**Section 51.40 Qualifications and Selection of Hearing Officers; Conditions of Service**

a) Master List of Hearing Officers and Selection of Hearing Officers – School Districts Not Organized under Article 34 of the School Code

1) The State Board shall maintain a master list of qualified impartial hearing officers in accordance with Section 24-12(d)(3) of the School Code. Each hearing officer on the master list maintained by the State Board shall possess the following qualifications:

A) He or she *must be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between employers and employees or their exclusive bargaining representatives* (Section 24-12(d)(3) of the School Code).

B) He or she must not be a resident of the school district involved in the hearing (see Section 24-12(d)(3) of the School Code).

C) He or she must be disinterested and impartial.

D) He or she must have no financial or personal interest in the result of the hearing.

E) Beginning on September 1, 2012, he or she must have successfully completed the training provided or approved by the State Board specific *to issues generally involved in evaluative and non-evaluative dismissals* (Section 24-12(d)(3) of the School Code).

F) He or she *must be available to commence the hearing within 75 days and conclude the hearing within 120 days* after *being selected as hearing officer* (Section 24-12(d) of the School Code).

2) A hearing officer shall be selected as set forth in Section 24-12(d)(3) of the School Code and this subsection (a)(2) if the tenured teacher has requested a hearing before a mutually selected hearing officer.

A) The State Board shall, from the master list, provide, on a rotating basis, a list of five prospective hearing officers within five business days after receiving a copy of the tenured teacher's request for a hearing.

B) *Within three business days* after receiving the list of prospective hearing officers*, the Board and the teacher, or their legal representatives, shall* either:

i) *alternately strike one name from the list until one name remains (unless waived by the teacher, the teacher shall have the right to strike first); or*

ii) *reject all prospective hearing officers on the list, in which case,* the party rejecting the entire list *shall notify the State Board* and the other *party.* (See Section 24-12(d)(3) of the School Code.)

C) If the parties reject the entire list, the notification sent to the State Board shall include whether the parties prefer that the State Board appoint, on a rotating basis, a hearing officer from the master list who was not on the parties' rejected list, or whether the parties intend to select a hearing officer through an alternative method in accordance with Section 24-12(d)(4) of the School Code.

3) A hearing officer shall be selected in accordance with Section 24-12(d)(3) of the School Code and this subsection (a)(3) if the tenured teacher has requested a hearing before a Board-selected hearing officer. Within three business days after receipt of the master list from the State Board, the Board shall select one name from the master list established pursuant to subsection (a)(1) of this Section and, in writing, notify the tenured teacher and the State Board of its selection. Notification to the State Board shall be addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.

4) In lieu of selecting a hearing officer pursuant to subsection (a)(2) or (a)(3) of this Section, the parties may mutually select either an impartial hearing officer who is on the State Board's master list but was not on the list provided to the parties under subsection (a)(2) of this Section or *an impartial hearing officer who is not on the State Board's master list either directly or by using procedures for the appointment of an arbitrator established by the Federal Mediation and Conciliation Service or the American Arbitration Association*. *The parties shall notify the State Board of their intent to select a hearing officer using an alternative process within 3 business days* after *the receipt of the list of prospective hearing officers provided by the State Board, or the notice of appointment of hearing officer by the State Board, or receipt of notice from the State Board that it cannot provide a list* of qualified, impartial hearing officers, whichever occurs later (Section 24-12(d)(4) of the School Code).

b) List of Hearing Officers and Selection of Hearing Officers − School Districts Organized under Article 34 of the School Code

1) A school district organized under Article 34 of the School Code shall maintain a separate list of nine hearing officers to conduct hearings on charges and specifications. The school district shall develop the list *in good faith consultation with the exclusive representative of the Board's teachers and professional associations that represent the Board's principals* (Section 34-85(a)(3) of the School Code). Each hearing officer shall maintain the following qualifications:

A) He or she *must be accredited by a national arbitration organization and have had a minimum of 5 years of experience as an arbitrator in cases involving labor and employment relations matters between employers and employees or their exclusive bargaining representatives* (Section 34-85(a)(3) of the School Code).

B) He or she must be disinterested and impartial.

C) He or she must have no financial or personal interest in the result of the hearing.

D) Beginning on September 1, 2012, he or she must have successfully completed the training provided or approved by the State Board specific *to issues generally involved in evaluative and non-evaluative dismissals* (Section 34-85(a)(3) of the School Code).

E) He or she must be available *to commence the hearing within 75 calendar days and conclude the hearing within 120 calendar days after being selected as hearing officer* (Section 34-85(a)(5) of the School Code).

2) A hearing officer shall be selected as set forth in Section 34-85(a)(3) of the School Code and this subsection (b)(2) if the tenured teacher has chosen to use a mutually selected hearing officer. *The general superintendent and the teacher or principal or their legal representatives, within 5 business days after receiving the notice of request for a hearing, shall alternately strike one name from the list* of nine qualified hearing officers *until only one name remains. Unless waived by the teacher, the teacher or principal shall have the right to proceed first with the striking.* (Section 34-85(a)(3) of the School Code)

3) A hearing officer shall be selected as set forth in Section 34-85(a)(4) of the School Code and this subsection (b)(3) if the tenured teacher does not participate in the selection process. The general superintendent either shall select the hearing officer from the list of nine qualified hearing officers or *select another qualified hearing officer from the master list* *maintained by the State Board.*  (Section 34-85(a)(3) of the School Code) (See subsection (a)(1) of this Section.)

c) For purposes of the master list maintained by the State Board pursuant to subsection (a)(1) of this Section, the names of the four hearing officers not selected from among the five provided to a school district under subsection (a)(2) of this Section shall be placed at the bottom of the master list and the State Board shall rotate the names on the list accordingly.

d) As soon as possible, the prospective hearing officer shall disclose to the parties in writing any circumstances he or she believes might disqualify him or her as an impartial hearing officer.

1) The parties may waive the presumptive disqualification.

2) If either party declines to waive the presumptive disqualification, the party shall notify the State Board of this fact, and the State Board, within five days after receiving this disclosure, shall declare a vacancy.

e) If any hearing officer shall resign, die, withdraw, refuse or be unable or disqualified to perform the duties of his or her position, the State Board shall, on proof satisfactory to it, declare the position vacant.

1) Vacancies shall be filled in the same manner as that governing the making of the original appointment; that is:

A) For school districts not organized under Article 34 of the School Code, either by mutual selection by the tenured teacher and the Board, or by the Board; and

B) For a school district organized under Article 34 of the School Code, either by mutual selection by the tenured teacher and the general superintendent, or by the general superintendent.

2) If a vacancy occurs at any point prior to the opening of the hearing, a new hearing officer shall be appointed and shall adopt all pre-hearing orders entered by the previous hearing officer.

3) If a vacancy occurs after the opening of a hearing, the entire matter shall be reheard by a new hearing officer unless, after considering arguments presented by each party, the hearing officer adopts the previous hearing officer's findings and agrees to move forward.

f) Fees and Costs

1) If the notice of dismissal is sent to the tenured teacher before July 1, 2012, the State Board shall pay the hearing officer a per diem of $300 for the days on which the hearing is held and $37.50 per hour for any other services, or greater amounts as the State Board may determine based on available resources. Billing procedures shall be arranged on an individual basis between the State Board and the hearing officer.

2) If the notice of dismissal is sent to the tenured teacher on or after July 1, 2012, payment shall be made in accordance with Section 24-12(d)(5) or 34-85(a)(4) of the School Code.

g) All communication from the parties to the hearing officer other than at oral hearing shall be in writing and copies shall be sent at the same time to the opposing party and the State Board. However, when circumstances necessitate, the hearing officer may make other appropriate arrangements, including but not limited to conference telephone calls. The hearing officer shall promptly report to the other party the complete substance of any unilateral communications.

h) All hearing officers shall abide by the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes" (2007), published by the National Academy of Arbitrators, 1 North Main Street, Suite 412, Cortland, New York 13045; no later amendments to or editions of these standards are incorporated. A violation of the professional standards identified in this subsection (h) shall be grounds for removal of the hearing officer from the master list maintained by the State Board.

i) The hearing officer shall interpret and apply the provisions of this Part insofar as they relate to his or her powers and duties and shall follow any court interpretation of this Part.

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)