

Early education teachers in the bargaining unit and new licensure requirements

2023 brought a number of important changes to the work of early education (EE) teachers. EE teachers (mostly working in prekindergarten or PreK programs) have long occupied a somewhat uncertain space in terms of their rights as employees. A Minnesota court decision found that those teachers were only considered “teachers” for the purposes of PELRA, the state’s collective bargaining law, if a district *required* that they have a license. In districts in which employers made having a license a preferred, but not required qualification – even if every single EE teacher had a license! – those individuals were not eligible to be in the teacher bargaining unit.

Similarly, because state law only required a few types of early education teachers to have a license, most preK and other early education teachers have never been eligible to secure tenure or continuing contract rights. Those individuals had due process rights under a collective bargaining agreement if they were in a union, but they were largely without those protections if they did not. The Minnesota Legislature changed this in 2023 in two ways: by adding all early education teachers to the teacher bargaining unit and creating an eventual licensure requirement.

122A.261 PREKINDERGARTEN, SCHOOL READINESS, PRESCHOOL, AND EARLY EDUCATION PROGRAMS; LICENSURE REQUIREMENT.

Subdivision 1. **Licensure requirement.** (a) A school district or charter school must employ a qualified teacher, as defined in section [122A.16](#), to provide instruction in a preschool, school readiness, school readiness plus, or prekindergarten program or other school district or charter school-based early education program.

(b) This subdivision does not apply to individuals providing instruction in a child care center licensed under Minnesota Rules, chapter 9503, or in a certified license-exempt child care center under chapter 245H.

Subd. 2. **Exemptions.** Any teacher who has taught in a preschool, school readiness, school readiness plus, or prekindergarten program, or other early learning program for at least five years prior to September 1, 2028, may continue to teach without obtaining a license. Notwithstanding this exemption from the licensure requirement, these individuals are teachers under section [179A.03, subdivision 18](#).

History: [2023 c 54 s 5](#)

NOTE: This section, as added by Laws 2023, chapter 54, section 5, is effective July 1, 2028. Laws 2023, chapter 54, section 5, the effective date.

New provisions in law have a number of important aspects:

1. PELRA amendments add instructional staff in a preschool, school readiness, school readiness plus, prekindergarten, or other early learning program to the standing teacher bargaining unit and therefore to the protections of existing collective bargaining agreements.
2. It creates a licensure requirement for early education teachers, eliminating the “will it/won’t it” uncertainty of whether a *district’s* decision can affect an employee’s right to join a union.
3. It ensures that PreK and other early education teachers are now eligible for the individual protections of the Tenure Act and the Continuing Contract Law, which create rights in the event of layoff or significant discipline.
4. It protects long-time early education teachers by creating a safe harbor for individuals who have been working for at least five years as a teacher in a covered program but do not wish to pursue licensure.

In addition to conferring rights on an indispensable category of teachers, these legislative changes make it clear that early education teachers belong in the teacher bargaining unit. In many districts, this will help to streamline negotiations and ensure that early education is included in discussions about the work of teachers in the school community. [Contract language suggestions](#) are available in the members-only section of the Education Minnesota website.

