

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 51
DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND
DISMISSAL OF TENURED TEACHERS AND PRINCIPALS
UNDER ARTICLE 34 OF THE SCHOOL CODE

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44 51.280 Findings of Fact and Recommendation of the Hearing Officer
45 51.290 Decision of Board

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47 AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code
48 [105 ILCS 5/24-12 and 34-85].
49

50 SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the
51 Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg.
52 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of
53 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill.
54 Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg.
55 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005;
56 amended at 32 Ill. Reg. 4824, effective March 21, 2008; amended at 36 Ill. Reg. 12829, effective
57 July 25, 2012; amended at 38 Ill. Reg. 21906, effective November 3, 2014; amended at 44 Ill.
58 Reg. 14763, effective August 27, 2020; amended at 48 Ill. Reg. _____, effective
59 _____.

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61 SUBPART B: STANDARD DISMISSAL PROCEDURES
62 UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE
63

64 **Section 51.30 Notice of Charges to Tenured Teachers**
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66 The provision of notice of charges to the affected tenured teacher shall be as set forth in Section
67 24-12(d)(1) or 34-85 of the School Code, as applicable, and this Section.
68

- 69 a) Notice of Charges for School Districts Not Organized under Article 34 of the
70 School Code
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- 72 1) The notice shall be mailed by first-class U.S. mail to the tenured teacher
73 and provided either by [electronic mail](#), certified mail, return receipt
74 requested, or personal delivery with receipt, within five days after the
75 Board's adoption of a motion for the dismissal (see Section 24-12(d) of the
76 School Code). If the teacher cannot be found by diligent inquiry, then the
77 charges may be sent by certified mail, return receipt requested, at [the](#)
78 [teacher's](#)~~his or her~~ last known address. A return receipt showing delivery
79 to the teacher's last known address within 20 calendar days after the date
80 of approval of the charges shall constitute proof of service.
81
 - 82 2) The notice shall include a bill of particulars and inform the tenured teacher
83 of [the teacher's](#)~~his or her~~ right to request, in writing to the school district, a
84 hearing within 17 days after receiving the notice (see Section 24-12(d) of
85 the School Code).
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- A) The notice shall inform the tenured teacher of the requirement to copy the State Board on a request for a hearing submitted pursuant to subsection (a)(3) ~~of this Section~~ addressed to the Chief Legal Officer ~~General Counsel~~, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661 ~~100 W. Randolph Street, Chicago, Illinois 60601~~.
 - B) In addition, *any written notice sent on or after July 1, 2012 shall inform the teacher of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher and the Board, or a hearing before a Board-selected hearing officer, with the cost of the hearing paid by the Board* (Section 24-12(d)(1) of the School Code).
- 3) If the tenured teacher chooses to have a hearing, then the tenured teacher shall submit a request for a hearing in writing to the school district within the timeline set forth in subsection (a)(2) ~~of this Section~~ that specifies the tenured teacher's ~~his or her~~ desire to have the hearing either before a mutually selected hearing officer or a Board-selected hearing officer. The tenured teacher shall send a copy of the ~~his or her~~ request for a hearing to the Chief Legal Officer ~~General Counsel~~, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661 ~~100 W. Randolph Street, Chicago, Illinois 60601~~.
- A) Failure of the tenured teacher to notify the State Board of the tenured teacher's ~~his or her~~ request for a hearing is not jurisdictional.
 - B) If a tenured teacher fails to specify the method by which a hearing officer is to be selected, then the hearing officer shall be selected as set forth in Section 51.40(a)(3) ~~of this Part~~.
- b) Notice of Charges for School Districts Organized under Article 34 of the School Code
- 1) The written notice shall be served upon the tenured teacher within 10 business days after approval of the charges (see Section 34-85(a) of the School Code). For purposes of this subsection (b)(1), "service" shall be by first-class U.S. mail, and also either by certified mail, return receipt requested, or personal delivery. If the tenured teacher cannot be found upon diligent inquiry, then the charges may be served by certified mail, return receipt requested, sent to the tenured teacher's last known address.

130 A return receipt showing delivery to the teacher's last known address
131 within 20 calendar days after the date of approval of the charges shall
132 constitute proof of service. (See Section 34-85(a)(1) of the School Code.)
133

134 2) The notice shall include the specifications of the dismissal and inform the
135 tenured teacher of ~~the~~his or her right to request, in writing to the general
136 superintendent, a hearing within 17 days after receiving the notice (see
137 Section ~~34~~35-85(a) of the School Code).
138

139 A) The notice shall inform the tenured teacher or principal of the
140 requirement to copy the State Board ~~of Education~~ on a request for
141 a hearing submitted pursuant to subsection (b)(3) ~~of this Section~~
142 addressed to the ~~Chief Legal Officer~~General Counsel, Illinois State
143 Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL
144 60661 ~~100 W. Randolph Street, Chicago, Illinois 60601~~, if the
145 teacher elects not to participate in the process to select a hearing
146 officer.
147

148 B) In addition, *any notice sent on or after July 1, 2012 shall inform*
149 *the teacher or principal of the right to request a hearing before a*
150 *mutually selected hearing officer, with the cost of the hearing*
151 *officer split equally between the teacher or principal and the*
152 *Board, or a hearing before a qualified hearing officer chosen by*
153 *the general superintendent, with the cost of the hearing officer*
154 *paid by the Board* (Section 34-85(a)(1) of the School Code).
155

156 3) If the tenured teacher chooses to have a hearing, then the tenured teacher
157 shall submit a request for a hearing in writing to the general
158 superintendent within the timeline set forth in subsection (b)(2) ~~of this~~
159 ~~Section~~ that specifies the tenured teacher's~~his or her~~ desire to have the
160 hearing either before a mutually selected hearing officer or a hearing
161 officer selected by the general superintendent. If the tenured teacher elects
162 not to participate in the process to select a hearing officer, then the tenured
163 teacher~~he or she~~ shall send a copy of ~~the~~his or her request for a hearing to
164 the ~~Chief Legal Officer~~General Counsel, Illinois State Board of Education,
165 555 W. Monroe Street, Suite 900, Chicago IL 60661 ~~100 W. Randolph~~
166 ~~Street, Chicago, Illinois 60601~~.
167

168 A) Failure of the tenured teacher to notify the State Board ~~of~~
169 ~~Education~~ on the tenured teacher's~~his or her~~ request for a hearing is
170 not jurisdictional.
171

172 B) If a tenured teacher fails to specify the method by which a hearing
173 officer is to be selected, then the hearing officer shall be selected
174 as set forth in Section 51.40(b)(3) ~~of this Part~~.

175
176 (Source: Amended at 48 Ill. Reg. _____, effective _____)
177

178 **Section 51.40 Qualifications and Selection of Hearing Officers; Conditions of Service**
179

180 a) Master List of Hearing Officers and Selection of Hearing Officers – School
181 Districts Not Organized under Article 34 of the School Code
182

183 1) The State Board shall maintain a master list of qualified impartial hearing
184 officers in accordance with Section 24-12(d)(3) of the School Code. Each
185 hearing officer on the master list maintained by the State Board shall
186 possess the following qualifications:
187

188 A) The hearing officer ~~He or she~~ *must be accredited by a national*
189 *arbitration organization and have had a minimum of 5 years of*
190 *experience directly related to labor and employment relations*
191 *matters between employers and employees or their exclusive*
192 *bargaining representatives* (Section 24-12(d)(3) of the School
193 Code).
194

195 B) The hearing officer ~~He or she~~ must not be a resident of the school
196 district involved in the hearing (see Section 24-12(d)(3) of the
197 School Code).
198

199 C) The hearing officer ~~He or she~~ must be disinterested and impartial.
200

201 D) The hearing officer ~~He or she~~ must have no financial or personal
202 interest in the result of the hearing.
203

204 E) Beginning on September 1, 2012, the hearing officer ~~he or she~~ must
205 have successfully completed the training provided or approved by
206 the State Board *specific to issues generally involved in evaluative*
207 *and non-evaluative dismissals* (Section 24-12(d)(3) of the School
208 Code).
209

210 F) The hearing officer ~~He or she~~ *must be available to commence the*
211 *hearing within 75 days and conclude the hearing within 120 days*
212 *after being selected as hearing officer* (Section 24-12(d) of the
213 School Code).
214

- 215 2) A hearing officer shall be selected as set forth in Section 24-12(d)(3) of
 216 the School Code and this subsection (a)(2) if the tenured teacher has
 217 requested a hearing before a mutually selected hearing officer.
 218
- 219 A) The State Board shall, from the master list, provide, on a rotating
 220 basis, a list of five prospective hearing officers within five business
 221 days after receiving a copy of the tenured teacher's request for a
 222 hearing.
 223
- 224 B) *Within three business days* after receiving the list of prospective
 225 hearing officers, *the Board and the teacher, or their legal*
 226 *representatives, shall either:*
- 227
- 228 i) *alternately strike one name from the list until one name*
 229 *remains (unless waived by the teacher, the teacher shall*
 230 *have the right to strike first); or*
 231
- 232 ii) *reject all prospective hearing officers on the list, in which*
 233 *case, the party rejecting the entire list shall notify the State*
 234 *Board and the other party. (See Section 24-12(d)(3) of the*
 235 *School Code.)*
 236
- 237 C) If the parties reject the entire list, the notification sent to the State
 238 Board shall include whether the parties prefer that the State Board
 239 appoint, on a rotating basis, a hearing officer from the master list
 240 who was not on the parties' rejected list, or whether the parties
 241 intend to select a hearing officer through an alternative method in
 242 accordance with Section 24-12(d)(4) of the School Code.
 243
- 244 3) A hearing officer shall be selected in accordance with Section 24-12(d)(3)
 245 of the School Code and this subsection (a)(3) if the tenured teacher has
 246 requested a hearing before a Board-selected hearing officer. Within three
 247 business days after receipt of the master list from the State Board, the
 248 Board shall select one name from the master list established pursuant to
 249 subsection (a)(1) ~~of this Section~~ and, in writing, notify the tenured teacher
 250 and the State Board of its selection. Notification to the State Board shall
 251 be addressed to the Chief Legal Officer ~~General Counsel~~, Illinois State
 252 Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL
 253 60661 ~~100 W. Randolph Street, Chicago, Illinois 60601~~.
 254
- 255 4) In lieu of selecting a hearing officer pursuant to subsection (a)(2) or (a)(3)
 256 ~~of this Section~~, the parties may mutually select either an impartial hearing
 257 officer who is on the State Board's master list but was not on the list

258 provided to the parties under subsection (a)(2) ~~of this Section~~ or an
 259 *impartial hearing officer who is not on the State Board's master list either*
 260 *directly or by using procedures for the appointment of an arbitrator*
 261 *established by the Federal Mediation and Conciliation Service or the*
 262 *American Arbitration Association. The parties shall notify the State*
 263 *Board of their intent to select a hearing officer using an alternative*
 264 *process within 3 business days after the receipt of the list of prospective*
 265 *hearing officers provided by the State Board, or the notice of appointment*
 266 *of hearing officer by the State Board, or receipt of notice from the State*
 267 *Board that it cannot provide a list of qualified, impartial hearing officers,*
 268 *whichever occurs later (Section 24-12(d)(4) of the School Code).*
 269

270 b) List of Hearing Officers and Selection of Hearing Officers – School Districts
 271 Organized under Article 34 of the School Code
 272

273 1) A school district organized under Article 34 of the School Code shall
 274 maintain a separate list of nine hearing officers to conduct hearings on
 275 charges and specifications. The school district shall develop the list *in*
 276 *good faith consultation with the exclusive representative of the*
 277 *board's*~~Board's~~ *teachers and professional associations that represent the*
 278 *board's*~~Board's~~ *principals (Section 34-85(a)(3) of the School Code). Each*
 279 *hearing officer shall maintain the following qualifications:*
 280

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

287
 288 B) The hearing officer~~He or she~~ *must be disinterested and impartial.*
 289

290 C) The hearing officer~~He or she~~ *must have no financial or personal*
 291 *interest in the result of the hearing.*
 292

293 D) Beginning on September 1, 2012, the hearing officer~~he or she~~ *must*
 294 *have successfully completed the training provided or approved by*
 295 *the State Board specific to issues generally involved in evaluative*
 296 *and non-evaluative dismissals (Section 34-85(a)(3) of the School*
 297 *Code).*
 298

299 E) The hearing officer~~He or she~~ *must be available to commence the*
 300 *hearing within 75 calendar days and conclude the hearing within*

301 *120 calendar days after being selected as hearing officer* (Section
 302 34-85(a)(5) of the School Code).

303
 304 2) A hearing officer shall be selected as set forth in Section 34-85(a)(3) of
 305 the School Code and this subsection (b)(2) if the tenured teacher has
 306 chosen to use a mutually selected hearing officer. *The general*
 307 *superintendent and the teacher or principal or their legal representatives,*
 308 *within 5 business days after receiving the notice of request for a hearing,*
 309 *shall alternately strike one name from the list of nine qualified hearing*
 310 *officers until only one name remains. Unless waived by the teacher, the*
 311 *teacher or principal shall have the right to proceed first with the striking.*
 312 (Section 34-85(a)(3) of the School Code)

313
 314 3) A hearing officer shall be selected as set forth in Section 34-85(a)(4) of
 315 the School Code and this subsection (b)(3) if the tenured teacher does not
 316 participate in the selection process. The general superintendent either
 317 shall select the hearing officer from the list of nine qualified hearing
 318 officers or *select another qualified hearing officer from the master list*
 319 *maintained by the State Board.* (Section 34-85(a)(3) of the School Code)
 320 (See subsection (a)(1) ~~of this Section.~~)

321
 322 c) For purposes of the master list maintained by the State Board pursuant to
 323 subsection (a)(1) ~~of this Section~~, the names of the four hearing officers not
 324 selected from among the five provided to a school district under subsection (a)(2)
 325 ~~of this Section~~ shall be placed at the bottom of the master list and the State Board
 326 shall rotate the names on the list accordingly.

327
 328 d) As soon as possible, the prospective hearing officer shall disclose to the parties in
 329 writing any circumstances the hearing officer ~~he or she~~ believes might disqualify
 330 them ~~him or her~~ as an impartial hearing officer.

331
 332 1) The parties may waive the presumptive disqualification.

333
 334 2) If either party declines to waive the presumptive disqualification, the party
 335 shall notify the State Board of this fact, and the State Board, within five
 336 days after receiving this disclosure, shall declare a vacancy.

337
 338 e) If any hearing officer shall resign, die, withdraw, refuse, or be unable or
 339 disqualified to perform the duties of the ~~his or her~~ position, the State Board shall,
 340 on proof satisfactory to it, declare the position vacant.

341
 342 1) Vacancies shall be filled in the same manner as that governing the making
 343 of the original appointment; that is:

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- 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

387 standards identified in this subsection ~~(h)~~ shall be grounds for removal of the
 388 hearing officer from the master list maintained by the State Board.

389
 390 i) The hearing officer shall interpret and apply the provisions of this Part insofar as
 391 they relate to the hearing officer's ~~his or her~~ powers and duties and shall follow
 392 any court interpretation of this Part.

393
 394 (Source: Amended at 48 Ill. Reg. _____, effective _____)

395
 396 **Section 51.60 The Hearing**

397
 398 a) The hearing shall be closed to the public unless one of the parties requests that it
 399 be open and the hearing officer so orders. The hearing officer shall exclude
 400 witnesses during the testimony of other witnesses upon the motion of either party,
 401 except that, at any time, one representative of each party in addition to counsel (or
 402 other authorized representative) shall be allowed to be present, even if that
 403 representative is also a witness. *In the case of charges involving any* ~~When a~~
 404 *witness who is or was at the time of the alleged conduct a student or a person*
 405 *under the age of 18* ~~minor~~, *the hearing officer shall make accommodations to*
 406 *protect a witness from being intimidated, traumatized, or re-traumatized pursuant*
 407 *to Section 24-12(d)(6.5) or 34-85(a)(5.5) of the School Code, as applicable* ~~allow~~
 408 ~~the parent or representative of the minor to be present when the minor is~~
 409 ~~testifying~~. In open hearings, individuals who are not witnesses are not affected by
 410 exclusion under this subsection (a).

411
 412 b) The parties may be present and represented by counsel and by other authorized
 413 representatives.

414
 415 c) The order of proceeding shall be as follows:

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 417 1) The hearing shall be opened by the recording of the place, time, and date
 418 of the hearing, the presence of the hearing officer and the parties and
 419 counsel, if any, and any stipulations as to facts. Pre-hearing motions
 420 submitted in accordance with Section 51.55 ~~of this Part~~ and not previously
 421 disposed of shall be heard at this time.

422
 423 2) Upon the opening of the hearing, the hearing officer shall allow the parties
 424 to make opening statements.

425
 426 3) The Board shall proceed first to present its evidence, and it shall have the
 427 burden of proof. Parties may agree to take witnesses out of order. The
 428 hearing officer may, at the hearing officer's ~~his or her~~ discretion, vary the
 429 normal procedure under which the Board presents its case first, provided

- 430 that the parties agree to take witnesses out of order, but in any event shall
431 afford full and equal opportunity to all parties for presentation of relevant
432 proof.
433
- 434 4) Either party may offer evidence and witnesses, cross-examine the
435 witnesses, and present a defense or rebuttal.
436
- 437 5) All testimony shall be taken under oath or affirmation administered by the
438 hearing officer.
439
- 440 6) The hearing officer may issue subpoenas requiring the attendance of
441 witnesses and subpoenas duces tecum and, at the request of either of the
442 parties, shall issue the requested subpoenas but may limit the number of
443 witnesses to be subpoenaed on behalf of either party to not more than
444 seven.
445
- 446 7) The hearing officer shall cause a record of the proceedings to be kept and
447 shall employ a competent reporter to take stenographic or stenotype notes
448 of all the testimony. *The party or parties who are responsible for paying*
449 *the fees and costs of the hearing officer* (Sections 24-12(d)(6) and 34-
450 85(a)(5) of the School Code) shall pay for the attendance and services of
451 the court reporter or other competent reporter who can provide a verbatim
452 transcript of the proceeding. (See Section 51.40(f) ~~of this Part.~~)
453
- 454 A) The cost of any transcript ordered by the hearing officer shall be
455 paid by the party or parties responsible for paying the fees and cost
456 of the hearing officer.
457
- 458 B) Either party desiring a transcript of the hearing shall pay for the
459 cost of the transcript (see Sections 24-12(d)(6) and 34-85(a)(5) of
460 the School Code).
461
- 462 8) Exhibits, when offered by either party, may be received in evidence by the
463 hearing officer. The names and addresses of all witnesses and exhibits, in
464 order received, shall be made a part of the record. The hearing officer
465 shall make rulings on the admissibility of exhibits.
466
- 467 9) The hearing shall commence within 75 days and conclude within 120 days
468 after the appointment of the hearing officer, barring modification of these
469 timelines by the hearing officer upon a showing of good cause or mutual
470 agreement of the parties. "Good cause" for the purpose of this subsection
471 (c)(9) shall mean *the illness or otherwise unavoidable emergency of the*
472 *teacher, district representative, their legal representatives, the hearing*

- 473 *officer, or an essential witness as indicated in each party's pre-hearing*
474 *submission* (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code).
475
- 476 10) The hearing may proceed in the absence of either party, who, after due
477 notice, fails to be present or fails to obtain a continuance.
478
- 479 11) Each party shall be provided no more than three business days to present
480 its case, unless the hearing officer determines, in accordance with the
481 provisions of Section 24-12(d)(6) or 34-85(a)(5) of the School Code, that
482 more time is needed for either the tenured teacher or the Board to present
483 adequate evidence and testimony, including due to the other party's cross-
484 examination of the party's witnesses. For the purposes of this subsection
485 (c)(11), a "business day" shall consist of 7.5 hours, such that three
486 business days equates to 22.5 hours, exclusive of time taken for lunch and
487 other breaks.
488
- 489 12) At the conclusion of the hearing, each party may make an oral closing
490 statement incorporating arguments of fact and law.
491
- 492 13) When the hearing officer determines that neither party has further proof to
493 offer or witnesses to be heard, the hearing officer~~he or she~~ shall declare
494 the hearing concluded and so note in the record.
495
- 496 14) At the close of the hearing, the hearing officer shall direct the parties to
497 submit post-hearing briefs no later than 21 days after receipt of the
498 transcript, *unless extended by the hearing officer for good cause or by*
499 *mutual agreement of the parties* (Sections 24-12(d)(6) and 34-85(a)(5) of
500 the School Code). Post-hearing briefs may not exceed 50 pages in length,
501 unless the hearing officer determines in a written order that the
502 circumstances of a particular matter (e.g., length of the hearing) warrant a
503 limitation shorter or longer than 50 pages. Either party may waive
504 submission of a brief. If written briefs are to be submitted subsequently,
505 the hearing officer shall so note in the record.
506
- 507 15) The record of the proceedings shall not be considered closed until all
508 evidence has been submitted and any briefs have been timely received by
509 the hearing officer. The hearing officer shall notify the parties, in writing,
510 of the closing date of the record.
511
- 512 d) Evidentiary rules to be followed during the hearing shall be as follows:
513
- 514 1) The parties may offer any evidence as they desire, and each party shall
515 produce any additional evidence as the hearing officer may deem

- 516 necessary to an understanding and determination of the dispute.
517
518 2) The hearing officer shall be the judge of the relevancy and materiality of
519 the evidence offered and strict conformity to legal rules of evidence shall
520 not be necessary.
521
522 3) Objections to evidentiary offers may be made and shall be noted in the
523 record. The hearing officer shall have the power to make rulings,
524 including the power to exclude evidence. "Offers of Proof" shall be
525 permitted.
526
527 4) Any witness designated as hostile by the hearing officer may be examined
528 as if under cross-examination.
529
530 5) If the hearing officer grants a party's request to submit a document after
531 the evidentiary portion of the hearing is closed, the party shall file that
532 document with the hearing officer and with the other party within the time
533 designated by the hearing officer.
534

535 (Source: Amended at 48 Ill. Reg. _____, effective _____)
536

537 **Section 51.70 The Decision: School Districts Not Organized under Article 34 of the School**
538 **Code**
539

540 When a hearing is held under Section 24-12(d) of the School Code, the hearing officer must,
541 *within 30 days after the hearing is concluded or the record is closed, whichever is later*, render a
542 *final decision* as to whether the tenured teacher shall be dismissed pursuant to Article 24A of the
543 School Code (unless the school district pursues the dismissal under Subpart C of this Part) *or*
544 *findings of fact and recommendation as to whether the teacher must be dismissed for conduct*
545 (Sections 24-12(d)(7) of the School Code). The hearing officer shall provide a copy of the
546 decision or findings of fact and recommendation issued pursuant to this Section to the State
547 Board of Education by certified mail addressed to the Chief Legal Officer~~General Counsel~~,
548 Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661~~100 W.~~
549 ~~Randolph Street, Chicago, Illinois 60601.~~
550

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

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- 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).

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- 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 the tenured teacher's~~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.

- 644 iv) Any offers of proof, objections, and rulings on the proof
 645 and objections.
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 647 v) Any proposed findings and exceptions.
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 649 vi) A transcript of the hearing.
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 651 vii) The findings of fact and recommendation of the hearing
 652 officer.
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 654 viii) The decision of the Board, as set forth in its written order.
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 656 ix) Any other material required under Section 10-35 of the
 657 Illinois Administrative Procedure Act.
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 659 c) Pursuant to Section 24-12(d)(7) of the School Code, if the hearing officer fails,
 660 without good cause specifically provided in writing to the parties and the State
 661 Board, to render a decision issued pursuant to subsection (a) ~~of this Section~~ or
 662 findings of fact and recommendation issued pursuant to subsection (b) ~~of this~~
 663 ~~Section~~ within 30 days after the later of the close of the hearing or the record, or if
 664 the hearing officer fails to make an accommodation as described in Section 24-
 665 12(d)(6.5) of the School Code, the parties may mutually agree to select a hearing
 666 officer pursuant to the alternative selection procedures provided under Section 24-
 667 12(d)(4) of the School Code to rehear the charges or review the record and render
 668 a decision.
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 670 1) *If any hearing officer fails without good cause, specifically provided in*
 671 *writing to both parties and the State Board of Education, to render a*
 672 *decision or findings of fact within 30 days after the hearing is concluded*
 673 *or the record is closed, whichever is later or if any hearing officer fails to*
 674 *make an accommodation as described in Section 24-12(d)(6.5) of the*
 675 *School Code, the hearing officer shall be removed from the master list of*
 676 *hearing officers maintained by the State Board of Education for not more*
 677 *than 24 months.* ~~The hearing officer who failed to timely render a decision~~
 678 ~~or findings of fact and recommendation without good cause shall have his~~
 679 ~~or her name struck from the master list of hearing officers maintained by~~
 680 ~~the State Board of Education for a period of not more than 24 months.~~
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 682 2) The parties and the State Board may take other actions as they deem
 683 appropriate regarding reducing fees paid to the hearing officer.
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 685 3) If any hearing officer repeats the failure described in subsection (c)(1),
 686 ~~again fails to provide in a timely manner a decision or findings of fact and~~

687 ~~recommendation without good cause,~~ the State Board shall remove the
 688 hearing officer~~him or her~~ permanently from the master list and prohibit
 689 any party from selecting this hearing officer through the alternative
 690 selection process in Section 24-12(d)(4) of the School Code.

691
 692 d) Pursuant to Section 24-12(d)(7) of the School Code, *the Board shall not lose*
 693 *jurisdiction to discharge a teacher if the hearing officer fails to render a decision*
 694 *within the applicable time specified in this Section.*

695
 696 (Source: Amended at 48 Ill. Reg. _____, effective _____)
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698 **Section 51.75 The Decision: School Districts Organized under Article 34 of the School**
 699 **Code**

700
 701 When a hearing is held under Section 34-85 of the School Code regarding performance pursuant
 702 to Article 24A of the School Code or conduct, *the hearing officer shall, within 30 calendar days*
 703 *after the conclusion of the hearing, report to the general superintendent findings of fact and a*
 704 *recommendation as to whether the teacher or principal shall be dismissed* (Section 34-85(a)(6)
 705 of the School Code). The hearing officer shall provide a copy of the findings of fact and
 706 recommendation issued pursuant to this Section to the State Board ~~of Education~~ by certified mail
 707 addressed to the ~~Chief Legal Officer~~~~General Counsel~~, Illinois State Board of Education, 555 W.
 708 Monroe Street, Suite 900, Chicago IL 60661~~100 W. Randolph Street, Chicago, Illinois 60601.~~

709
 710 a) In a dismissal hearing regarding performance pursuant to Article 24A of the
 711 School Code, *the hearing officer shall consider and give weight to all of the*
 712 *teacher's evaluations, subject to their introduction at the hearing, that are relevant*
 713 *to the issues in the hearing.* (Section 34-85(a)(5) of the School Code)

714
 715 b) *The hearing officer shall report to the general superintendent findings of fact and*
 716 *a recommendation as to whether the teacher or principal shall be dismissed and*
 717 *shall give a copy of the report to both the teacher or principal and the general*
 718 *superintendent* (Section 34-85(a)(6) of the School Code). A copy of the hearing
 719 officer's findings of fact and recommendation shall be given by certified mail to
 720 the tenured teacher or the tenured teacher's~~his or her~~ legal representatives of
 721 record.

722
 723 c) *If any hearing officer fails without good cause, specifically provided in writing to*
 724 *both parties and the State Board of Education, to render findings of fact and*
 725 *recommendation within 90 days after closing of the record and receipt of post-*
 726 *hearing briefs, or if any hearing officer fails to make an accommodation pursuant*
 727 *to Section 34-85(a)(5.5) of the School Code, the hearing officer shall be removed*
 728 *from the list of hearing officers developed pursuant to Section 34-85(a)(3) of the*
 729 *School Code, and the master list of qualified hearing officers maintained by the*

State Board of Education for not more than 24 months. The parties and the State Board of Education may also take such other action as described in Section 34-85(a)(6.5) of the School Code (see Section 34-85(a)(6.5) of the School Code or Public Act 103-354).~~If the hearing officer is appointed from the master list developed by the State Board and he or she fails, without good cause, to render findings of fact and recommendation within the required timeframe, then his or her name shall be struck from the master list of hearing officers for a period of at least 24 months. Other action may be taken as provided in Section 51.70(c) of this Part.~~

- d) The decision of the hearing officer regarding dismissal due to either performance or conduct rendered pursuant to Section 34-85 of the School Code is the findings of fact and recommendation to the Board.
- 1) The Board shall make a decision as to whether the tenured teacher shall be dismissed within 45 days after receiving the hearing officer's report of findings and recommendation.
 - 2) A copy of the Board's decision shall be given by certified mail to the tenured teacher and the tenured teacher's~~his or her~~ legal representatives of record, and to the State Board at the address set forth in this Section.
 - 3) The Board's decision to dismiss a tenured teacher from its employ is final unless reviewed under the Administrative Review Law, as provided in Section 34-85b of the School Code ~~[105 ILCS 5/34-85b]~~, with the review required to be initiated in the Illinois Appellate Court for the First District (see Section 34-85(a)(8) of the School Code).
 - A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the costs of preparing and filing the record equally.
 - B) The record of the hearing shall contain each of the items enumerated in Section 51.70(b)(3)(B) ~~of this Part.~~
 - 4) Pursuant to Section 34-85(a)(7) of the School Code, ~~the failure of the board~~Board ~~to strictly adhere to the timeline set forth in subsection (d)(1) of this Section does not render it without jurisdiction to dismiss the tenured teacher.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL

UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section 51.280 Findings of Fact and Recommendation of the Hearing Officer

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- a) The hearing officer shall issue a report of findings of fact and recommendation to the Board, stating whether the affected tenured teacher shall be retained or dismissed and the reasons for the recommended action (see Section 24-16.5 of the School Code).
 - 1) The report of findings of fact and recommendation shall be issued within 30 days after the hearing is concluded or the record of the hearing is closed, whichever is later. The record of the proceedings shall not be considered closed until all evidence has been submitted. The hearing officer shall notify the parties, in writing, of the closing date of the record.
 - 2) The report of findings of fact and recommendation shall not exceed 30 pages.
 - 3) A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to the tenured teacher and the tenured teacher's~~his or her~~ legal representatives of record and to the State Board of ~~Education~~ addressed to the Chief Legal Officer~~General Counsel~~, 555 W. Monroe Street, Suite 900, Chicago IL 60661~~100 W. Randolph Street, Chicago, Illinois 60601~~.
 - b) The hearing officer shall provide a copy of the report of findings of fact and recommendation to the affected tenured teacher and the superintendent of the school district at the same time as the report is provided to the Board. The hearing officer shall provide a copy of the report to the State Board.
 - c) Pursuant to Section 24-16.5(e) 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 findings of fact and recommendation 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 to review the record and render a recommendation.
 - 1) The hearing officer who failed to timely render findings of fact and recommendation or failed to make the accommodations described in Section 24-12(d)(6.5) of the School Code shall have the hearing officer's~~his or her~~ name struck from the master list of hearing officers maintained by the State Board for a period of not more than 24 months.

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- 2) The parties and the State Board may take other actions as they deem appropriate regarding reducing fees paid to the hearing officer. If any hearing officer again fails to provide in a timely manner a decision or findings of fact and recommendation, or again fails to make the accommodations described Section 24-12(d)(6.5) of the School Code, the State Board shall remove the hearing officer~~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.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 51.290 Decision of Board

- a) Within 45 days after receiving the hearing officer's findings of fact and recommendation, the Board shall render a written order as to whether the affected tenured teacher be retained or dismissed.
 - 1) A copy of the Board's decision shall be provided to the tenured teacher either by certified mail, return receipt requested, or personal delivery with receipt within five days after the date on which the Board rendered a decision to retain or dismiss the affected tenured teacher. A copy of the Board's decision also shall be given by certified mail to the State Board of ~~Education~~ addressed to the Chief Legal Officer~~General Counsel~~, 555 W. Monroe Street, Suite 900, Chicago IL 60661~~100 W. Randolph Street, Chicago, Illinois 60601~~.
 - 2) If the Board determines that the affected tenured teacher should be dismissed, contrary to the hearing officer's findings of fact and recommendation, then the Board shall provide in its written order its conclusion and the reasons for making that determination.
 - 3) *The failure of the Board to strictly adhere to the timeline set forth in this subsection (a) does not render it without jurisdiction to dismiss the teacher (Section 24-16.5(f) of the School Code).*
- b) The decision of the Board is final unless reviewed under the Administrative Review Law, as provided in Section 24-16.5(g) of the School Code.
 - 1) The affected tenured teacher shall file the appeal within 35 days from the date that the tenured teacher~~he or she~~ received the Board's decision pursuant to subsection (a)(1).

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- A) *For a teacher dismissed by a school district having fewer than 500,000 inhabitants, the judicial review must be taken directly to the appellate court of the judicial district in which the school district's Board maintains its primary administrative offices (Section 24-16.5(g)(2) of the School Code).*
- B) *For a teacher dismissed by a school district organized under Article 34 of the School Code, the judicial review must be taken directly to the Illinois Appellate Court for the First District (Section 24-16.5(g)(1) of the School Code).*
- 2) *If the hearing officer recommended dismissal, the decision of the Board may be reversed only if it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law (Section 24-16.5(g) of the School Code).*
- 3) *In the event judicial review is instituted by a teacher, any costs of preparing and filing the record of proceedings must be paid by the teacher (Section 24-16.5(g) of the School Code).*
- 4) The record of the proceedings shall contain each of the items enumerated in Section 51.70(a)(2)(B).
- c) Pursuant to Section 24-16.5(f) 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 48 Ill. Reg. _____, effective _____)