

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 10-23.5 as follows:

6 (105 ILCS 5/10-23.5) (from Ch. 122, par. 10-23.5)

7 Sec. 10-23.5. Educational support personnel employees.

8 (a) To employ such educational support personnel employees  
9 as it deems advisable and to define their employment duties;  
10 provided that residency within any school district shall not be  
11 considered in determining the employment or the compensation of  
12 any such employee, or whether to retain, promote, assign or  
13 transfer such employee. If an educational support personnel  
14 employee is removed or dismissed or the hours he or she works  
15 are reduced as a result of a decision of the school board (i)  
16 to decrease the number of educational support personnel  
17 employees employed by the board or (ii) to discontinue some  
18 particular type of educational support service, written notice  
19 shall be mailed to the employee and also given to the employee  
20 either by certified mail, return receipt requested, or personal  
21 delivery with receipt, at least 30 days before the employee is  
22 removed or dismissed or the hours he or she works are reduced,  
23 together with a statement of honorable dismissal and the reason

1 therefor if applicable. However, if a reduction in hours is due  
2 to an unforeseen reduction in the student population, then the  
3 written notice must be mailed and given to the employee at  
4 least 5 days before the hours are reduced. The employee with  
5 the shorter length of continuing service with the district,  
6 within the respective category of position, shall be dismissed  
7 first unless an alternative method of determining the sequence  
8 of dismissal is established in a collective bargaining  
9 agreement or contract between the board and any exclusive  
10 bargaining agent and except that this provision shall not  
11 impair the operation of any affirmative action program in the  
12 district, regardless of whether it exists by operation of law  
13 or is conducted on a voluntary basis by the board. If the board  
14 has any vacancies for the following school term or within one  
15 calendar year from the beginning of the following school term,  
16 the positions thereby becoming available within a specific  
17 category of position shall be tendered to the employees so  
18 removed or dismissed from that category or any other category  
19 of position, so far as they are qualified to hold such  
20 positions. Each board shall, in consultation with any exclusive  
21 employee representative or bargaining agent, each year  
22 establish a list, categorized by positions, showing the length  
23 of continuing service of each full time educational support  
24 personnel employee who is qualified to hold any such positions,  
25 unless an alternative method of determining a sequence of  
26 dismissal is established as provided for in this Section, in

1 which case a list shall be made in accordance with the  
2 alternative method. Copies of the list shall be distributed to  
3 the exclusive employee representative or bargaining agent on or  
4 before February 1 of each year.

5 If an educational support personnel employee is removed or  
6 dismissed as a result of a decision of the board to decrease  
7 the number of educational support personnel employed by the  
8 board or to discontinue some particular type of educational  
9 support service and he or she accepts the tender of a vacancy  
10 within one calendar year from the beginning of the following  
11 school term, then that employee shall maintain any rights  
12 accrued during his or her previous service with the school  
13 district.

14 Where an educational support personnel employee is  
15 dismissed by the board as a result of a decrease in the number  
16 of employees or the discontinuance of the employee's job, the  
17 employee shall be paid all earned compensation on or before the  
18 next regular pay date following his or her last day of  
19 employment.

20 The provisions of this amendatory Act of 1986 relating to  
21 residency within any school district shall not apply to cities  
22 having a population exceeding 500,000 inhabitants.

23 (b) In the case of a new school district or districts  
24 formed in accordance with Article 11E of this Code, a school  
25 district or districts that annex all of the territory of one or  
26 more entire other school districts in accordance with Article 7

1 of this Code, or a school district receiving students from a  
2 deactivated school facility in accordance with Section  
3 10-22.22b of this Code, the employment of educational support  
4 personnel in the new, annexing, or receiving school district  
5 immediately following the reorganization shall be governed by  
6 this subsection (b). Lists of the educational support personnel  
7 employed in the individual districts for the school year  
8 immediately prior to the effective date of the new district or  
9 districts, annexation, or deactivation shall be combined for  
10 the districts forming the new district or districts, for the  
11 annexed and annexing districts, or for the deactivating and  
12 receiving districts, as the case may be. The combined list  
13 shall be categorized by positions, showing the length of  
14 continuing service of each full-time educational support  
15 personnel employee who is qualified to hold any such position.  
16 If there are more full-time educational support personnel  
17 employees on the combined list than there are available  
18 positions in the new, annexing, or receiving school district,  
19 then the employing school board shall first remove or dismiss  
20 those educational support personnel employees with the shorter  
21 length of continuing service within the respective category of  
22 position, following the procedures outlined in subsection (a)  
23 of this Section. The employment and position of each  
24 educational support personnel employee on the combined list not  
25 so removed or dismissed shall be transferred to the new,  
26 annexing, or receiving school board, and the new, annexing, or

1 receiving school board is subject to this Code with respect to  
2 any educational support personnel employee so transferred as if  
3 the educational support personnel employee had been the new,  
4 annexing, or receiving board's employee during the time the  
5 educational support personnel employee was actually employed  
6 by the school board of the district from which the employment  
7 and position were transferred.

8 The changes made by Public Act 95-148 shall not apply to  
9 the formation of a new district or districts in accordance with  
10 Article 11E of this Code, the annexation of one or more entire  
11 districts in accordance with Article 7 of this Code, or the  
12 deactivation of a school facility in accordance with Section  
13 10-22.22b of this Code effective on or before July 1, 2007.

14 (Source: P.A. 95-148, eff. 8-14-07; 95-396, eff. 8-23-07;  
15 95-876, eff. 8-21-08; 96-998, eff. 7-2-10.)