



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Kimberly A. Lightford

**SYNOPSIS AS INTRODUCED:**

105 ILCS 5/34-85

from Ch. 122, par. 34-85

Amends the Chicago School District Article of the School Code. Makes a technical change in a provision concerning the removal of a principal.

LRB093 19870 NHT 45613 b

1 AN ACT regarding schools.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section  
5 34-85 as follows:

6 (105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

7 Sec. 34-85. Removal for cause; Notice and hearing;  
8 Suspension. No teacher employed by the board of education shall  
9 (after serving the probationary period specified in Section  
10 34-84) be removed except for cause. No principal employed by  
11 the board ~~of education~~ shall be removed during the term of his  
12 or her performance contract except for cause, which may include  
13 but is not limited to the principal's repeated failure to  
14 implement the school improvement plan or to comply with the  
15 provisions of the Uniform Performance Contract, including  
16 additional criteria established by the Council for inclusion in  
17 the performance contract pursuant to Section 34-2.3.

18 The general superintendent must first approve written  
19 charges and specifications against the teacher or principal. A  
20 local school council may direct the general superintendent to  
21 approve written charges against its principal on behalf of the  
22 Council upon the vote of 7 members of the Council. The general  
23 superintendent must approve those charges within 45 days or  
24 provide a written reason for not approving those charges. A  
25 written notice of those charges shall be served upon the  
26 teacher or principal within 10 days of the approval of the  
27 charges. If the teacher or principal cannot be found upon  
28 diligent inquiry, such charges may be served upon him by  
29 mailing a copy thereof in a sealed envelope by prepaid  
30 certified mail, return receipt requested, to the teacher's or  
31 principal's last known address. A return receipt showing  
32 delivery to such address within 20 days after the date of the

1 approval of the charges shall constitute proof of service.

2 No hearing upon the charges is required unless the teacher  
3 or principal within 10 days after receiving notice requests in  
4 writing of the general superintendent that a hearing be  
5 scheduled, in which case the general superintendent shall  
6 schedule a hearing on those charges before a disinterested  
7 hearing officer on a date no less than 15 nor more than 30 days  
8 after the approval of the charges. The general superintendent  
9 shall forward a copy of the notice to the State Board of  
10 Education within 5 days from the date of the approval of the  
11 charges. Within 10 days after receiving the notice of hearing,  
12 the State Board of Education shall provide the teacher or  
13 principal and the general superintendent with a list of 5  
14 prospective, impartial hearing officers. Each person on the  
15 list must be accredited by a national arbitration organization  
16 and have had a minimum of 5 years of experience as an  
17 arbitrator in cases involving labor and employment relations  
18 matters between educational employers and educational  
19 employees or their exclusive bargaining representatives.

20 The general superintendent and the teacher or principal or  
21 their legal representatives within 3 days from receipt of the  
22 list shall alternately strike one name from the list until only  
23 one name remains. Unless waived by the teacher, the teacher or  
24 principal shall have the right to proceed first with the  
25 striking. Within 3 days of receipt of the first list provided  
26 by the State Board of Education, the general superintendent and  
27 the teacher or principal or their legal representatives shall  
28 each have the right to reject all prospective hearing officers  
29 named on the first list and to require the State Board of  
30 Education to provide a second list of 5 prospective, impartial  
31 hearing officers, none of whom were named on the first list.  
32 Within 5 days after receiving this request for a second list,  
33 the State Board of Education shall provide the second list of 5  
34 prospective, impartial hearing officers. The procedure for  
35 selecting a hearing officer from the second list shall be the  
36 same as the procedure for the first list. Each party shall

1 promptly serve written notice on the other of any name stricken  
2 from the list. If the teacher or principal fails to do so, the  
3 general superintendent may select the hearing officer from any  
4 name remaining on the list. The teacher or principal may waive  
5 the hearing at any time prior to the appointment of the hearing  
6 officer. Notice of the selection of the hearing officer shall  
7 be given to the State Board of Education. The hearing officer  
8 shall be notified of his selection by the State Board of  
9 Education. A signed acceptance shall be filed with the State  
10 Board of Education within 5 days of receipt of notice of the  
11 selection. The State Board of Education shall notify the  
12 teacher or principal and the board of its appointment of the  
13 hearing officer. In the alternative to selecting a hearing  
14 officer from the first or second list received from the State  
15 Board of Education, the general superintendent and the teacher  
16 or principal or their legal representatives may mutually agree  
17 to select an impartial hearing officer who is not on a list  
18 received from the State Board of Education, either by direct  
19 appointment by the parties or by using procedures for the  
20 appointment of an arbitrator established by the Federal  
21 Mediation and Conciliation Service or the American Arbitration  
22 Association. The parties shall notify the State Board of  
23 Education of their intent to select a hearing officer using an  
24 alternative procedure within 3 days of receipt of a list of  
25 prospective hearing officers provided by the State Board of  
26 Education. Any person selected by the parties under this  
27 alternative procedure for the selection of a hearing officer  
28 shall have the same qualifications and authority as a hearing  
29 officer selected from a list provided by the State Board of  
30 Education. The teacher or principal may waive the hearing at  
31 any time prior to the appointment of the hearing officer. The  
32 State Board of Education shall promulgate uniform standards and  
33 rules of procedure for such hearings, including reasonable  
34 rules of discovery.

35 The per diem allowance for the hearing officer shall be  
36 paid by the State Board of Education. The hearing officer shall

1 hold a hearing and render findings of fact and a recommendation  
2 to the general superintendent. The teacher or principal has the  
3 privilege of being present at the hearing with counsel and of  
4 cross-examining witnesses and may offer evidence and witnesses  
5 and present defenses to the charges. The hearing officer may  
6 issue subpoenas requiring the attendance of witnesses and, at  
7 the request of the teacher or principal against whom a charge  
8 is made or the general superintendent, shall issue such  
9 subpoenas, but the hearing officer may limit the number of  
10 witnesses to be subpoenaed in behalf of the teacher or  
11 principal or the general superintendent to not more than 10  
12 each. All testimony at the hearing shall be taken under oath  
13 administered by the hearing officer. The hearing officer shall  
14 cause a record of the proceedings to be kept and shall employ a  
15 competent reporter to take stenographic or stenotype notes of  
16 all the testimony. The costs of the reporter's attendance and  
17 services at the hearing shall be paid by the State Board of  
18 Education. Either party desiring a transcript of the hearing  
19 shall pay for the cost thereof.

20 Pending the hearing of the charges, the person charged may  
21 be suspended in accordance with rules prescribed by the board  
22 but such person, if acquitted, shall not suffer any loss of  
23 salary by reason of the suspension.

24 Before service of notice of charges on account of causes  
25 that may be deemed to be remediable, the teacher or principal  
26 shall be given reasonable warning in writing, stating  
27 specifically the causes which, if not removed, may result in  
28 charges; however, no such written warning shall be required if  
29 the causes have been the subject of a remediation plan pursuant  
30 to Article 24A. No written warning shall be required for  
31 conduct on the part of a teacher or principal which is cruel,  
32 immoral, negligent, or criminal or which in any way causes  
33 psychological or physical harm or injury to a student as that  
34 conduct is deemed to be irreparable. No written warning shall  
35 be required for a material breach of the uniform principal  
36 performance contract as that conduct is deemed to be

1 irremediable; provided however, that not less than 30 days  
2 before the vote of the local school council to seek the  
3 dismissal of a principal for a material breach of a uniform  
4 principal performance contract, the local school council shall  
5 specify the nature of the alleged breach in writing and provide  
6 a copy of it to the principal.

7 The hearing officer shall consider and give weight to all  
8 of the teacher's evaluations written pursuant to Article 24A.

9 The hearing officer shall within 45 days from the  
10 conclusion of the hearing report to the general superintendent  
11 findings of fact and a recommendation as to whether or not the  
12 teacher or principal shall be dismissed and shall give a copy  
13 of the report to both the teacher or principal and the general  
14 superintendent. The board, within 45 days of receipt of the  
15 hearing officer's findings of fact and recommendation, shall  
16 make a decision as to whether the teacher or principal shall be  
17 dismissed from its employ. The failure of the board to strictly  
18 adhere to the timeliness contained herein shall not render it  
19 without jurisdiction to dismiss the teacher or principal. If  
20 the hearing officer fails to render a decision within 45 days,  
21 the State Board of Education shall communicate with the hearing  
22 officer to determine the date that the parties can reasonably  
23 expect to receive the decision. The State Board of Education  
24 shall provide copies of all such communications to the parties.  
25 In the event the hearing officer fails without good cause to  
26 make a decision within the 45 day period, the name of such  
27 hearing officer shall be struck for a period not less than 24  
28 months from the master list of hearing officers maintained by  
29 the State Board of Education. The board shall not lose  
30 jurisdiction to discharge the teacher or principal if the  
31 hearing officer fails to render a decision within the time  
32 specified in this Section. If a hearing officer fails to render  
33 a decision within 3 months after the hearing is declared  
34 closed, the State Board of Education shall provide the parties  
35 with a new list of prospective, impartial hearing officers,  
36 with the same qualifications provided herein, one of whom shall

1 be selected, as provided in this Section, to rehear the charges  
2 heard by the hearing officer who failed to render a decision.  
3 The parties may also select a hearing officer pursuant to the  
4 alternative procedure, as provided in this Section, to rehear  
5 the charges heard by the hearing officer who failed to render a  
6 decision. A violation of the professional standards set forth  
7 in "The Code of Professional Responsibility for Arbitrators of  
8 Labor-Management Disputes", of the National Academy of  
9 Arbitrators, the American Arbitration Association, and the  
10 Federal Mediation and Conciliation Service, or the failure of a  
11 hearing officer to render a decision within 3 months after the  
12 hearing is declared closed shall be grounds for removal of the  
13 hearing officer from the master list of hearing officers  
14 maintained by the State Board of Education. The decision of the  
15 board is final unless reviewed as provided in Section 34-85b of  
16 this Act.

17 In the event judicial review is instituted, any costs of  
18 preparing and filing the record of proceedings shall be paid by  
19 the party instituting the review. If a decision of the hearing  
20 officer is adjudicated upon review or appeal in favor of the  
21 teacher or principal, then the trial court shall order  
22 reinstatement and shall determine the amount for which the  
23 board is liable including but not limited to loss of income and  
24 costs incurred therein. Nothing in this Section affects the  
25 validity of removal for cause hearings commenced prior to the  
26 effective date of this amendatory Act of 1978.

27 (Source: P.A. 89-15, eff. 5-30-95.)