



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1333

Introduced 2/20/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-22.4

from Ch. 122, par. 10-22.4

105 ILCS 5/34-85

from Ch. 122, par. 34-85

30 ILCS 805/8.31 new

Amends the School Code. Requires a teacher to be dismissed if the teacher uses profanity towards a student. Amends the State Mandates Act to require implementation without reimbursement.

LRB095 09682 NHT 29884 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 10-22.4 and 34-85 as follows:

6 (105 ILCS 5/10-22.4) (from Ch. 122, par. 10-22.4)

7 Sec. 10-22.4. Dismissal of teachers. To dismiss a teacher
8 for incompetency, cruelty, negligence, immorality or other
9 sufficient cause, to dismiss any teacher who fails to complete
10 a 1-year remediation plan with a "satisfactory" or better
11 rating and to dismiss any teacher whenever, in its opinion, he
12 is not qualified to teach, or whenever, in its opinion, the
13 interests of the schools require it, subject, however, to the
14 provisions of Sections 24-10 to 24-15, inclusive. Temporary
15 mental or physical incapacity to perform teaching duties, as
16 found by a medical examination, is not a cause for dismissal.
17 Marriage is not a cause of removal. A teacher must be dismissed
18 if the teacher uses profanity towards a student.

19 (Source: P.A. 85-248.)

20 (105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

21 Sec. 34-85. Removal for cause; Notice and hearing;
22 Suspension. No teacher employed by the board of education shall

1 (after serving the probationary period specified in Section
2 34-84) be removed except for cause. A teacher must be removed
3 if the teacher uses profanity towards a student. No principal
4 employed by the board of education shall be removed during the
5 term of his or her performance contract except for cause, which
6 may include but is not limited to the principal's repeated
7 failure to implement the school improvement plan or to comply
8 with the provisions of the Uniform Performance Contract,
9 including additional criteria established by the Council for
10 inclusion in the performance contract pursuant to Section
11 34-2.3.

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

1 approval of the charges shall constitute proof of service.

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

20 The general superintendent and the teacher or principal or
21 their legal representatives within 3 days from receipt of the
22 list shall alternately strike one name from the list until only
23 one name remains. Unless waived by the teacher, the teacher or
24 principal shall have the right to proceed first with the
25 striking. Within 3 days of receipt of the first list provided
26 by the State Board of Education, the general superintendent and

1 the teacher or principal or their legal representatives shall
2 each have the right to reject all prospective hearing officers
3 named on the first list and to require the State Board of
4 Education to provide a second list of 5 prospective, impartial
5 hearing officers, none of whom were named on the first list.
6 Within 5 days after receiving this request for a second list,
7 the State Board of Education shall provide the second list of 5
8 prospective, impartial hearing officers. The procedure for
9 selecting a hearing officer from the second list shall be the
10 same as the procedure for the first list. Each party shall
11 promptly serve written notice on the other of any name stricken
12 from the list. If the teacher or principal fails to do so, the
13 general superintendent may select the hearing officer from any
14 name remaining on the list. The teacher or principal may waive
15 the hearing at any time prior to the appointment of the hearing
16 officer. Notice of the selection of the hearing officer shall
17 be given to the State Board of Education. The hearing officer
18 shall be notified of his selection by the State Board of
19 Education. A signed acceptance shall be filed with the State
20 Board of Education within 5 days of receipt of notice of the
21 selection. The State Board of Education shall notify the
22 teacher or principal and the board of its appointment of the
23 hearing officer. In the alternative to selecting a hearing
24 officer from the first or second list received from the State
25 Board of Education, the general superintendent and the teacher
26 or principal or their legal representatives may mutually agree

1 to select an impartial hearing officer who is not on a list
2 received from the State Board of Education, either by direct
3 appointment by the parties or by using procedures for the
4 appointment of an arbitrator established by the Federal
5 Mediation and Conciliation Service or the American Arbitration
6 Association. The parties shall notify the State Board of
7 Education of their intent to select a hearing officer using an
8 alternative procedure within 3 days of receipt of a list of
9 prospective hearing officers provided by the State Board of
10 Education. Any person selected by the parties under this
11 alternative procedure for the selection of a hearing officer
12 shall have the same qualifications and authority as a hearing
13 officer selected from a list provided by the State Board of
14 Education. The teacher or principal may waive the hearing at
15 any time prior to the appointment of the hearing officer. The
16 State Board of Education shall promulgate uniform standards and
17 rules of procedure for such hearings, including reasonable
18 rules of discovery.

19 The per diem allowance for the hearing officer shall be
20 paid by the State Board of Education. The hearing officer shall
21 hold a hearing and render findings of fact and a recommendation
22 to the general superintendent. The teacher or principal has the
23 privilege of being present at the hearing with counsel and of
24 cross-examining witnesses and may offer evidence and witnesses
25 and present defenses to the charges. The hearing officer may
26 issue subpoenas requiring the attendance of witnesses and, at

1 the request of the teacher or principal against whom a charge
2 is made or the general superintendent, shall issue such
3 subpoenas, but the hearing officer may limit the number of
4 witnesses to be subpoenaed in behalf of the teacher or
5 principal or the general superintendent to not more than 10
6 each. All testimony at the hearing shall be taken under oath
7 administered by the hearing officer. The hearing officer shall
8 cause a record of the proceedings to be kept and shall employ a
9 competent reporter to take stenographic or stenotype notes of
10 all the testimony. The costs of the reporter's attendance and
11 services at the hearing shall be paid by the State Board of
12 Education. Either party desiring a transcript of the hearing
13 shall pay for the cost thereof.

14 Pending the hearing of the charges, the person charged may
15 be suspended in accordance with rules prescribed by the board
16 but such person, if acquitted, shall not suffer any loss of
17 salary by reason of the suspension.

18 Before service of notice of charges on account of causes
19 that may be deemed to be remediable, the teacher or principal
20 shall be given reasonable warning in writing, stating
21 specifically the causes which, if not removed, may result in
22 charges; however, no such written warning shall be required if
23 the causes have been the subject of a remediation plan pursuant
24 to Article 24A. No written warning shall be required for
25 conduct on the part of a teacher or principal which is cruel,
26 immoral, negligent, or criminal or which in any way causes

1 psychological or physical harm or injury to a student as that
2 conduct is deemed to be irremediable. No written warning shall
3 be required for a material breach of the uniform principal
4 performance contract as that conduct is deemed to be
5 irremediable; provided however, that not less than 30 days
6 before the vote of the local school council to seek the
7 dismissal of a principal for a material breach of a uniform
8 principal performance contract, the local school council shall
9 specify the nature of the alleged breach in writing and provide
10 a copy of it to the principal.

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

13 The hearing officer shall within 45 days from the
14 conclusion of the hearing report to the general superintendent
15 findings of fact and a recommendation as to whether or not the
16 teacher or principal shall be dismissed and shall give a copy
17 of the report to both the teacher or principal and the general
18 superintendent. The board, within 45 days of receipt of the
19 hearing officer's findings of fact and recommendation, shall
20 make a decision as to whether the teacher or principal shall be
21 dismissed from its employ. The failure of the board to strictly
22 adhere to the timeliness contained herein shall not render it
23 without jurisdiction to dismiss the teacher or principal. If
24 the hearing officer fails to render a decision within 45 days,
25 the State Board of Education shall communicate with the hearing
26 officer to determine the date that the parties can reasonably

1 expect to receive the decision. The State Board of Education
2 shall provide copies of all such communications to the parties.
3 In the event the hearing officer fails without good cause to
4 make a decision within the 45 day period, the name of such
5 hearing officer shall be struck for a period not less than 24
6 months from the master list of hearing officers maintained by
7 the State Board of Education. The board shall not lose
8 jurisdiction to discharge the teacher or principal if the
9 hearing officer fails to render a decision within the time
10 specified in this Section. If a hearing officer fails to render
11 a decision within 3 months after the hearing is declared
12 closed, the State Board of Education shall provide the parties
13 with a new list of prospective, impartial hearing officers,
14 with the same qualifications provided herein, one of whom shall
15 be selected, as provided in this Section, to rehear the charges
16 heard by the hearing officer who failed to render a decision.
17 The parties may also select a hearing officer pursuant to the
18 alternative procedure, as provided in this Section, to rehear
19 the charges heard by the hearing officer who failed to render a
20 decision. A violation of the professional standards set forth
21 in "The Code of Professional Responsibility for Arbitrators of
22 Labor-Management Disputes", of the National Academy of
23 Arbitrators, the American Arbitration Association, and the
24 Federal Mediation and Conciliation Service, or the failure of a
25 hearing officer to render a decision within 3 months after the
26 hearing is declared closed shall be grounds for removal of the

1 hearing officer from the master list of hearing officers
2 maintained by the State Board of Education. The decision of the
3 board is final unless reviewed as provided in Section 34-85b of
4 this Act.

5 In the event judicial review is instituted, any costs of
6 preparing and filing the record of proceedings shall be paid by
7 the party instituting the review. If a decision of the board
8 ~~hearing officer~~ is adjudicated upon review or appeal in favor
9 of the teacher or principal, then the trial court shall order
10 reinstatement and shall determine the amount for which the
11 board is liable including but not limited to loss of income and
12 costs incurred therein. Nothing in this Section affects the
13 validity of removal for cause hearings commenced prior to the
14 effective date of this amendatory Act of 1978.

15 (Source: P.A. 89-15, eff. 5-30-95; revised 1-20-03.)

16 Section 90. The State Mandates Act is amended by adding
17 Section 8.31 as follows:

18 (30 ILCS 805/8.31 new)

19 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8
20 of this Act, no reimbursement by the State is required for the
21 implementation of any mandate created by this amendatory Act of
22 the 95th General Assembly.