**Section 51.70 The Decision**: **School Districts Not Organized under Article 34 of the School Code**

When a hearing is held under Section 24-12(d) of the School Code, the hearing officer must, *within 30 days after the hearing is concluded or the record is closed, whichever is later*, render *a final decision* as to whether the tenured teacher shall be dismissed pursuant to Article 24A of the School Code(unless the school district pursues the dismissal under Subpart C of this Part) *or findings of fact and recommendation as to whether the teacher must be dismissed for conduct* (Sections 24-12(d)(7) of the School Code). The hearing officer shall provide a copy of the decision or findings of fact and recommendation issued pursuant to this Section to the State Board of Education by certified mail addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.

a) Dismissal Due to Performance Pursuant to Article 24A of the School Code

1) In a dismissal hearing regarding performance pursuant to Article 24A of the School Code, the hearing officer shall render a decision in writing as to whether the tenured teacher shall be dismissed. *The hearing officer shall consider and give weight to all of the teacher's evaluations*, subject to their introduction at the hearing, *that are relevant to the issues in the hearing* (Section 24-12(d)(6) of the School Code).

2) A copy of the hearing officer's decision shall be given by certified mail to both the tenured teacher and the Board or their legal representatives of record.

3) The decision of the hearing officer is final unless reviewed under the Administrative Review Law [735 ILCS 5/Art. III], as provided in Section 24-16 of the School Code [105 ILCS 5/24-16].

A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the cost equally of preparing and filing the record (see Section 24-12(d)(9) of the School Code).

B) The record of the proceedings shall contain each of the items listed in this subsection (a)(2)(B).

i) All pleadings and exhibits (including all notices and responses), motions and rulings.

ii) All evidence received.

iii) A statement of matters officially noticed.

iv) Any offers of proof, objections, and rulings on the proof and objections.

v) Any proposed findings and exceptions.

vi) A transcript of the hearing.

vii) The decision of the hearing officer.

viii) Any other material required under Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35].

b) Dismissal Due to Conduct Pursuant to Section 24-12(d) of the School Code

In a dismissal hearing regarding conduct pursuant to Section 24-12(d) of the School Code, the hearing officer shall issue *findings of fact and recommendation as to whether the conduct occurred, the conduct was remediable, and the proposed dismissal should be sustained* (Section 24-12(d)(8) of the School Code).

1) A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to both the tenured teacher and the Board, or their legal representatives of record.

2) The Board, *within 45 days* after *receipt of the hearing officer's findings of fact and recommendation* rendered pursuant to Section 24-12(d) of the School Code, *shall issue a written order as to whether the teacher must be retained or dismissed for cause*. (Section 24-12(d)(8) of the School Code) A copy of the Board's written order shall be given by certified mail to the tenured teacher and his or her legal representatives of record and to the State Board at the address set forth in this Section.

A) The order shall incorporate the findings of fact, except that the school board may modify or supplement the findings of fact if, in its opinion, the findings of fact are against the manifest weight of the evidence. (Section 24-12(d)(8) of the School Code)

B) *If the school board dismisses the teacher notwithstanding the hearing officer's findings of fact and recommendation, the school board shall make a conclusion in its written order, giving its reasons therefor, and such conclusion and reasons must be included in its written order.* (Section 24-12(d)(8) of the School Code)

3) The decision of the Board, as set forth in its written order, is final unless reviewed under the Administrative Review Law, as provided in Section 24-16 of the School Code [105 ILCS 5/24-16].

A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the cost equally of preparing and filing the record (see Section 24-12(d)(10) of the School Code).

B) The record of the proceedings shall contain each of the items listed in this subsection (b)(3)(B).

i) All pleadings and exhibits (including all notices and responses), motions and rulings.

ii) All evidence received.

iii) A statement of matters officially noticed.

iv) Any offers of proof, objections, and rulings on the proof and objections.

v) Any proposed findings and exceptions.

vi) A transcript of the hearing.

vii) The findings of fact and recommendation of the hearing officer.

viii) The decision of the Board, as set forth in its written order.

ix) Any other material required under Section 10-35 of the Illinois Administrative Procedure Act.

c) Pursuant to Section 24-12(d)(7) of the School Code, if the hearing officer fails, without good cause specifically provided in writing to the parties and the State Board, to render a decision issued pursuant to subsection (a) of this Section or findings of fact and recommendation issued pursuant to subsection (b) of this Section within 30 days after the later of the close of the hearing or the record, the parties may mutually agree to select a hearing officer pursuant to the alternative selection procedures provided under Section 24-12(d)(4) of the School Code to rehear the charges or review the record and render a decision.

1) The hearing officer who failed to timely render a decision or findings of fact and recommendation without good cause shall have his or her name struck from the master list of hearing officers maintained by the State Board of Education for a period of not more than 24 months.

2) The parties and the State Board may take other actions as they deem appropriate regarding reducing fees paid to the hearing officer.

3) If any hearing officer again fails to provide in a timely manner a decision or findings of fact and recommendation without good cause, the State Board shall remove him or her permanently from the master list and prohibit any party from selecting this hearing officer through the alternative selection process in Section 24-12(d)(4) of the School Code.

d) Pursuant to Section 24-12(d)(7) of the School Code, *the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.*

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