

# Continuing Contract & Tenure for ECFE Teachers

Legislation passed in 2023 provides bargaining unit members who work as Early Childhood Family Education (ECFE) teachers the protection of tenure and continuing contract rights. Previously, things like seniority and due process were things that unions could bargain for ECFE teachers, but were not guaranteed by statute. The law that required ECFE teachers to have a license perversely included language that prevented ECFE teachers from attaining continuing contract status or tenure. This has prevented ECFE teachers from being included in the master seniority list for teachers. Last year, the Legislature made a surgical but significant change:

Sec. 44. Minnesota Statutes 2022, section 122A.26, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) A person who teaches in a community education program ~~which that~~ qualifies for aid pursuant to section [124D.52](#) shall continue to meet licensure requirements as a teacher. A person who teaches in an early childhood and family education program ~~which that~~ is offered through a community education program and ~~which that~~ qualifies for community education aid pursuant to section [124D.20](#) or early childhood and family education aid pursuant to section [124D.135](#) shall continue to meet licensure requirements as a teacher. A person who teaches in a community education course ~~which that~~ is offered for credit for graduation to persons under 18 years of age shall continue to meet licensure requirements as a teacher.

(b) A person who teaches a driver training course ~~which that~~ is offered through a community education program to persons under 18 years of age shall be licensed by the Professional Educator Licensing and Standards Board or be subject to section [171.35](#). A license ~~which that~~ is required for an instructor in a community education program pursuant to this ~~subdivision paragraph~~ shall not be construed to bring an individual within the definition of a teacher for purposes of section [122A.40, subdivision 1](#), or [122A.41, subdivision 1](#), ~~clause paragraph~~ (a).

As a result of this change, licensed ECFE teachers now have statutory tenure and continuing contract protection, which have two (at least!) important implications.

## Bargaining

We have urged locals to review their contracts to make sure that they remove outdated language related to unrequested leave of absence (ULA). In particular, local unions should ensure that there are no provisions that require a separate seniority list for ECFE teachers unless ECFE staff prefer this scenario. Additionally, some contracts include a separate section for ECFE teachers. We recommend eliminating this practice, which is referred to as a “carve-out.” If it is helpful to have separate provisions for things like prep time or normal working schedules, those things can be incorporated within articles of the master agreement. Education Minnesota has [sample contract provisions](#) on the members-only section of our website to help locals find contract language that suits local union needs.

## Legal protections

As of August 1, 2023, the rules for ECFE teachers are that they are entitled to continuing contract status or tenure if they have completed three years of teaching in a single Minnesota school district. In some districts, there has been resistance to the fair application of this new legislation; some districts have stated that no previous service can count towards ECFE teachers’ continuing contract status. Ideally, this period of resistance will pass without districts attempting to test the limits of the new protections. If this occurs, litigation may be necessary to settle the question. We will continue to encourage districts to comply with the law to avoid unnecessary disputes.

