

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 Sections
5 24-12 and 34-85 as follows:

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

7 Sec. 24-12. Removal or dismissal of teachers in
8 contractual 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
8 the sequence of dismissal is established in a collective
9 bargaining agreement or contract between the board and a
10 professional faculty members' organization and except that
11 this provision shall not impair the operation of any
12 affirmative action program in the district, regardless of
13 whether it exists by operation of law or is conducted on a
14 voluntary basis by the board. Any teacher dismissed as a
15 result of such decrease or discontinuance shall be paid all
16 earned compensation on or before the third business day
17 following the last day of pupil attendance in the regular
18 school term.

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

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

24 (b) This subsection (b) applies only to honorable
25 dismissals and recalls in which the notice of dismissal is
26 provided during the 2011-2012 school term or a subsequent

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

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

1 establish 4 groupings of teachers qualified to hold the
2 position as follows:

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

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

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

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

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

17 Within grouping one, the sequence of dismissal must be at
18 the discretion of the school district or joint agreement.
19 Within grouping 2, the sequence of dismissal must be based
20 upon average performance evaluation ratings, with the teacher
21 or teachers with the lowest average performance evaluation
22 rating dismissed first. A teacher's average performance
23 evaluation rating must be calculated using the average of the
24 teacher's last 2 performance evaluation ratings, if 2 ratings
25 are available, or the teacher's last performance evaluation
26 rating, if only one rating is available, using the following

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

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

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

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

12 If the board or joint agreement has any vacancies for the
13 following school term or within one calendar year from the
14 beginning of the following school term, the positions thereby
15 becoming available must be tendered to the teachers so removed
16 or dismissed who were in grouping 3 or 4 of the sequence of
17 dismissal and are qualified to hold the positions, based upon
18 legal qualifications and any other qualifications established
19 in a district or joint agreement job description, on or before
20 the May 10 prior to the date of the positions becoming
21 available, provided that if the number of honorable dismissal
22 notices based on economic necessity exceeds 15% of the number
23 of full-time equivalent positions filled by certified
24 employees (excluding principals and administrative personnel)
25 during the preceding school year, then the recall period is
26 for the following school term or within 2 calendar years from

1 the beginning of the following school term. If the board or
2 joint agreement has any vacancies within the period from the
3 beginning of the following school term through February 1 of
4 the following school term (unless a date later than February
5 1, but no later than 6 months from the beginning of the
6 following school term, is established in a collective
7 bargaining agreement), the positions thereby becoming
8 available must be tendered to the teachers so removed or
9 dismissed who were in grouping 2 of the sequence of dismissal
10 due to one "needs improvement" rating on either of the
11 teacher's last 2 performance evaluation ratings, provided
12 that, if 2 ratings are available, the other performance
13 evaluation rating used for grouping purposes is
14 "satisfactory", "proficient", or "excellent", and are
15 qualified to hold the positions, based upon legal
16 qualifications and any other qualifications established in a
17 district or joint agreement job description, on or before the
18 May 10 prior to the date of the positions becoming available.
19 On and after July 1, 2014 (the effective date of Public Act
20 98-648), the preceding sentence shall apply to teachers
21 removed or dismissed by honorable dismissal, even if notice of
22 honorable dismissal occurred during the 2013-2014 school year.
23 Among teachers eligible for recall pursuant to the preceding
24 sentence, the order of recall must be in inverse order of
25 dismissal, unless an alternative order of recall is
26 established in a collective bargaining agreement or contract

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

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

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

1 determine the sequence of dismissal, notwithstanding the
2 pendency of any grievance resolution or arbitration procedures
3 relating to the performance evaluation. If a teacher has
4 received at least one performance evaluation rating conducted
5 by the school district or joint agreement determining the
6 sequence of dismissal and a subsequent performance evaluation
7 is not conducted in any school year in which such evaluation is
8 required to be conducted under Section 24A-5 of this Code, the
9 teacher's performance evaluation rating for that school year
10 for purposes of determining the sequence of dismissal is
11 deemed Proficient, except that, during any time in which the
12 Governor has declared a disaster due to a public health
13 emergency pursuant to Section 7 of the Illinois Emergency
14 Management Agency Act, this default to Proficient does not
15 apply to any teacher who has entered into contractual
16 continued service and who was deemed Excellent on his or her
17 most recent evaluation. During any time in which the Governor
18 has declared a disaster due to a public health emergency
19 pursuant to Section 7 of the Illinois Emergency Management
20 Agency Act and unless the school board and any exclusive
21 bargaining representative have completed the performance
22 rating for teachers or have mutually agreed to an alternate
23 performance rating, any teacher who has entered into
24 contractual continued service, whose most recent evaluation
25 was deemed Excellent, and whose performance evaluation is not
26 conducted when the evaluation is required to be conducted

1 shall receive a teacher's performance rating deemed Excellent.
2 A school board and any exclusive bargaining representative may
3 mutually agree to an alternate performance rating for teachers
4 not in contractual continued service during any time in which
5 the Governor has declared a disaster due to a public health
6 emergency pursuant to Section 7 of the Illinois Emergency
7 Management Agency Act, as long as the agreement is in writing.
8 If a performance evaluation rating is nullified as the result
9 of an arbitration, administrative agency, or court
10 determination, then the school district or joint agreement is
11 deemed to have conducted a performance evaluation for that
12 school year, but the performance evaluation rating may not be
13 used in determining the sequence of dismissal.

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

19 Any provisions regarding the sequence of honorable
20 dismissals and recall of honorably dismissed teachers in a
21 collective bargaining agreement entered into on or before
22 January 1, 2011 and in effect on June 13, 2011 (the effective
23 date of Public Act 97-8) that may conflict with Public Act 97-8
24 shall remain in effect through the expiration of such
25 agreement or June 30, 2013, whichever is earlier.

26 (c) Each school district and special education joint

1 agreement must use a joint committee composed of equal
2 representation selected by the school board and its teachers
3 or, if applicable, the exclusive bargaining representative of
4 its teachers, to address the matters described in paragraphs
5 (1) through (5) of this subsection (c) pertaining to honorable
6 dismissals under subsection (b) of this Section.

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

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

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

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

10 (5) Upon request by a joint committee member submitted
11 to the employing board by no later than 10 days after the
12 distribution of the sequence of honorable dismissal list,
13 a representative of the employing board shall, within 5
14 days after the request, provide to members of the joint
15 committee a list showing the most recent and prior
16 performance evaluation ratings of each teacher identified
17 only by length of continuing service in the district or
18 joint agreement and not by name. If, after review of this
19 list, a member of the joint committee has a good faith
20 belief that a disproportionate number of teachers with
21 greater length of continuing service with the district or
22 joint agreement have received a recent performance
23 evaluation rating lower than the prior rating, the member
24 may request that the joint committee review the list to
25 assess whether such a trend may exist. Following the joint
26 committee's review, but by no later than the end of the

1 applicable school term, the joint committee or any member
2 or members of the joint committee may submit a report of
3 the review to the employing board and exclusive bargaining
4 representative, if any. Nothing in this paragraph (5)
5 shall impact the order of honorable dismissal or a school
6 district's or joint agreement's authority to carry out a
7 dismissal in accordance with subsection (b) of this
8 Section.

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

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

1 The provisions of the Open Meetings Act shall not apply to
2 meetings of a joint committee created under this subsection
3 (c).

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

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

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

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

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

21 (3) Within 5 business days after receiving a notice of
22 hearing in which either notice to the teacher was sent
23 before July 1, 2012 or, if the notice was sent on or after
24 July 1, 2012, the teacher has requested a hearing before a
25 mutually selected hearing officer, the State Board of
26 Education shall provide a list of 5 prospective, impartial

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

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

1 receiving this notification, the State Board of Education
2 shall appoint a qualified person from the master list who
3 did not appear on the list sent to the parties to serve as
4 the hearing officer, unless the parties notify it that
5 they have chosen to alternatively select a hearing officer
6 under paragraph (4) of this subsection (d).

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

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

25 Any hearing convened during a public health emergency
26 pursuant to Section 7 of the Illinois Emergency Management

1 Agency Act may be convened remotely. Any hearing officer
2 for a hearing convened during a public health emergency
3 pursuant to Section 7 of the Illinois Emergency Management
4 Agency Act may voluntarily withdraw from the hearing and
5 another hearing officer shall be selected or appointed
6 pursuant to this Section.

7 In this paragraph, "pre-hearing procedures" refers to
8 the pre-hearing procedures under Section 51.55 of Title 23
9 of the Illinois Administrative Code and "hearing" refers
10 to the hearing under Section 51.60 of Title 23 of the
11 Illinois Administrative Code. Any teacher who has been
12 charged with engaging in acts of corporal punishment,
13 physical abuse, grooming, or sexual misconduct and who
14 previously paused pre-hearing procedures or a hearing
15 pursuant to Public Act 101-643 must proceed with selection
16 of a hearing officer or hearing date, or both, within the
17 timeframes established by this paragraph (3) and
18 paragraphs (4) through (6) of this subsection (d), unless
19 the timeframes are mutually waived in writing by both
20 parties, and all timelines set forth in this Section in
21 cases concerning corporal punishment, physical abuse,
22 grooming, or sexual misconduct shall be reset to begin the
23 day after the effective date of this amendatory Act of the
24 102nd General Assembly. Any teacher charged with engaging
25 in acts of corporal punishment, physical abuse, grooming,
26 or sexual misconduct on or after the effective date of

1 this amendatory Act of the 102nd General Assembly may not
2 pause pre-hearing procedures or a hearing.

3 (4) In the alternative to selecting a hearing officer
4 from the list received from the State Board of Education
5 or accepting the appointment of a hearing officer by the
6 State Board of Education or if the State Board of
7 Education cannot provide a list or appoint a hearing
8 officer that meets the foregoing requirements, the board
9 and the teacher or their legal representatives may
10 mutually agree to select an impartial hearing officer who
11 is not on the master list either by direct appointment by
12 the parties or by using procedures for the appointment of
13 an arbitrator established by the Federal Mediation and
14 Conciliation Service or the American Arbitration
15 Association. The parties shall notify the State Board of
16 Education of their intent to select a hearing officer
17 using an alternative procedure within 3 business days of
18 receipt of a list of prospective hearing officers provided
19 by the State Board of Education, notice of appointment of
20 a hearing officer by the State Board of Education, or
21 receipt of notice from the State Board of Education that
22 it cannot provide a list that meets the foregoing
23 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
9 may agree to supplement the fees determined by the State
10 Board to the hearing officer, at a rate consistent with
11 the 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
13 of the hearing, the names and addresses of persons who may
14 be called as witnesses at the hearing, a summary of the
15 facts or opinions each witness will testify to, and all
16 other documents and materials, including information
17 maintained electronically, relevant to its own as well as
18 the other party's case (the hearing officer may exclude
19 witnesses and exhibits not identified and shared, except
20 those offered in rebuttal for which the party could not
21 reasonably have anticipated prior to the hearing);
22 pre-hearing discovery and preparation, including provision
23 for written interrogatories and requests for production of
24 documents, provided that discovery depositions are
25 prohibited; the conduct of the hearing; the right of each
26 party to be represented by counsel, the offer of evidence

1 and witnesses and the cross-examination of witnesses; the
2 authority of the hearing officer to issue subpoenas and
3 subpoenas duces tecum, provided that the hearing officer
4 may limit the number of witnesses to be subpoenaed on
5 behalf of each party to no more than 7; the length of
6 post-hearing briefs; and the form, length, and content of
7 hearing officers' decisions. The hearing officer shall
8 hold a hearing and render a final decision for dismissal
9 pursuant to Article 24A of this Code or shall report to the
10 school board findings of fact and a recommendation as to
11 whether or not the teacher must be dismissed for conduct.
12 The hearing officer shall commence the hearing within 75
13 days and conclude the hearing within 120 days after being
14 selected as the hearing officer, provided that the hearing
15 officer may modify these timelines upon the showing of
16 good cause or mutual agreement of the parties. Good cause
17 for the purpose of this subsection (d) shall mean the
18 illness or otherwise unavoidable emergency of the teacher,
19 district representative, their legal representatives, the
20 hearing officer, or an essential witness as indicated in
21 each party's pre-hearing submission. In a dismissal
22 hearing pursuant to Article 24A of this Code in which a
23 witness is a student or is under the age of 18, the hearing
24 officer must make accommodations for the witness, as
25 provided under paragraph (6.5) of this subsection. The
26 hearing officer shall consider and give weight to all of

1 the teacher's evaluations written pursuant to Article 24A
2 that are relevant to the issues in the hearing.

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

24 (6.5) In the case of charges involving any witness who
25 is or was at the time of the alleged conduct ~~sexual abuse~~
26 ~~or severe physical abuse of~~ a student or a person under the

1 age of 18, the hearing officer shall make accommodations
2 ~~alternative hearing procedures~~ to protect a witness ~~who is~~
3 ~~a student or who is under the age of 18~~ from being
4 intimidated, ~~or~~ traumatized, or re-traumatized. No alleged
5 victim or other witness who is or was at the time of the
6 alleged conduct a student or under the age of 18 may be
7 compelled to testify in the physical or visual presence of
8 a teacher or other witness. If such a witness invokes this
9 right, then the hearing officer must provide an
10 accommodation consistent with the invoked right and use a
11 procedure by which each party may hear such witness'
12 testimony. Accommodations ~~Alternative hearing procedures~~
13 may include, but are not limited to: (i) testimony made
14 via a telecommunication device in a location other than
15 the hearing room and outside the physical or visual
16 presence of the teacher and other hearing participants,
17 but accessible to the teacher via a telecommunication
18 device, (ii) testimony made in the hearing room but
19 outside the physical presence of the teacher and
20 accessible to the teacher via a telecommunication device,
21 ~~or~~ (iii) non-public testimony, (iv) testimony made via
22 videoconference with the cameras and microphones of the
23 teacher turned off, or (v) pre-recorded testimony,
24 including, but not limited to, a recording of a forensic
25 interview conducted at an accredited Children's Advocacy
26 Center. With all accommodations, the hearing officer shall

1 give such testimony the same consideration as if the
2 witness testified without the accommodation. The teacher
3 may not directly, or through a representative, question a
4 witness called by the school board who is or was a student
5 or under 18 years of age at the time of the alleged
6 conduct. The hearing officer must permit the teacher to
7 submit all relevant questions and follow-up questions for
8 such a witness to have the questions posed by the hearing
9 officer. ~~During a testimony described under this~~
10 ~~subsection, each party must be permitted to ask a witness~~
11 ~~who is a student or who is under 18 years of age all~~
12 ~~relevant questions and follow-up questions.~~ All questions
13 must exclude evidence of the witness' sexual behavior or
14 predisposition, unless the evidence is offered to prove
15 that someone other than the teacher subject to the
16 dismissal hearing engaged in the charge at issue.

17 (7) The hearing officer shall, within 30 days from the
18 conclusion of the hearing or closure of the record,
19 whichever is later, make a decision as to whether or not
20 the teacher shall be dismissed pursuant to Article 24A of
21 this Code or report to the school board findings of fact
22 and a recommendation as to whether or not the teacher
23 shall be dismissed for cause and shall give a copy of the
24 decision or findings of fact and recommendation to both
25 the teacher and the school board. If a hearing officer
26 fails without good cause, specifically provided in writing

1 to both parties and the State Board of Education, to
2 render a decision or findings of fact and recommendation
3 within 30 days after the hearing is concluded or the
4 record is closed, whichever is later, the parties may
5 mutually agree to select a hearing officer pursuant to the
6 alternative procedure, as provided in this Section, to
7 rehear the charges heard by the hearing officer who failed
8 to render a decision or findings of fact and
9 recommendation or to review the record and render a
10 decision. If any hearing officer fails without good cause,
11 specifically provided in writing to both parties and the
12 State Board of Education, to render a decision or findings
13 of fact and recommendation within 30 days after the
14 hearing is concluded or the record is closed, whichever is
15 later or if any hearing officer fails to make an
16 accommodation as described in paragraph (6.5), the hearing
17 officer shall be removed from the master list of hearing
18 officers maintained by the State Board of Education for
19 not more than 24 months. The parties and the State Board of
20 Education may also take such other actions as it deems
21 appropriate, including recovering, reducing, or
22 withholding any fees paid or to be paid to the hearing
23 officer. If any hearing officer repeats such failure, he
24 or she must be permanently removed from the master list
25 maintained by the State Board of Education and may not be
26 selected by parties through the alternative selection

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

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

25 If the school board dismisses the teacher
26 notwithstanding the hearing officer's findings of fact and

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

13 If the school board retains the teacher, the school
14 board shall enter a written order stating the amount of
15 back pay and lost benefits, less mitigation, to be paid to
16 the teacher, within 45 days after its retention order.
17 Should the teacher object to the amount of the back pay and
18 lost benefits or amount mitigated, the teacher shall give
19 written objections to the amount within 21 days. If the
20 parties fail to reach resolution within 7 days, the
21 dispute shall be referred to the hearing officer, who
22 shall consider the school board's written order and
23 teacher's written objection and determine the amount to
24 which the school board is liable. The costs of the hearing
25 officer's review and determination must be paid by the
26 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 Code. 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
16 dismissal pursuant to Article 24A of this Code or of the
17 school board for dismissal for cause is adjudicated upon
18 review or appeal in favor of the teacher, then the trial
19 court shall order reinstatement and shall remand the
20 matter to the school board with direction for entry of an
21 order setting the amount of back pay, lost benefits, and
22 costs, less mitigation. The teacher may challenge the
23 school board's order setting the amount of back pay, lost
24 benefits, and costs, less mitigation, through an expedited
25 arbitration procedure, with the costs of the arbitrator
26 borne by the 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
4 one which that teacher held prior to that teacher's
5 suspension 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
9 to dismissals instituted on or after September 1, 2011.
10 Any dismissal instituted prior to September 1, 2011 must
11 be carried out in accordance with the requirements of this
12 Section prior to amendment by Public Act 97-8.

13 (e) Nothing contained in Public Act 98-648 repeals,
14 supersedes, invalidates, or nullifies final decisions in
15 lawsuits pending on July 1, 2014 (the effective date of Public
16 Act 98-648) in Illinois courts involving the interpretation of
17 Public Act 97-8.

18 (Source: P.A. 101-81, eff. 7-12-19; 101-531, eff. 8-23-19;
19 101-643, eff. 6-18-20; 102-708, eff. 4-22-22.)

20 (105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

21 Sec. 34-85. Removal for cause; notice and hearing;
22 suspension.

23 (a) No teacher employed by the board of education shall
24 (after serving the probationary period specified in Section
25 34-84) be removed except for cause. Teachers (who have

1 completed the probationary period specified in Section 34-84
2 of this Code) shall be removed for cause in accordance with the
3 procedures set forth in this Section or, at the board's
4 option, the procedures set forth in Section 24-16.5 of this
5 Code or such other procedures established in an agreement
6 entered into between the board and the exclusive
7 representative of the district's teachers under Section 34-85c
8 of this Code for teachers (who have completed the probationary
9 period specified in Section 34-84 of this Code) assigned to
10 schools identified in that agreement. No principal employed by
11 the board of education shall be removed during the term of his
12 or her performance contract except for cause, which may
13 include but is not limited to the principal's repeated failure
14 to implement the school improvement plan or to comply with the
15 provisions of the Uniform Performance Contract, including
16 additional criteria established by the Council for inclusion
17 in the performance contract pursuant to Section 34-2.3.

18 Before service of notice of charges on account of causes
19 that may be deemed to be remediable, the teacher or principal
20 must be given reasonable warning in writing, stating
21 specifically the causes that, if not removed, may result in
22 charges; however, no such written warning is required if the
23 causes have been the subject of a remediation plan pursuant to
24 Article 24A of this Code or if the board and the exclusive
25 representative of the district's teachers have entered into an
26 agreement pursuant to Section 34-85c of this Code, pursuant to

1 an alternative system of remediation. No written warning shall
2 be required for conduct on the part of a teacher or principal
3 that is cruel, immoral, negligent, or criminal or that in any
4 way causes psychological or physical harm or injury to a
5 student, as that conduct is deemed to be irremediable. No
6 written warning shall be required for a material breach of the
7 uniform principal performance contract, as that conduct is
8 deemed to be irremediable; provided that not less than 30 days
9 before the vote of the local school council to seek the
10 dismissal of a principal for a material breach of a uniform
11 principal performance contract, the local school council shall
12 specify the nature of the alleged breach in writing and
13 provide a copy of it to the principal.

14 (1) To initiate dismissal proceedings against a
15 teacher or principal, the general superintendent must
16 first approve written charges and specifications against
17 the teacher or principal. A local school council may
18 direct the general superintendent to approve written
19 charges against its principal on behalf of the Council
20 upon the vote of 7 members of the Council. The general
21 superintendent must approve those charges within 45
22 calendar days or provide a written reason for not
23 approving those charges. A written notice of those
24 charges, including specifications, shall be served upon
25 the teacher or principal within 10 business days of the
26 approval of the charges. Any written notice sent on or

1 after July 1, 2012 shall also inform the teacher or
2 principal 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 or
5 principal and the board, or a hearing before a qualified
6 hearing officer chosen by the general superintendent, with
7 the cost of the hearing officer paid by the board. If the
8 teacher or principal cannot be found upon diligent
9 inquiry, such charges may be served upon him by mailing a
10 copy thereof in a sealed envelope by prepaid certified
11 mail, return receipt requested, to the teacher's or
12 principal's last known address. A return receipt showing
13 delivery to such address within 20 calendar days after the
14 date of the approval of the charges shall constitute proof
15 of service.

16 (2) No hearing upon the charges is required unless the
17 teacher or principal within 17 calendar days after
18 receiving notice requests in writing of the general
19 superintendent that a hearing be scheduled. Pending the
20 hearing of the charges, the general superintendent or his
21 or her designee may suspend the teacher or principal
22 charged without pay in accordance with rules prescribed by
23 the board, provided that if the teacher or principal
24 charged is not dismissed based on the charges, he or she
25 must be made whole for lost earnings, less setoffs for
26 mitigation.

1 (3) The board shall maintain a list of at least 9
2 qualified hearing officers who will conduct hearings on
3 charges and specifications. The list must be developed in
4 good faith consultation with the exclusive representative
5 of the board's teachers and professional associations that
6 represent the board's principals. The list may be revised
7 on July 1st of each year or earlier as needed. To be a
8 qualified hearing officer, the person must (i) be
9 accredited by a national arbitration organization and have
10 had a minimum of 5 years of experience as an arbitrator in
11 cases involving labor and employment relations matters
12 between employers and employees or their exclusive
13 bargaining representatives and (ii) beginning September 1,
14 2012, have participated in training provided or approved
15 by the State Board of Education for teacher dismissal
16 hearing officers so that he or she is familiar with issues
17 generally involved in evaluative and non-evaluative
18 dismissals.

19 Within 5 business days after receiving the notice of
20 request for a hearing, the general superintendent and the
21 teacher or principal or their legal representatives shall
22 alternately strike one name from the list until only one
23 name remains. Unless waived by the teacher, the teacher or
24 principal shall have the right to proceed first with the
25 striking. If the teacher or principal fails to participate
26 in the striking process, the general superintendent shall

1 either select the hearing officer from the list developed
2 pursuant to this paragraph (3) or select another qualified
3 hearing officer from the master list maintained by the
4 State Board of Education pursuant to subsection (c) of
5 Section 24-12 of this Code.

6 (4) If the notice of dismissal was sent to the teacher
7 or principal before July 1, 2012, the fees and costs for
8 the hearing officer shall be paid by the State Board of
9 Education. If the notice of dismissal was sent to the
10 teacher or principal on or after July 1, 2012, the hearing
11 officer's fees and costs must be paid as follows in this
12 paragraph (4). The fees and permissible costs for the
13 hearing officer shall be determined by the State Board of
14 Education. If the hearing officer is mutually selected by
15 the parties through alternate striking in accordance with
16 paragraph (3) of this subsection (a), then the board and
17 the teacher or their legal representative shall each pay
18 50% of the fees and costs and any supplemental allowance
19 to which they agree. If the hearing officer is selected by
20 the general superintendent without the participation of
21 the teacher or principal, then the board shall pay 100% of
22 the hearing officer fees and costs. The hearing officer
23 shall submit for payment a billing statement to the
24 parties that itemizes the charges and expenses and divides
25 them in accordance with this Section.

26 (5) The teacher or the principal charged is required

1 to answer the charges and specifications and aver
2 affirmative matters in his or her defense, and the time
3 for doing so must be set by the hearing officer. The State
4 Board of Education shall adopt rules so that each party
5 has a fair opportunity to present its case and to ensure
6 that the dismissal proceeding is concluded in an
7 expeditious manner. The rules shall address, without
8 limitation, the teacher or principal's answer and
9 affirmative defenses to the charges and specifications; a
10 requirement that each party make mandatory disclosures
11 without request to the other party and then update the
12 disclosure no later than 10 calendar days prior to the
13 commencement of the hearing, including a list of the names
14 and addresses of persons who may be called as witnesses at
15 the hearing, a summary of the facts or opinions each
16 witness will testify to, and all other documents and
17 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
20 and exhibits not identified and shared, except those
21 offered in rebuttal for which the party could not
22 reasonably have anticipated prior to the hearing);
23 pre-hearing discovery and preparation, including provision
24 for written interrogatories and requests for production of
25 documents, provided that discovery depositions are
26 prohibited; the conduct of the hearing; the right of each

1 party to be represented by counsel, the offer of evidence
2 and witnesses and the cross-examination of witnesses; the
3 authority of the hearing officer to issue subpoenas and
4 subpoenas duces tecum, provided that the hearing officer
5 may limit the number of witnesses to be subpoenaed in
6 behalf of each party to no more than 7; the length of
7 post-hearing briefs; and the form, length, and content of
8 hearing officers' reports and recommendations to the
9 general superintendent.

10 The hearing officer shall commence the hearing within
11 75 calendar days and conclude the hearing within 120
12 calendar days after being selected by the parties as the
13 hearing officer, provided that these timelines may be
14 modified upon the showing of good cause or mutual
15 agreement of the parties. Good cause for the purposes of
16 this paragraph (5) shall mean the illness or otherwise
17 unavoidable emergency of the teacher, district
18 representative, their legal representatives, the hearing
19 officer, or an essential witness as indicated in each
20 party's pre-hearing submission. In a dismissal hearing in
21 which a witness is a student or is under the age of 18, the
22 hearing officer must make accommodations for the witness,
23 as provided under paragraph (5.5) of this subsection. The
24 hearing officer shall consider and give weight to all of
25 the teacher's evaluations written pursuant to Article 24A
26 that are relevant to the issues in the hearing. Except as

1 otherwise provided under paragraph (5.5) of this
2 subsection, the teacher or principal has the privilege of
3 being present at the hearing with counsel and of
4 cross-examining witnesses and may offer evidence and
5 witnesses and present defenses to the charges. Each party
6 shall have no more than 3 days to present its case, unless
7 extended by the hearing officer to enable a party to
8 present adequate evidence and testimony, including due to
9 the other party's cross-examination of the party's
10 witnesses, for good cause or by mutual agreement of the
11 parties. The State Board of Education shall define in
12 rules the meaning of "day" for such purposes. All
13 testimony at the hearing shall be taken under oath
14 administered by the hearing officer. The hearing officer
15 shall cause a record of the proceedings to be kept and
16 shall employ a competent reporter to take stenographic or
17 stenotype notes of all the testimony. The costs of the
18 reporter's attendance and services at the hearing shall be
19 paid by the party or parties who are paying the fees and
20 costs of the hearing officer. Either party desiring a
21 transcript of the hearing shall pay for the cost thereof.
22 At the close of the hearing, the hearing officer shall
23 direct the parties to submit post-hearing briefs no later
24 than 21 calendar days after receipt of the transcript.
25 Either or both parties may waive submission of briefs.

26 (5.5) In the case of charges involving any witness who

1 is or was at the time of the alleged conduct ~~sexual abuse~~
2 ~~or severe physical abuse~~ of a student or a person under the
3 age of 18, the hearing officer shall make accommodations
4 ~~alternative hearing procedures~~ to protect a witness ~~who is~~
5 ~~a student or who is under the age of 18~~ from being
6 intimidated, ~~or~~ traumatized, or re-traumatized. No alleged
7 victim or other witness who is or was at the time of the
8 alleged conduct a student or under the age of 18 may be
9 compelled to testify in the physical or visual presence of
10 a teacher or other witness. If such a witness invokes this
11 right, then the hearing officer must provide an
12 accommodation consistent with the invoked right and use a
13 procedure by which each party may hear such witness'
14 testimony. Accommodations ~~Alternative hearing procedures~~
15 may include, but are not limited to: (i) testimony made
16 via a telecommunication device in a location other than
17 the hearing room and outside the physical or visual
18 presence of the teacher or principal and other hearing
19 participants, but accessible to the teacher via a
20 telecommunication device, (ii) testimony made in the
21 hearing room but outside the physical presence of the
22 teacher or principal and accessible to the teacher via a
23 telecommunication device, or (iii) non-public testimony,
24 (iv) testimony made via videoconference with the cameras
25 and microphones of the teacher turned off, or (v)
26 pre-recorded testimony, including, but not limited to, a

1 recording of a forensic interview conducted at an
2 accredited Children's Advocacy Center. With all
3 accommodations, the hearing officer shall give such
4 testimony the same consideration as if the witness
5 testified without the accommodation. The teacher may not
6 directly, or through a representative, question a witness
7 called by the school board who is or was a student or under
8 18 years of age at the time of the alleged conduct. The
9 hearing officer must permit the teacher to submit all
10 relevant questions and follow-up questions for such a
11 witness to have the questions posed by the hearing
12 officer. During a testimony described under this
13 subsection, each party must be permitted to ask a witness
14 who is a student or who is under 18 years of age all
15 relevant questions and follow-up questions. All questions
16 must exclude evidence of the witness' sexual behavior or
17 predisposition, unless the evidence is offered to prove
18 that someone other than the teacher subject to the
19 dismissal hearing engaged in the charge at issue.

20 (6) The hearing officer shall within 30 calendar days
21 from the conclusion of the hearing report to the general
22 superintendent findings of fact and a recommendation as to
23 whether or not the teacher or principal shall be dismissed
24 and shall give a copy of the report to both the teacher or
25 principal and the general superintendent. The State Board
26 of Education shall provide by rule the form of the hearing

1 officer's report and recommendation.

2 (6.5) If any hearing officer fails without good cause,
3 specifically provided in writing to both parties and the
4 State Board of Education, to render findings of fact and
5 recommendation within 90 days after the closing of the
6 record and receipt of post-hearing briefs, or if any
7 hearing officer fails to make an accommodation pursuant to
8 paragraph (5.5) of this subsection (a), the hearing
9 officer shall be removed from the list of hearing officers
10 developed pursuant to paragraph (3) of this subsection (a)
11 and the master list of qualified hearing officers
12 maintained by the State Board of Education for not more
13 than 24 months. The parties and the State Board of
14 Education may also take such other actions as it deems
15 appropriate, including recovering, reducing, or
16 withholding any fees paid or to be paid to the hearing
17 officer. If any hearing officer repeats such failure, he
18 or she must be permanently removed from the list of
19 hearing officers developed described in paragraph (3) and
20 the master list maintained by the State Board of Education
21 and may not be selected by parties. The board shall not
22 lose jurisdiction to discharge a teacher or principal if
23 the hearing officer fails to render findings of fact and
24 recommendation within the time specified in this Section.

25 (7) The board, within 45 days of receipt of the
26 hearing officer's findings of fact and recommendation,

1 shall make a decision as to whether the teacher or
2 principal shall be dismissed from its employ. The failure
3 of the board to strictly adhere to the timeliness
4 contained herein shall not render it without jurisdiction
5 to dismiss the teacher or principal. In the event that the
6 board declines to dismiss the teacher or principal after
7 review of a hearing officer's recommendation, the board
8 shall set the amount of back pay and benefits to award the
9 teacher or principal, which shall include offsets for
10 interim earnings and failure to mitigate losses. The board
11 shall establish procedures for the teacher's or
12 principal's submission of evidence to it regarding lost
13 earnings, lost benefits, mitigation, and offsets. The
14 decision of the board is final unless reviewed in
15 accordance with paragraph (8) of this subsection (a).

16 (8) The teacher may seek judicial review of the
17 board's decision in accordance with the Administrative
18 Review Law, which is specifically incorporated in this
19 Section, except that the review must be initiated in the
20 Illinois Appellate Court for the First District. In the
21 event judicial review is instituted, any costs of
22 preparing and filing the record of proceedings shall be
23 paid by the party instituting the review. In the event the
24 appellate court reverses a board decision to dismiss a
25 teacher or principal and directs the board to pay the
26 teacher or the principal back pay and benefits, the

1 appellate court shall remand the matter to the board to
2 issue an administrative decision as to the amount of back
3 pay and benefits, which shall include a calculation of the
4 lost earnings, lost benefits, mitigation, and offsets
5 based on evidence submitted to the board in accordance
6 with procedures established by the board.

7 (9) Any hearing convened during a public health
8 emergency pursuant to Section 7 of the Illinois Emergency
9 Management Agency Act may be convened remotely. Any
10 hearing officer for a hearing convened during a public
11 health emergency pursuant to Section 7 of the Illinois
12 Emergency Management Agency Act may voluntarily withdraw
13 from the hearing and another hearing officer shall be
14 selected or appointed pursuant to this Section.

15 In this paragraph, "pre-hearing procedures" refers to
16 the pre-hearing procedures under Section 51.55 of Title 23
17 of the Illinois Administrative Code and "hearing" refers
18 to the hearing under Section 51.60 of Title 23 of the
19 Illinois Administrative Code. Any teacher or principal who
20 has been charged with engaging in acts of corporal
21 punishment, physical abuse, grooming, or sexual misconduct
22 and who previously paused pre-hearing procedures or a
23 hearing pursuant to Public Act 101-643 must proceed with
24 selection of a hearing officer or hearing date, or both,
25 within the timeframes established by paragraphs (3)
26 through (5) of this subsection (a), unless the timeframes

1 are mutually waived in writing by both parties, and all
2 timelines set forth in this Section in cases concerning
3 corporal punishment, physical abuse, grooming, or sexual
4 misconduct shall be reset to begin the day after the
5 effective date of this amendatory Act of the 102nd General
6 Assembly. Any teacher or principal charged with engaging
7 in acts of corporal punishment, physical abuse, grooming,
8 or sexual misconduct on or after the effective date of
9 this amendatory Act of the 102nd General Assembly may not
10 pause pre-hearing procedures or a hearing.

11 (b) Nothing in this Section affects the validity of
12 removal for cause hearings commenced prior to June 13, 2011
13 (the effective date of Public Act 97-8).

14 The changes made by Public Act 97-8 shall apply to
15 dismissals instituted on or after September 1, 2011 or the
16 effective date of Public Act 97-8, whichever is later. Any
17 dismissal instituted prior to the effective date of these
18 changes must be carried out in accordance with the
19 requirements of this Section prior to amendment by Public Act
20 97-8.

21 (Source: P.A. 101-531, eff. 8-23-19; 101-643, eff. 6-18-20;
22 102-708, eff. 4-22-22.)