

AN ACT concerning education.

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

Section 5. The School Code is amended by changing Sections 2-3.153, 10-17a, 24-12, and 24A-5 as follows:

(105 ILCS 5/2-3.153)

Sec. 2-3.153. Survey of learning conditions.

(a) The State Board of Education shall select for statewide administration an instrument to provide feedback from, at a minimum, students in grades 6 through 12 and teachers on the instructional environment within a school after giving consideration to the recommendations of the Performance Evaluation Advisory Council made pursuant to subdivision (6) of subsection (a) of Section 24A-20 of this Code. Subject to appropriation to the State Board of Education for the State's cost of development and administration and, subject to subsections (b) and (c) of this Section ~~commencing with the 2012-2013 school year~~, each school district shall administer, at least biennially ~~biannually~~, the instrument in every public school attendance center by a date specified by the State Superintendent of Education, and data resulting from the instrument's administration must be provided to the State Board of Education. The survey component that requires completion by

the teachers must be administered during teacher meetings or professional development days or at other times that would not interfere with the teachers' regular classroom and direct instructional duties. The State Superintendent, following consultation with teachers, principals, and other appropriate stakeholders, shall publicly report on selected indicators of learning conditions resulting from administration of the instrument at the individual school, district, and State levels and shall identify whether the indicators result from an anonymous administration of the instrument. If in any year the appropriation to the State Board of Education is insufficient for the State's costs associated with statewide administration of the instrument, the State Board of Education shall give priority to districts with low-performing schools and a representative sample of other districts.

(b) A school district may elect to use, on a district-wide basis and at the school district's sole cost and expense, an alternate survey of learning conditions instrument pre-approved by the State Superintendent under subsection (c) of this Section in lieu of the statewide survey instrument selected under subsection (a) of this Section, provided that:

(1) the school district notifies the State Board of Education, on a form provided by the State Superintendent, of its intent to administer an alternate instrument on or before a date established by the State Superintendent for the 2014-2015 school year and August 1 of each subsequent

school year during which the instrument will be administered;

(2) the notification submitted to the State Board under paragraph (1) of this subsection (b) must be accompanied by a certification signed by the president of the local teachers' exclusive bargaining representative and president of the school board indicating that the alternate survey has been agreed to by the teachers' exclusive bargaining representative and the school board;

(3) the school district's administration of the alternate instrument, including providing to the State Board of Education data and reports suitable to be published on school report cards and the State School Report Card Internet website, is performed in accordance with the requirements of subsection (a) of this Section;
and

(4) the alternate instrument is administered each school year that the statewide survey instrument is administered; if the statewide survey is not administered in a given school year, the school district is not required to provide the alternative instrument in that given school year.

(c) The State Superintendent, in consultation with teachers, principals, superintendents, and other appropriate stakeholders, shall administer an approval process through which at least 2, but not more than 3, alternate survey of

learning conditions instruments will be approved by the State Superintendent following a determination by the State Superintendent that each approved instrument:

(1) meets all requirements of subsection (a) of this Section;

(2) provides a summation of indicator results of the alternative survey by a date established by the State Superintendent in a manner that allows the indicator results to be included on school report cards pursuant to Section 10-17a of this Code by October 31 of the school year following the instrument's administration;

(3) provides summary reports for each district and attendance center intended for parents and community stakeholders;

(4) meets scale reliability requirements using accepted testing measures;

(5) provides research-based evidence linking instrument content to one or more improved student outcomes; and

(6) has undergone and documented testing to prove validity.

The State Superintendent shall periodically review and update the list of approved alternate survey instruments, provided that at least 2, but no more than 3, alternate survey instruments shall be approved for use during any school year.

(d) Nothing contained in this amendatory Act of the 98th

General Assembly repeals, supersedes, invalidates, or nullifies final decisions in lawsuits pending on the effective date of this amendatory Act of the 98th General Assembly in Illinois courts involving the interpretation of Public Act 97-8.

(Source: P.A. 97-8, eff. 6-13-11; 97-813, eff. 7-13-12.)

(105 ILCS 5/10-17a) (from Ch. 122, par. 10-17a)

Sec. 10-17a. State, school district, and school report cards.

(1) By October 31, 2013 and October 31 of each subsequent school year, the State Board of Education, through the State Superintendent of Education, shall prepare a State report card, school district report cards, and school report cards, and shall by the most economic means provide to each school district in this State, including special charter districts and districts subject to the provisions of Article 34, the report cards for the school district and each of its schools.

(2) In addition to any information required by federal law, the State Superintendent shall determine the indicators and presentation of the school report card, which must include, at a minimum, the most current data possessed by the State Board of Education related to the following:

(A) school characteristics and student demographics, including average class size, average teaching experience, student racial/ethnic breakdown, and the percentage of

students classified as low-income; the percentage of students classified as limited English proficiency; the percentage of students who have individualized education plans or 504 plans that provide for special education services; the percentage of students who annually transferred in or out of the school district; the per-pupil operating expenditure of the school district; and the per-pupil State average operating expenditure for the district type (elementary, high school, or unit);

(B) curriculum information, including, where applicable, Advanced Placement, International Baccalaureate or equivalent courses, dual enrollment courses, foreign language classes, school personnel resources (including Career Technical Education teachers), before and after school programs, extracurricular activities, subjects in which elective classes are offered, health and wellness initiatives (including the average number of days of Physical Education per week per student), approved programs of study, awards received, community partnerships, and special programs such as programming for the gifted and talented, students with disabilities, and work-study students;

(C) student outcomes, including, where applicable, the percentage of students meeting as well as exceeding State standards on assessments, the percentage of students in the eighth grade who pass Algebra, the percentage of students

enrolled in post-secondary institutions (including colleges, universities, community colleges, trade/vocational schools, and training programs leading to career certification within 2 semesters of high school graduation), the percentage of students graduating from high school who are college ready, the percentage of students graduating from high school who are career ready, and the percentage of graduates enrolled in community colleges, colleges, and universities who are in one or more courses that the community college, college, or university identifies as a remedial course;

(D) student progress, including, where applicable, the percentage of students in the ninth grade who have earned 5 credits or more without failing more than one core class, a measure of students entering kindergarten ready to learn, a measure of growth, and the percentage of students who enter high school on track for college and career readiness; and

(E) the school environment, including, where applicable, the percentage of students with less than 10 absences in a school year, the percentage of teachers with less than 10 absences in a school year for reasons other than professional development, leaves taken pursuant to the federal Family Medical Leave Act of 1993, long-term disability, or parental leaves, the 3-year average of the percentage of teachers returning to the school from the previous year, the number of different principals at the

school in the last 6 years, 2 or more indicators from any school climate survey selected or approved ~~developed~~ by the State and administered pursuant to Section 2-3.153 of this Code, with the same or similar indicators included on school report cards for all surveys selected or approved by the State pursuant to Section 2-3.153 of this Code, and the combined percentage of teachers rated as proficient or excellent in their most recent evaluation.

The school report card shall also provide information that allows for comparing the current outcome, progress, and environment data to the State average, to the school data from the past 5 years, and to the outcomes, progress, and environment of similar schools based on the type of school and enrollment of low-income, special education, and limited English proficiency students.

(3) At the discretion of the State Superintendent, the school district report card shall include a subset of the information identified in paragraphs (A) through (E) of subsection (2) of this Section, as well as information relating to the operating expense per pupil and other finances of the school district, and the State report card shall include a subset of the information identified in paragraphs (A) through (E) of subsection (2) of this Section.

(4) Notwithstanding anything to the contrary in this Section, in consultation with key education stakeholders, the State Superintendent shall at any time have the discretion to

amend or update any and all metrics on the school, district, or State report card.

(5) Annually, no more than 30 calendar days after receipt of the school district and school report cards from the State Superintendent of Education, each school district, including special charter districts and districts subject to the provisions of Article 34, shall present such report cards at a regular school board meeting subject to applicable notice requirements, post the report cards on the school district's Internet web site, if the district maintains an Internet web site, make the report cards available to a newspaper of general circulation serving the district, and, upon request, send the report cards home to a parent (unless the district does not maintain an Internet web site, in which case the report card shall be sent home to parents without request). If the district posts the report card on its Internet web site, the district shall send a written notice home to parents stating (i) that the report card is available on the web site, (ii) the address of the web site, (iii) that a printed copy of the report card will be sent to parents upon request, and (iv) the telephone number that parents may call to request a printed copy of the report card.

(6) Nothing contained in this amendatory Act of the 98th General Assembly repeals, supersedes, invalidates, or nullifies final decisions in lawsuits pending on the effective date of this amendatory Act of the 98th General Assembly in

Illinois courts involving the interpretation of Public Act 97-8.

(Source: P.A. 97-671, eff. 1-24-12; 98-463, eff. 8-16-13.)

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

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

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

As between teachers who have entered upon contractual

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

If the board has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available shall be tendered to the teachers so removed or dismissed so far as they are legally qualified to hold such positions; provided, however, that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then if the board has any vacancies for the following school term or within 2 calendar years from the beginning of the following school term, the positions so becoming available shall be tendered to the

teachers who were so notified and removed or dismissed whenever they are legally qualified to hold such positions. Each board shall, in consultation with any exclusive employee representatives, each year establish a list, categorized by positions, showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be distributed to the exclusive employee representative on or before February 1 of each year. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5, or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the board also shall hold a public hearing on the question of the dismissals. Following the hearing and board review the action to approve any such reduction shall require a majority vote of the board members.

(b) This subsection (b) applies only to honorable dismissals and recalls in which the notice of dismissal is provided during the 2011-2012 school term or a subsequent school term. If any teacher, whether or not in contractual continued service, is removed or dismissed as a result of a decision of a school board to decrease the number of teachers employed by the board, a decision of a school board to discontinue some particular type of teaching service, or a

reduction in the number of programs or positions in a special education joint agreement, then written notice must be mailed to the teacher and also given to the teacher either by certified mail, return receipt requested, or personal delivery with receipt at least 45 days before the end of the school term, together with a statement of honorable dismissal and the reason therefor, and in all such cases the sequence of dismissal shall occur in accordance with this subsection (b); except that this subsection (b) shall not impair the operation of any affirmative action program in the school district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board.

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

- (1) Grouping one shall consist of each teacher who is not in contractual continued service and who (i) has not received a performance evaluation rating, (ii) is employed for one school term or less to replace a teacher on leave,

or (iii) is employed on a part-time basis. "Part-time basis" for the purposes of this subsection (b) means a teacher who is employed to teach less than a full-day, teacher workload or less than 5 days of the normal student attendance week, unless otherwise provided for in a collective bargaining agreement between the district and the exclusive representative of the district's teachers. For the purposes of this Section, a teacher (A) who is employed as a full-time teacher but who actually teaches or is otherwise present and participating in the district's educational program for less than a school term or (B) who, in the immediately previous school term, was employed on a full-time basis and actually taught or was otherwise present and participated in the district's educational program for 120 days or more is not considered employed on a part-time basis.

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

(3) Grouping 3 shall consist of each teacher with a performance evaluation rating of at least Satisfactory or Proficient on both of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or on the teacher's last performance evaluation rating, if only one rating is available, unless the teacher qualifies for

placement into grouping 4.

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

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

Within grouping one, the sequence of dismissal must be at the discretion of the school district or joint agreement. Within grouping 2, the sequence of dismissal must be based upon average performance evaluation ratings, with the teacher or teachers with the lowest average performance evaluation rating dismissed first. A teacher's average performance evaluation rating must be calculated using the average of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or the teacher's last performance evaluation rating, if only one rating is available, using the following numerical values: 4 for Excellent; 3 for Proficient or Satisfactory; 2 for Needs Improvement; and 1 for Unsatisfactory. As between or among teachers in grouping 2 with the same average performance evaluation rating and within each of groupings 3 and 4, the teacher or teachers with the shorter length of continuing service with the school district or joint

agreement must be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization.

Each board, including the governing board of a joint agreement, shall, in consultation with any exclusive employee representatives, each year establish a sequence of honorable dismissal list categorized by positions and the groupings defined in this subsection (b). Copies of the list showing each teacher by name and categorized by positions and the groupings defined in this subsection (b) must be distributed to the exclusive bargaining representative at least 75 days before the end of the school term, provided that the school district or joint agreement may, with notice to any exclusive employee representatives, move teachers from grouping one into another grouping during the period of time from 75 days until 45 days before the end of the school term. Each year, each board shall also establish, in consultation with any exclusive employee representatives, a list showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list must be made in accordance with the alternative method. Copies of the list must be distributed to the exclusive employee representative at least 75 days before the end of the school term.

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

If the board or joint agreement has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available must be tendered to the teachers so removed or dismissed who were in groupings 3 or 4 of the sequence of dismissal and are qualified to hold the positions, based upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before the May 10 prior to the date of the positions becoming available, provided that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full-time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then the recall period is for the following school term or within 2 calendar years from the beginning of the following school term. If the board or joint agreement has any vacancies within the period from the beginning of the following school term through February 1 of the following school term (unless a date later than February 1, but no later than 6 months from the beginning of the following school term, is established in a collective bargaining agreement), the positions thereby becoming available must be

tendered to the teachers so removed or dismissed who were in grouping 2 of the sequence of dismissal due to one "needs improvement" rating on either of the teacher's last 2 performance evaluation ratings, provided that, if 2 ratings are available, the other performance evaluation rating used for grouping purposes is "satisfactory", "proficient", or "excellent", and are qualified to hold the positions, based upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before the May 10 prior to the date of the positions becoming available. On and after the effective date of this amendatory Act of the 98th General Assembly, the preceding sentence shall apply to teachers removed or dismissed by honorable dismissal, even if notice of honorable dismissal occurred during the 2013-2014 school year. Among teachers eligible for recall pursuant to the preceding sentence, the order of recall must be in inverse order of dismissal, unless an alternative order of recall is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5 notices or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the school board or governing board of a joint agreement, as applicable, shall also hold a public hearing on the question of the dismissals. Following the

hearing and board review, the action to approve any such reduction shall require a majority vote of the board members.

For purposes of this subsection (b), subject to agreement on an alternative definition reached by the joint committee described in subsection (c) of this Section, a teacher's performance evaluation rating means the overall performance evaluation rating resulting from an annual or biennial performance evaluation conducted pursuant to Article 24A of this Code by the school district or joint agreement determining the sequence of dismissal, not including any performance evaluation conducted during or at the end of a remediation period. No more than one evaluation rating each school term shall be one of the evaluation ratings used for the purpose of determining the sequence of dismissal. Except as otherwise provided in this subsection for any performance evaluations conducted during or at the end of a remediation period, if multiple performance evaluations are conducted in a school term, only the rating from the last evaluation conducted prior to establishing the sequence of honorable dismissal list in such school term shall be the one evaluation rating from that school term used for the purpose of determining the sequence of dismissal. Averaging ratings from multiple evaluations is not permitted unless otherwise agreed to in a collective bargaining agreement or contract between the board and a professional faculty members' organization. The preceding 3 sentences are not a legislative declaration that existing law does or does

not already require that only one performance evaluation each school term shall be used for the purpose of determining the sequence of dismissal. For performance evaluation ratings determined prior to September 1, 2012, any school district or joint agreement with a performance evaluation rating system that does not use either of the rating category systems specified in subsection (d) of Section 24A-5 of this Code for all teachers must establish a basis for assigning each teacher a rating that complies with subsection (d) of Section 24A-5 of this Code for all of the performance evaluation ratings that are to be used to determine the sequence of dismissal. A teacher's grouping and ranking on a sequence of honorable dismissal shall be deemed a part of the teacher's performance evaluation, and that information shall ~~may~~ be disclosed to the exclusive bargaining representative as part of a sequence of honorable dismissal list, notwithstanding any laws prohibiting disclosure of such information. A performance evaluation rating may be used to determine the sequence of dismissal, notwithstanding the pendency of any grievance resolution or arbitration procedures relating to the performance evaluation. If a teacher has received at least one performance evaluation rating conducted by the school district or joint agreement determining the sequence of dismissal and a subsequent performance evaluation is not conducted in any school year in which such evaluation is required to be conducted under Section 24A-5 of this Code, the teacher's performance evaluation rating

for that school year for purposes of determining the sequence of dismissal is deemed Proficient. If a performance evaluation rating is nullified as the result of an arbitration, administrative agency, or court determination, then the school district or joint agreement is deemed to have conducted a performance evaluation for that school year, but the performance evaluation rating may not be used in determining the sequence of dismissal.

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

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

(c) Each school district and special education joint agreement must use a joint committee composed of equal representation selected by the school board and its teachers or, if applicable, the exclusive bargaining representative of its teachers, to address the matters described in paragraphs

(1) through (5) of this subsection (c) pertaining to honorable dismissals under subsection (b) of this Section.

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

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

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

(4) For each school district or joint agreement that administers performance evaluation ratings that are inconsistent with either of the rating category systems specified in subsection (d) of Section 24A-5 of this Code,

the school district or joint agreement must consult with the joint committee on the basis for assigning a rating that complies with subsection (d) of Section 24A-5 of this Code to each performance evaluation rating that will be used in a sequence of dismissal.

(5) Upon request by a joint committee member submitted to the employing board by no later than 10 days after the distribution of the sequence of honorable dismissal list, a representative of the employing board shall, within 5 days after the request, provide to members of the joint committee a list showing the most recent and prior performance evaluation ratings of each teacher identified only by length of continuing service in the district or joint agreement and not by name. If, after review of this list, a member of the joint committee has a good faith belief that a disproportionate number of teachers with greater length of continuing service with the district or joint agreement have received a recent performance evaluation rating lower than the prior rating, the member may request that the joint committee review the list to assess whether such a trend may exist. Following the joint committee's review, but by no later than the end of the applicable school term, the joint committee or any member or members of the joint committee may submit a report of the review to the employing board and exclusive bargaining representative, if any. Nothing in this paragraph (5) shall

impact the order of honorable dismissal or a school district's or joint agreement's authority to carry out a dismissal in accordance with subsection (b) of this Section.

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

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

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

(1) If a dismissal of a teacher in contractual continued service is sought for any reason or cause other than an honorable dismissal under subsections (a) or (b) of this Section or a dismissal sought under Section 24-16.5 of this Code, including those under Section 10-22.4, the board must first approve a motion containing specific charges by a majority vote of all its members. Written notice of such charges, including a bill of particulars and the teacher's right to request a hearing, must be mailed to the teacher and also given to the teacher either by certified mail, return receipt requested, or personal delivery with receipt within 5 days of the adoption of the motion. 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 officer paid by the board.

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

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

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

(3) Within 5 business days after receiving a notice of hearing in which either notice to the teacher was sent before July 1, 2012 or, if the notice was sent on or after July 1, 2012, the teacher has requested a hearing before a mutually selected hearing officer, the State Board of Education shall provide a list of 5 prospective, impartial hearing officers from the master list of qualified, impartial hearing officers maintained by the State Board of Education. Each person on the master list must (i) be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between employers and employees or their exclusive bargaining

representatives and (ii) beginning September 1, 2012, have participated in training provided or approved by the State Board of Education for teacher dismissal hearing officers so that he or she is familiar with issues generally involved in evaluative and non-evaluative dismissals.

If notice to the teacher was sent before July 1, 2012 or, if the notice was sent on or after July 1, 2012, the teacher has requested a hearing before a mutually selected hearing officer, the board and the teacher or their legal representatives within 3 business days shall alternately strike one name from the list provided by the State Board of Education until only one name remains. Unless waived by the teacher, the teacher shall have the right to proceed first with the striking. Within 3 business days of receipt of the list provided by the State Board of Education, the board and the teacher or their legal representatives shall each have the right to reject all prospective hearing officers named on the list and notify the State Board of Education of such rejection. Within 3 business days after receiving this notification, the State Board of Education shall appoint a qualified person from the master list who did not appear on the list sent to the parties to serve as the hearing officer, unless the parties notify it that they have chosen to alternatively select a hearing officer under paragraph (4) of this subsection (d).

If the teacher has requested a hearing before a hearing

officer selected by the board, the board shall select one name from the master list of qualified impartial hearing officers maintained by the State Board of Education within 3 business days after receipt and shall notify the State Board of Education of its selection.

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

(4) In the alternative to selecting a hearing officer from the list received from the State Board of Education or accepting the appointment of a hearing officer by the State Board of Education or if the State Board of Education cannot provide a list or appoint a hearing officer that meets the foregoing requirements, the board and the teacher or their legal representatives may mutually agree to select an impartial hearing officer who is not on the master list either by direct appointment by the parties or by using procedures for the appointment of an arbitrator

established by the Federal Mediation and Conciliation Service or the American Arbitration Association. The parties shall notify the State Board of Education of their intent to select a hearing officer using an alternative procedure within 3 business days of receipt of a list of prospective hearing officers provided by the State Board of Education, notice of appointment of a hearing officer by the State Board of Education, or receipt of notice from the State Board of Education that it cannot provide a list that meets the foregoing requirements, whichever is later.

(5) If the notice of dismissal was sent to the teacher before July 1, 2012, the fees and costs for the hearing officer must be paid by the State Board of Education. If the notice of dismissal was sent to the teacher on or after July 1, 2012, the hearing officer's fees and costs must be paid as follows in this paragraph (5). The fees and permissible costs for the hearing officer must be determined by the State Board of Education. If the board and the teacher or their legal representatives mutually agree to select an impartial hearing officer who is not on a list received from the State Board of Education, they may agree to supplement the fees determined by the State Board to the hearing officer, at a rate consistent with the hearing officer's published professional fees. If the hearing officer is mutually selected by the parties, then the board and the teacher or their legal representatives

shall each pay 50% of the fees and costs and any supplemental allowance to which they agree. If the hearing officer is selected by the board, then the board shall pay 100% of the hearing officer's fees and costs. The fees and costs must be paid to the hearing officer within 14 days after the board and the teacher or their legal representatives receive the hearing officer's decision set forth in paragraph (7) of this subsection (d).

(6) The teacher is required to answer the bill of particulars and aver affirmative matters in his or her defense, and the time for initially doing so and the time for updating such answer and defenses after pre-hearing discovery must be set by the hearing officer. The State Board of Education shall promulgate rules so that each party has a fair opportunity to present its case and to ensure that the dismissal process proceeds in a fair and expeditious manner. These rules shall address, without limitation, discovery and hearing scheduling conferences; the teacher's initial answer and affirmative defenses to the bill of particulars and the updating of that information after pre-hearing discovery; provision for written interrogatories and requests for production of documents; the requirement that each party initially disclose to the other party and then update the disclosure no later than 10 calendar days prior to the commencement of the hearing, the names and addresses of persons who may be

called as witnesses at the hearing, a summary of the facts or opinions each witness will testify to, and all other documents and materials, including information maintained electronically, relevant to its own as well as the other party's case (the hearing officer may exclude witnesses and exhibits not identified and shared, except those offered in rebuttal for which the party could not reasonably have anticipated prior to the hearing); pre-hearing discovery and preparation, including provision for written interrogatories and requests for production of documents, provided that discovery depositions are prohibited; the conduct of the hearing; the right of each party to be represented by counsel, the offer of evidence and witnesses and the cross-examination of witnesses; the authority of the hearing officer to issue subpoenas and subpoenas duces tecum, provided that the hearing officer may limit the number of witnesses to be subpoenaed on behalf of each party to no more than 7; the length of post-hearing briefs; and the form, length, and content of hearing officers' decisions. The hearing officer shall hold a hearing and render a final decision for dismissal pursuant to Article 24A of this Code or shall report to the school board findings of fact and a recommendation as to whether or not the teacher must be dismissed for conduct. The hearing officer shall commence the hearing within 75 days and conclude the hearing within 120 days after being selected

as the hearing officer, provided that the hearing officer may modify these timelines upon the showing of good cause or mutual agreement of the parties. Good cause for the purpose of this subsection (d) shall mean the illness or otherwise unavoidable emergency of the teacher, district representative, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission. In a dismissal hearing pursuant to Article 24A of this Code, the hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A that are relevant to the issues in the hearing.

Each party shall have no more than 3 days to present its case, unless extended by the hearing officer to enable a party to present adequate evidence and testimony, including due to the other party's cross-examination of the party's witnesses, for good cause or by mutual agreement of the parties. The State Board of Education shall define in rules the meaning of "day" for such purposes. All testimony at the hearing shall be taken under oath administered by the hearing officer. The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all the testimony. The costs of the reporter's attendance and services at the hearing shall be paid by the party or parties who are responsible for paying the fees

and costs of the hearing officer. Either party desiring a transcript of the hearing shall pay for the cost thereof. Any post-hearing briefs must be submitted by the parties by no later than 21 days after a party's receipt of the transcript of the hearing, unless extended by the hearing officer for good cause or by mutual agreement of the parties.

(7) The hearing officer shall, within 30 days from the conclusion of the hearing or closure of the record, whichever is later, make a decision as to whether or not the teacher shall be dismissed pursuant to Article 24A of this Code or report to the school board findings of fact and a recommendation as to whether or not the teacher shall be dismissed for cause and shall give a copy of the decision or findings of fact and recommendation to both the teacher and the school board. If a hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact and recommendation within 30 days after the hearing is concluded or the record is closed, whichever is later, the parties may mutually agree to select a hearing officer pursuant to the alternative procedure, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision or findings of fact and recommendation or to review the record and render a decision. If any hearing

officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact and recommendation within 30 days after the hearing is concluded or the record is closed, whichever is later, the hearing officer shall be removed from the master list of 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 actions as it deems appropriate, including recovering, reducing, or withholding any fees paid or to be paid to the hearing officer. If any hearing officer repeats such failure, he or she must be permanently removed from the master list maintained by the State Board of Education and may not be selected by parties through the alternative selection process under this paragraph (7) or paragraph (4) of this subsection (d). The board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision or findings of fact and recommendation within the time specified in this Section. If the decision of the hearing officer for dismissal pursuant to Article 24A of this Code or of the school board for dismissal for cause is in favor of the teacher, then the hearing officer or school board shall order reinstatement to the same or substantially equivalent position and shall determine the amount for which the school board is liable, including, but not limited to, loss

of income and benefits.

(8) The school board, within 45 days after receipt of the hearing officer's findings of fact and recommendation as to whether (i) the conduct at issue occurred, (ii) the conduct that did occur was remediable, and (iii) the proposed dismissal should be sustained, shall issue a written order as to whether the teacher must be retained or dismissed for cause from its employ. The school board's written order shall incorporate the hearing officer's 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.

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

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

(9) The decision of the hearing officer pursuant to Article 24A of this Code or of the school board's decision to dismiss for cause is final unless reviewed as provided in Section 24-16 of this Act. If the school board's decision to dismiss for cause is contrary to the hearing officer's recommendation, the court on review shall give consideration to the school board's decision and its supplemental findings of fact, if applicable, and the hearing officer's findings of fact and recommendation in making its decision. In the event such review is instituted, the school board shall be responsible for preparing and filing the record of proceedings, and such costs associated therewith must be divided equally between

the parties.

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

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

(11) Subject to any later effective date referenced in this Section for a specific aspect of the dismissal process, the changes made by this amendatory Act of the 97th General Assembly shall apply to dismissals instituted on or after September 1, 2011. Any dismissal instituted prior to September 1, 2011 must be carried out in accordance with the requirements of this Section prior to amendment by this amendatory Act of 97th General Assembly.

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

(Source: P.A. 97-8, eff. 6-13-11; 98-513, eff. 1-1-14.)

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

Sec. 24A-5. Content of evaluation plans. This Section does not apply to teachers assigned to schools identified in an agreement entered into between the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers in accordance with Section 34-85c of this Code.

Each school district to which this Article applies shall establish a teacher evaluation plan which ensures that each teacher in contractual continued service is evaluated at least once in the course of every 2 school years.

By no later than September 1, 2012, each school district shall establish a teacher evaluation plan that ensures that:

(1) each teacher not in contractual continued service is evaluated at least once every school year; and

(2) each teacher in contractual continued service is evaluated at least once in the course of every 2 school years. However, any teacher in contractual continued

service whose performance is rated as either "needs improvement" or "unsatisfactory" must be evaluated at least once in the school year following the receipt of such rating.

Notwithstanding anything to the contrary in this Section or any other Section of the School Code, a principal shall not be prohibited from evaluating any teachers within a school during his or her first year as principal of such school. If a first-year principal exercises this option in a school district where the evaluation plan provides for a teacher in contractual continued service to be evaluated once in the course of every 2 school years, then a new 2-year evaluation plan must be established.

The evaluation plan shall comply with the requirements of this Section and of any rules adopted by the State Board of Education pursuant to this Section.

The plan shall include a description of each teacher's duties and responsibilities and of the standards to which that teacher is expected to conform, and shall include at least the following components:

(a) personal observation of the teacher in the classroom by the evaluator, unless the teacher has no classroom duties.

(b) consideration of the teacher's attendance, planning, instructional methods, classroom management, where relevant, and competency in the subject matter

taught.

(c) by no later than the applicable implementation date, consideration of student growth as a significant factor in the rating of the teacher's performance.

(d) prior to September 1, 2012, rating of the performance of teachers in contractual continued service as either:

(i) "excellent", "satisfactory" or "unsatisfactory"; or

(ii) "excellent", "proficient", "needs improvement" or "unsatisfactory".

(e) on and after September 1, 2012, rating of the performance of all teachers as "excellent", "proficient", "needs improvement" or "unsatisfactory".

(f) specification as to the teacher's strengths and weaknesses, with supporting reasons for the comments made.

(g) inclusion of a copy of the evaluation in the teacher's personnel file and provision of a copy to the teacher.

(h) within 30 school days after the completion of an evaluation rating a teacher in contractual continued service as "needs improvement", development by the evaluator, in consultation with the teacher, and taking into account the teacher's on-going professional responsibilities including his or her regular teaching assignments, of a professional development plan directed

to the areas that need improvement and any supports that the district will provide to address the areas identified as needing improvement.

(i) within 30 school days after completion of an evaluation rating a teacher in contractual continued service as "unsatisfactory", development and commencement by the district of a remediation plan designed to correct deficiencies cited, provided the deficiencies are deemed remediable. In all school districts the remediation plan for unsatisfactory, tenured teachers shall provide for 90 school days of remediation within the classroom, unless an applicable collective bargaining agreement provides for a shorter duration. In all school districts evaluations issued pursuant to this Section shall be issued within 10 days after the conclusion of the respective remediation plan. However, the school board or other governing authority of the district shall not lose jurisdiction to discharge a teacher in the event the evaluation is not issued within 10 days after the conclusion of the respective remediation plan.

(j) participation in the remediation plan by the teacher in contractual continued service rated "unsatisfactory", an evaluator and a consulting teacher selected by the evaluator of the teacher who was rated "unsatisfactory", which consulting teacher is an educational employee as defined in the Educational Labor

Relations Act, has at least 5 years' teaching experience, and a reasonable familiarity with the assignment of the teacher being evaluated, and who received an "excellent" rating on his or her most recent evaluation. Where no teachers who meet these criteria are available within the district, the district shall request and the applicable regional office of education shall supply, to participate in the remediation process, an individual who meets these criteria.

In a district having a population of less than 500,000 with an exclusive bargaining agent, the bargaining agent may, if it so chooses, supply a roster of qualified teachers from whom the consulting teacher is to be selected. That roster shall, however, contain the names of at least 5 teachers, each of whom meets the criteria for consulting teacher with regard to the teacher being evaluated, or the names of all teachers so qualified if that number is less than 5. In the event of a dispute as to qualification, the State Board shall determine qualification.

(k) a mid-point and final evaluation by an evaluator during and at the end of the remediation period, immediately following receipt of a remediation plan provided for under subsections (i) and (j) of this Section. Each evaluation shall assess the teacher's performance during the time period since the prior evaluation; provided

that the last evaluation shall also include an overall evaluation of the teacher's performance during the remediation period. A written copy of the evaluations and ratings, in which any deficiencies in performance and recommendations for correction are identified, shall be provided to and discussed with the teacher within 10 school days after the date of the evaluation, unless an applicable collective bargaining agreement provides to the contrary. These subsequent evaluations shall be conducted by an evaluator. The consulting teacher shall provide advice to the teacher rated "unsatisfactory" on how to improve teaching skills and to successfully complete the remediation plan. The consulting teacher shall participate in developing the remediation plan, but the final decision as to the evaluation shall be done solely by the evaluator, unless an applicable collective bargaining agreement provides to the contrary. Evaluations at the conclusion of the remediation process shall be separate and distinct from the required annual evaluations of teachers and shall not be subject to the guidelines and procedures relating to those annual evaluations. The evaluator may but is not required to use the forms provided for the annual evaluation of teachers in the district's evaluation plan.

(1) reinstatement to the evaluation schedule set forth in the district's evaluation plan for any teacher in contractual continued service who achieves a rating equal

to or better than "satisfactory" or "proficient" in the school year following a rating of "needs improvement" or "unsatisfactory".

(m) dismissal in accordance with subsection (d) of Section 24-12 or Section 24-16.5 or 34-85 of this Code of any teacher who fails to complete any applicable remediation plan with a rating equal to or better than a "satisfactory" or "proficient" rating. Districts and teachers subject to dismissal hearings are precluded from compelling the testimony of consulting teachers at such hearings under subsection (d) of Section 24-12 or Section 24-16.5 or 34-85 of this Code, either as to the rating process or for opinions of performances by teachers under remediation.

(n) After the implementation date of an evaluation system for teachers in a district as specified in Section 24A-2.5 of this Code, if a teacher in contractual continued service successfully completes a remediation plan following a rating of "unsatisfactory" in an annual or biennial overall performance evaluation received after the foregoing implementation date and receives a subsequent rating of "unsatisfactory" in any of the teacher's annual or biennial ~~biannual~~ overall performance evaluation ratings received during the 36-month period following the teacher's completion of the remediation plan, then the school district may forego remediation and seek dismissal

in accordance with subsection (d) of Section 24-12 or Section 34-85 of this Code.

Nothing in this Section or Section 24A-4 shall be construed as preventing immediate dismissal of a teacher for deficiencies which are deemed irremediable or for actions which are injurious to or endanger the health or person of students in the classroom or school, or preventing the dismissal or non-renewal of teachers not in contractual continued service for any reason not prohibited by applicable employment, labor, and civil rights laws. Failure to strictly comply with the time requirements contained in Section 24A-5 shall not invalidate the results of the remediation plan.

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

(Source: P.A. 97-8, eff. 6-13-11; 98-470, eff. 8-16-13.)

Section 99. Effective date. This Act takes effect July 1, 2014.