



Rep. Justin Slaughter

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1 AMENDMENT TO HOUSE BILL 5136

2 AMENDMENT NO. _____. Amend House Bill 5136 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Sections
5 24-12 and 24A-4 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

1 certified mail, return receipt requested or personal delivery
2 with receipt at least 60 days before the end of the school
3 term, together with a statement of honorable dismissal and the
4 reason therefor, and in all such cases the board shall first
5 remove or dismiss all teachers who have not entered upon
6 contractual continued service before removing or dismissing
7 any teacher who has entered upon contractual continued service
8 and who is legally qualified to hold a position currently held
9 by a teacher who has not entered upon contractual continued
10 service.

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

25 If the board has any vacancies for the following school
26 term or within one calendar year from the beginning of the

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

1 hearing on the question of the dismissals. Following the
2 hearing and board review the action to approve any such
3 reduction shall require a majority vote of the board members.

4 (b) This subsection (b) applies only to honorable
5 dismissals and recalls in which the notice of dismissal is
6 provided during the 2011-2012 school term or a subsequent
7 school term. If any teacher, whether or not in contractual
8 continued service, is removed or dismissed as a result of a
9 decision of a school board to decrease the number of teachers
10 employed by the board, a decision of a school board to
11 discontinue some particular type of teaching service, or a
12 reduction in the number of programs or positions in a special
13 education joint agreement, then written notice must be mailed
14 to the teacher and also given to the teacher either by
15 certified mail, return receipt requested, or personal delivery
16 with receipt at least 45 days before the end of the school
17 term, together with a statement of honorable dismissal and the
18 reason therefor, and in all such cases the sequence of
19 dismissal shall occur in accordance with this subsection (b);
20 except that this subsection (b) shall not impair the operation
21 of any affirmative action program in the school district,
22 regardless of whether it exists by operation of law or is
23 conducted on a voluntary basis by the board.

24 Each teacher must be categorized into one or more positions
25 for which the teacher is qualified to hold, based upon legal
26 qualifications and any other qualifications established in a

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

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

1 a part-time basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Any provisions regarding the sequence of honorable
26 dismissals and recall of honorably dismissed teachers in a

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

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

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

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

1 evaluation rating on either of the teacher's last 2
2 performance evaluation ratings.

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

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

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

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

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

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

8 The provisions of the Open Meetings Act shall not apply to
9 meetings of a joint committee created under this subsection
10 (c).

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

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

1 written notice sent on or after July 1, 2012 shall inform
2 the teacher of the right to request a hearing before a
3 mutually selected hearing officer, with the cost of the
4 hearing officer split equally between the teacher and the
5 board, or a hearing before a board-selected hearing
6 officer, with the cost of the hearing officer paid by the
7 board.

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

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

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

1 Education.

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

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

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

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

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

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

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

25 (5) If the notice of dismissal was sent to the teacher
26 before July 1, 2012, the fees and costs for the hearing

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

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

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

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

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

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

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

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

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

1 evidence.

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

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

1 review and determination must be paid by the board.

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

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

1 school board.

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

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

14 (e) Nothing contained in this amendatory Act of the 98th
15 General Assembly repeals, supersedes, invalidates, or
16 nullifies final decisions in lawsuits pending on the effective
17 date of this amendatory Act of the 98th General Assembly in
18 Illinois courts involving the interpretation of Public Act
19 97-8.

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

22 (105 ILCS 5/24A-4) (from Ch. 122, par. 24A-4)

23 Sec. 24A-4. Development of evaluation plan.

24 (a) As used in this and the succeeding Sections, "teacher"
25 means any and all school district employees regularly required

1 to be certified under laws relating to the certification of
2 teachers. Each school district shall develop, in cooperation
3 with its teachers or, where applicable, the exclusive
4 bargaining representatives of its teachers, an evaluation plan
5 for all teachers.

6 (b) By no later than the applicable implementation date,
7 each school district shall, in good faith cooperation with its
8 teachers or, where applicable, the exclusive bargaining
9 representatives of its teachers, incorporate the use of data
10 and indicators on student growth as a significant factor in
11 rating teaching performance, into its evaluation plan for all
12 teachers, both those teachers in contractual continued service
13 and those teachers not in contractual continued service. The
14 plan shall at least meet the standards and requirements for
15 student growth and teacher evaluation established under
16 Section 24A-7, and specifically describe how student growth
17 data and indicators will be used as part of the evaluation
18 process, how this information will relate to evaluation
19 standards, the assessments or other indicators of student
20 performance that will be used in measuring student growth and
21 the weight that each will have, the methodology that will be
22 used to measure student growth, and the criteria other than
23 student growth that will be used in evaluating the teacher and
24 the weight that each will have.

25 To incorporate the use of data and indicators of student
26 growth as a significant factor in rating teacher performance

1 into the evaluation plan, the district shall use a joint
2 committee composed of equal representation selected by the
3 district and its teachers or, where applicable, the exclusive
4 bargaining representative of its teachers. If, within 180
5 calendar days of the committee's first meeting, the committee
6 does not reach agreement on the plan, then the district shall
7 implement the model evaluation plan established under Section
8 24A-7 with respect to the use of data and indicators on student
9 growth as a significant factor in rating teacher performance.

10 Nothing in this subsection (b) shall make decisions on the
11 use of data and indicators on student growth as a significant
12 factor in rating teaching performance mandatory subjects of
13 bargaining under the Illinois Educational Labor Relations Act
14 that are not currently mandatory subjects of bargaining under
15 the Act.

16 The provisions of the Open Meetings Act shall not apply to
17 meetings of a joint committee formed under this subsection (b).

18 (c) Notwithstanding anything to the contrary in subsection
19 (b) of this Section, if the joint committee referred to in that
20 subsection does not reach agreement on the plan within 90
21 calendar days after the committee's first meeting, a school
22 district having 500,000 or more inhabitants shall not be
23 required to implement any aspect of the model evaluation plan
24 and may implement its last best proposal.

25 (d) Beginning the first school year following the effective
26 date of this amendatory Act of the 100th General Assembly, the

1 joint committee referred to in subsection (b) of this Section
2 shall meet no less than one time annually to assess and review
3 the effectiveness of the district's evaluation plan for the
4 purposes of continuous improvement of instruction and
5 evaluation practices.

6 (Source: P.A. 95-510, eff. 8-28-07; 96-861, eff. 1-15-10;
7 96-1423, eff. 8-3-10.)

8 Section 10. The Illinois Educational Labor Relations Act is
9 amended by changing Section 18 as follows:

10 (115 ILCS 5/18) (from Ch. 48, par. 1718)

11 Sec. 18. Meetings. The provisions of the Open Meetings Act
12 shall not apply to collective bargaining negotiations,
13 including negotiating team strategy sessions, and grievance
14 arbitrations conducted pursuant to this Act.

15 (Source: P.A. 83-1014.)".