



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3829

by Rep. Fred Crespo

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/24-12	from Ch. 122, par. 24-12
105 ILCS 5/24A-4	from Ch. 122, par. 24A-4
115 ILCS 5/18	from Ch. 48, par. 1718

Amends the School Code. Provides that the Open Meetings Act does not apply to meetings of a joint committee formed under certain provisions of the Code. Amends the Illinois Educational Labor Relations Act. Provides that negotiating team strategy sessions are included in an exception to the Open Meetings Act.

LRB100 10526 MLM 20742 b

1 AN ACT concerning education.

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 Sections  
5 24-12 and 24A-4 as follows:

6 (105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

7 Sec. 24-12. Removal or dismissal of teachers in contractual  
8 continued service.

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

1 and who is legally qualified to hold a position currently held  
2 by a teacher who has not entered upon contractual continued  
3 service.

4 As between teachers who have entered upon contractual  
5 continued service, the teacher or teachers with the shorter  
6 length of continuing service with the district shall be  
7 dismissed first unless an alternative method of determining the  
8 sequence of dismissal is established in a collective bargaining  
9 agreement or contract between the board and a professional  
10 faculty members' organization and except that this provision  
11 shall not impair the operation of any affirmative action  
12 program in the district, regardless of whether it exists by  
13 operation of law or is conducted on a voluntary basis by the  
14 board. Any teacher dismissed as a result of such decrease or  
15 discontinuance shall be paid all earned compensation on or  
16 before the third business day following the last day of pupil  
17 attendance in the regular school term.

18 If the board has any vacancies for the following school  
19 term or within one calendar year from the beginning of the  
20 following school term, the positions thereby becoming  
21 available shall be tendered to the teachers so removed or  
22 dismissed so far as they are legally qualified to hold such  
23 positions; provided, however, that if the number of honorable  
24 dismissal notices based on economic necessity exceeds 15% of  
25 the number of full time equivalent positions filled by  
26 certified employees (excluding principals and administrative

1 personnel) during the preceding school year, then if the board  
2 has any vacancies for the following school term or within 2  
3 calendar years from the beginning of the following school term,  
4 the positions so becoming available shall be tendered to the  
5 teachers who were so notified and removed or dismissed whenever  
6 they are legally qualified to hold such positions. Each board  
7 shall, in consultation with any exclusive employee  
8 representatives, each year establish a list, categorized by  
9 positions, showing the length of continuing service of each  
10 teacher who is qualified to hold any such positions, unless an  
11 alternative method of determining a sequence of dismissal is  
12 established as provided for in this Section, in which case a  
13 list shall be made in accordance with the alternative method.  
14 Copies of the list shall be distributed to the exclusive  
15 employee representative on or before February 1 of each year.  
16 Whenever the number of honorable dismissal notices based upon  
17 economic necessity exceeds 5, or 150% of the average number of  
18 teachers honorably dismissed in the preceding 3 years,  
19 whichever is more, then the board also shall hold a public  
20 hearing on the question of the dismissals. Following the  
21 hearing and board review the action to approve any such  
22 reduction shall require a majority vote of the board members.

23 (b) This subsection (b) applies only to honorable  
24 dismissals and recalls in which the notice of dismissal is  
25 provided during the 2011-2012 school term or a subsequent  
26 school term. If any teacher, whether or not in contractual

1 continued service, is removed or dismissed as a result of a  
2 decision of a school board to decrease the number of teachers  
3 employed by the board, a decision of a school board to  
4 discontinue some particular type of teaching service, or a  
5 reduction in the number of programs or positions in a special  
6 education joint agreement, then written notice must be mailed  
7 to the teacher and also given to the teacher either by  
8 certified mail, return receipt requested, or personal delivery  
9 with receipt at least 45 days before the end of the school  
10 term, together with a statement of honorable dismissal and the  
11 reason therefor, and in all such cases the sequence of  
12 dismissal shall occur in accordance with this subsection (b);  
13 except that this subsection (b) shall not impair the operation  
14 of any affirmative action program in the school district,  
15 regardless of whether it exists by operation of law or is  
16 conducted on a voluntary basis by the board.

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

1           (1) Grouping one shall consist of each teacher who is  
2 not in contractual continued service and who (i) has not  
3 received a performance evaluation rating, (ii) is employed  
4 for one school term or less to replace a teacher on leave,  
5 or (iii) is employed on a part-time basis. "Part-time  
6 basis" for the purposes of this subsection (b) means a  
7 teacher who is employed to teach less than a full-day,  
8 teacher workload or less than 5 days of the normal student  
9 attendance week, unless otherwise provided for in a  
10 collective bargaining agreement between the district and  
11 the exclusive representative of the district's teachers.  
12 For the purposes of this Section, a teacher (A) who is  
13 employed as a full-time teacher but who actually teaches or  
14 is otherwise present and participating in the district's  
15 educational program for less than a school term or (B) who,  
16 in the immediately previous school term, was employed on a  
17 full-time basis and actually taught or was otherwise  
18 present and participated in the district's educational  
19 program for 120 days or more is not considered employed on  
20 a part-time basis.

21           (2) Grouping 2 shall consist of each teacher with a  
22 Needs Improvement or Unsatisfactory performance evaluation  
23 rating on either of the teacher's last 2 performance  
24 evaluation ratings.

25           (3) Grouping 3 shall consist of each teacher with a  
26 performance evaluation rating of at least Satisfactory or

1 Proficient on both of the teacher's last 2 performance  
2 evaluation ratings, if 2 ratings are available, or on the  
3 teacher's last performance evaluation rating, if only one  
4 rating is available, unless the teacher qualifies for  
5 placement into grouping 4.

6 (4) Grouping 4 shall consist of each teacher whose last  
7 2 performance evaluation ratings are Excellent and each  
8 teacher with 2 Excellent performance evaluation ratings  
9 out of the teacher's last 3 performance evaluation ratings  
10 with a third rating of Satisfactory or Proficient.

11 Among teachers qualified to hold a position, teachers must  
12 be dismissed in the order of their groupings, with teachers in  
13 grouping one dismissed first and teachers in grouping 4  
14 dismissed last.

15 Within grouping one, the sequence of dismissal must be at  
16 the discretion of the school district or joint agreement.  
17 Within grouping 2, the sequence of dismissal must be based upon  
18 average performance evaluation ratings, with the teacher or  
19 teachers with the lowest average performance evaluation rating  
20 dismissed first. A teacher's average performance evaluation  
21 rating must be calculated using the average of the teacher's  
22 last 2 performance evaluation ratings, if 2 ratings are  
23 available, or the teacher's last performance evaluation  
24 rating, if only one rating is available, using the following  
25 numerical values: 4 for Excellent; 3 for Proficient or  
26 Satisfactory; 2 for Needs Improvement; and 1 for

1 Unsatisfactory. As between or among teachers in grouping 2 with  
2 the same average performance evaluation rating and within each  
3 of groupings 3 and 4, the teacher or teachers with the shorter  
4 length of continuing service with the school district or joint  
5 agreement must be dismissed first unless an alternative method  
6 of determining the sequence of dismissal is established in a  
7 collective bargaining agreement or contract between the board  
8 and a professional faculty members' organization.

9 Each board, including the governing board of a joint  
10 agreement, shall, in consultation with any exclusive employee  
11 representatives, each year establish a sequence of honorable  
12 dismissal list categorized by positions and the groupings  
13 defined in this subsection (b). Copies of the list showing each  
14 teacher by name and categorized by positions and the groupings  
15 defined in this subsection (b) must be distributed to the  
16 exclusive bargaining representative at least 75 days before the  
17 end of the school term, provided that the school district or  
18 joint agreement may, with notice to any exclusive employee  
19 representatives, move teachers from grouping one into another  
20 grouping during the period of time from 75 days until 45 days  
21 before the end of the school term. Each year, each board shall  
22 also establish, in consultation with any exclusive employee  
23 representatives, a list showing the length of continuing  
24 service of each teacher who is qualified to hold any such  
25 positions, unless an alternative method of determining a  
26 sequence of dismissal is established as provided for in this



1 Section, in which case a list must be made in accordance with  
2 the alternative method. Copies of the list must be distributed  
3 to the exclusive employee representative at least 75 days  
4 before the end of the school term.

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

9 If the board or joint agreement has any vacancies for the  
10 following school term or within one calendar year from the  
11 beginning of the following school term, the positions thereby  
12 becoming available must be tendered to the teachers so removed  
13 or dismissed who were in groupings 3 or 4 of the sequence of  
14 dismissal and are qualified to hold the positions, based upon  
15 legal qualifications and any other qualifications established  
16 in a district or joint agreement job description, on or before  
17 the May 10 prior to the date of the positions becoming  
18 available, provided that if the number of honorable dismissal  
19 notices based on economic necessity exceeds 15% of the number  
20 of full-time equivalent positions filled by certified  
21 employees (excluding principals and administrative personnel)  
22 during the preceding school year, then the recall period is for  
23 the following school term or within 2 calendar years from the  
24 beginning of the following school term. If the board or joint  
25 agreement has any vacancies within the period from the  
26 beginning of the following school term through February 1 of

1 the following school term (unless a date later than February 1,  
2 but no later than 6 months from the beginning of the following  
3 school term, is established in a collective bargaining  
4 agreement), the positions thereby becoming available must be  
5 tendered to the teachers so removed or dismissed who were in  
6 grouping 2 of the sequence of dismissal due to one "needs  
7 improvement" rating on either of the teacher's last 2  
8 performance evaluation ratings, provided that, if 2 ratings are  
9 available, the other performance evaluation rating used for  
10 grouping purposes is "satisfactory", "proficient", or  
11 "excellent", and are qualified to hold the positions, based  
12 upon legal qualifications and any other qualifications  
13 established in a district or joint agreement job description,  
14 on or before the May 10 prior to the date of the positions  
15 becoming available. On and after the effective date of this  
16 amendatory Act of the 98th General Assembly, the preceding  
17 sentence shall apply to teachers removed or dismissed by  
18 honorable dismissal, even if notice of honorable dismissal  
19 occurred during the 2013-2014 school year. Among teachers  
20 eligible for recall pursuant to the preceding sentence, the  
21 order of recall must be in inverse order of dismissal, unless  
22 an alternative order of recall is established in a collective  
23 bargaining agreement or contract between the board and a  
24 professional faculty members' organization. Whenever the  
25 number of honorable dismissal notices based upon economic  
26 necessity exceeds 5 notices or 150% of the average number of

1 teachers honorably dismissed in the preceding 3 years,  
2 whichever is more, then the school board or governing board of  
3 a joint agreement, as applicable, shall also hold a public  
4 hearing on the question of the dismissals. Following the  
5 hearing and board review, the action to approve any such  
6 reduction shall require a majority vote of the board members.

7 For purposes of this subsection (b), subject to agreement  
8 on an alternative definition reached by the joint committee  
9 described in subsection (c) of this Section, a teacher's  
10 performance evaluation rating means the overall performance  
11 evaluation rating resulting from an annual or biennial  
12 performance evaluation conducted pursuant to Article 24A of  
13 this Code by the school district or joint agreement determining  
14 the sequence of dismissal, not including any performance  
15 evaluation conducted during or at the end of a remediation  
16 period. No more than one evaluation rating each school term  
17 shall be one of the evaluation ratings used for the purpose of  
18 determining the sequence of dismissal. Except as otherwise  
19 provided in this subsection for any performance evaluations  
20 conducted during or at the end of a remediation period, if  
21 multiple performance evaluations are conducted in a school  
22 term, only the rating from the last evaluation conducted prior  
23 to establishing the sequence of honorable dismissal list in  
24 such school term shall be the one evaluation rating from that  
25 school term used for the purpose of determining the sequence of  
26 dismissal. Averaging ratings from multiple evaluations is not

1 permitted unless otherwise agreed to in a collective bargaining  
2 agreement or contract between the board and a professional  
3 faculty members' organization. The preceding 3 sentences are  
4 not a legislative declaration that existing law does or does  
5 not already require that only one performance evaluation each  
6 school term shall be used for the purpose of determining the  
7 sequence of dismissal. For performance evaluation ratings  
8 determined prior to September 1, 2012, any school district or  
9 joint agreement with a performance evaluation rating system  
10 that does not use either of the rating category systems  
11 specified in subsection (d) of Section 24A-5 of this Code for  
12 all teachers must establish a basis for assigning each teacher  
13 a rating that complies with subsection (d) of Section 24A-5 of  
14 this Code for all of the performance evaluation ratings that  
15 are to be used to determine the sequence of dismissal. A  
16 teacher's grouping and ranking on a sequence of honorable  
17 dismissal shall be deemed a part of the teacher's performance  
18 evaluation, and that information shall be disclosed to the  
19 exclusive bargaining representative as part of a sequence of  
20 honorable dismissal list, notwithstanding any laws prohibiting  
21 disclosure of such information. A performance evaluation  
22 rating may be used to determine the sequence of dismissal,  
23 notwithstanding the pendency of any grievance resolution or  
24 arbitration procedures relating to the performance evaluation.  
25 If a teacher has received at least one performance evaluation  
26 rating conducted by the school district or joint agreement

1 determining the sequence of dismissal and a subsequent  
2 performance evaluation is not conducted in any school year in  
3 which such evaluation is required to be conducted under Section  
4 24A-5 of this Code, the teacher's performance evaluation rating  
5 for that school year for purposes of determining the sequence  
6 of dismissal is deemed Proficient. If a performance evaluation  
7 rating is nullified as the result of an arbitration,  
8 administrative agency, or court determination, then the school  
9 district or joint agreement is deemed to have conducted a  
10 performance evaluation for that school year, but the  
11 performance evaluation rating may not be used in determining  
12 the sequence of dismissal.

13 Nothing in this subsection (b) shall be construed as  
14 limiting the right of a school board or governing board of a  
15 joint agreement to dismiss a teacher not in contractual  
16 continued service in accordance with Section 24-11 of this  
17 Code.

18 Any provisions regarding the sequence of honorable  
19 dismissals and recall of honorably dismissed teachers in a  
20 collective bargaining agreement entered into on or before  
21 January 1, 2011 and in effect on the effective date of this  
22 amendatory Act of the 97th General Assembly that may conflict  
23 with this amendatory Act of the 97th General Assembly shall  
24 remain in effect through the expiration of such agreement or  
25 June 30, 2013, whichever is earlier.

26 (c) Each school district and special education joint

1 agreement must use a joint committee composed of equal  
2 representation selected by the school board and its teachers  
3 or, if applicable, the exclusive bargaining representative of  
4 its teachers, to address the matters described in paragraphs  
5 (1) through (5) of this subsection (c) pertaining to honorable  
6 dismissals under subsection (b) of this Section.

7 (1) The joint committee must consider and may agree to  
8 criteria for excluding from grouping 2 and placing into  
9 grouping 3 a teacher whose last 2 performance evaluations  
10 include a Needs Improvement and either a Proficient or  
11 Excellent.

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

22 (3) The joint committee may agree to including within  
23 the definition of a performance evaluation rating a  
24 performance evaluation rating administered by a school  
25 district or joint agreement other than the school district  
26 or joint agreement determining the sequence of dismissal.

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

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

1 applicable school term, the joint committee or any member  
2 or members of the joint committee may submit a report of  
3 the review to the employing board and exclusive bargaining  
4 representative, if any. Nothing in this paragraph (5) shall  
5 impact the order of honorable dismissal or a school  
6 district's or joint agreement's authority to carry out a  
7 dismissal in accordance with subsection (b) of this  
8 Section.

9 Agreement by the joint committee as to a matter requires  
10 the majority vote of all committee members, and if the joint  
11 committee does not reach agreement on a matter, then the  
12 otherwise applicable requirements of subsection (b) of this  
13 Section shall apply. Except as explicitly set forth in this  
14 subsection (c), a joint committee has no authority to agree to  
15 any further modifications to the requirements for honorable  
16 dismissals set forth in subsection (b) of this Section. The  
17 joint committee must be established, and the first meeting of  
18 the joint committee each school year must occur on or before  
19 December 1.

20 The joint committee must reach agreement on a matter on or  
21 before February 1 of a school year in order for the agreement  
22 of the joint committee to apply to the sequence of dismissal  
23 determined during that school year. Subject to the February 1  
24 deadline for agreements, the agreement of a joint committee on  
25 a matter shall apply to the sequence of dismissal until the  
26 agreement is amended or terminated by the joint committee.



1        The provisions of the Open Meetings Act shall not apply to  
2 meetings of a joint committee created under this subsection  
3 (c).

4        (d) Notwithstanding anything to the contrary in this  
5 subsection (d), the requirements and dismissal procedures of  
6 Section 24-16.5 of this Code shall apply to any dismissal  
7 sought under Section 24-16.5 of this Code.

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

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

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

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

21           (3) Within 5 business days after receiving a notice of  
22 hearing in which either notice to the teacher was sent  
23 before July 1, 2012 or, if the notice was sent on or after  
24 July 1, 2012, the teacher has requested a hearing before a  
25 mutually selected hearing officer, the State Board of  
26 Education shall provide a list of 5 prospective, impartial

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

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

1 receiving this notification, the State Board of Education  
2 shall appoint a qualified person from the master list who  
3 did not appear on the list sent to the parties to serve as  
4 the hearing officer, unless the parties notify it that they  
5 have chosen to alternatively select a hearing officer under  
6 paragraph (4) of this subsection (d).

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

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

24 (4) In the alternative to selecting a hearing officer  
25 from the list received from the State Board of Education or  
26 accepting the appointment of a hearing officer by the State

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

18 (5) If the notice of dismissal was sent to the teacher  
19 before July 1, 2012, the fees and costs for the hearing  
20 officer must be paid by the State Board of Education. If  
21 the notice of dismissal was sent to the teacher on or after  
22 July 1, 2012, the hearing officer's fees and costs must be  
23 paid as follows in this paragraph (5). The fees and  
24 permissible costs for the hearing officer must be  
25 determined by the State Board of Education. If the board  
26 and the teacher or their legal representatives mutually

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

16 (6) The teacher is required to answer the bill of  
17 particulars and aver affirmative matters in his or her  
18 defense, and the time for initially doing so and the time  
19 for updating such answer and defenses after pre-hearing  
20 discovery must be set by the hearing officer. The State  
21 Board of Education shall promulgate rules so that each  
22 party has a fair opportunity to present its case and to  
23 ensure that the dismissal process proceeds in a fair and  
24 expeditious manner. These rules shall address, without  
25 limitation, discovery and hearing scheduling conferences;  
26 the teacher's initial answer and affirmative defenses to

1 the bill of particulars and the updating of that  
2 information after pre-hearing discovery; provision for  
3 written interrogatories and requests for production of  
4 documents; the requirement that each party initially  
5 disclose to the other party and then update the disclosure  
6 no later than 10 calendar days prior to the commencement of  
7 the hearing, the names and addresses of persons who may be  
8 called as witnesses at the hearing, a summary of the facts  
9 or opinions each witness will testify to, and all other  
10 documents and materials, including information maintained  
11 electronically, relevant to its own as well as the other  
12 party's case (the hearing officer may exclude witnesses and  
13 exhibits not identified and shared, except those offered in  
14 rebuttal for which the party could not reasonably have  
15 anticipated prior to the hearing); pre-hearing discovery  
16 and preparation, including provision for written  
17 interrogatories and requests for production of documents,  
18 provided that discovery depositions are prohibited; the  
19 conduct of the hearing; the right of each party to be  
20 represented by counsel, the offer of evidence and witnesses  
21 and the cross-examination of witnesses; the authority of  
22 the hearing officer to issue subpoenas and subpoenas duces  
23 tecum, provided that the hearing officer may limit the  
24 number of witnesses to be subpoenaed on behalf of each  
25 party to no more than 7; the length of post-hearing briefs;  
26 and the form, length, and content of hearing officers'

1 decisions. The hearing officer shall hold a hearing and  
2 render a final decision for dismissal pursuant to Article  
3 24A of this Code or shall report to the school board  
4 findings of fact and a recommendation as to whether or not  
5 the teacher must be dismissed for conduct. The hearing  
6 officer shall commence the hearing within 75 days and  
7 conclude the hearing within 120 days after being selected  
8 as the hearing officer, provided that the hearing officer  
9 may modify these timelines upon the showing of good cause  
10 or mutual agreement of the parties. Good cause for the  
11 purpose of this subsection (d) shall mean the illness or  
12 otherwise unavoidable emergency of the teacher, district  
13 representative, their legal representatives, the hearing  
14 officer, or an essential witness as indicated in each  
15 party's pre-hearing submission. In a dismissal hearing  
16 pursuant to Article 24A of this Code, the hearing officer  
17 shall consider and give weight to all of the teacher's  
18 evaluations written pursuant to Article 24A that are  
19 relevant to the issues in the hearing.

20 Each party shall have no more than 3 days to present  
21 its case, unless extended by the hearing officer to enable  
22 a party to present adequate evidence and testimony,  
23 including due to the other party's cross-examination of the  
24 party's witnesses, for good cause or by mutual agreement of  
25 the parties. The State Board of Education shall define in  
26 rules the meaning of "day" for such purposes. All testimony



1 at the hearing shall be taken under oath administered by  
2 the hearing officer. The hearing officer shall cause a  
3 record of the proceedings to be kept and shall employ a  
4 competent reporter to take stenographic or stenotype notes  
5 of all the testimony. The costs of the reporter's  
6 attendance and services at the hearing shall be paid by the  
7 party or parties who are responsible for paying the fees  
8 and costs of the hearing officer. Either party desiring a  
9 transcript of the hearing shall pay for the cost thereof.  
10 Any post-hearing briefs must be submitted by the parties by  
11 no later than 21 days after a party's receipt of the  
12 transcript of the hearing, unless extended by the hearing  
13 officer for good cause or by mutual agreement of the  
14 parties.

15 (7) The hearing officer shall, within 30 days from the  
16 conclusion of the hearing or closure of the record,  
17 whichever is later, make a decision as to whether or not  
18 the teacher shall be dismissed pursuant to Article 24A of  
19 this Code or report to the school board findings of fact  
20 and a recommendation as to whether or not the teacher shall  
21 be dismissed for cause and shall give a copy of the  
22 decision or findings of fact and recommendation to both the  
23 teacher and the school board. If a hearing officer fails  
24 without good cause, specifically provided in writing to  
25 both parties and the State Board of Education, to render a  
26 decision or findings of fact and recommendation within 30

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

1 If the decision of the hearing officer for dismissal  
2 pursuant to Article 24A of this Code or of the school board  
3 for dismissal for cause is in favor of the teacher, then  
4 the hearing officer or school board shall order  
5 reinstatement to the same or substantially equivalent  
6 position and shall determine the amount for which the  
7 school board is liable, including, but not limited to, loss  
8 of income and benefits.

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

21 If the school board dismisses the teacher  
22 notwithstanding the hearing officer's findings of fact and  
23 recommendation, the school board shall make a conclusion in  
24 its written order, giving its reasons therefor, and such  
25 conclusion and reasons must be included in its written  
26 order. The failure of the school board to strictly adhere

1 to the timelines contained in this Section shall not render  
2 it without jurisdiction to dismiss the teacher. The school  
3 board shall not lose jurisdiction to discharge the teacher  
4 for cause if the hearing officer fails to render a  
5 recommendation within the time specified in this Section.  
6 The decision of the school board is final, unless reviewed  
7 as provided in paragraph (9) of this subsection (d).

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

21 (9) The decision of the hearing officer pursuant to  
22 Article 24A of this Code or of the school board's decision  
23 to dismiss for cause is final unless reviewed as provided  
24 in Section 24-16 of this Act. If the school board's  
25 decision to dismiss for cause is contrary to the hearing  
26 officer's recommendation, the court on review shall give

1 consideration to the school board's decision and its  
2 supplemental findings of fact, if applicable, and the  
3 hearing officer's findings of fact and recommendation in  
4 making its decision. In the event such review is  
5 instituted, the school board shall be responsible for  
6 preparing and filing the record of proceedings, and such  
7 costs associated therewith must be divided equally between  
8 the parties.

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

21 Any teacher who is reinstated by any hearing or  
22 adjudication brought under this Section shall be assigned  
23 by the board to a position substantially similar to the one  
24 which that teacher held prior to that teacher's suspension  
25 or dismissal.

26 (11) Subject to any later effective date referenced in

1           this Section for a specific aspect of the dismissal  
2           process, the changes made by Public Act 97-8 shall apply to  
3           dismissals instituted on or after September 1, 2011. Any  
4           dismissal instituted prior to September 1, 2011 must be  
5           carried out in accordance with the requirements of this  
6           Section prior to amendment by Public Act 97-8.

7           (e) Nothing contained in this amendatory Act of the 98th  
8           General Assembly repeals, supersedes, invalidates, or  
9           nullifies final decisions in lawsuits pending on the effective  
10          date of this amendatory Act of the 98th General Assembly in  
11          Illinois courts involving the interpretation of Public Act  
12          97-8.

13          (Source: P.A. 98-513, eff. 1-1-14; 98-648, eff. 7-1-14; 99-78,  
14          eff. 7-20-15.)

15           (105 ILCS 5/24A-4) (from Ch. 122, par. 24A-4)  
16           Sec. 24A-4. Development of evaluation plan.

17           (a) As used in this and the succeeding Sections, "teacher"  
18           means any and all school district employees regularly required  
19           to be certified under laws relating to the certification of  
20           teachers. Each school district shall develop, in cooperation  
21           with its teachers or, where applicable, the exclusive  
22           bargaining representatives of its teachers, an evaluation plan  
23           for all teachers.

24           (b) By no later than the applicable implementation date,  
25           each school district shall, in good faith cooperation with its

1 teachers or, where applicable, the exclusive bargaining  
2 representatives of its teachers, incorporate the use of data  
3 and indicators on student growth as a significant factor in  
4 rating teaching performance, into its evaluation plan for all  
5 teachers, both those teachers in contractual continued service  
6 and those teachers not in contractual continued service. The  
7 plan shall at least meet the standards and requirements for  
8 student growth and teacher evaluation established under  
9 Section 24A-7, and specifically describe how student growth  
10 data and indicators will be used as part of the evaluation  
11 process, how this information will relate to evaluation  
12 standards, the assessments or other indicators of student  
13 performance that will be used in measuring student growth and  
14 the weight that each will have, the methodology that will be  
15 used to measure student growth, and the criteria other than  
16 student growth that will be used in evaluating the teacher and  
17 the weight that each will have.

18 To incorporate the use of data and indicators of student  
19 growth as a significant factor in rating teacher performance  
20 into the evaluation plan, the district shall use a joint  
21 committee composed of equal representation selected by the  
22 district and its teachers or, where applicable, the exclusive  
23 bargaining representative of its teachers. If, within 180  
24 calendar days of the committee's first meeting, the committee  
25 does not reach agreement on the plan, then the district shall  
26 implement the model evaluation plan established under Section

1 24A-7 with respect to the use of data and indicators on student  
2 growth as a significant factor in rating teacher performance.

3 Nothing in this subsection (b) shall make decisions on the  
4 use of data and indicators on student growth as a significant  
5 factor in rating teaching performance mandatory subjects of  
6 bargaining under the Illinois Educational Labor Relations Act  
7 that are not currently mandatory subjects of bargaining under  
8 the Act.

9 The provisions of the Open Meetings Act shall not apply to  
10 meetings of a joint committee formed under this subsection (b).

11 (c) Notwithstanding anything to the contrary in subsection  
12 (b) of this Section, if the joint committee referred to in that  
13 subsection does not reach agreement on the plan within 90  
14 calendar days after the committee's first meeting, a school  
15 district having 500,000 or more inhabitants shall not be  
16 required to implement any aspect of the model evaluation plan  
17 and may implement its last best proposal.

18 (Source: P.A. 95-510, eff. 8-28-07; 96-861, eff. 1-15-10;  
19 96-1423, eff. 8-3-10.)

20 Section 10. The Illinois Educational Labor Relations Act is  
21 amended by changing Section 18 as follows:

22 (115 ILCS 5/18) (from Ch. 48, par. 1718)

23 Sec. 18. Meetings. The provisions of the Open Meetings Act  
24 shall not apply to collective bargaining negotiations.



1 including negotiating team strategy sessions, and grievance  
2 arbitrations conducted pursuant to this Act.

3 (Source: P.A. 83-1014.)