



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3708

by Rep. Steven Reick

SYNOPSIS AS INTRODUCED:

105 ILCS 5/24-12

from Ch. 122, par. 24-12

Amends the Employment of Teachers Article of School Code. Provides that if a teacher is removed or dismissed as a result of a decision of a school board to decrease the number of teachers employed by the school 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 and given to the teacher no more than 10 business days following the approval of the budget for the fiscal year in which the honorable dismissal would take effect (instead of mailed and given at least 45 days before the end of the school term). Provides that if no budget for the next fiscal year has been approved by June 15 of the current fiscal year, then the school board shall fulfill the notification requirements by June 30 of the current fiscal year.

LRB100 04216 NHT 14222 b

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Section
5 24-12 as follows:

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

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

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

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

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

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

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

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

1 continued service, is removed or dismissed as a result of a
2 decision of a school board to decrease the number of teachers
3 employed by the board, a decision of a school board to
4 discontinue some particular type of teaching service, or a
5 reduction in the number of programs or positions in a special
6 education joint agreement, then written notice must be mailed
7 to the teacher and also given to the teacher either by
8 certified mail, return receipt requested, or personal delivery
9 with receipt no more than 10 business days following the
10 approval of the budget for the fiscal year in which the
11 honorable dismissal would take effect ~~at least 45 days before~~
12 ~~the end of the school term~~, together with a statement of
13 honorable dismissal and the reason therefor, and in all such
14 cases the sequence of dismissal shall occur in accordance with
15 this subsection (b); except that this subsection (b) shall not
16 impair the operation of any affirmative action program in the
17 school district, regardless of whether it exists by operation
18 of law or is conducted on a voluntary basis by the board. If no
19 budget for the next fiscal year has been approved by June 15 of
20 the current fiscal year, then the school board shall fulfill
21 these notification requirements by June 30 of the current
22 fiscal year.

23 Each teacher must be categorized into one or more positions
24 for which the teacher is qualified to hold, based upon legal
25 qualifications and any other qualifications established in a
26 district or joint agreement job description, on or before the

1 May 10 prior to the school year during which the sequence of
2 dismissal is determined. Within each position and subject to
3 agreements made by the joint committee on honorable dismissals
4 that are authorized by subsection (c) of this Section, the
5 school district or joint agreement must establish 4 groupings
6 of teachers qualified to hold the position as follows:

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

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

5 (3) Grouping 3 shall consist of each teacher with a
6 performance evaluation rating of at least Satisfactory or
7 Proficient on both of the teacher's last 2 performance
8 evaluation ratings, if 2 ratings are available, or on the
9 teacher's last performance evaluation rating, if only one
10 rating is available, unless the teacher qualifies for
11 placement into grouping 4.

12 (4) Grouping 4 shall consist of each teacher whose last
13 2 performance evaluation ratings are Excellent and each
14 teacher with 2 Excellent performance evaluation ratings
15 out of the teacher's last 3 performance evaluation ratings
16 with a third rating of Satisfactory or Proficient.

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

21 Within grouping one, the sequence of dismissal must be at
22 the discretion of the school district or joint agreement.
23 Within grouping 2, the sequence of dismissal must be based upon
24 average performance evaluation ratings, with the teacher or
25 teachers with the lowest average performance evaluation rating
26 dismissed first. A teacher's average performance evaluation

1 rating must be calculated using the average of the teacher's
2 last 2 performance evaluation ratings, if 2 ratings are
3 available, or the teacher's last performance evaluation
4 rating, if only one rating is available, using the following
5 numerical values: 4 for Excellent; 3 for Proficient or
6 Satisfactory; 2 for Needs Improvement; and 1 for
7 Unsatisfactory. As between or among teachers in grouping 2 with
8 the same average performance evaluation rating and within each
9 of groupings 3 and 4, the teacher or teachers with the shorter
10 length of continuing service with the school district or joint
11 agreement must be dismissed first unless an alternative method
12 of determining the sequence of dismissal is established in a
13 collective bargaining agreement or contract between the board
14 and a professional faculty members' organization.

15 Each board, including the governing board of a joint
16 agreement, shall, in consultation with any exclusive employee
17 representatives, each year establish a sequence of honorable
18 dismissal list categorized by positions and the groupings
19 defined in this subsection (b). Copies of the list showing each
20 teacher by name and categorized by positions and the groupings
21 defined in this subsection (b) must be distributed to the
22 exclusive bargaining representative at least 75 days before the
23 end of the school term, provided that the school district or
24 joint agreement may, with notice to any exclusive employee
25 representatives, move teachers from grouping one into another
26 grouping during the period of time from 75 days until 45 days

1 before the end of the school term. Each year, each board shall
2 also establish, in consultation with any exclusive employee
3 representatives, a list showing the length of continuing
4 service of each teacher who is qualified to hold any such
5 positions, unless an alternative method of determining a
6 sequence of dismissal is established as provided for in this
7 Section, in which case a list must be made in accordance with
8 the alternative method. Copies of the list must be distributed
9 to the exclusive employee representative at least 75 days
10 before the end of the school term.

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

15 If the board or joint agreement has any vacancies for the
16 following school term or within one calendar year from the
17 beginning of the following school term, the positions thereby
18 becoming available must be tendered to the teachers so removed
19 or dismissed who were in groupings 3 or 4 of the sequence of
20 dismissal and are qualified to hold the positions, based upon
21 legal qualifications and any other qualifications established
22 in a district or joint agreement job description, on or before
23 the May 10 prior to the date of the positions becoming
24 available, provided that if the number of honorable dismissal
25 notices based on economic necessity exceeds 15% of the number
26 of full-time equivalent positions filled by certified

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

1 order of recall must be in inverse order of dismissal, unless
2 an alternative order of recall is established in a collective
3 bargaining agreement or contract between the board and a
4 professional faculty members' organization. Whenever the
5 number of honorable dismissal notices based upon economic
6 necessity exceeds 5 notices or 150% of the average number of
7 teachers honorably dismissed in the preceding 3 years,
8 whichever is more, then the school board or governing board of
9 a joint agreement, as applicable, shall also hold a public
10 hearing on the question of the dismissals. Following the
11 hearing and board review, the action to approve any such
12 reduction shall require a majority vote of the board members.

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

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

1 disclosure of such information. A performance evaluation
2 rating may be used to determine the sequence of dismissal,
3 notwithstanding the pendency of any grievance resolution or
4 arbitration procedures relating to the performance evaluation.
5 If a teacher has received at least one performance evaluation
6 rating conducted by the school district or joint agreement
7 determining the sequence of dismissal and a subsequent
8 performance evaluation is not conducted in any school year in
9 which such evaluation is required to be conducted under Section
10 24A-5 of this Code, the teacher's performance evaluation rating
11 for that school year for purposes of determining the sequence
12 of dismissal is deemed Proficient. If a performance evaluation
13 rating is nullified as the result of an arbitration,
14 administrative agency, or court determination, then the school
15 district or joint agreement is deemed to have conducted a
16 performance evaluation for that school year, but the
17 performance evaluation rating may not be used in determining
18 the sequence of dismissal.

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

24 Any provisions regarding the sequence of honorable
25 dismissals and recall of honorably dismissed teachers in a
26 collective bargaining agreement entered into on or before

1 January 1, 2011 and in effect on the effective date of this
2 amendatory Act of the 97th General Assembly that may conflict
3 with this amendatory Act of the 97th General Assembly shall
4 remain in effect through the expiration of such agreement or
5 June 30, 2013, whichever is earlier.

6 (c) Each school district and special education joint
7 agreement must use a joint committee composed of equal
8 representation selected by the school board and its teachers
9 or, if applicable, the exclusive bargaining representative of
10 its teachers, to address the matters described in paragraphs
11 (1) through (5) of this subsection (c) pertaining to honorable
12 dismissals under subsection (b) of this Section.

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

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

1 performance evaluation ratings.

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

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

16 (5) Upon request by a joint committee member submitted
17 to the employing board by no later than 10 days after the
18 distribution of the sequence of honorable dismissal list, a
19 representative of the employing board shall, within 5 days
20 after the request, provide to members of the joint
21 committee a list showing the most recent and prior
22 performance evaluation ratings of each teacher identified
23 only by length of continuing service in the district or
24 joint agreement and not by name. If, after review of this
25 list, a member of the joint committee has a good faith
26 belief that a disproportionate number of teachers with

1 greater length of continuing service with the district or
2 joint agreement have received a recent performance
3 evaluation rating lower than the prior rating, the member
4 may request that the joint committee review the list to
5 assess whether such a trend may exist. Following the joint
6 committee's review, but by no later than the end of the
7 applicable school term, the joint committee or any member
8 or members of the joint committee may submit a report of
9 the review to the employing board and exclusive bargaining
10 representative, if any. Nothing in this paragraph (5) shall
11 impact the order of honorable dismissal or a school
12 district's or joint agreement's authority to carry out a
13 dismissal in accordance with subsection (b) of this
14 Section.

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

26 The joint committee must reach agreement on a matter on or

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

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

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

1 board, or a hearing before a board-selected hearing
2 officer, with the cost of the hearing officer paid by the
3 board.

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

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

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

24 (3) Within 5 business days after receiving a notice of
25 hearing in which either notice to the teacher was sent
26 before July 1, 2012 or, if the notice was sent on or after

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

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

1 each have the right to reject all prospective hearing
2 officers named on the list and notify the State Board of
3 Education of such rejection. Within 3 business days after
4 receiving this notification, the State Board of Education
5 shall appoint a qualified person from the master list who
6 did not appear on the list sent to the parties to serve as
7 the hearing officer, unless the parties notify it that they
8 have chosen to alternatively select a hearing officer under
9 paragraph (4) of this subsection (d).

10 If the teacher has requested a hearing before a hearing
11 officer selected by the board, the board shall select one
12 name from the master list of qualified impartial hearing
13 officers maintained by the State Board of Education within
14 3 business days after receipt and shall notify the State
15 Board of Education of its selection.

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

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

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

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

19 (6) The teacher is required to answer the bill of
20 particulars and aver affirmative matters in his or her
21 defense, and the time for initially doing so and the time
22 for updating such answer and defenses after pre-hearing
23 discovery must be set by the hearing officer. The State
24 Board of Education shall promulgate rules so that each
25 party has a fair opportunity to present its case and to
26 ensure that the dismissal process proceeds in a fair and

1 expeditious manner. These rules shall address, without
2 limitation, discovery and hearing scheduling conferences;
3 the teacher's initial answer and affirmative defenses to
4 the bill of particulars and the updating of that
5 information after pre-hearing discovery; provision for
6 written interrogatories and requests for production of
7 documents; the requirement that each party initially
8 disclose to the other party and then update the disclosure
9 no later than 10 calendar days prior to the commencement of
10 the hearing, the names and addresses of persons who may be
11 called as witnesses at the hearing, a summary of the facts
12 or opinions each witness will testify to, and all other
13 documents and materials, including information maintained
14 electronically, relevant to its own as well as the other
15 party's case (the hearing officer may exclude witnesses and
16 exhibits not identified and shared, except those offered in
17 rebuttal for which the party could not reasonably have
18 anticipated prior to the hearing); pre-hearing discovery
19 and preparation, including provision for written
20 interrogatories and requests for production of documents,
21 provided that discovery depositions are prohibited; the
22 conduct of the hearing; the right of each party to be
23 represented by counsel, the offer of evidence and witnesses
24 and the cross-examination of witnesses; the authority of
25 the hearing officer to issue subpoenas and subpoenas duces
26 tecum, provided that the hearing officer may limit the

1 number of witnesses to be subpoenaed on behalf of each
2 party to no more than 7; the length of post-hearing briefs;
3 and the form, length, and content of hearing officers'
4 decisions. The hearing officer shall hold a hearing and
5 render a final decision for dismissal pursuant to Article
6 24A of this Code or shall report to the school board
7 findings of fact and a recommendation as to whether or not
8 the teacher must be dismissed for conduct. The hearing
9 officer shall commence the hearing within 75 days and
10 conclude the hearing within 120 days after being selected
11 as the hearing officer, provided that the hearing officer
12 may modify these timelines upon the showing of good cause
13 or mutual agreement of the parties. Good cause for the
14 purpose of this subsection (d) shall mean the illness or
15 otherwise unavoidable emergency of the teacher, district
16 representative, their legal representatives, the hearing
17 officer, or an essential witness as indicated in each
18 party's pre-hearing submission. In a dismissal hearing
19 pursuant to Article 24A of this Code, the hearing officer
20 shall consider and give weight to all of the teacher's
21 evaluations written pursuant to Article 24A that are
22 relevant to the issues in the hearing.

23 Each party shall have no more than 3 days to present
24 its case, unless extended by the hearing officer to enable
25 a party to present adequate evidence and testimony,
26 including due to the other party's cross-examination of the

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

18 (7) The hearing officer shall, within 30 days from the
19 conclusion of the hearing or closure of the record,
20 whichever is later, make a decision as to whether or not
21 the teacher shall be dismissed pursuant to Article 24A of
22 this Code or report to the school board findings of fact
23 and a recommendation as to whether or not the teacher shall
24 be dismissed for cause and shall give a copy of the
25 decision or findings of fact and recommendation to both the
26 teacher and the school board. If a hearing officer fails

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

1 lose jurisdiction to discharge a teacher if the hearing
2 officer fails to render a decision or findings of fact and
3 recommendation within the time specified in this Section.
4 If the decision of the hearing officer for dismissal
5 pursuant to Article 24A of this Code or of the school board
6 for dismissal for cause is in favor of the teacher, then
7 the hearing officer or school board shall order
8 reinstatement to the same or substantially equivalent
9 position and shall determine the amount for which the
10 school board is liable, including, but not limited to, loss
11 of income and benefits.

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

24 If the school board dismisses the teacher
25 notwithstanding the hearing officer's findings of fact and
26 recommendation, the school board shall make a conclusion in

1 its written order, giving its reasons therefor, and such
2 conclusion and reasons must be included in its written
3 order. The failure of the school board to strictly adhere
4 to the timelines contained in this Section shall not render
5 it without jurisdiction to dismiss the teacher. The school
6 board shall not lose jurisdiction to discharge the teacher
7 for cause if the hearing officer fails to render a
8 recommendation within the time specified in this Section.
9 The decision of the school board is final, unless reviewed
10 as provided in paragraph (9) of this subsection (d).

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

24 (9) The decision of the hearing officer pursuant to
25 Article 24A of this Code or of the school board's decision
26 to dismiss for cause is final unless reviewed as provided

1 in Section 24-16 of this Act. If the school board's
2 decision to dismiss for cause is contrary to the hearing
3 officer's recommendation, the court on review shall give
4 consideration to the school board's decision and its
5 supplemental findings of fact, if applicable, and the
6 hearing officer's findings of fact and recommendation in
7 making its decision. In the event such review is
8 instituted, the school board shall be responsible for
9 preparing and filing the record of proceedings, and such
10 costs associated therewith must be divided equally between
11 the parties.

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

24 Any teacher who is reinstated by any hearing or
25 adjudication brought under this Section shall be assigned
26 by the board to a position substantially similar to the one

1 which that teacher held prior to that teacher's suspension
2 or dismissal.

3 (11) Subject to any later effective date referenced in
4 this Section for a specific aspect of the dismissal
5 process, the changes made by Public Act 97-8 shall apply to
6 dismissals instituted on or after September 1, 2011. Any
7 dismissal instituted prior to September 1, 2011 must be
8 carried out in accordance with the requirements of this
9 Section prior to amendment by Public Act 97-8.

10 (e) Nothing contained in this amendatory Act of the 98th
11 General Assembly repeals, supersedes, invalidates, or
12 nullifies final decisions in lawsuits pending on the effective
13 date of this amendatory Act of the 98th General Assembly in
14 Illinois courts involving the interpretation of Public Act
15 97-8.

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