



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5386

Introduced 2/15/2012, by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

105 ILCS 5/34-2.3

from Ch. 122, par. 34-2.3

105 ILCS 5/34-8.1a rep.

Amends the Chicago School District Article of the School Code. Repeals a Section that gives a principal, with employee concurrence, the right to declare waived and superseded a provision of a teachers' collective bargaining agreement as it applies in or at the attendance center to the bargaining unit's employees; makes a related change. Effective immediately.

LRB097 18444 NHT 63671 b

FISCAL NOTE ACT
MAY APPLY

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 34-2.3 as follows:

6 (105 ILCS 5/34-2.3) (from Ch. 122, par. 34-2.3)

7 Sec. 34-2.3. Local school councils - Powers and duties.

8 Each local school council shall have and exercise, consistent
9 with the provisions of this Article and the powers and duties
10 of the board of education, the following powers and duties:

11 1. (A) To annually evaluate the performance of the
12 principal of the attendance center using a Board approved
13 principal evaluation form, which shall include the evaluation
14 of (i) student academic improvement, as defined by the school
15 improvement plan, (ii) student absenteeism rates at the school,
16 (iii) instructional leadership, (iv) the effective
17 implementation of programs, policies, or strategies to improve
18 student academic achievement, (v) school management, and (vi)
19 any other factors deemed relevant by the local school council,
20 including, without limitation, the principal's communication
21 skills and ability to create and maintain a student-centered
22 learning environment, to develop opportunities for
23 professional development, and to encourage parental

1 involvement and community partnerships to achieve school
2 improvement;

3 (B) to determine in the manner provided by subsection (c)
4 of Section 34-2.2 and subdivision 1.5 of this Section whether
5 the performance contract of the principal shall be renewed; and

6 (C) to directly select, in the manner provided by
7 subsection (c) of Section 34-2.2, a new principal (including a
8 new principal to fill a vacancy) -- without submitting any list
9 of candidates for that position to the general superintendent
10 as provided in paragraph 2 of this Section -- to serve under a
11 4 year performance contract; provided that (i) the
12 determination of whether the principal's performance contract
13 is to be renewed, based upon the evaluation required by
14 subdivision 1.5 of this Section, shall be made no later than
15 150 days prior to the expiration of the current
16 performance-based contract of the principal, (ii) in cases
17 where such performance contract is not renewed -- a direct
18 selection of a new principal -- to serve under a 4 year
19 performance contract shall be made by the local school council
20 no later than 45 days prior to the expiration of the current
21 performance contract of the principal, and (iii) a selection by
22 the local school council of a new principal to fill a vacancy
23 under a 4 year performance contract shall be made within 90
24 days after the date such vacancy occurs. A Council shall be
25 required, if requested by the principal, to provide in writing
26 the reasons for the council's not renewing the principal's

1 contract.

2 1.5. The local school council's determination of whether to
3 renew the principal's contract shall be based on an evaluation
4 to assess the educational and administrative progress made at
5 the school during the principal's current performance-based
6 contract. The local school council shall base its evaluation on
7 (i) student academic improvement, as defined by the school
8 improvement plan, (ii) student absenteeism rates at the school,
9 (iii) instructional leadership, (iv) the effective
10 implementation of programs, policies, or strategies to improve
11 student academic achievement, (v) school management, and (vi)
12 any other factors deemed relevant by the local school council,
13 including, without limitation, the principal's communication
14 skills and ability to create and maintain a student-centered
15 learning environment, to develop opportunities for
16 professional development, and to encourage parental
17 involvement and community partnerships to achieve school
18 improvement. If a local school council fails to renew the
19 performance contract of a principal rated by the general
20 superintendent, or his or her designee, in the previous years'
21 evaluations as meeting or exceeding expectations, the
22 principal, within 15 days after the local school council's
23 decision not to renew the contract, may request a review of the
24 local school council's principal non-retention decision by a
25 hearing officer appointed by the American Arbitration
26 Association. A local school council member or members or the

1 general superintendent may support the principal's request for
2 review. During the period of the hearing officer's review of
3 the local school council's decision on whether or not to retain
4 the principal, the local school council shall maintain all
5 authority to search for and contract with a person to serve as
6 interim or acting principal, or as the principal of the
7 attendance center under a 4-year performance contract,
8 provided that any performance contract entered into by the
9 local school council shall be voidable or modified in
10 accordance with the decision of the hearing officer. The
11 principal may request review only once while at that attendance
12 center. If a local school council renews the contract of a
13 principal who failed to obtain a rating of "meets" or "exceeds
14 expectations" in the general superintendent's evaluation for
15 the previous year, the general superintendent, within 15 days
16 after the local school council's decision to renew the
17 contract, may request a review of the local school council's
18 principal retention decision by a hearing officer appointed by
19 the American Arbitration Association. The general
20 superintendent may request a review only once for that
21 principal at that attendance center. All requests to review the
22 retention or non-retention of a principal shall be submitted to
23 the general superintendent, who shall, in turn, forward such
24 requests, within 14 days of receipt, to the American
25 Arbitration Association. The general superintendent shall send
26 a contemporaneous copy of the request that was forwarded to the

1 American Arbitration Association to the principal and to each
2 local school council member and shall inform the local school
3 council of its rights and responsibilities under the
4 arbitration process, including the local school council's
5 right to representation and the manner and process by which the
6 Board shall pay the costs of the council's representation. If
7 the local school council retains the principal and the general
8 superintendent requests a review of the retention decision, the
9 local school council and the general superintendent shall be
10 considered parties to the arbitration, a hearing officer shall
11 be chosen between those 2 parties pursuant to procedures
12 promulgated by the State Board of Education, and the principal
13 may retain counsel and participate in the arbitration. If the
14 local school council does not retain the principal and the
15 principal requests a review of the retention decision, the
16 local school council and the principal shall be considered
17 parties to the arbitration and a hearing officer shall be
18 chosen between those 2 parties pursuant to procedures
19 promulgated by the State Board of Education. The hearing shall
20 begin (i) within 45 days after the initial request for review
21 is submitted by the principal to the general superintendent or
22 (ii) if the initial request for review is made by the general
23 superintendent, within 45 days after that request is mailed to
24 the American Arbitration Association. The hearing officer
25 shall render a decision within 45 days after the hearing begins
26 and within 90 days after the initial request for review. The

1 Board shall contract with the American Arbitration Association
2 for all of the hearing officer's reasonable and necessary
3 costs. In addition, the Board shall pay any reasonable costs
4 incurred by a local school council for representation before a
5 hearing officer.

6 1.10. The hearing officer shall conduct a hearing, which
7 shall include (i) a review of the principal's performance,
8 evaluations, and other evidence of the principal's service at
9 the school, (ii) reasons provided by the local school council
10 for its decision, and (iii) documentation evidencing views of
11 interested persons, including, without limitation, students,
12 parents, local school council members, school faculty and
13 staff, the principal, the general superintendent or his or her
14 designee, and members of the community. The burden of proof in
15 establishing that the local school council's decision was
16 arbitrary and capricious shall be on the party requesting the
17 arbitration, and this party shall sustain the burden by a
18 preponderance of the evidence. The hearing officer shall set
19 the local school council decision aside if that decision, in
20 light of the record developed at the hearing, is arbitrary and
21 capricious. The decision of the hearing officer may not be
22 appealed to the Board or the State Board of Education. If the
23 hearing officer decides that the principal shall be retained,
24 the retention period shall not exceed 2 years.

25 2. In the event (i) the local school council does not renew
26 the performance contract of the principal, or the principal

1 fails to receive a satisfactory rating as provided in
2 subsection (h) of Section 34-8.3, or the principal is removed
3 for cause during the term of his or her performance contract in
4 the manner provided by Section 34-85, or a vacancy in the
5 position of principal otherwise occurs prior to the expiration
6 of the term of a principal's performance contract, and (ii) the
7 local school council fails to directly select a new principal
8 to serve under a 4 year performance contract, the local school
9 council in such event shall submit to the general
10 superintendent a list of 3 candidates -- listed in the local
11 school council's order of preference -- for the position of
12 principal, one of which shall be selected by the general
13 superintendent to serve as principal of the attendance center.
14 If the general superintendent fails or refuses to select one of
15 the candidates on the list to serve as principal within 30 days
16 after being furnished with the candidate list, the general
17 superintendent shall select and place a principal on an interim
18 basis (i) for a period not to exceed one year or (ii) until the
19 local school council selects a new principal with 7 affirmative
20 votes as provided in subsection (c) of Section 34-2.2,
21 whichever occurs first. If the local school council fails or
22 refuses to select and appoint a new principal, as specified by
23 subsection (c) of Section 34-2.2, the general superintendent
24 may select and appoint a new principal on an interim basis for
25 an additional year or until a new contract principal is
26 selected by the local school council. There shall be no

1 discrimination on the basis of race, sex, creed, color or
2 disability unrelated to ability to perform in connection with
3 the submission of candidates for, and the selection of a
4 candidate to serve as principal of an attendance center. No
5 person shall be directly selected, listed as a candidate for,
6 or selected to serve as principal of an attendance center (i)
7 if such person has been removed for cause from employment by
8 the Board or (ii) if such person does not hold a valid
9 administrative certificate issued or exchanged under Article
10 21 and endorsed as required by that Article for the position of
11 principal. A principal whose performance contract is not
12 renewed as provided under subsection (c) of Section 34-2.2 may
13 nevertheless, if otherwise qualified and certified as herein
14 provided and if he or she has received a satisfactory rating as
15 provided in subsection (h) of Section 34-8.3, be included by a
16 local school council as one of the 3 candidates listed in order
17 of preference on any candidate list from which one person is to
18 be selected to serve as principal of the attendance center
19 under a new performance contract. The initial candidate list
20 required to be submitted by a local school council to the
21 general superintendent in cases where the local school council
22 does not renew the performance contract of its principal and
23 does not directly select a new principal to serve under a 4
24 year performance contract shall be submitted not later than 30
25 days prior to the expiration of the current performance
26 contract. In cases where the local school council fails or

1 refuses to submit the candidate list to the general
2 superintendent no later than 30 days prior to the expiration of
3 the incumbent principal's contract, the general superintendent
4 may appoint a principal on an interim basis for a period not to
5 exceed one year, during which time the local school council
6 shall be able to select a new principal with 7 affirmative
7 votes as provided in subsection (c) of Section 34-2.2. In cases
8 where a principal is removed for cause or a vacancy otherwise
9 occurs in the position of principal and the vacancy is not
10 filled by direct selection by the local school council, the
11 candidate list shall be submitted by the local school council
12 to the general superintendent within 90 days after the date
13 such removal or vacancy occurs. In cases where the local school
14 council fails or refuses to submit the candidate list to the
15 general superintendent within 90 days after the date of the
16 vacancy, the general superintendent may appoint a principal on
17 an interim basis for a period of one year, during which time
18 the local school council shall be able to select a new
19 principal with 7 affirmative votes as provided in subsection
20 (c) of Section 34-2.2.

21 2.5. Whenever a vacancy in the office of a principal occurs
22 for any reason, the vacancy shall be filled in the manner
23 provided by this Section by the selection of a new principal to
24 serve under a 4 year performance contract.

25 3. To establish additional criteria to be included as part
26 of the performance contract of its principal, provided that

1 such additional criteria shall not discriminate on the basis of
2 race, sex, creed, color or disability unrelated to ability to
3 perform, and shall not be inconsistent with the uniform 4 year
4 performance contract for principals developed by the board as
5 provided in Section 34-8.1 of the School Code or with other
6 provisions of this Article governing the authority and
7 responsibility of principals.

8 4. To approve the expenditure plan prepared by the
9 principal with respect to all funds allocated and distributed
10 to the attendance center by the Board. The expenditure plan
11 shall be administered by the principal. Notwithstanding any
12 other provision of this Act or any other law, any expenditure
13 plan approved and administered under this Section 34-2.3 shall
14 be consistent with and subject to the terms of any contract for
15 services with a third party entered into by the Chicago School
16 Reform Board of Trustees or the board under this Act.

17 Via a supermajority vote of 7 members of the local school
18 council or 8 members of a high school local school council, the
19 Council may transfer allocations pursuant to Section 34-2.3
20 within funds; provided that such a transfer is consistent with
21 applicable law and collective bargaining agreements.

22 Beginning in fiscal year 1991 and in each fiscal year
23 thereafter, the Board may reserve up to 1% of its total fiscal
24 year budget for distribution on a prioritized basis to schools
25 throughout the school system in order to assure adequate
26 programs to meet the needs of special student populations as

1 determined by the Board. This distribution shall take into
2 account the needs catalogued in the Systemwide Plan and the
3 various local school improvement plans of the local school
4 councils. Information about these centrally funded programs
5 shall be distributed to the local school councils so that their
6 subsequent planning and programming will account for these
7 provisions.

8 Beginning in fiscal year 1991 and in each fiscal year
9 thereafter, from other amounts available in the applicable
10 fiscal year budget, the board shall allocate a lump sum amount
11 to each local school based upon such formula as the board shall
12 determine taking into account the special needs of the student
13 body. The local school principal shall develop an expenditure
14 plan in consultation with the local school council, the
15 professional personnel leadership committee and with all other
16 school personnel, which reflects the priorities and activities
17 as described in the school's local school improvement plan and
18 is consistent with applicable law and collective bargaining
19 agreements and with board policies and standards; however, the
20 local school council shall have the right to request waivers of
21 board policy from the board of education ~~and waivers of~~
22 ~~employee collective bargaining agreements pursuant to Section~~
23 ~~34-8.1a.~~

24 The expenditure plan developed by the principal with
25 respect to amounts available from the fund for prioritized
26 special needs programs and the allocated lump sum amount must

1 be approved by the local school council.

2 The lump sum allocation shall take into account the
3 following principles:

4 a. Teachers: Each school shall be allocated funds equal
5 to the amount appropriated in the previous school year for
6 compensation for teachers (regular grades kindergarten
7 through 12th grade) plus whatever increases in
8 compensation have been negotiated contractually or through
9 longevity as provided in the negotiated agreement.
10 Adjustments shall be made due to layoff or reduction in
11 force, lack of funds or work, change in subject
12 requirements, enrollment changes, or contracts with third
13 parties for the performance of services or to rectify any
14 inconsistencies with system-wide allocation formulas or
15 for other legitimate reasons.

16 b. Other personnel: Funds for other teacher
17 certificated and uncertificated personnel paid through
18 non-categorical funds shall be provided according to
19 system-wide formulas based on student enrollment and the
20 special needs of the school as determined by the Board.

21 c. Non-compensation items: Appropriations for all
22 non-compensation items shall be based on system-wide
23 formulas based on student enrollment and on the special
24 needs of the school or factors related to the physical
25 plant, including but not limited to textbooks, electronic
26 textbooks and the technological equipment necessary to

1 gain access to and use electronic textbooks, supplies,
2 electricity, equipment, and routine maintenance.

3 d. Funds for categorical programs: Schools shall
4 receive personnel and funds based on, and shall use such
5 personnel and funds in accordance with State and Federal
6 requirements applicable to each categorical program
7 provided to meet the special needs of the student body
8 (including but not limited to, Federal Chapter I,
9 Bilingual, and Special Education).

10 d.1. Funds for State Title I: Each school shall receive
11 funds based on State and Board requirements applicable to
12 each State Title I pupil provided to meet the special needs
13 of the student body. Each school shall receive the
14 proportion of funds as provided in Section 18-8 to which
15 they are entitled. These funds shall be spent only with the
16 budgetary approval of the Local School Council as provided
17 in Section 34-2.3.

18 e. The Local School Council shall have the right to
19 request the principal to close positions and open new ones
20 consistent with the provisions of the local school
21 improvement plan provided that these decisions are
22 consistent with applicable law and collective bargaining
23 agreements. If a position is closed, pursuant to this
24 paragraph, the local school shall have for its use the
25 system-wide average compensation for the closed position.

26 f. Operating within existing laws and collective

1 bargaining agreements, the local school council shall have
2 the right to direct the principal to shift expenditures
3 within funds.

4 g. (Blank).

5 Any funds unexpended at the end of the fiscal year shall be
6 available to the board of education for use as part of its
7 budget for the following fiscal year.

8 5. To make recommendations to the principal concerning
9 textbook selection and concerning curriculum developed
10 pursuant to the school improvement plan which is consistent
11 with systemwide curriculum objectives in accordance with
12 Sections 34-8 and 34-18 of the School Code and in conformity
13 with the collective bargaining agreement.

14 6. To advise the principal concerning the attendance and
15 disciplinary policies for the attendance center, subject to the
16 provisions of this Article and Article 26, and consistent with
17 the uniform system of discipline established by the board
18 pursuant to Section 34-19.

19 7. To approve a school improvement plan developed as
20 provided in Section 34-2.4. The process and schedule for plan
21 development shall be publicized to the entire school community,
22 and the community shall be afforded the opportunity to make
23 recommendations concerning the plan. At least twice a year the
24 principal and local school council shall report publicly on
25 progress and problems with respect to plan implementation.

26 8. To evaluate the allocation of teaching resources and

1 other certificated and uncertificated staff to the attendance
2 center to determine whether such allocation is consistent with
3 and in furtherance of instructional objectives and school
4 programs reflective of the school improvement plan adopted for
5 the attendance center; and to make recommendations to the
6 board, the general superintendent and the principal concerning
7 any reallocation of teaching resources or other staff whenever
8 the council determines that any such reallocation is
9 appropriate because the qualifications of any existing staff at
10 the attendance center do not adequately match or support
11 instructional objectives or school programs which reflect the
12 school improvement plan.

13 9. To make recommendations to the principal and the general
14 superintendent concerning their respective appointments, after
15 August 31, 1989, and in the manner provided by Section 34-8 and
16 Section 34-8.1, of persons to fill any vacant, additional or
17 newly created positions for teachers at the attendance center
18 or at attendance centers which include the attendance center
19 served by the local school council.

20 10. To request of the Board the manner in which training
21 and assistance shall be provided to the local school council.
22 Pursuant to Board guidelines a local school council is
23 authorized to direct the Board of Education to contract with
24 personnel or not-for-profit organizations not associated with
25 the school district to train or assist council members. If
26 training or assistance is provided by contract with personnel

1 or organizations not associated with the school district, the
2 period of training or assistance shall not exceed 30 hours
3 during a given school year; person shall not be employed on a
4 continuous basis longer than said period and shall not have
5 been employed by the Chicago Board of Education within the
6 preceding six months. Council members shall receive training in
7 at least the following areas:

8 1. school budgets;

9 2. educational theory pertinent to the attendance
10 center's particular needs, including the development of
11 the school improvement plan and the principal's
12 performance contract; and

13 3. personnel selection.

14 Council members shall, to the greatest extent possible,
15 complete such training within 90 days of election.

16 11. In accordance with systemwide guidelines contained in
17 the System-Wide Educational Reform Goals and Objectives Plan,
18 criteria for evaluation of performance shall be established for
19 local school councils and local school council members. If a
20 local school council persists in noncompliance with systemwide
21 requirements, the Board may impose sanctions and take necessary
22 corrective action, consistent with Section 34-8.3.

23 12. Each local school council shall comply with the Open
24 Meetings Act and the Freedom of Information Act. Each local
25 school council shall issue and transmit to its school community
26 a detailed annual report accounting for its activities

1 programmatically and financially. Each local school council
2 shall convene at least 2 well-publicized meetings annually with
3 its entire school community. These meetings shall include
4 presentation of the proposed local school improvement plan, of
5 the proposed school expenditure plan, and the annual report,
6 and shall provide an opportunity for public comment.

7 13. Each local school council is encouraged to involve
8 additional non-voting members of the school community in
9 facilitating the council's exercise of its responsibilities.

10 14. The local school council may adopt a school uniform or
11 dress code policy that governs the attendance center and that
12 is necessary to maintain the orderly process of a school
13 function or prevent endangerment of student health or safety,
14 consistent with the policies and rules of the Board of
15 Education. A school uniform or dress code policy adopted by a
16 local school council: (i) shall not be applied in such manner
17 as to discipline or deny attendance to a transfer student or
18 any other student for noncompliance with that policy during
19 such period of time as is reasonably necessary to enable the
20 student to acquire a school uniform or otherwise comply with
21 the dress code policy that is in effect at the attendance
22 center into which the student's enrollment is transferred; and
23 (ii) shall include criteria and procedures under which the
24 local school council will accommodate the needs of or otherwise
25 provide appropriate resources to assist a student from an
26 indigent family in complying with an applicable school uniform

1 or dress code policy. A student whose parents or legal
2 guardians object on religious grounds to the student's
3 compliance with an applicable school uniform or dress code
4 policy shall not be required to comply with that policy if the
5 student's parents or legal guardians present to the local
6 school council a signed statement of objection detailing the
7 grounds for the objection.

8 15. All decisions made and actions taken by the local
9 school council in the exercise of its powers and duties shall
10 comply with State and federal laws, all applicable collective
11 bargaining agreements, court orders and rules properly
12 promulgated by the Board.

13 15a. To grant, in accordance with board rules and policies,
14 the use of assembly halls and classrooms when not otherwise
15 needed, including lighting, heat, and attendants, for public
16 lectures, concerts, and other educational and social
17 activities.

18 15b. To approve, in accordance with board rules and
19 policies, receipts and expenditures for all internal accounts
20 of the attendance center, and to approve all fund-raising
21 activities by nonschool organizations that use the school
22 building.

23 16. (Blank).

24 17. Names and addresses of local school council members
25 shall be a matter of public record.

26 (Source: P.A. 96-1403, eff. 7-29-10.)

1 (105 ILCS 5/34-8.1a rep.)

2 Section 10. The School Code is amended by repealing Section
3 34-8.1a.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.