**Section 51.270** **Scope of the Hearing**

a) In accordance with Section 24-16.5(d)(2)(A) of the School Code, the scope of the hearing held for an optional alternative evaluative dismissal process shall be limited to the school district's demonstration of each of the components listed in this subsection (a).

1) The performance evaluation rating *of "unsatisfactory" that preceded remediation applied the teacher practice components and student growth components and determined an overall evaluation rating of "unsatisfactory" in accordance with the standards and requirements of the school district's evaluation plan*;

2) The remediation plan for the affected tenured teacher complied with the requirements of Section 24A-5 of the School Code;

3) *The teacher failed to complete the remediation plan with a performance evaluation rating equal to or better than a "proficient" rating, based upon a final remediation evaluation that met the standards and requirements of the school district's evaluation plan, as applicable*; and

4) If the second evaluator selected pursuant to Section 51.220 of this Part conducts an independent assessment that results in a performance evaluation rating for the affected tenured teacher of "proficient" or "excellent", then *the school district must demonstrate that the final remediation evaluation is a more valid assessment of the teacher's performance than the assessment made by the second evaluator*. (Section 24-16.5(d)(2)(A) of the School Code)

b) Limitations of Action by the Tenured Teacher Subject to Dismissal

A tenured teacher subject to dismissal under an optional alternative evaluative dismissal process shall challenge only the substantive and procedural aspects of the process as set forth in this subsection (b). (See Section 24-16.5(d)(2)(B) of the School Code.)

1) The affected tenured teacher may challenge the performance evaluation rating of "unsatisfactory" that led to the remediation, the remediation plan developed pursuant to Section 24A-5 of the School Code, and the final evaluation conducted at the conclusion of the remediation period.

2) *To the extent the teacher challenges procedural aspects, including any in applicable collective bargaining agreement provisions, of a relevant performance evaluation rating or the remediation plan, the teacher must demonstrate how an alleged procedural defect materially affected the teacher's ability to demonstrate a level of performance necessary to avoid remediation or dismissal or successfully complete the remediation plan*. *Without any such material effect, a procedural defect shall not impact the assessment by the hearing officer, Board, or reviewing court of the validity of a performance evaluation or a remediation plan.* (Section 24-16.5(d)(2)(B) of the School Code)

c) *The hearing officer shall only consider and give weight to performance evaluations relevant to the scope of the hearing as described* in this Section (Section 24-16.5(d)(2)(C) of the School Code).

d) In accordance with Section 24-16.5(d)(3) of the School Code, each party shall have two business days, as defined in Section 51.60(c)(11) of this Part, to present evidence and testimony unless:

1) a longer period is mutually agreed to by the parties; or

2) the hearing officer deems the extension to be necessary to enable a party to present adequate evidence and testimony.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)