fund Minnesota to improve the well-being of families and individuals by linking them to public work support programs and tax credits.

Dislocated Worker Programs
www.PositivelyMinnesota.com/dw

The Dislocated Worker Program offers free services to help eligible individuals find suitable re-employment—and help take the stress and uncertainty out of the process.

Internet System for Education and Employment Knowledge (ISEEK)
www.iseek.org

ISEEK is an internet system for education and employment information. It links to information on school programs, training, occupations, skill requirements and job openings.

Minnesota Works
www.MinnesotaWorks.net

You will be able to upload or copy and paste resumes into Minnesota- Works.net and job shoppers will be able to place their top jobs in a 'shopping cart.' You will also be able to: See a list of the jobs applied for online; save job orders to a list for reviewing later; and, maintain multiple resumes.

Unrequested Leave of Absence (ULA) / Non-Renewal Investigative Form - for Teachers

Name: _____

School: _____

Home phone: _____

Email: _____

Are you a member of Education Minnesota? Yes _____ No _____

Are you a full-time or part-time teacher? Full-time _____ Part-time _____ %

Describe your position/title – attach a current schedule if available:

Are you a probationary or a continuing contract teacher? _____

Beginning date of service: _____ Any breaks in service? _____

Teaching experience in another Minnesota School District? _____ If yes, # of years _____

Where: _____

What are you licensed to teach? _____

Checked seniority list? _____ Listed correctly? _____

Date of written notification of ULA/Non-Renewal _____

Date hearing requested _____

Other _____

Note to MRA – attach the following documents to this form:

1. Copy of this teacher's license – from the website: <http://education.state.mn.us>
2. Copy of any letters this teacher has received from the school district about ULA/Non-Renewal
3. Copy of School Board minutes referencing this teacher
4. Any documents relating to placement on ULA or Non-Renewal
5. Copy of letter requesting a hearing
6. Seniority list and licensing areas
7. Contract
8. Current teaching assignments



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

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