



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4308

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 General Assembly's passage of a State budget that includes school funding for the State 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 State budget that includes school funding for the next State fiscal year has been passed by the General Assembly by June 15 of the current State fiscal year, then the school board shall fulfill the notification requirements by June 30 of the current State fiscal year. Effective immediately.

LRB100 15421 NHT 30409 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 General Assembly's passage of a State budget that includes
11 funding under Section 18-8.15 of this Code for the State fiscal
12 year in which the honorable dismissal would take effect ~~at~~
13 ~~least 45 days before the end of the school term~~, together with
14 a statement of honorable dismissal and the reason therefor, and
15 in all such cases the sequence of dismissal shall occur in
16 accordance with this subsection (b); except that this
17 subsection (b) shall not impair the operation of any
18 affirmative action program in the school district, regardless
19 of whether it exists by operation of law or is conducted on a
20 voluntary basis by the board. If no State budget that includes
21 funding under Section 18-8.15 of this Code for the next State
22 fiscal year has been passed by the General Assembly by June 15
23 of the current State fiscal year, then the school board shall
24 fulfill these notification requirements by June 30 of the
25 current State fiscal year.

26 Each teacher must be categorized into one or more positions

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

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

1 present and participated in the district's educational
2 program for 120 days or more is not considered employed on
3 a part-time basis.

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

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

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

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

24 Within grouping one, the sequence of dismissal must be at
25 the discretion of the school district or joint agreement.
26 Within grouping 2, the sequence of dismissal must be based upon

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

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

1 joint agreement may, with notice to any exclusive employee
2 representatives, move teachers from grouping one into another
3 grouping during the period of time from 75 days until 45 days
4 before the end of the school term. Each year, each board shall
5 also establish, in consultation with any exclusive employee
6 representatives, a list showing the length of continuing
7 service of each teacher who is qualified to hold any such
8 positions, unless an alternative method of determining a
9 sequence of dismissal is established as provided for in this
10 Section, in which case a list must be made in accordance with
11 the alternative method. Copies of the list must be distributed
12 to the exclusive employee representative at least 75 days
13 before the end of the school term.

14 Any teacher dismissed as a result of such decrease or
15 discontinuance must 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 or joint agreement has any vacancies for the
19 following school term or within one calendar year from the
20 beginning of the following school term, the positions thereby
21 becoming available must be tendered to the teachers so removed
22 or dismissed who were in groupings 3 or 4 of the sequence of
23 dismissal and are qualified to hold the positions, based upon
24 legal qualifications and any other qualifications established
25 in a district or joint agreement job description, on or before
26 the May 10 prior to the date of the positions becoming

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

1 honorable dismissal, even if notice of honorable dismissal
2 occurred during the 2013-2014 school year. Among teachers
3 eligible for recall pursuant to the preceding sentence, the
4 order of recall must be in inverse order of dismissal, unless
5 an alternative order of recall is established in a collective
6 bargaining agreement or contract between the board and a
7 professional faculty members' organization. Whenever the
8 number of honorable dismissal notices based upon economic
9 necessity exceeds 5 notices or 150% of the average number of
10 teachers honorably dismissed in the preceding 3 years,
11 whichever is more, then the school board or governing board of
12 a joint agreement, as applicable, shall also hold a public
13 hearing on the question of the dismissals. Following the
14 hearing and board review, the action to approve any such
15 reduction shall require a majority vote of the board members.

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

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

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

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

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

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

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

21 (2) The joint committee must consider and may agree to
22 an alternative definition for grouping 4, which definition
23 must take into account prior performance evaluation
24 ratings and may take into account other factors that relate
25 to the school district's or program's educational
26 objectives. An alternative definition for grouping 4 may

1 not permit the inclusion of a teacher in the grouping with
2 a Needs Improvement or Unsatisfactory performance
3 evaluation rating on either of the teacher's last 2
4 performance evaluation ratings.

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

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

19 (5) Upon request by a joint committee member submitted
20 to the employing board by no later than 10 days after the
21 distribution of the sequence of honorable dismissal list, a
22 representative of the employing board shall, within 5 days
23 after the request, provide to members of the joint
24 committee a list showing the most recent and prior
25 performance evaluation ratings of each teacher identified
26 only by length of continuing service in the district or

1 joint agreement and not by name. If, after review of this
2 list, a member of the joint committee has a good faith
3 belief that a disproportionate number of teachers with
4 greater length of continuing service with the district or
5 joint agreement have received a recent performance
6 evaluation rating lower than the prior rating, the member
7 may request that the joint committee review the list to
8 assess whether such a trend may exist. Following the joint
9 committee's review, but by no later than the end of the
10 applicable school term, the joint committee or any member
11 or members of the joint committee may submit a report of
12 the review to the employing board and exclusive bargaining
13 representative, if any. Nothing in this paragraph (5) shall
14 impact the order of honorable dismissal or a school
15 district's or joint agreement's authority to carry out a
16 dismissal in accordance with subsection (b) of this
17 Section.

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

1 the joint committee each school year must occur on or before
2 December 1.

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

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

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

1 the teacher of the right to request a hearing before a
2 mutually selected hearing officer, with the cost of the
3 hearing officer split equally between the teacher and the
4 board, or a hearing before a board-selected hearing
5 officer, with the cost of the hearing officer paid by the
6 board.

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

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

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

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

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

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

13 If the teacher has requested a hearing before a hearing
14 officer selected by the board, the board shall select one
15 name from the master list of qualified impartial hearing
16 officers maintained by the State Board of Education within
17 3 business days after receipt and shall notify the State
18 Board of Education of its selection.

19 A hearing officer mutually selected by the parties,
20 selected by the board, or selected through an alternative
21 selection process under paragraph (4) of this subsection
22 (d) (A) must not be a resident of the school district, (B)
23 must be available to commence the hearing within 75 days
24 and conclude the hearing within 120 days after being
25 selected as the hearing officer, and (C) must issue a
26 decision as to whether the teacher must be dismissed and

1 give a copy of that decision to both the teacher and the
2 board within 30 days from the conclusion of the hearing or
3 closure of the record, whichever is later.

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

24 (5) If the notice of dismissal was sent to the teacher
25 before July 1, 2012, the fees and costs for the hearing
26 officer must be paid by the State Board of Education. If

1 the notice of dismissal was sent to the teacher on or after
2 July 1, 2012, the hearing officer's fees and costs must be
3 paid as follows in this paragraph (5). The fees and
4 permissible costs for the hearing officer must be
5 determined by the State Board of Education. If the board
6 and the teacher or their legal representatives mutually
7 agree to select an impartial hearing officer who is not on
8 a list received from the State Board of Education, they may
9 agree to supplement the fees determined by the State Board
10 to the hearing officer, at a rate consistent with the
11 hearing officer's published professional fees. If the
12 hearing officer is mutually selected by the parties, then
13 the board and the teacher or their legal representatives
14 shall each pay 50% of the fees and costs and any
15 supplemental allowance to which they agree. If the hearing
16 officer is selected by the board, then the board shall pay
17 100% of the hearing officer's fees and costs. The fees and
18 costs must be paid to the hearing officer within 14 days
19 after the board and the teacher or their legal
20 representatives receive the hearing officer's decision set
21 forth in paragraph (7) of this subsection (d).

22 (6) The teacher is required to answer the bill of
23 particulars and aver affirmative matters in his or her
24 defense, and the time for initially doing so and the time
25 for updating such answer and defenses after pre-hearing
26 discovery must be set by the hearing officer. The State

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

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

26 Each party shall have no more than 3 days to present

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

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

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

1 of Education and may not be selected by parties through the
2 alternative selection process under this paragraph (7) or
3 paragraph (4) of this subsection (d). The board shall not
4 lose jurisdiction to discharge a teacher if the hearing
5 officer fails to render a decision or findings of fact and
6 recommendation within the time specified in this Section.
7 If the decision of the hearing officer for dismissal
8 pursuant to Article 24A of this Code or of the school board
9 for dismissal for cause is in favor of the teacher, then
10 the hearing officer or school board shall order
11 reinstatement to the same or substantially equivalent
12 position and shall determine the amount for which the
13 school board is liable, including, but not limited to, loss
14 of income and benefits.

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

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

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

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

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

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

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

13 (e) Nothing contained in this amendatory Act of the 98th
14 General Assembly repeals, supersedes, invalidates, or
15 nullifies final decisions in lawsuits pending on the effective
16 date of this amendatory Act of the 98th General Assembly in
17 Illinois courts involving the interpretation of Public Act
18 97-8.

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.