



Sen. Kimberly A. Lightford

Filed: 4/24/2013

09800SB1762sam001

LRB098 10303 NHT 44968 a

1 AMENDMENT TO SENATE BILL 1762

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1762 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Sections  
5 2-3.25g, 24-11, 24-12, and 24-16.5 as follows:

6 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)  
7 Sec. 2-3.25g. Waiver or modification of mandates within the  
8 School Code and administrative rules and regulations.

9 (a) In this Section:

10 "Board" means a school board or the governing board or  
11 administrative district, as the case may be, for a joint  
12 agreement.

13 "Eligible applicant" means a school district, joint  
14 agreement made up of school districts, or regional  
15 superintendent of schools on behalf of schools and programs  
16 operated by the regional office of education.

1 "Implementation date" has the meaning set forth in  
2 Section 24A-2.5 of this Code.

3 "State Board" means the State Board of Education.

4 (b) Notwithstanding any other provisions of this School  
5 Code or any other law of this State to the contrary, eligible  
6 applicants may petition the State Board of Education for the  
7 waiver or modification of the mandates of this School Code or  
8 of the administrative rules and regulations promulgated by the  
9 State Board of Education. Waivers or modifications of  
10 administrative rules and regulations and modifications of  
11 mandates of this School Code may be requested when an eligible  
12 applicant demonstrates that it can address the intent of the  
13 rule or mandate in a more effective, efficient, or economical  
14 manner or when necessary to stimulate innovation or improve  
15 student performance. Waivers of mandates of the School Code may  
16 be requested when the waivers are necessary to stimulate  
17 innovation or improve student performance. Waivers may not be  
18 requested from laws, rules, and regulations pertaining to  
19 special education, teacher certification, teacher tenure and  
20 seniority, or Section 5-2.1 of this Code or from compliance  
21 with the No Child Left Behind Act of 2001 (Public Law 107-110).  
22 Eligible ~~On and after the applicable implementation date,~~  
23 ~~eligible~~ applicants may not seek a waiver or seek a  
24 modification of a mandate regarding the requirements for (i)  
25 student performance data to be a significant factor in teacher  
26 or principal evaluations or (ii) for teachers and principals to

1 be rated using the 4 categories of "excellent", "proficient",  
2 "needs improvement", or "unsatisfactory". On September 1, 2013  
3 ~~the applicable implementation date~~, any previously authorized  
4 waiver or modification from such requirements shall terminate.

5 (c) Eligible applicants, as a matter of inherent managerial  
6 policy, and any Independent Authority established under  
7 Section 2-3.25f may submit an application for a waiver or  
8 modification authorized under this Section. Each application  
9 must include a written request by the eligible applicant or  
10 Independent Authority and must demonstrate that the intent of  
11 the mandate can be addressed in a more effective, efficient, or  
12 economical manner or be based upon a specific plan for improved  
13 student performance and school improvement. Any eligible  
14 applicant requesting a waiver or modification for the reason  
15 that intent of the mandate can be addressed in a more  
16 economical manner shall include in the application a fiscal  
17 analysis showing current expenditures on the mandate and  
18 projected savings resulting from the waiver or modification.  
19 Applications and plans developed by eligible applicants must be  
20 approved by the board or regional superintendent of schools  
21 applying on behalf of schools or programs operated by the  
22 regional office of education following a public hearing on the  
23 application and plan and the opportunity for the board or  
24 regional superintendent to hear testimony from staff directly  
25 involved in its implementation, parents, and students. The time  
26 period for such testimony shall be separate from the time

1 period established by the eligible applicant for public comment  
2 on other matters. If the applicant is a school district or  
3 joint agreement requesting a waiver or modification of Section  
4 27-6 of this Code, the public hearing shall be held on a day  
5 other than the day on which a regular meeting of the board is  
6 held.

7 (c-5) If the applicant is a school district, then the  
8 district shall post information that sets forth the time, date,  
9 place, and general subject matter of the public hearing on its  
10 Internet website at least 14 days prior to the hearing. If the  
11 district is requesting to increase the fee charged for driver  
12 education authorized pursuant to Section 27-24.2 of this Code,  
13 the website information shall include the proposed amount of  
14 the fee the district will request. All school districts must  
15 publish a notice of the public hearing at least 7 days prior to  
16 the hearing in a newspaper of general circulation within the  
17 school district that sets forth the time, date, place, and  
18 general subject matter of the hearing. Districts requesting to  
19 increase the fee charged for driver education shall include in  
20 the published notice the proposed amount of the fee the  
21 district will request. If the applicant is a joint agreement or  
22 regional superintendent, then the joint agreement or regional  
23 superintendent shall post information that sets forth the time,  
24 date, place, and general subject matter of the public hearing  
25 on its Internet website at least 14 days prior to the hearing.  
26 If the joint agreement or regional superintendent is requesting

1 to increase the fee charged for driver education authorized  
2 pursuant to Section 27-24.2 of this Code, the website  
3 information shall include the proposed amount of the fee the  
4 applicant will request. All joint agreements and regional  
5 superintendents must publish a notice of the public hearing at  
6 least 7 days prior to the hearing in a newspaper of general  
7 circulation in each school district that is a member of the  
8 joint agreement or that is served by the educational service  
9 region that sets forth the time, date, place, and general  
10 subject matter of the hearing, provided that a notice appearing  
11 in a newspaper generally circulated in more than one school  
12 district shall be deemed to fulfill this requirement with  
13 respect to all of the affected districts. Joint agreements or  
14 regional superintendents requesting to increase the fee  
15 charged for driver education shall include in the published  
16 notice the proposed amount of the fee the applicant will  
17 request. The eligible applicant must notify in writing the  
18 affected exclusive collective bargaining agent and those State  
19 legislators representing the eligible applicant's territory of  
20 its intent to seek approval of a waiver or modification and of  
21 the hearing to be held to take testimony from staff. The  
22 affected exclusive collective bargaining agents shall be  
23 notified of such public hearing at least 7 days prior to the  
24 date of the hearing and shall be allowed to attend such public  
25 hearing. The eligible applicant shall attest to compliance with  
26 all of the notification and procedural requirements set forth

1 in this Section.

2 (d) A request for a waiver or modification of  
3 administrative rules and regulations or for a modification of  
4 mandates contained in this School Code shall be submitted to  
5 the State Board of Education within 15 days after approval by  
6 the board or regional superintendent of schools. The  
7 application as submitted to the State Board of Education shall  
8 include a description of the public hearing. Except with  
9 respect to contracting for adaptive driver education, an  
10 eligible applicant wishing to request a modification or waiver  
11 of administrative rules of the State Board of Education  
12 regarding contracting with a commercial driver training school  
13 to provide the course of study authorized under Section 27-24.2  
14 of this Code must provide evidence with its application that  
15 the commercial driver training school with which it will  
16 contract holds a license issued by the Secretary of State under  
17 Article IV of Chapter 6 of the Illinois Vehicle Code and that  
18 each instructor employed by the commercial driver training  
19 school to provide instruction to students served by the school  
20 district holds a valid teaching certificate or teaching  
21 license, as applicable, issued under the requirements of this  
22 Code and rules of the State Board of Education. Such evidence  
23 must include, but need not be limited to, a list of each  
24 instructor assigned to teach students served by the school  
25 district, which list shall include the instructor's name,  
26 personal identification number as required by the State Board

1 of Education, birth date, and driver's license number. If the  
2 modification or waiver is granted, then the eligible applicant  
3 shall notify the State Board of Education of any changes in the  
4 personnel providing instruction within 15 calendar days after  
5 an instructor leaves the program or a new instructor is hired.  
6 Such notification shall include the instructor's name,  
7 personal identification number as required by the State Board  
8 of Education, birth date, and driver's license number. If a  
9 school district maintains an Internet website, then the  
10 district shall post a copy of the final contract between the  
11 district and the commercial driver training school on the  
12 district's Internet website. If no Internet website exists,  
13 then the district shall make available the contract upon  
14 request. A record of all materials in relation to the  
15 application for contracting must be maintained by the school  
16 district and made available to parents and guardians upon  
17 request. The instructor's date of birth and driver's license  
18 number and any other personally identifying information as  
19 deemed by the federal Driver's Privacy Protection Act of 1994  
20 must be redacted from any public materials. Following receipt  
21 of the waiver or modification request, the State Board shall  
22 have 45 days to review the application and request. If the  
23 State Board fails to disapprove the application within that 45  
24 day period, the waiver or modification shall be deemed granted.  
25 The State Board may disapprove any request if it is not based  
26 upon sound educational practices, endangers the health or

1 safety of students or staff, compromises equal opportunities  
2 for learning, or fails to demonstrate that the intent of the  
3 rule or mandate can be addressed in a more effective,  
4 efficient, or economical manner or have improved student  
5 performance as a primary goal. Any request disapproved by the  
6 State Board may be appealed to the General Assembly by the  
7 eligible applicant as outlined in this Section.

8 A request for a waiver from mandates contained in this  
9 School Code shall be submitted to the State Board within 15  
10 days after approval by the board or regional superintendent of  
11 schools. The application as submitted to the State Board of  
12 Education shall include a description of the public hearing.  
13 The description shall include, but need not be limited to, the  
14 means of notice, the number of people in attendance, the number  
15 of people who spoke as proponents or opponents of the waiver, a  
16 brief description of their comments, and whether there were any  
17 written statements submitted. The State Board shall review the  
18 applications and requests for completeness and shall compile  
19 the requests in reports to be filed with the General Assembly.  
20 The State Board shall file reports outlining the waivers  
21 requested by eligible applicants and appeals by eligible  
22 applicants of requests disapproved by the State Board with the  
23 Senate and the House of Representatives before each March 1 and  
24 October 1. The General Assembly may disapprove the report of  
25 the State Board in whole or in part within 60 calendar days  
26 after each house of the General Assembly next convenes after



1 the report is filed by adoption of a resolution by a record  
2 vote of the majority of members elected in each house. If the  
3 General Assembly fails to disapprove any waiver request or  
4 appealed request within such 60 day period, the waiver or  
5 modification shall be deemed granted. Any resolution adopted by  
6 the General Assembly disapproving a report of the State Board  
7 in whole or in part shall be binding on the State Board.

8 (e) An approved waiver or modification (except a waiver  
9 from or modification to a physical education mandate) may  
10 remain in effect for a period not to exceed 5 school years and  
11 may be renewed upon application by the eligible applicant.  
12 However, such waiver or modification may be changed within that  
13 5-year period by a board or regional superintendent of schools  
14 applying on behalf of schools or programs operated by the  
15 regional office of education following the procedure as set  
16 forth in this Section for the initial waiver or modification  
17 request. If neither the State Board of Education nor the  
18 General Assembly disapproves, the change is deemed granted.

19 An approved waiver from or modification to a physical  
20 education mandate may remain in effect for a period not to  
21 exceed 2 school years and may be renewed no more than 2 times  
22 upon application by the eligible applicant. An approved waiver  
23 from or modification to a physical education mandate may be  
24 changed within the 2-year period by the board or regional  
25 superintendent of schools, whichever is applicable, following  
26 the procedure set forth in this Section for the initial waiver

1 or modification request. If neither the State Board of  
2 Education nor the General Assembly disapproves, the change is  
3 deemed granted.

4 (f) (Blank).

5 (Source: P.A. 96-861, eff. 1-15-10; 96-1423, eff. 8-3-10;  
6 97-1025, eff. 1-1-13.)

7 (105 ILCS 5/24-11) (from Ch. 122, par. 24-11)

8 Sec. 24-11. Boards of Education - Boards of School  
9 Inspectors - Contractual continued service.

10 (a) As used in this and the succeeding Sections of this  
11 Article:

12 "Teacher" means any or all school district employees  
13 regularly required to be certified under laws relating to the  
14 certification of teachers.

15 "Board" means board of directors, board of education, or  
16 board of school inspectors, as the case may be.

17 "School term" means that portion of the school year, July 1  
18 to the following June 30, when school is in actual session.

19 "Program" means a program of a special education joint  
20 agreement.

21 "Program of a special education joint agreement" means  
22 instructional, consultative, supervisory, administrative,  
23 diagnostic, and related services that are managed by a special  
24 educational joint agreement designed to service 2 or more  
25 school districts that are members of the joint agreement.

1 "PERA implementation date" means the implementation date  
2 of an evaluation system for teachers as specified by Section  
3 24A-2.5 of this Code for all schools within a school district  
4 or all programs of a special education joint agreement.

5 (b) This Section and Sections 24-12 through 24-16 of this  
6 Article apply only to school districts having less than 500,000  
7 inhabitants.

8 (c) Any teacher who is first employed as a full-time  
9 teacher in a school district or program prior to the PERA  
10 implementation date and who is employed in that district or  
11 program for a probationary period of 4 consecutive school terms  
12 shall enter upon contractual continued service in the district  
13 or in all of the programs that the teacher is legally qualified  
14 to hold, unless the teacher is given written notice of  
15 dismissal by certified mail, return receipt requested, by the  
16 employing board at least 45 days before the end of any school  
17 term within such period.

18 (d) For any teacher who is first employed as a full-time  
19 teacher in a school district or program on or after the PERA  
20 implementation date, the probationary period shall be one of  
21 the following periods, based upon the teacher's school terms of  
22 service and performance, before the teacher shall enter upon  
23 contractual continued service in the district or in all of the  
24 programs that the teacher is legally qualified to hold, unless  
25 the teacher is given written notice of dismissal by certified  
26 mail, return receipt requested, by the employing board at least

1 45 days before the end of any school term within such period:

2 (1) 4 consecutive school terms of service in which the  
3 teacher receives overall annual evaluation ratings of at  
4 least "Proficient" in the last school term and at least  
5 "Proficient" in either the second or third school term;

6 (2) 3 consecutive school terms of service in which the  
7 teacher receives 3 overall annual evaluations of  
8 "Excellent"; or

9 (3) 2 consecutive school terms of service in which the  
10 teacher receives 2 overall annual evaluations of  
11 "Excellent" service, but only if the teacher (i) previously  
12 attained contractual continued service in a different  
13 school district or program in this State, (ii) voluntarily  
14 departed or was honorably dismissed from that school  
15 district or program in the school term immediately prior to  
16 the teacher's first school term of service applicable to  
17 the attainment of contractual continued service under this  
18 subdivision (3), and (iii) received, in his or her 2 most  
19 recent overall annual or biennial ~~biannual~~ evaluations  
20 from the prior school district or program, ratings of at  
21 least "Proficient", with both such ratings occurring after  
22 the school district's or program's PERA implementation  
23 date. For a teacher to attain contractual continued service  
24 under this subdivision (3), the teacher shall provide  
25 official copies of his or her 2 most recent overall annual  
26 or biennial evaluations from the prior school district or

1 program to the new school district or program within 60  
2 days from the teacher's first day of service with the new  
3 school district or program. The prior school district or  
4 program must provide the teacher with official copies of  
5 his or her 2 most recent overall annual or biennial  
6 evaluations within 14 days after the teacher's request. If  
7 a teacher has requested such official copies prior to 45  
8 days after the teacher's first day of service with the new  
9 school district or program and the teacher's prior school  
10 district or program fails to provide the teacher with the  
11 official copies required under this subdivision (3), then  
12 the time period for the teacher to submit the official  
13 copies to his or her new school district or program must be  
14 extended until 14 days after receipt of such copies from  
15 the prior school district or program. If the prior school  
16 district or program fails to provide the teacher with the  
17 official copies required under this subdivision (3) within  
18 90 days from the teacher's first day of service with the  
19 new school district or program, then the new school  
20 district or program shall rely upon the teacher's own  
21 copies of his or her evaluations for purposes of this  
22 subdivision (3).

23 If the teacher does not receive overall annual evaluations  
24 of "Excellent" in the school terms necessary for eligibility to  
25 achieve accelerated contractual continued service in  
26 subdivisions (2) and (3) of this subsection (d), the teacher

1 shall be eligible for contractual continued service pursuant to  
2 subdivision (1) of this subsection (d). If, at the conclusion  
3 of 4 consecutive school terms of service that count toward  
4 attainment of contractual continued service, the teacher's  
5 performance does not qualify the teacher for contractual  
6 continued service under subdivision (1) of this subsection (d),  
7 then the teacher shall not enter upon contractual continued  
8 service and shall be dismissed. If a performance evaluation is  
9 not conducted for any school term when such evaluation is  
10 required to be conducted under Section 24A-5 of this Code, then  
11 the teacher's performance evaluation rating for such school  
12 term for purposes of determining the attainment of contractual  
13 continued service shall be deemed "Proficient".

14 (e) For the purposes of determining contractual continued  
15 service, a school term shall be counted only toward attainment  
16 of contractual continued service if the teacher actually  
17 teaches or is otherwise present and participating in the  
18 district's or program's educational program for 120 days or  
19 more, provided that the days of leave under the federal Family  
20 Medical Leave Act that the teacher is required to take until  
21 the end of the school term shall be considered days of teaching  
22 or participation in the district's or program's educational  
23 program. A school term that is not counted toward attainment of  
24 contractual continued service shall not be considered a break  
25 in service for purposes of determining whether a teacher has  
26 been employed for 4 consecutive school terms, provided that the

1 teacher actually teaches or is otherwise present and  
2 participating in the district's or program's educational  
3 program in the following school term.

4 (f) If the employing board determines to dismiss the  
5 teacher in the last year of the probationary period as provided  
6 in subsection (c) of this Section or subdivision (1) or (2) of  
7 subsection (d) of this Section, but not subdivision (3) of  
8 subsection (d) of this Section, the written notice of dismissal  
9 provided by the employing board must contain specific reasons  
10 for dismissal. Any full-time teacher who does not receive  
11 written notice from the employing board at least 45 days before  
12 the end of any school term as provided in this Section and  
13 whose performance does not require dismissal after the fourth  
14 probationary year pursuant to subsection (d) of this Section  
15 shall be re-employed for the following school term.

16 (g) Contractual continued service shall continue in effect  
17 the terms and provisions of the contract with the teacher  
18 during the last school term of the probationary period, subject  
19 to this Act and the lawful regulations of the employing board.  
20 This Section and succeeding Sections do not modify any existing  
21 power of the board except with respect to the procedure of the  
22 discharge of a teacher and reductions in salary as hereinafter  
23 provided. Contractual continued service status shall not  
24 restrict the power of the board to transfer a teacher to a  
25 position which the teacher is qualified to fill or to make such  
26 salary adjustments as it deems desirable, but unless reductions

1 in salary are uniform or based upon some reasonable  
2 classification, any teacher whose salary is reduced shall be  
3 entitled to a notice and a hearing as hereinafter provided in  
4 the case of certain dismissals or removals.

5 (h) If, by reason of any change in the boundaries of school  
6 districts or by reason of the creation of a new school  
7 district, the position held by any teacher having a contractual  
8 continued service status is transferred from one board to the  
9 control of a new or different board, then the contractual  
10 continued service status of the teacher is not thereby lost,  
11 and such new or different board is subject to this Code with  
12 respect to the teacher in the same manner as if the teacher  
13 were its employee and had been its employee during the time the  
14 teacher was actually employed by the board from whose control  
15 the position was transferred.

16 (i) The employment of any teacher in a program of a special  
17 education joint agreement established under Section 3-15.14,  
18 10-22.31 or 10-22.31a shall be governed by this and succeeding  
19 Sections of this Article. For purposes of attaining and  
20 maintaining contractual continued service and computing length  
21 of continuing service as referred to in this Section and  
22 Section 24-12, employment in a special educational joint  
23 program shall be deemed a continuation of all previous  
24 certificated employment of such teacher for such joint  
25 agreement whether the employer of the teacher was the joint  
26 agreement, the regional superintendent, or one of the



1 participating districts in the joint agreement.

2 (j) For any teacher employed after July 1, 1987 as a  
3 full-time teacher in a program of a special education joint  
4 agreement, whether the program is operated by the joint  
5 agreement or a member district on behalf of the joint  
6 agreement, in the event of a reduction in the number of  
7 programs or positions in the joint agreement in which the  
8 notice of dismissal is provided on or before the end of the  
9 2010-2011 school term, the teacher in contractual continued  
10 service is eligible for employment in the joint agreement  
11 programs for which the teacher is legally qualified in order of  
12 greater length of continuing service in the joint agreement,  
13 unless an alternative method of determining the sequence of  
14 dismissal is established in a collective bargaining agreement.  
15 For any teacher employed after July 1, 1987 as a full-time  
16 teacher in a program of a special education joint agreement,  
17 whether the program is operated by the joint agreement or a  
18 member district on behalf of the joint agreement, in the event  
19 of a reduction in the number of programs or positions in the  
20 joint agreement in which the notice of dismissal is provided  
21 during the 2011-2012 school term or a subsequent school term,  
22 the teacher shall be included on the honorable dismissal lists  
23 of all joint agreement programs for positions for which the  
24 teacher is qualified and is eligible for employment in such  
25 programs in accordance with subsections (b) and (c) of Section  
26 24-12 of this Code and the applicable honorable dismissal

1 policies of the joint agreement.

2 (k) For any teacher employed after July 1, 1987 as a  
3 full-time teacher in a program of a special education joint  
4 agreement, whether the program is operated by the joint  
5 agreement or a member district on behalf of the joint  
6 agreement, in the event of the dissolution of a joint  
7 agreement, in which the notice to teachers of the dissolution  
8 is provided during the 2010-2011 school term, the teacher in  
9 contractual continued service who is legally qualified shall be  
10 assigned to any comparable position in a member district  
11 currently held by a teacher who has not entered upon  
12 contractual continued service or held by a teacher who has  
13 entered upon contractual continued service with a shorter  
14 length of contractual continued service. Any teacher employed  
15 after July 1, 1987 as a full-time teacher in a program of a  
16 special education joint agreement, whether the program is  
17 operated by the joint agreement or a member district on behalf  
18 of the joint agreement, in the event of the dissolution of a  
19 joint agreement in which the notice to teachers of the  
20 dissolution is provided during the 2011-2012 school term or a  
21 subsequent school term, the teacher who is qualified shall be  
22 included on the order of honorable dismissal lists of each  
23 member district and shall be assigned to any comparable  
24 position in any such district in accordance with subsections  
25 (b) and (c) of Section 24-12 of this Code and the applicable  
26 honorable dismissal policies of each member district.

1           (1) The governing board of the joint agreement, or the  
2 administrative district, if so authorized by the articles of  
3 agreement of the joint agreement, rather than the board of  
4 education of a school district, may carry out employment and  
5 termination actions including dismissals under this Section  
6 and Section 24-12.

7           (m) The employment of any teacher in a special education  
8 program authorized by Section 14-1.01 through 14-14.01, or a  
9 joint educational program established under Section 10-22.31a,  
10 shall be under this and the succeeding Sections of this  
11 Article, and such employment shall be deemed a continuation of  
12 the previous employment of such teacher in any of the  
13 participating districts, regardless of the participation of  
14 other districts in the program.

15           (n) Any teacher employed as a full-time teacher in a  
16 special education program prior to September 23, 1987 in which  
17 2 or more school districts participate for a probationary  
18 period of 2 consecutive years shall enter upon contractual  
19 continued service in each of the participating districts,  
20 subject to this and the succeeding Sections of this Article,  
21 and, notwithstanding Section 24-1.5 of this Code, in the event  
22 of the termination of the program shall be eligible for any  
23 vacant position in any of such districts for which such teacher  
24 is qualified.

25           (Source: P.A. 97-8, eff. 6-13-11.)

1 (105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

2 Sec. 24-12. Removal or dismissal of teachers in contractual  
3 continued service.

4 (a) This subsection (a) applies only to honorable  
5 dismissals and recalls in which the notice of dismissal is  
6 provided on or before the end of the 2010-2011 school term. If  
7 a teacher in contractual continued service is removed or  
8 dismissed as a result of a decision of the board to decrease  
9 the number of teachers employed by the board or to discontinue  
10 some particular type of teaching service, written notice shall  
11 be mailed to the teacher and also given the teacher either by  
12 certified mail, return receipt requested or personal delivery  
13 with receipt at least 60 days before the end of the school  
14 term, together with a statement of honorable dismissal and the  
15 reason therefor, and in all such cases the board shall first  
16 remove or dismiss all teachers who have not entered upon  
17 contractual continued service before removing or dismissing  
18 any teacher who has entered upon contractual continued service  
19 and who is legally qualified to hold a position currently held  
20 by a teacher who has not entered upon contractual continued  
21 service.

22 As between teachers who have entered upon contractual  
23 continued service, the teacher or teachers with the shorter  
24 length of continuing service with the district shall be  
25 dismissed first unless an alternative method of determining the  
26 sequence of dismissal is established in a collective bargaining

1 agreement or contract between the board and a professional  
2 faculty members' organization and except that this provision  
3 shall not impair the operation of any affirmative action  
4 program in the district, regardless of whether it exists by  
5 operation of law or is conducted on a voluntary basis by the  
6 board. Any teacher dismissed as a result of such decrease or  
7 discontinuance shall be paid all earned compensation on or  
8 before the third business day following the last day of pupil  
9 attendance in the regular school term.

10 If the board has any vacancies for the following school  
11 term or within one calendar year from the beginning of the  
12 following school term, the positions thereby becoming  
13 available shall be tendered to the teachers so removed or  
14 dismissed so far as they are legally qualified to hold such  
15 positions; provided, however, that if the number of honorable  
16 dismissal notices based on economic necessity exceeds 15% of  
17 the number of full time equivalent positions filled by  
18 certified employees (excluding principals and administrative  
19 personnel) during the preceding school year, then if the board  
20 has any vacancies for the following school term or within 2  
21 calendar years from the beginning of the following school term,  
22 the positions so becoming available shall be tendered to the  
23 teachers who were so notified and removed or dismissed whenever  
24 they are legally qualified to hold such positions. Each board  
25 shall, in consultation with any exclusive employee  
26 representatives, each year establish a list, categorized by

1 positions, showing the length of continuing service of each  
2 teacher who is qualified to hold any such positions, unless an  
3 alternative method of determining a sequence of dismissal is  
4 established as provided for in this Section, in which case a  
5 list shall be made in accordance with the alternative method.  
6 Copies of the list shall be distributed to the exclusive  
7 employee representative on or before February 1 of each year.  
8 Whenever the number of honorable dismissal notices based upon  
9 economic necessity exceeds 5, or 150% of the average number of  
10 teachers honorably dismissed in the preceding 3 years,  
11 whichever is more, then the board also shall hold a public  
12 hearing on the question of the dismissals. Following the  
13 hearing and board review the action to approve any such  
14 reduction shall require a majority vote of the board members.

15 (b) This subsection (b) applies only to honorable  
16 dismissals and recalls in which the notice of dismissal is  
17 provided during the 2011-2012 school term or a subsequent  
18 school term. If any teacher, whether or not in contractual  
19 continued service, is removed or dismissed as a result of a  
20 decision of a school board to decrease the number of teachers  
21 employed by the board, a decision of a school board to  
22 discontinue some particular type of teaching service, or a  
23 reduction in the number of programs or positions in a special  
24 education joint agreement, then written notice must be mailed  
25 to the teacher and also given to the teacher either by  
26 certified mail, return receipt requested, or personal delivery

1 with receipt at least 45 days before the end of the school  
2 term, together with a statement of honorable dismissal and the  
3 reason therefor, and in all such cases the sequence of  
4 dismissal shall occur in accordance with this subsection (b);  
5 except that this subsection (b) shall not impair the operation  
6 of any affirmative action program in the school district,  
7 regardless of whether it exists by operation of law or is  
8 conducted on a voluntary basis by the board.

9 Each teacher must be categorized into one or more positions  
10 for which the teacher is qualified to hold, based upon legal  
11 qualifications and any other qualifications established in a  
12 district or joint agreement job description, on or before the  
13 May 10 prior to the school year during which the sequence of  
14 dismissal is determined. Within each position and subject to  
15 agreements made by the joint committee on honorable dismissals  
16 that are authorized by subsection (c) of this Section, the  
17 school district or joint agreement must establish 4 groupings  
18 of teachers qualified to hold the position as follows:

19 (1) Grouping one shall consist of each teacher who is  
20 not in contractual continued service and who (i) has not  
21 received a performance evaluation rating, (ii) is employed  
22 for one school term or less to replace a teacher on leave,  
23 or (iii) is employed on a part-time basis. "Part-time  
24 basis" for the purposes of this subsection (b) means a  
25 teacher who is employed to teach less than a full-day,  
26 teacher workload or less than 5 days of the normal student

1 attendance week, unless otherwise provided for in a  
2 collective bargaining agreement between the district and  
3 the exclusive representative of the district's teachers.  
4 For the purposes of this Section, a teacher (A) who is  
5 employed as a full-time teacher but who actually teaches or  
6 is otherwise present and participating in the district's  
7 educational program for less than a school term or (B) who,  
8 in the immediately previous school term, was employed on a  
9 full-time basis and actually taught or was otherwise  
10 present and participated in the district's educational  
11 program for 120 days or more is not considered employed on  
12 a part-time basis. ~~Grouping one shall consist of each~~  
13 ~~teacher not in contractual continued service who has not~~  
14 ~~received a performance evaluation rating.~~

15 (2) Grouping 2 shall consist of each teacher with a  
16 Needs Improvement or Unsatisfactory performance evaluation  
17 rating on either of the teacher's last 2 performance  
18 evaluation ratings.

19 (3) Grouping 3 shall consist of each teacher with a  
20 performance evaluation rating of at least Satisfactory or  
21 Proficient on both of the teacher's last 2 performance  
22 evaluation ratings, if 2 ratings are available, or on the  
23 teacher's last performance evaluation rating, if only one  
24 rating is available, unless the teacher qualifies for  
25 placement into grouping 4.

26 (4) Grouping 4 shall consist of each teacher whose last



1           2 performance evaluation ratings are Excellent and each  
2           teacher with 2 Excellent performance evaluation ratings  
3           out of the teacher's last 3 performance evaluation ratings  
4           with a third rating of Satisfactory or Proficient.

5           Among teachers qualified to hold a position, teachers must  
6           be dismissed in the order of their groupings, with teachers in  
7           grouping one dismissed first and teachers in grouping 4  
8           dismissed last.

9           Within grouping one, the sequence of dismissal must be at  
10          the discretion of the school district or joint agreement.  
11          Within grouping 2, the sequence of dismissal must be based upon  
12          average performance evaluation ratings, with the teacher or  
13          teachers with the lowest average performance evaluation rating  
14          dismissed first. A teacher's average performance evaluation  
15          rating must be calculated using the average of the teacher's  
16          last 2 performance evaluation ratings, if 2 ratings are  
17          available, or the teacher's last performance evaluation  
18          rating, if only one rating is available, using the following  
19          numerical values: 4 for Excellent; 3 for Proficient or  
20          Satisfactory; 2 for Needs Improvement; and 1 for  
21          Unsatisfactory. As between or among teachers in grouping 2 with  
22          the same average performance evaluation rating and within each  
23          of groupings 3 and 4, the teacher or teachers with the shorter  
24          length of continuing service with the school district or joint  
25          agreement must be dismissed first unless an alternative method  
26          of determining the sequence of dismissal is established in a

1 collective bargaining agreement or contract between the board  
2 and a professional faculty members' organization.

3 Each board, including the governing board of a joint  
4 agreement, shall, in consultation with any exclusive employee  
5 representatives, each year establish a sequence of honorable  
6 dismissal list categorized by positions and the groupings  
7 defined in this subsection (b). Copies of the list must be  
8 distributed to the exclusive bargaining representative at  
9 least 75 days before the end of the school term, provided that  
10 the school district or joint agreement may, with notice to any  
11 exclusive employee representatives, move teachers from  
12 grouping one into another grouping during the period of time  
13 from 75 days until 45 days before the end of the school term.

14 Each year, each board shall also establish, in consultation  
15 with any exclusive employee representatives, a list showing the  
16 length of continuing service of each teacher who is qualified  
17 to hold any such positions, unless an alternative method of  
18 determining a sequence of dismissal is established as provided  
19 for in this Section, in which case a list must be made in  
20 accordance with the alternative method. Copies of the list must  
21 be distributed to the exclusive employee representative at  
22 least 75 days before the end of the school term.

23 Any teacher dismissed as a result of such decrease or  
24 discontinuance must be paid all earned compensation on or  
25 before the third business day following the last day of pupil  
26 attendance in the regular school term.

1           If the board or joint agreement has any vacancies for the  
2 following school term or within one calendar year from the  
3 beginning of the following school term, the positions thereby  
4 becoming available must be tendered to the teachers so removed  
5 or dismissed who were in groupings 3 or 4 of the sequence of  
6 dismissal and are qualified to hold the positions, based upon  
7 legal qualifications and any other qualifications established  
8 in a district or joint agreement job description, on or before  
9 the May 10 prior to the date of the positions becoming  
10 available, provided that if the number of honorable dismissal  
11 notices based on economic necessity exceeds 15% of the number  
12 of full-time equivalent positions filled by certified  
13 employees (excluding principals and administrative personnel)  
14 during the preceding school year, then the recall period is for  
15 the following school term or within 2 calendar years from the  
16 beginning of the following school term. Among teachers eligible  
17 for recall pursuant to the preceding sentence, the order of  
18 recall must be in inverse order of dismissal, unless an  
19 alternative order of recall is established in a collective  
20 bargaining agreement or contract between the board and a  
21 professional faculty members' organization. Whenever the  
22 number of honorable dismissal notices based upon economic  
23 necessity exceeds 5 notices or 150% of the average number of  
24 teachers honorably dismissed in the preceding 3 years,  
25 whichever is more, then the school board or governing board of  
26 a joint agreement, as applicable, shall also hold a public

1 hearing on the question of the dismissals. Following the  
2 hearing and board review, the action to approve any such  
3 reduction shall require a majority vote of the board members.

4 For purposes of this subsection (b), subject to agreement  
5 on an alternative definition reached by the joint committee  
6 described in subsection (c) of this Section, a teacher's  
7 performance evaluation rating means the overall performance  
8 evaluation rating resulting from an annual or biennial ~~biannual~~  
9 performance evaluation conducted pursuant to Article 24A of  
10 this Code by the school district or joint agreement determining  
11 the sequence of dismissal, not including any performance  
12 evaluation conducted during or at the end of a remediation  
13 period. For performance evaluation ratings determined prior to  
14 September 1, 2012, any school district or joint agreement with  
15 a performance evaluation rating system that does not use either  
16 of the rating category systems specified in subsection (d) of  
17 Section 24A-5 of this Code for all teachers must establish a  
18 basis for assigning each teacher a rating that complies with  
19 subsection (d) of Section 24A-5 of this Code for all of the  
20 performance evaluation ratings that are to be used to determine  
21 the sequence of dismissal. A teacher's grouping and ranking on  
22 a sequence of honorable dismissal shall be deemed a part of the  
23 teacher's performance evaluation, and that information may be  
24 disclosed to the exclusive bargaining representative as part of  
25 a sequence of honorable dismissal list, notwithstanding any  
26 laws prohibiting disclosure of such information. A performance

1 evaluation rating may be used to determine the sequence of  
2 dismissal, notwithstanding the pendency of any grievance  
3 resolution or arbitration procedures relating to the  
4 performance evaluation. If a teacher has received at least one  
5 performance evaluation rating conducted by the school district  
6 or joint agreement determining the sequence of dismissal and a  
7 subsequent performance evaluation is not conducted in any  
8 school year in which such evaluation is required to be  
9 conducted under Section 24A-5 of this Code, the teacher's  
10 performance evaluation rating for that school year for purposes  
11 of determining the sequence of dismissal is deemed Proficient.  
12 If a performance evaluation rating is nullified as the result  
13 of an arbitration, administrative agency, or court  
14 determination, then the school district or joint agreement is  
15 deemed to have conducted a performance evaluation for that  
16 school year, but the performance evaluation rating may not be  
17 used in determining the sequence of dismissal.

18 Nothing in this subsection (b) shall be construed as  
19 limiting the right of a school board or governing board of a  
20 joint agreement to dismiss a teacher not in contractual  
21 continued service in accordance with Section 24-11 of this  
22 Code.

23 Any provisions regarding the sequence of honorable  
24 dismissals and recall of honorably dismissed teachers in a  
25 collective bargaining agreement entered into on or before  
26 January 1, 2011 and in effect on the effective date of this

1 amendatory Act of the 97th General Assembly that may conflict  
2 with this amendatory Act of the 97th General Assembly shall  
3 remain in effect through the expiration of such agreement or  
4 June 30, 2013, whichever is earlier.

5 (c) Each school district and special education joint  
6 agreement must use a joint committee composed of equal  
7 representation selected by the school board and its teachers  
8 or, if applicable, the exclusive bargaining representative of  
9 its teachers, to address the matters described in paragraphs  
10 (1) through (5) of this subsection (c) pertaining to honorable  
11 dismissals under subsection (b) of this Section.

12 (1) The joint committee must consider and may agree to  
13 criteria for excluding from grouping 2 and placing into  
14 grouping 3 a teacher whose last 2 performance evaluations  
15 include a Needs Improvement and either a Proficient or  
16 Excellent.

17 (2) The joint committee must consider and may agree to  
18 an alternative definition for grouping 4, which definition  
19 must take into account prior performance evaluation  
20 ratings and may take into account other factors that relate  
21 to the school district's or program's educational  
22 objectives. An alternative definition for grouping 4 may  
23 not permit the inclusion of a teacher in the grouping with  
24 a Needs Improvement or Unsatisfactory performance  
25 evaluation rating on either of the teacher's last 2  
26 performance evaluation ratings.

1           (3) The joint committee may agree to including within  
2 the definition of a performance evaluation rating a  
3 performance evaluation rating administered by a school  
4 district or joint agreement other than the school district  
5 or joint agreement determining the sequence of dismissal.

6           (4) For each school district or joint agreement that  
7 administers performance evaluation ratings that are  
8 inconsistent with either of the rating category systems  
9 specified in subsection (d) of Section 24A-5 of this Code,  
10 the school district or joint agreement must consult with  
11 the joint committee on the basis for assigning a rating  
12 that complies with subsection (d) of Section 24A-5 of this  
13 Code to each performance evaluation rating that will be  
14 used in a sequence of dismissal.

15           (5) Upon request by a joint committee member submitted  
16 to the employing board by no later than 10 days after the  
17 distribution of the sequence of honorable dismissal list, a  
18 representative of the employing board shall, within 5 days  
19 after the request, provide to members of the joint  
20 committee a list showing the most recent and prior  
21 performance evaluation ratings of each teacher identified  
22 only by length of continuing service in the district or  
23 joint agreement and not by name. If, after review of this  
24 list, a member of the joint committee has a good faith  
25 belief that a disproportionate number of teachers with  
26 greater length of continuing service with the district or

1 joint agreement have received a recent performance  
2 evaluation rating lower than the prior rating, the member  
3 may request that the joint committee review the list to  
4 assess whether such a trend may exist. Following the joint  
5 committee's review, but by no later than the end of the  
6 applicable school term, the joint committee or any member  
7 or members of the joint committee may submit a report of  
8 the review to the employing board and exclusive bargaining  
9 representative, if any. Nothing in this paragraph (5) shall  
10 impact the order of honorable dismissal or a school  
11 district's or joint agreement's authority to carry out a  
12 dismissal in accordance with subsection (b) of this  
13 Section.

14 Agreement by the joint committee as to a matter requires  
15 the majority vote of all committee members, and if the joint  
16 committee does not reach agreement on a matter, then the  
17 otherwise applicable requirements of subsection (b) of this  
18 Section shall apply. Except as explicitly set forth in this  
19 subsection (c), a joint committee has no authority to agree to  
20 any further modifications to the requirements for honorable  
21 dismissals set forth in subsection (b) ~~(a)~~ of this Section. The  
22 joint committee must be established, and the first meeting of  
23 the joint committee each school year must occur on or before  
24 December 1, ~~2011 or 30 days after the effective date of this~~  
25 ~~amendatory Act of the 97th General Assembly, whichever is~~  
26 ~~later.~~



1           The joint committee must reach agreement on a matter on or  
2 before February 1 of a school year in order for the agreement  
3 of the joint committee to apply to the sequence of dismissal  
4 determined during that school year. Subject to the February 1  
5 deadline for agreements, the agreement of a joint committee on  
6 a matter shall apply to the sequence of dismissal until the  
7 agreement is amended or terminated by the joint committee.

8           (d) Notwithstanding anything to the contrary in this  
9 subsection (d), the requirements and dismissal procedures of  
10 Section 24-16.5 of this Code shall apply to any dismissal  
11 sought under Section 24-16.5 of this Code.

12           (1) If a dismissal of a teacher in contractual  
13 continued service is sought for any reason or cause other  
14 than an honorable dismissal under subsections (a) or (b) of  
15 this Section or a dismissal sought under Section 24-16.5 of  
16 this Code, including those under Section 10-22.4, the board  
17 must first approve a motion containing specific charges by  
18 a majority vote of all its members. Written notice of such  
19 charges, including a bill of particulars and the teacher's  
20 right to request a hearing, must be mailed to the teacher  
21 and also given to the teacher either by certified mail,  
22 return receipt requested, or personal delivery with  
23 receipt within 5 days of the adoption of the motion. Any  
24 written notice sent on or after July 1, 2012 shall inform  
25 the teacher of the right to request a hearing before a  
26 mutually selected hearing officer, with the cost of the

1 hearing officer split equally between the teacher and the  
2 board, or a hearing before a board-selected hearing  
3 officer, with the cost of the hearing officer paid by the  
4 board.

5 Before setting a hearing on charges stemming from  
6 causes that are considered remediable, a board must give  
7 the teacher reasonable warning in writing, stating  
8 specifically the causes that, if not removed, may result in  
9 charges; however, no such written warning is required if  
10 the causes have been the subject of a remediation plan  
11 pursuant to Article 24A of this Code.

12 If, in the opinion of the board, the interests of the  
13 school require it, the board may suspend the teacher  
14 without pay, pending the hearing, but if the board's  
15 dismissal or removal is not sustained, the teacher shall  
16 not suffer the loss of any salary or benefits by reason of  
17 the suspension.

18 (2) No hearing upon the charges is required unless the  
19 teacher within 17 days after receiving notice requests in  
20 writing of the board that a hearing be scheduled before a  
21 mutually selected hearing officer or a hearing officer  
22 selected by the board. The secretary of the school board  
23 shall forward a copy of the notice to the State Board of  
24 Education.

25 (3) Within 5 business days after receiving a notice of  
26 hearing in which either notice to the teacher was sent

1 before July 1, 2012 or, if the notice was sent on or after  
2 July 1, 2012, the teacher has requested a hearing before a  
3 mutually selected hearing officer, the State Board of  
4 Education shall provide a list of 5 prospective, impartial  
5 hearing officers from the master list of qualified,  
6 impartial hearing officers maintained by the State Board of  
7 Education. Each person on the master list must (i) be  
8 accredited by a national arbitration organization and have  
9 had a minimum of 5 years of experience directly related to  
10 labor and employment relations matters between employers  
11 and employees or their exclusive bargaining  
12 representatives and (ii) beginning September 1, 2012, have  
13 participated in training provided or approved by the State  
14 Board of Education for teacher dismissal hearing officers  
15 so that he or she is familiar with issues generally  
16 involved in evaluative and non-evaluative dismissals.

17 If notice to the teacher was sent before July 1, 2012  
18 or, if the notice was sent on or after July 1, 2012, the  
19 teacher has requested a hearing before a mutually selected  
20 hearing officer, the board and the teacher or their legal  
21 representatives within 3 business days shall alternately  
22 strike one name from the list provided by the State Board  
23 of Education until only one name remains. Unless waived by  
24 the teacher, the teacher shall have the right to proceed  
25 first with the striking. Within 3 business days of receipt  
26 of the list provided by the State Board of Education, the

1 board and the teacher or their legal representatives shall  
2 each have the right to reject all prospective hearing  
3 officers named on the list and notify the State Board of  
4 Education of such rejection. Within 3 business days after  
5 receiving this notification, the State Board of Education  
6 shall appoint a qualified person from the master list who  
7 did not appear on the list sent to the parties to serve as  
8 the hearing officer, unless the parties notify it that they  
9 have chosen to alternatively select a hearing officer under  
10 paragraph (4) of this subsection (d).

11 If the teacher has requested a hearing before a hearing  
12 officer selected by the board, the board shall select one  
13 name from the master list of qualified impartial hearing  
14 officers maintained by the State Board of Education within  
15 3 business days after receipt and shall notify the State  
16 Board of Education of its selection.

17 A hearing officer mutually selected by the parties,  
18 selected by the board, or selected through an alternative  
19 selection process under paragraph (4) of this subsection  
20 (d) (A) must not be a resident of the school district, (B)  
21 must be available to commence the hearing within 75 days  
22 and conclude the hearing within 120 days after being  
23 selected as the hearing officer, and (C) must issue a  
24 decision as to whether the teacher must be dismissed and  
25 give a copy of that decision to both the teacher and the  
26 board within 30 days from the conclusion of the hearing or

1 closure of the record, whichever is later.

2 (4) In the alternative to selecting a hearing officer  
3 from the list received from the State Board of Education or  
4 accepting the appointment of a hearing officer by the State  
5 Board of Education or if the State Board of Education  
6 cannot provide a list or appoint a hearing officer that  
7 meets the foregoing requirements, the board and the teacher  
8 or their legal representatives may mutually agree to select  
9 an impartial hearing officer who is not on the master list  
10 either by direct appointment by the parties or by using  
11 procedures for the appointment of an arbitrator  
12 established by the Federal Mediation and Conciliation  
13 Service or the American Arbitration Association. The  
14 parties shall notify the State Board of Education of their  
15 intent to select a hearing officer using an alternative  
16 procedure within 3 business days of receipt of a list of  
17 prospective hearing officers provided by the State Board of  
18 Education, notice of appointment of a hearing officer by  
19 the State Board of Education, or receipt of notice from the  
20 State Board of Education that it cannot provide a list that  
21 meets the foregoing requirements, whichever is later.

22 (5) If the notice of dismissal was sent to the teacher  
23 before July 1, 2012, the fees and costs for the hearing  
24 officer must be paid by the State Board of Education. If  
25 the notice of dismissal was sent to the teacher on or after  
26 July 1, 2012, the hearing officer's fees and costs must be

1       paid as follows in this paragraph (5). The fees and  
2       permissible costs for the hearing officer must be  
3       determined by the State Board of Education. If the board  
4       and the teacher or their legal representatives mutually  
5       agree to select an impartial hearing officer who is not on  
6       a list received from the State Board of Education, they may  
7       agree to supplement the fees determined by the State Board  
8       to the hearing officer, at a rate consistent with the  
9       hearing officer's published professional fees. If the  
10      hearing officer is mutually selected by the parties, then  
11      the board and the teacher or their legal representatives  
12      shall each pay 50% of the fees and costs and any  
13      supplemental allowance to which they agree. If the hearing  
14      officer is selected by the board, then the board shall pay  
15      100% of the hearing officer's fees and costs. The fees and  
16      costs must be paid to the hearing officer within 14 days  
17      after the board and the teacher or their legal  
18      representatives receive the hearing officer's decision set  
19      forth in paragraph (7) of this subsection (d).

20           (6) The teacher is required to answer the bill of  
21      particulars and aver affirmative matters in his or her  
22      defense, and the time for initially doing so and the time  
23      for updating such answer and defenses after pre-hearing  
24      discovery must be set by the hearing officer. The State  
25      Board of Education shall promulgate rules so that each  
26      party has a fair opportunity to present its case and to

1 ensure that the dismissal process proceeds in a fair and  
2 expeditious manner. These rules shall address, without  
3 limitation, discovery and hearing scheduling conferences;  
4 the teacher's initial answer and affirmative defenses to  
5 the bill of particulars and the updating of that  
6 information after pre-hearing discovery; provision for  
7 written interrogatories and requests for production of  
8 documents; the requirement that each party initially  
9 disclose to the other party and then update the disclosure  
10 no later than 10 calendar days prior to the commencement of  
11 the hearing, the names and addresses of persons who may be  
12 called as witnesses at the hearing, a summary of the facts  
13 or opinions each witness will testify to, and all other  
14 documents and materials, including information maintained  
15 electronically, relevant to its own as well as the other  
16 party's case (the hearing officer may exclude witnesses and  
17 exhibits not identified and shared, except those offered in  
18 rebuttal for which the party could not reasonably have  
19 anticipated prior to the hearing); pre-hearing discovery  
20 and preparation, including provision for written  
21 interrogatories and requests for production of documents,  
22 provided that discovery depositions are prohibited; the  
23 conduct of the hearing; the right of each party to be  
24 represented by counsel, the offer of evidence and witnesses  
25 and the cross-examination of witnesses; the authority of  
26 the hearing officer to issue subpoenas and subpoenas duces

1       tecum, provided that the hearing officer may limit the  
2       number of witnesses to be subpoenaed on behalf of each  
3       party to no more than 7; the length of post-hearing briefs;  
4       and the form, length, and content of hearing officers'  
5       decisions. The hearing officer shall hold a hearing and  
6       render a final decision for dismissal pursuant to Article  
7       24A of this Code or shall report to the school board  
8       findings of fact and a recommendation as to whether or not  
9       the teacher must be dismissed for conduct. The hearing  
10      officer shall commence the hearing within 75 days and  
11      conclude the hearing within 120 days after being selected  
12      as the hearing officer, provided that the hearing officer  
13      may modify these timelines upon the showing of good cause  
14      or mutual agreement of the parties. Good cause for the  
15      purpose of this subsection (d) shall mean the illness or  
16      otherwise unavoidable emergency of the teacher, district  
17      representative, their legal representatives, the hearing  
18      officer, or an essential witness as indicated in each  
19      party's pre-hearing submission. In a dismissal hearing  
20      pursuant to Article 24A of this Code, the hearing officer  
21      shall consider and give weight to all of the teacher's  
22      evaluations written pursuant to Article 24A that are  
23      relevant to the issues in the hearing.

24           Each party shall have no more than 3 days to present  
25      its case, unless extended by the hearing officer to enable  
26      a party to present adequate evidence and testimony,



1 including due to the other party's cross-examination of the  
2 party's witnesses, for good cause or by mutual agreement of  
3 the parties. The State Board of Education shall define in  
4 rules the meaning of "day" for such purposes. All testimony  
5 at the hearing shall be taken under oath administered by  
6 the hearing officer. The hearing officer shall cause a  
7 record of the proceedings to be kept and shall employ a  
8 competent reporter to take stenographic or stenotype notes  
9 of all the testimony. The costs of the reporter's  
10 attendance and services at the hearing shall be paid by the  
11 party or parties who are responsible for paying the fees  
12 and costs of the hearing officer. Either party desiring a  
13 transcript of the hearing shall pay for the cost thereof.  
14 Any post-hearing briefs must be submitted by the parties by  
15 no later than 21 days after a party's receipt of the  
16 transcript of the hearing, unless extended by the hearing  
17 officer for good cause or by mutual agreement of the  
18 parties.

19 (7) The hearing officer shall, within 30 days from the  
20 conclusion of the hearing or closure of the record,  
21 whichever is later, make a decision as to whether or not  
22 the teacher shall be dismissed pursuant to Article 24A of  
23 this Code or report to the school board findings of fact  
24 and a recommendation as to whether or not the teacher shall  
25 be dismissed for cause and shall give a copy of the  
26 decision or findings of fact and recommendation to both the

1 teacher and the school board. If a hearing officer fails  
2 without good cause, specifically provided in writing to  
3 both parties and the State Board of Education, to render a  
4 decision or findings of fact and recommendation within 30  
5 days after the hearing is concluded or the record is  
6 closed, whichever is later, the parties may mutually agree  
7 to select a hearing officer pursuant to the alternative  
8 procedure, as provided in this Section, to rehear the  
9 charges heard by the hearing officer who failed to render a  
10 decision or findings of fact and recommendation or to  
11 review the record and render a decision. If any hearing  
12 officer fails without good cause, specifically provided in  
13 writing to both parties and the State Board of Education,  
14 to render a decision or findings of fact and recommendation  
15 within 30 days after the hearing is concluded or the record  
16 is closed, whichever is later, the hearing officer shall be  
17 removed from the master list of hearing officers maintained  
18 by the State Board of Education for not more than 24  
19 months. The parties and the State Board of Education may  
20 also take such other actions as it deems appropriate,  
21 including recovering, reducing, or withholding any fees  
22 paid or to be paid to the hearing officer. If any hearing  
23 officer repeats such failure, he or she must be permanently  
24 removed from the master list maintained by the State Board  
25 of Education and may not be selected by parties through the  
26 alternative selection process under this paragraph (7) or

1 paragraph (4) of this subsection (d). The board shall not  
2 lose jurisdiction to discharge a teacher if the hearing  
3 officer fails to render a decision or findings of fact and  
4 recommendation within the time specified in this Section.  
5 If the decision of the hearing officer for dismissal  
6 pursuant to Article 24A of this Code or of the school board  
7 for dismissal for cause is in favor of the teacher, then  
8 the hearing officer or school board shall order  
9 reinstatement to the same or substantially equivalent  
10 position and shall determine the amount for which the  
11 school board is liable, including, but not limited to, loss  
12 of income and benefits.

13 (8) The school board, within 45 days after receipt of  
14 the hearing officer's findings of fact and recommendation  
15 as to whether (i) the conduct at issue occurred, (ii) the  
16 conduct that did occur was remediable, and (iii) the  
17 proposed dismissal should be sustained, shall issue a  
18 written order as to whether the teacher must be retained or  
19 dismissed for cause from its employ. The school board's  
20 written order shall incorporate the hearing officer's  
21 findings of fact, except that the school board may modify  
22 or supplement the findings of fact if, in its opinion, the  
23 findings of fact are against the manifest weight of the  
24 evidence.

25 If the school board dismisses the teacher  
26 notwithstanding the hearing officer's findings of fact and

1 recommendation, the school board shall make a conclusion in  
2 its written order, giving its reasons therefor, and such  
3 conclusion and reasons must be included in its written  
4 order. The failure of the school board to strictly adhere  
5 to the timelines contained in this Section shall not render  
6 it without jurisdiction to dismiss the teacher. The school  
7 board shall not lose jurisdiction to discharge the teacher  
8 for cause if the hearing officer fails to render a  
9 recommendation within the time specified in this Section.  
10 The decision of the school board is final, unless reviewed  
11 as provided in paragraph (9) of this subsection (d).

12 If the school board retains the teacher, the school  
13 board shall enter a written order stating the amount of  
14 back pay and lost benefits, less mitigation, to be paid to  
15 the teacher, within 45 days after its retention order.  
16 Should the teacher object to the amount of the back pay and  
17 lost benefits or amount mitigated, the teacher shall give  
18 written objections to the amount within 21 days. If the  
19 parties fail to reach resolution within 7 days, the dispute  
20 shall be referred to the hearing officer, who shall  
21 consider the school board's written order and teacher's  
22 written objection and determine the amount to which the  
23 school board is liable. The costs of the hearing officer's  
24 review and determination must be paid by the board.

25 (9) The decision of the hearing officer pursuant to  
26 Article 24A of this Code or of the school board's decision

1 to dismiss for cause is final unless reviewed as provided  
2 in Section 24-16 of this Act. If the school board's  
3 decision to dismiss for cause is contrary to the hearing  
4 officer's recommendation, the court on review shall give  
5 consideration to the school board's decision and its  
6 supplemental findings of fact, if applicable, and the  
7 hearing officer's findings of fact and recommendation in  
8 making its decision. In the event such review is  
9 instituted, the school board shall be responsible for  
10 preparing and filing the record of proceedings, and such  
11 costs associated therewith must be divided equally between  
12 the parties.

13 (10) If a decision of the hearing officer for dismissal  
14 pursuant to Article 24A of this Code or of the school board  
15 for dismissal for cause is adjudicated upon review or  
16 appeal in favor of the teacher, then the trial court shall  
17 order reinstatement and shall remand the matter to the  
18 school board with direction for entry of an order setting  
19 the amount of back pay, lost benefits, and costs, less  
20 mitigation. The teacher may challenge the school board's  
21 order setting the amount of back pay, lost benefits, and  
22 costs, less mitigation, through an expedited arbitration  
23 procedure, with the costs of the arbitrator borne by the  
24 school board.

25 Any teacher who is reinstated by any hearing or  
26 adjudication brought under this Section shall be assigned

1 by the board to a position substantially similar to the one  
2 which that teacher held prior to that teacher's suspension  
3 or dismissal.

4 (11) Subject to any later effective date referenced in  
5 this Section for a specific aspect of the dismissal  
6 process, the ~~The~~ changes made by this amendatory Act of the  
7 97th General Assembly shall apply to dismissals instituted  
8 on or after September 1, 2011 ~~or the effective date of this~~  
9 ~~amendatory Act of the 97th General Assembly, whichever is~~  
10 ~~later~~. Any dismissal instituted prior to September 1, 2011  
11 ~~the effective date of these changes~~ must be carried out in  
12 accordance with the requirements of this Section prior to  
13 amendment by this amendatory Act of 97th General Assembly.

14 (Source: P.A. 97-8, eff. 6-13-11.)

15 (105 ILCS 5/24-16.5)

16 Sec. 24-16.5. Optional alternative evaluative dismissal  
17 process for PERA evaluations.

18 (a) As used in this Section:

19 "Applicable hearing requirements" means (i)~~7~~ for any  
20 school district having less than 500,000 inhabitants or a  
21 program of a special education joint agreement, those  
22 procedures and requirements relating to a teacher's request for  
23 a hearing, selection of a hearing officer, pre-hearing and  
24 hearing procedures, and post-hearing briefs set forth in  
25 paragraphs (1) through (6) of subsection (d) of Section 24-12

1 of this Code or (ii) for a school district having 500,000  
2 inhabitants or more, those procedures and requirements  
3 relating to a teacher's request for a hearing, selection of a  
4 hearing officer, pre-hearing and hearing procedures, and  
5 post-hearing briefs set forth in paragraphs (1) through (5) of  
6 subsection (a) of Section 34-85 of this Code.

7 "Board" means, for a school district having less than  
8 500,000 inhabitants or a program of a special education joint  
9 agreement, the board of directors, board of education, or board  
10 of school inspectors, as the case may be. For a school district  
11 having 500,000 inhabitants or more, "board" means the Chicago  
12 Board of Education.

13 "Evaluator" means an evaluator, as defined in Section  
14 24A-2.5 of this Code, who has successfully completed the  
15 pre-qualification program described in subsection (b) of  
16 Section 24A-3 of this Code.

17 ~~"Hearing procedures" means, for a school district having~~  
18 ~~500,000 inhabitants or more, those procedures and requirements~~  
19 ~~relating to a teacher's request for a hearing, selection of a~~  
20 ~~hearing officer, pre hearing and hearing procedures, and~~  
21 ~~post-hearing briefs set forth in paragraphs (1) through (5) of~~  
22 ~~subsection (a) of Section 34-85 of this Code.~~

23 "PERA-trained board member" means a member of a board that  
24 has completed a training program on PERA evaluations either  
25 administered or approved by the State Board of Education.

26 "PERA evaluation" means a performance evaluation of a

1 teacher after the implementation date of an evaluation system  
2 for teachers, as specified by Section 24A-2.5 of this Code,  
3 using a performance evaluation instrument and process that  
4 meets the minimum requirements for teacher evaluation  
5 instruments and processes set forth in rules adopted by the  
6 State Board of Education to implement Public Act 96-861.

7 "Remediation" means the remediation plan, mid-point and  
8 final evaluations, and related processes and requirements set  
9 forth in subdivisions (i), (j), and (k) of Section 24A-5 of  
10 this Code.

11 "School district" means a school district or a program of a  
12 special education joint agreement.

13 "Second evaluator" means an evaluator who either conducts  
14 the mid-point and final remediation evaluation or conducts an  
15 independent assessment of whether the teacher completed the  
16 remediation plan with a rating equal to or better than a  
17 "Proficient" rating, all in accordance with subdivision (c) of  
18 this Section.

19 "Student growth components" means the components of a  
20 performance evaluation plan described in subdivision (c) of  
21 Section 24A-5 of this Code, as may be supplemented by  
22 administrative rules adopted by the State Board of Education.

23 "Teacher practice components" means the components of a  
24 performance evaluation plan described in subdivisions (a) and  
25 (b) of Section 24A-5 of this Code, as may be supplemented by  
26 administrative rules adopted by the State Board of Education.



1 "Teacher representatives" means the exclusive bargaining  
2 representative of a school district's teachers or, if no  
3 exclusive bargaining representatives exists, a representative  
4 committee selected by teachers.

5 (b) This Section applies to all school districts, including  
6 those having 500,000 or more inhabitants. The optional  
7 dismissal process set forth in this Section is an alternative  
8 to those set forth in Sections 24-12 and 34-85 of this Code.  
9 Nothing in this Section is intended to change the existing  
10 practices or precedents under Section 24-12 or 34-85 of this  
11 Code, nor shall this Section be interpreted as implying  
12 standards and procedures that should or must be used as part of  
13 a remediation that precedes a dismissal sought under Section  
14 24-12 or 34-85 of this Code.

15 A board may dismiss a teacher who has entered upon  
16 contractual continued service under this Section if the  
17 following are met:

18 (1) the cause of dismissal is that the teacher has  
19 failed to complete a remediation plan with a rating equal  
20 to or better than a "Proficient" rating;

21 (2) the "Unsatisfactory" performance evaluation rating  
22 that preceded remediation resulted from a PERA evaluation;  
23 and

24 (3) the school district has complied with subsection  
25 (c) of this Section.

26 A school district may not, through agreement with a teacher

1 or its teacher representatives, waive its right to dismiss a  
2 teacher under this Section.

3 (c) Each school district electing to use the dismissal  
4 process set forth in this Section must comply with the  
5 pre-remediation and remediation activities and requirements  
6 set forth in this subsection (c).

7 (1) Before a school district's first remediation  
8 relating to a dismissal under this Section, the school  
9 district must create and establish a list of at least 2  
10 evaluators who will be available to serve as second  
11 evaluators under this Section. The school district shall  
12 provide its teacher representatives with an opportunity to  
13 submit additional names of teacher evaluators who will be  
14 available to serve as second evaluators and who will be  
15 added to the list created and established by the school  
16 district, provided that, unless otherwise agreed to by the  
17 school district, the teacher representatives may not  
18 submit more teacher evaluators for inclusion on the list  
19 than the number of evaluators submitted by the school  
20 district. Each teacher evaluator must either have (i)  
21 National Board of Professional Teaching Standards  
22 certification, with no "Unsatisfactory" or "Needs  
23 Improvement" performance evaluating ratings in his or her 2  
24 most recent performance evaluation ratings; or (ii)  
25 "Excellent" performance evaluation ratings in 2 of his or  
26 her 3 most recent performance evaluations, with no "Needs

1 Improvement" or "Unsatisfactory" performance evaluation  
2 ratings in his or her last 3 ratings. If the teacher  
3 representatives do not submit a list of teacher evaluators  
4 within 21 days after the school district's request, the  
5 school district may proceed with a remediation using a list  
6 that includes only the school district's selections.  
7 Either the school district or the teacher representatives  
8 may revise or add to their selections for the list at any  
9 time with notice to the other party, subject to the  
10 limitations set forth in this paragraph (1).

11 (2) Before a school district's first remediation  
12 relating to a dismissal under this Section, the school  
13 district shall, in good faith cooperation with its teacher  
14 representatives, establish a process for the selection of a  
15 second evaluator from the list created pursuant to  
16 paragraph (1) of this subsection (c). Such process may be  
17 amended at any time in good faith cooperation with the  
18 teacher representatives. If the teacher representatives  
19 are given an opportunity to cooperate with the school  
20 district and elect not to do so, the school district may,  
21 at its discretion, establish or amend the process for  
22 selection. Before the hearing officer and as part of any  
23 judicial review of a dismissal under this Section, a  
24 teacher may not challenge a remediation or dismissal on the  
25 grounds that the process used by the school district to  
26 select a second evaluator was not established in good faith

1 cooperation with its teacher representatives.

2 (3) For each remediation preceding a dismissal under  
3 this Section, the school district shall select a second  
4 evaluator from the list of second evaluators created  
5 pursuant to paragraph (1) of this subsection (c), using the  
6 selection process established pursuant to paragraph (2) of  
7 this subsection (c). The selected second evaluator may not  
8 be the same individual who determined the teacher's  
9 "Unsatisfactory" performance evaluation rating preceding  
10 remediation, and, if the second evaluator is an  
11 administrator, may not be a direct report to the individual  
12 who determined the teacher's "Unsatisfactory" performance  
13 evaluation rating preceding remediation. The school  
14 district's authority to select a second evaluator from the  
15 list of second evaluators must not be delegated or limited  
16 through any agreement with the teacher representatives,  
17 provided that nothing shall prohibit a school district and  
18 its teacher representatives from agreeing to a formal peer  
19 evaluation process as permitted under Article 24A of this  
20 Code that could be used to meet the requirements for the  
21 selection of second evaluators under this subsection (c).

22 (4) The second evaluator selected pursuant to  
23 paragraph (3) of this subsection (c) must either (i)  
24 conduct the mid-point and final evaluation during  
25 remediation or (ii) conduct an independent assessment of  
26 whether the teacher completed the remediation plan with a

1 rating equal to or better than a "Proficient" rating, which  
2 independent assessment shall include, but is not limited  
3 to, personal or video-recorded observations of the teacher  
4 that relate to the teacher practice components of the  
5 remediation plan. Nothing in this subsection (c) shall be  
6 construed to limit or preclude the participation of the  
7 evaluator who rated a teacher as "Unsatisfactory" in  
8 remediation.

9 (d) To institute a dismissal proceeding under this Section,  
10 the board must first provide written notice to the teacher  
11 within 30 days after the completion of the final remediation  
12 evaluation. The notice shall comply with the applicable hearing  
13 requirements and, in addition, must specify that dismissal is  
14 sought under this Section and include a copy of each  
15 performance evaluation relating to the scope of the hearing as  
16 described in this subsection (d).

17 The applicable hearing requirements shall apply to the  
18 teacher's request for a hearing, the selection and  
19 qualifications of the hearing officer, and pre-hearing and  
20 hearing procedures, except that all of the following must be  
21 met:

22 (1) The hearing officer must, in addition to meeting  
23 the qualifications set forth in the applicable hearing  
24 requirements, have successfully completed the  
25 pre-qualification program described in subsection (b) of  
26 Section 24A-3 of this Code, unless the State Board of

1 Education waives this requirement to provide an adequate  
2 pool of hearing officers for consideration.

3 (2) The scope of the hearing must be limited as  
4 follows:

5 (A) The school district must demonstrate the  
6 following:

7 (i) that the "Unsatisfactory" performance  
8 evaluation rating that preceded remediation  
9 applied the teacher practice components and  
10 student growth components and determined an  
11 overall evaluation rating of "Unsatisfactory" in  
12 accordance with the standards and requirements of  
13 the school district's evaluation plan;

14 (ii) that the remediation plan complied with  
15 the requirements of Section 24A-5 of this Code;

16 (iii) that the teacher failed to complete the  
17 remediation plan with a performance evaluation  
18 rating equal to or better than a "Proficient"  
19 rating, based upon a final remediation evaluation  
20 meeting the applicable standards and requirements  
21 of the school district's evaluation plan; and

22 (iv) that if the second evaluator selected  
23 pursuant to paragraph (3) of subsection (c) of this  
24 Section does not conduct the mid-point and final  
25 evaluation and makes an independent assessment  
26 that the teacher completed the remediation plan

1 with a rating equal to or better than a  
2 "Proficient" rating, the school district must  
3 demonstrate that the final remediation evaluation  
4 is a more valid assessment of the teacher's  
5 performance than the assessment made by the second  
6 evaluator.

7 (B) The teacher may only challenge the substantive  
8 and procedural aspects of (i) the "Unsatisfactory"  
9 performance evaluation rating that led to the  
10 remediation, (ii) the remediation plan, and (iii) the  
11 final remediation evaluation. To the extent the  
12 teacher challenges procedural aspects, including any  
13 in applicable collective bargaining agreement  
14 provisions, of a relevant performance evaluation  
15 rating or the remediation plan, the teacher must  
16 demonstrate how an alleged procedural defect  
17 materially affected the teacher's ability to  
18 demonstrate a level of performance necessary to avoid  
19 remediation or dismissal or successfully complete the  
20 remediation plan. Without any such material effect, a  
21 procedural defect shall not impact the assessment by  
22 the hearing officer, board, or reviewing court of the  
23 validity of a performance evaluation or a remediation  
24 plan.

25 (C) The hearing officer shall only consider and  
26 give weight to performance evaluations relevant to the

1           scope of the hearing as described in clauses (A) and  
2           (B) of this subdivision (2).

3           (3) Each party shall be given only 2 days to present  
4           evidence and testimony relating to the scope of the  
5           hearing, unless a longer period is mutually agreed to by  
6           the parties or deemed necessary by the hearing officer to  
7           enable a party to present adequate evidence and testimony  
8           to address the scope of the hearing, including due to the  
9           other party's cross-examination of the party's witnesses.

10          (e) The provisions of Sections 24-12 and 34-85 pertaining  
11          to the decision or recommendation of the hearing officer do not  
12          apply to dismissal proceedings under this Section. For any  
13          dismissal proceedings under this Section, the hearing officer  
14          shall not issue a decision, and shall issue only findings of  
15          fact and a recommendation, including the reasons therefor, to  
16          the board to either retain or dismiss the teacher and shall  
17          give a copy of the report to both the teacher and the  
18          superintendent of the school district. The hearing officer's  
19          findings of fact and recommendation must be issued within 30  
20          days from the close of the record of the hearing.

21          The State Board of Education shall adopt rules regarding  
22          the length of the hearing officer's findings of fact and  
23          recommendation. If a hearing officer fails without good cause,  
24          specifically provided in writing to both parties and the State  
25          Board of Education, to render a recommendation within 30 days  
26          after the hearing is concluded or the record is closed,



1       whichever is later, the parties may mutually agree to select a  
2       hearing officer pursuant to the alternative procedure, as  
3       provided in Section 24-12 or 34-85, to rehear the charges heard  
4       by the hearing officer who failed to render a recommendation or  
5       to review the record and render a recommendation. If any  
6       hearing officer fails without good cause, specifically  
7       provided in writing to both parties and the State Board of  
8       Education, to render a recommendation within 30 days after the  
9       hearing is concluded or the record is closed, whichever is  
10      later, the hearing officer shall be removed from the master  
11      list of hearing officers maintained by the State Board of  
12      Education for not more than 24 months. The parties and the  
13      State Board of Education may also take such other actions as it  
14      deems appropriate, including recovering, reducing, or  
15      withholding any fees paid or to be paid to the hearing officer.  
16      If any hearing officer repeats such failure, he or she shall be  
17      permanently removed from the master list of hearing officers  
18      maintained by the State Board of Education.

19           (f) The board, within 45 days after receipt of the hearing  
20      officer's findings of fact and recommendation, shall decide,  
21      through adoption of a written order, whether the teacher must  
22      be dismissed from its employ or retained, provided that only  
23      PERA-trained board members may participate in the vote with  
24      respect to the decision.

25           If the board dismisses the teacher notwithstanding the  
26      hearing officer's recommendation of retention, the board shall

1 make a conclusion, giving its reasons therefor, and such  
2 conclusion and reasons must be included in its written order.  
3 The failure of the board to strictly adhere to the timelines  
4 contained in this Section does not render it without  
5 jurisdiction to dismiss the teacher. The board shall not lose  
6 jurisdiction to discharge the teacher if the hearing officer  
7 fails to render a recommendation within the time specified in  
8 this Section. The decision of the board is final, unless  
9 reviewed as provided in subsection (g) of this Section.

10 If the board retains the teacher, the board shall enter a  
11 written order stating the amount of back pay and lost benefits,  
12 less mitigation, to be paid to the teacher, within 45 days of  
13 its retention order.

14 (g) A teacher dismissed under this Section may apply for  
15 and obtain judicial review of a decision of the board in  
16 accordance with the provisions of the Administrative Review  
17 Law, except as follows:

18 (1) for a teacher dismissed by a school district having  
19 500,000 inhabitants or more, such judicial review must be  
20 taken directly to the appellate court of the judicial  
21 district in which the board maintains its primary  
22 administrative office, and any direct appeal to the  
23 appellate court must be filed within 35 days from the date  
24 that a copy of the decision sought to be reviewed was  
25 served upon the teacher;

26 (2) for a teacher dismissed by a school district having

1 less than 500,000 inhabitants after the hearing officer  
2 recommended dismissal, such judicial review must be taken  
3 directly to the appellate court of the judicial district in  
4 which the board maintains its primary administrative  
5 office, and any direct appeal to the appellate court must  
6 be filed within 35 days from the date that a copy of the  
7 decision sought to be reviewed was served upon the teacher;  
8 and

9 (3) for all school districts, if the hearing officer  
10 recommended dismissal, the decision of the board may be  
11 reversed only if it is found to be arbitrary, capricious,  
12 an abuse of discretion, or not in accordance with law.

13 In the event judicial review is instituted by a teacher,  
14 any costs of preparing and filing the record of proceedings  
15 must be paid by the teacher. If a decision of the board is  
16 adjudicated upon judicial review in favor of the teacher, then  
17 the court shall remand the matter to the board with direction  
18 for entry of an order setting the amount of back pay, lost  
19 benefits, and costs, less mitigation. The teacher may challenge  
20 the board's order setting the amount of back pay, lost  
21 benefits, and costs, less mitigation, through an expedited  
22 arbitration procedure with the costs of the arbitrator borne by  
23 the board.

24 (Source: P.A. 97-8, eff. 6-13-11.)

25 Section 10. The Illinois Educational Labor Relations Act is

1 amended by changing Sections 12 and 13 as follows:

2 (115 ILCS 5/12) (from Ch. 48, par. 1712)

3 Sec. 12. Impasse procedures.

4 (a) This subsection (a) applies only to collective  
5 bargaining between an educational employer that is not a public  
6 school district organized under Article 34 of the School Code  
7 and an exclusive representative of its employees. If the  
8 parties engaged in collective bargaining have not reached an  
9 agreement by 90 days before the scheduled start of the  
10 forthcoming school year, the parties shall notify the Illinois  
11 Educational Labor Relations Board concerning the status of  
12 negotiations. This notice shall include a statement on whether  
13 mediation has been used.

14 Upon demand of either party, collective bargaining between  
15 the employer and an exclusive bargaining representative must  
16 begin within 60 days of the date of certification of the  
17 representative by the Board, or in the case of an existing  
18 exclusive bargaining representative, within 60 days of the  
19 receipt by a party of a demand to bargain issued by the other  
20 party. Once commenced, collective bargaining must continue for  
21 at least a 60 day period, unless a contract is entered into.

22 Except as otherwise provided in subsection (b) of this  
23 Section, if after a reasonable period of negotiation and within  
24 90 days of the scheduled start of the forth-coming school year,  
25 the parties engaged in collective bargaining have reached an

1 impasse, either party may petition the Board to initiate  
2 mediation. Alternatively, the Board on its own motion may  
3 initiate mediation during this period. However, mediation  
4 shall be initiated by the Board at any time when jointly  
5 requested by the parties and the services of the mediators  
6 shall continuously be made available to the employer and to the  
7 exclusive bargaining representative for purposes of  
8 arbitration of grievances and mediation or arbitration of  
9 contract disputes. If requested by the parties, the mediator  
10 may perform fact-finding and in so doing conduct hearings and  
11 make written findings and recommendations for resolution of the  
12 dispute. Such mediation shall be provided by the Board and  
13 shall be held before qualified impartial individuals. Nothing  
14 prohibits the use of other individuals or organizations such as  
15 the Federal Mediation and Conciliation Service or the American  
16 Arbitration Association selected by both the exclusive  
17 bargaining representative and the employer.

18 If the parties engaged in collective bargaining fail to  
19 reach an agreement within 45 days of the scheduled start of the  
20 forthcoming school year and have not requested mediation, the  
21 Illinois Educational Labor Relations Board shall invoke  
22 mediation.

23 Whenever mediation is initiated or invoked under this  
24 subsection (a), the parties may stipulate to defer selection of  
25 a mediator in accordance with rules adopted by the Board.

26 (a-5) This subsection (a-5) applies only to collective

1 bargaining between a public school district or a combination of  
2 public school districts, including, but not limited to, joint  
3 cooperatives, that is not organized under Article 34 of the  
4 School Code and an exclusive representative of its employees.

5 (1) Any time 15 days after mediation has commenced,  
6 either party may initiate the public posting process  
7 ~~declare an impasse~~. The mediator may initiate the public  
8 posting process ~~declare an impasse~~ at any time 15 days  
9 after mediation has commenced during the mediation  
10 process. Initiation of the public posting process  
11 ~~Notification of an impasse~~ must be filed in writing with  
12 the Board, and copies ~~of the notification~~ must be submitted  
13 to the parties on the same day the initiation ~~notification~~  
14 is filed with the Board.

15 (2) Within 7 days after the initiation of the public  
16 posting process ~~declaration of impasse~~, each party shall  
17 submit to the mediator, the Board, and the other party in  
18 writing the most recent ~~final~~ offer of the party, including  
19 a cost summary of the offer. Seven days after receipt of  
20 the parties' ~~final~~ offers, the Board shall make public the  
21 ~~final~~ offers and each party's cost summary dealing with  
22 those issues on which the parties have failed to reach  
23 agreement by immediately posting the offers on its Internet  
24 website, unless otherwise notified by the mediator or  
25 jointly by the parties that agreement has been reached. On  
26 the same day of publication by the Board ~~mediator~~, at a

1 minimum, the school district shall distribute notice of the  
2 availability of the offers on the Board's Internet website  
3 to all news media that have filed an annual request for  
4 notices from the school district pursuant to Section 2.02  
5 of the Open Meetings Act. The parties' offers shall remain  
6 on the Board's Internet website until the parties have  
7 reached and ratified an agreement.

8 (a-10) This subsection (a-10) applies only to collective  
9 bargaining between a public school district organized under  
10 Article 34 of the School Code and an exclusive representative  
11 of its employees.

12 (1) For collective bargaining agreements between an  
13 educational employer to which this subsection (a-10)  
14 applies and an exclusive representative of its employees,  
15 if the parties fail to reach an agreement after a  
16 reasonable period of mediation, the dispute shall be  
17 submitted to fact-finding in accordance with this  
18 subsection (a-10). Either the educational employer or the  
19 exclusive representative may initiate fact-finding by  
20 submitting a written demand to the other party with a copy  
21 of the demand submitted simultaneously to the Board.

22 (2) Within 3 days following a party's demand for  
23 fact-finding, each party shall appoint one member of the  
24 fact-finding panel, unless the parties agree to proceed  
25 without a tri-partite panel. Following these appointments,  
26 if any, the parties shall select a qualified impartial

1 individual to serve as the fact-finder and chairperson of  
2 the fact-finding panel, if applicable. An individual shall  
3 be considered qualified to serve as the fact-finder and  
4 chairperson of the fact-finding panel, if applicable, if he  
5 or she was not the same individual who was appointed as the  
6 mediator and if he or she satisfies the following  
7 requirements: membership in good standing with the  
8 National Academy of Arbitrators, Federal Mediation and  
9 Conciliation Service, or American Arbitration Association  
10 for a minimum of 10 years; membership on the mediation  
11 roster for the Illinois Labor Relations Board or Illinois  
12 Educational Labor Relations Board; issuance of at least 5  
13 interest arbitration awards arising under the Illinois  
14 Public Labor Relations Act; and participation in impasse  
15 resolution processes arising under private or public  
16 sector collective bargaining statutes in other states. If  
17 the parties are unable to agree on a fact-finder, the  
18 parties shall request a panel of fact-finders who satisfy  
19 the requirements set forth in this paragraph (2) from  
20 either the Federal Mediation and Conciliation Service or  
21 the American Arbitration Association and shall select a  
22 fact-finder from such panel in accordance with the  
23 procedures established by the organization providing the  
24 panel.

25 (3) The fact-finder shall have the following duties and  
26 powers:



1 (A) to require the parties to submit a statement of  
2 disputed issues and their positions regarding each  
3 issue either jointly or separately;

4 (B) to identify disputed issues that are economic  
5 in nature;

6 (C) to meet with the parties either separately or  
7 in executive sessions;

8 (D) to conduct hearings and regulate the time,  
9 place, course, and manner of the hearings;

10 (E) to request the Board to issue subpoenas  
11 requiring the attendance and testimony of witnesses or  
12 the production of evidence;

13 (F) to administer oaths and affirmations;

14 (G) to examine witnesses and documents;

15 (H) to create a full and complete written record of  
16 the hearings;

17 (I) to attempt mediation or remand a disputed issue  
18 to the parties for further collective bargaining;

19 (J) to require the parties to submit final offers  
20 for each disputed issue either individually or as a  
21 package or as a combination of both; and

22 (K) to employ any other measures deemed  
23 appropriate to resolve the impasse.

24 (4) If the dispute is not settled within 75 days after  
25 the appointment of the fact-finding panel, the  
26 fact-finding panel shall issue a private report to the

1 parties that contains advisory findings of fact and  
2 recommended terms of settlement for all disputed issues and  
3 that sets forth a rationale for each recommendation. The  
4 fact-finding panel, acting by a majority of its members,  
5 shall base its findings and recommendations upon the  
6 following criteria as applicable:

7 (A) the lawful authority of the employer;

8 (B) the federal and State statutes or local  
9 ordinances and resolutions applicable to the employer;

10 (C) prior collective bargaining agreements and the  
11 bargaining history between the parties;

12 (D) stipulations of the parties;

13 (E) the interests and welfare of the public and the  
14 students and families served by the employer;

15 (F) the employer's financial ability to fund the  
16 proposals based on existing available resources,  
17 provided that such ability is not predicated on an  
18 assumption that lines of credit or reserve funds are  
19 available or that the employer may or will receive or  
20 develop new sources of revenue or increase existing  
21 sources of revenue;

22 (G) the impact of any economic adjustments on the  
23 employer's ability to pursue its educational mission;

24 (H) the present and future general economic  
25 conditions in the locality and State;

26 (I) a comparison of the wages, hours, and

1 conditions of employment of the employees involved in  
2 the dispute with the wages, hours, and conditions of  
3 employment of employees performing similar services in  
4 public education in the 10 largest U.S. cities;

5 (J) the average consumer prices in urban areas for  
6 goods and services, which is commonly known as the cost  
7 of living;

8 (K) the overall compensation presently received by  
9 the employees involved in the dispute, including  
10 direct wage compensation; vacations, holidays, and  
11 other excused time; insurance and pensions; medical  
12 and hospitalization benefits; the continuity and  
13 stability of employment and all other benefits  
14 received; and how each party's proposed compensation  
15 structure supports the educational goals of the  
16 district;

17 (L) changes in any of the circumstances listed in  
18 items (A) through (K) of this paragraph (4) during the  
19 fact-finding proceedings;

20 (M) the effect that any term the parties are at  
21 impasse on has or may have on the overall educational  
22 environment, learning conditions, and working  
23 conditions with the school district; and

24 (N) the effect that any term the parties are at  
25 impasse on has or may have in promoting the public  
26 policy of this State.

1           (5) The fact-finding panel's recommended terms of  
2 settlement shall be deemed agreed upon by the parties as  
3 the final resolution of the disputed issues and  
4 incorporated into the collective bargaining agreement  
5 executed by the parties, unless either party tenders to the  
6 other party and the chairperson of the fact-finding panel a  
7 notice of rejection of the recommended terms of settlement  
8 with a rationale for the rejection, within 15 days after  
9 the date of issuance of the fact-finding panel's report. If  
10 either party submits a notice of rejection, the chairperson  
11 of the fact-finding panel shall publish the fact-finding  
12 panel's report and the notice of rejection for public  
13 information by delivering a copy to all newspapers of  
14 general circulation in the community with simultaneous  
15 written notice to the parties.

16           (b) If, after a period of bargaining of at least 60 days, a  
17 dispute or impasse exists between an educational employer whose  
18 territorial boundaries are coterminous with those of a city  
19 having a population in excess of 500,000 and the exclusive  
20 bargaining representative over a subject or matter set forth in  
21 Section 4.5 of this Act, the parties shall submit the dispute  
22 or impasse to the dispute resolution procedure agreed to  
23 between the parties. The procedure shall provide for mediation  
24 of disputes by a rotating mediation panel and may, at the  
25 request of either party, include the issuance of advisory  
26 findings of fact and recommendations.

1 (c) The costs of fact finding and mediation shall be shared  
2 equally between the employer and the exclusive bargaining  
3 agent, provided that, for purposes of mediation under this Act,  
4 if either party requests the use of mediation services from the  
5 Federal Mediation and Conciliation Service, the other party  
6 shall either join in such request or bear the additional cost  
7 of mediation services from another source. All other costs and  
8 expenses of complying with this Section must be borne by the  
9 party incurring them.

10 (c-5) If an educational employer or exclusive bargaining  
11 representative refuses to participate in mediation or fact  
12 finding when required by this Section, the refusal shall be  
13 deemed a refusal to bargain in good faith.

14 (d) Nothing in this Act prevents an employer and an  
15 exclusive bargaining representative from mutually submitting  
16 to final and binding impartial arbitration unresolved issues  
17 concerning the terms of a new collective bargaining agreement.

18 (Source: P.A. 97-7, eff. 6-13-11; 97-8, eff. 6-13-11.)

19 (115 ILCS 5/13) (from Ch. 48, par. 1713)

20 Sec. 13. Strikes.

21 (a) Notwithstanding the existence of any other provision in  
22 this Act or other law, educational employees employed in school  
23 districts organized under Article 34 of the School Code shall  
24 not engage in a strike at any time during the 18 month period  
25 that commences on the effective date of this amendatory Act of

1 1995. An educational employee employed in a school district  
2 organized under Article 34 of the School Code who participates  
3 in a strike in violation of this Section is subject to  
4 discipline by the employer. In addition, no educational  
5 employer organized under Article 34 of the School Code may pay  
6 or cause to be paid to an educational employee who participates  
7 in a strike in violation of this subsection any wages or other  
8 compensation for any period during which an educational  
9 employee participates in the strike, except for wages or  
10 compensation earned before participation in the strike.  
11 Notwithstanding the existence of any other provision in this  
12 Act or other law, during the 18-month period that strikes are  
13 prohibited under this subsection nothing in this subsection  
14 shall be construed to require an educational employer to submit  
15 to a binding dispute resolution process.

16 (b) Notwithstanding the existence of any other provision in  
17 this Act or any other law, educational employees other than  
18 those employed in a school district organized under Article 34  
19 of the School Code and, after the expiration of the 18 month  
20 period that commences on the effective date of this amendatory  
21 Act of 1995, educational employees in a school district  
22 organized under Article 34 of the School Code shall not engage  
23 in a strike except under the following conditions:

24 (1) they are represented by an exclusive bargaining  
25 representative;

26 (2) mediation has been used without success and, for

1 educational employers and exclusive bargaining  
2 representatives to which ~~if an impasse has been declared~~  
3 ~~under~~ subsection (a-5) of Section 12 of this Act applies,  
4 at least 14 days have elapsed after the Board mediator has  
5 made public the parties' ~~final~~ offers;

6 (2.5) if fact-finding was invoked pursuant to  
7 subsection (a-10) of Section 12 of this Act, at least 30  
8 days have elapsed after a fact-finding report has been  
9 released for public information;

10 (2.10) for educational employees employed in a school  
11 district organized under Article 34 of the School Code, at  
12 least three-fourths of all bargaining unit employees who  
13 are members of the exclusive bargaining representative  
14 have affirmatively voted to authorize the strike;  
15 provided, however, that all members of the exclusive  
16 bargaining representative at the time of a strike  
17 authorization vote shall be eligible to vote;

18 (3) at least 10 days have elapsed after a notice of  
19 intent to strike has been given by the exclusive bargaining  
20 representative to the educational employer, the regional  
21 superintendent and the Illinois Educational Labor  
22 Relations Board;

23 (4) the collective bargaining agreement between the  
24 educational employer and educational employees, if any,  
25 has expired or been terminated; and

26 (5) the employer and the exclusive bargaining

1           representative have not mutually submitted the unresolved  
2           issues to arbitration.

3           If, however, in the opinion of an employer the strike is or  
4           has become a clear and present danger to the health or safety  
5           of the public, the employer may initiate in the circuit court  
6           of the county in which such danger exists an action for relief  
7           which may include, but is not limited to, injunction. The court  
8           may grant appropriate relief upon the finding that such clear  
9           and present danger exists. An unfair practice or other evidence  
10          of lack of clean hands by the educational employer is a defense  
11          to such action. Except as provided for in this paragraph, the  
12          jurisdiction of the court under this Section is limited by the  
13          Labor Dispute Act.

14          (Source: P.A. 97-7, eff. 6-13-11; 97-8, eff. 6-13-11.)".