

HB3319



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3319

Introduced 2/26/2007, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

105 ILCS 5/34-85

from Ch. 122, par. 34-85

Amends the Chicago School District Article of the School Code. Makes a technical change in a provision concerning the removal of a principal.

LRB095 06892 NHT 27011 b

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Section
5 34-85 as follows:

6 (105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

7 Sec. 34-85. Removal for cause; Notice and hearing;
8 Suspension. No teacher employed by the ~~the~~ board of education
9 shall (after serving the probationary period specified in
10 Section 34-84) be removed except for cause. No principal
11 employed by the board of education shall be removed during the
12 term of his or her performance contract except for cause, which
13 may include but is not limited to the principal's repeated
14 failure to implement the school improvement plan or to comply
15 with the provisions of the Uniform Performance Contract,
16 including additional criteria established by the Council for
17 inclusion in the performance contract pursuant to Section
18 34-2.3.

19 The general superintendent must first approve written
20 charges and specifications against the teacher or principal. A
21 local school council may direct the general superintendent to
22 approve written charges against its principal on behalf of the
23 Council upon the vote of 7 members of the Council. The general

1 superintendent must approve those charges within 45 days or
2 provide a written reason for not approving those charges. A
3 written notice of those charges shall be served upon the
4 teacher or principal within 10 days of the approval of the
5 charges. If the teacher or principal cannot be found upon
6 diligent inquiry, such charges may be served upon him by
7 mailing a copy thereof in a sealed envelope by prepaid
8 certified mail, return receipt requested, to the teacher's or
9 principal's last known address. A return receipt showing
10 delivery to such address within 20 days after the date of the
11 approval of the charges shall constitute proof of service.

12 No hearing upon the charges is required unless the teacher
13 or principal within 10 days after receiving notice requests in
14 writing of the general superintendent that a hearing be
15 scheduled, in which case the general superintendent shall
16 schedule a hearing on those charges before a disinterested
17 hearing officer on a date no less than 15 nor more than 30 days
18 after the approval of the charges. The general superintendent
19 shall forward a copy of the notice to the State Board of
20 Education within 5 days from the date of the approval of the
21 charges. Within 10 days after receiving the notice of hearing,
22 the State Board of Education shall provide the teacher or
23 principal and the general superintendent with a list of 5
24 prospective, impartial hearing officers. Each person on the
25 list must be accredited by a national arbitration organization
26 and have had a minimum of 5 years of experience as an

1 arbitrator in cases involving labor and employment relations
2 matters between educational employers and educational
3 employees or their exclusive bargaining representatives.

4 The general superintendent and the teacher or principal or
5 their legal representatives within 3 days from receipt of the
6 list shall alternately strike one name from the list until only
7 one name remains. Unless waived by the teacher, the teacher or
8 principal shall have the right to proceed first with the
9 striking. Within 3 days of receipt of the first list provided
10 by the State Board of Education, the general superintendent and
11 the teacher or principal or their legal representatives shall
12 each have the right to reject all prospective hearing officers
13 named on the first list and to require the State Board of
14 Education to provide a second list of 5 prospective, impartial
15 hearing officers, none of whom were named on the first list.
16 Within 5 days after receiving this request for a second list,
17 the State Board of Education shall provide the second list of 5
18 prospective, impartial hearing officers. The procedure for
19 selecting a hearing officer from the second list shall be the
20 same as the procedure for the first list. Each party shall
21 promptly serve written notice on the other of any name stricken
22 from the list. If the teacher or principal fails to do so, the
23 general superintendent may select the hearing officer from any
24 name remaining on the list. The teacher or principal may waive
25 the hearing at any time prior to the appointment of the hearing
26 officer. Notice of the selection of the hearing officer shall

1 be given to the State Board of Education. The hearing officer
2 shall be notified of his selection by the State Board of
3 Education. A signed acceptance shall be filed with the State
4 Board of Education within 5 days of receipt of notice of the
5 selection. The State Board of Education shall notify the
6 teacher or principal and the board of its appointment of the
7 hearing officer. In the alternative to selecting a hearing
8 officer from the first or second list received from the State
9 Board of Education, the general superintendent and the teacher
10 or principal or their legal representatives may mutually agree
11 to select an impartial hearing officer who is not on a list
12 received from the State Board of Education, either by direct
13 appointment by the parties or by using procedures for the
14 appointment of an arbitrator established by the Federal
15 Mediation and Conciliation Service or the American Arbitration
16 Association. The parties shall notify the State Board of
17 Education of their intent to select a hearing officer using an
18 alternative procedure within 3 days of receipt of a list of
19 prospective hearing officers provided by the State Board of
20 Education. Any person selected by the parties under this
21 alternative procedure for the selection of a hearing officer
22 shall have the same qualifications and authority as a hearing
23 officer selected from a list provided by the State Board of
24 Education. The teacher or principal may waive the hearing at
25 any time prior to the appointment of the hearing officer. The
26 State Board of Education shall promulgate uniform standards and

1 rules of procedure for such hearings, including reasonable
2 rules of discovery.

3 The per diem allowance for the hearing officer shall be
4 paid by the State Board of Education. The hearing officer shall
5 hold a hearing and render findings of fact and a recommendation
6 to the general superintendent. The teacher or principal has the
7 privilege of being present at the hearing with counsel and of
8 cross-examining witnesses and may offer evidence and witnesses
9 and present defenses to the charges. The hearing officer may
10 issue subpoenas requiring the attendance of witnesses and, at
11 the request of the teacher or principal against whom a charge
12 is made or the general superintendent, shall issue such
13 subpoenas, but the hearing officer may limit the number of
14 witnesses to be subpoenaed in behalf of the teacher or
15 principal or the general superintendent to not more than 10
16 each. All testimony at the hearing shall be taken under oath
17 administered by the hearing officer. The hearing officer shall
18 cause a record of the proceedings to be kept and shall employ a
19 competent reporter to take stenographic or stenotype notes of
20 all the testimony. The costs of the reporter's attendance and
21 services at the hearing shall be paid by the State Board of
22 Education. Either party desiring a transcript of the hearing
23 shall pay for the cost thereof.

24 Pending the hearing of the charges, the person charged may
25 be suspended in accordance with rules prescribed by the board
26 but such person, if acquitted, shall not suffer any loss of

1 salary by reason of the suspension.

2 Before service of notice of charges on account of causes
3 that may be deemed to be remediable, the teacher or principal
4 shall be given reasonable warning in writing, stating
5 specifically the causes which, if not removed, may result in
6 charges; however, no such written warning shall be required if
7 the causes have been the subject of a remediation plan pursuant
8 to Article 24A. No written warning shall be required for
9 conduct on the part of a teacher or principal which is cruel,
10 immoral, negligent, or criminal or which in any way causes
11 psychological or physical harm or injury to a student as that
12 conduct is deemed to be irreparable. No written warning shall
13 be required for a material breach of the uniform principal
14 performance contract as that conduct is deemed to be
15 irreparable; provided however, that not less than 30 days
16 before the vote of the local school council to seek the
17 dismissal of a principal for a material breach of a uniform
18 principal performance contract, the local school council shall
19 specify the nature of the alleged breach in writing and provide
20 a copy of it to the principal.

21 The hearing officer shall consider and give weight to all
22 of the teacher's evaluations written pursuant to Article 24A.

23 The hearing officer shall within 45 days from the
24 conclusion of the hearing report to the general superintendent
25 findings of fact and a recommendation as to whether or not the
26 teacher or principal shall be dismissed and shall give a copy

1 of the report to both the teacher or principal and the general
2 superintendent. The board, within 45 days of receipt of the
3 hearing officer's findings of fact and recommendation, shall
4 make a decision as to whether the teacher or principal shall be
5 dismissed from its employ. The failure of the board to strictly
6 adhere to the timeliness contained herein shall not render it
7 without jurisdiction to dismiss the teacher or principal. If
8 the hearing officer fails to render a decision within 45 days,
9 the State Board of Education shall communicate with the hearing
10 officer to determine the date that the parties can reasonably
11 expect to receive the decision. The State Board of Education
12 shall provide copies of all such communications to the parties.
13 In the event the hearing officer fails without good cause to
14 make a decision within the 45 day period, the name of such
15 hearing officer shall be struck for a period not less than 24
16 months from the master list of hearing officers maintained by
17 the State Board of Education. The board shall not lose
18 jurisdiction to discharge the teacher or principal if the
19 hearing officer fails to render a decision within the time
20 specified in this Section. If a hearing officer fails to render
21 a decision within 3 months after the hearing is declared
22 closed, the State Board of Education shall provide the parties
23 with a new list of prospective, impartial hearing officers,
24 with the same qualifications provided herein, one of whom shall
25 be selected, as provided in this Section, to rehear the charges
26 heard by the hearing officer who failed to render a decision.

1 The parties may also select a hearing officer pursuant to the
2 alternative procedure, as provided in this Section, to rehear
3 the charges heard by the hearing officer who failed to render a
4 decision. A violation of the professional standards set forth
5 in "The Code of Professional Responsibility for Arbitrators of
6 Labor-Management Disputes", of the National Academy of
7 Arbitrators, the American Arbitration Association, and the
8 Federal Mediation and Conciliation Service, or the failure of a
9 hearing officer to render a decision within 3 months after the
10 hearing is declared closed shall be grounds for removal of the
11 hearing officer from the master list of hearing officers
12 maintained by the State Board of Education. The decision of the
13 board is final unless reviewed as provided in Section 34-85b of
14 this Act.

15 In the event judicial review is instituted, any costs of
16 preparing and filing the record of proceedings shall be paid by
17 the party instituting the review. If a decision of the hearing
18 officer is adjudicated upon review or appeal in favor of the
19 teacher or principal, then the trial court shall order
20 reinstatement and shall determine the amount for which the
21 board is liable including but not limited to loss of income and
22 costs incurred therein. Nothing in this Section affects the
23 validity of removal for cause hearings commenced prior to the
24 effective date of this amendatory Act of 1978.

25 (Source: P.A. 89-15, eff. 5-30-95.)