

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 24-12 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, along with the race or ethnicity of the
18 teacher if provided by the teacher, and categorized by
19 positions and the groupings defined in this subsection (b)
20 must be distributed to the exclusive bargaining representative
21 at least 75 days before the end of the school term, provided
22 that the school district or joint agreement may, with notice
23 to any exclusive employee representatives, move teachers from
24 grouping one into another grouping during the period of time
25 from 75 days until 45 days before the end of the school term.
26 Each year, each board shall also establish, in consultation

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

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

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

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

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

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

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

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

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

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

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

1 agreement or June 30, 2013, whichever is earlier.

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

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

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

24 (3) The joint committee may agree to including within
25 the definition of a performance evaluation rating a
26 performance evaluation rating administered by a school

1 district or joint agreement other than the school district
2 or joint agreement determining the sequence of dismissal.

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

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

1 assess whether such a trend may exist. Following the joint
2 committee's review, but by no later than the end of the
3 applicable school term, the joint committee or any member
4 or members of the joint committee may submit a report of
5 the review to the employing board and exclusive bargaining
6 representative, if any. Nothing in this paragraph (5)
7 shall impact the order of honorable dismissal or a school
8 district's or joint agreement's authority to carry out a
9 dismissal in accordance with subsection (b) of this
10 Section.

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

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

1 a matter shall apply to the sequence of dismissal until the
2 agreement is amended or terminated by the joint committee.

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

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

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

1 before a board-selected hearing officer, with the cost of
2 the hearing officer paid by the board.

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

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

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

23 (3) Within 5 business days after receiving a notice of
24 hearing in which either notice to the teacher was sent
25 before July 1, 2012 or, if the notice was sent on or after
26 July 1, 2012, the teacher has requested a hearing before a

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

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

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

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

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

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

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

1 in acts of corporal punishment, physical abuse, grooming,
2 or sexual misconduct on or after the effective date of
3 this amendatory Act of the 102nd General Assembly may not
4 pause pre-hearing procedures or a hearing.

5 (4) In the alternative to selecting a hearing officer
6 from the list received from the State Board of Education
7 or accepting the appointment of a hearing officer by the
8 State Board of Education or if the State Board of
9 Education cannot provide a list or appoint a hearing
10 officer that meets the foregoing requirements, the board
11 and the teacher or their legal representatives may
12 mutually agree to select an impartial hearing officer who
13 is not on the master list either by direct appointment by
14 the parties or by using procedures for the appointment of
15 an arbitrator established by the Federal Mediation and
16 Conciliation Service or the American Arbitration
17 Association. The parties shall notify the State Board of
18 Education of their intent to select a hearing officer
19 using an alternative procedure within 3 business days of
20 receipt of a list of prospective hearing officers provided
21 by the State Board of Education, notice of appointment of
22 a hearing officer by the State Board of Education, or
23 receipt of notice from the State Board of Education that
24 it cannot provide a list that meets the foregoing
25 requirements, whichever is later.

26 (5) If the notice of dismissal was sent to the teacher

1 before July 1, 2012, the fees and costs for the hearing
2 officer must be paid by the State Board of Education. If
3 the notice of dismissal was sent to the teacher on or after
4 July 1, 2012, the hearing officer's fees and costs must be
5 paid as follows in this paragraph (5). The fees and
6 permissible costs for the hearing officer must be
7 determined by the State Board of Education. If the board
8 and the teacher or their legal representatives mutually
9 agree to select an impartial hearing officer who is not on
10 a list received from the State Board of Education, they
11 may agree to supplement the fees determined by the State
12 Board to the hearing officer, at a rate consistent with
13 the hearing officer's published professional fees. If the
14 hearing officer is mutually selected by the parties, then
15 the board and the teacher or their legal representatives
16 shall each pay 50% of the fees and costs and any
17 supplemental allowance to which they agree. If the hearing
18 officer is selected by the board, then the board shall pay
19 100% of the hearing officer's fees and costs. The fees and
20 costs must be paid to the hearing officer within 14 days
21 after the board and the teacher or their legal
22 representatives receive the hearing officer's decision set
23 forth in paragraph (7) of this subsection (d).

24 (6) The teacher is required to answer the bill of
25 particulars and aver affirmative matters in his or her
26 defense, and the time for initially doing so and the time

1 for updating such answer and defenses after pre-hearing
2 discovery must be set by the hearing officer. The State
3 Board of Education shall promulgate rules so that each
4 party has a fair opportunity to present its case and to
5 ensure that the dismissal process proceeds in a fair and
6 expeditious manner. These rules shall address, without
7 limitation, discovery and hearing scheduling conferences;
8 the teacher's initial answer and affirmative defenses to
9 the bill of particulars and the updating of that
10 information after pre-hearing discovery; provision for
11 written interrogatories and requests for production of
12 documents; the requirement that each party initially
13 disclose to the other party and then update the disclosure
14 no later than 10 calendar days prior to the commencement
15 of the hearing, the names and addresses of persons who may
16 be called as witnesses at the hearing, a summary of the
17 facts or opinions each witness will testify to, and all
18 other documents and materials, including information
19 maintained electronically, relevant to its own as well as
20 the other party's case (the hearing officer may exclude
21 witnesses and exhibits not identified and shared, except
22 those offered in rebuttal for which the party could not
23 reasonably have anticipated prior to the hearing);
24 pre-hearing discovery and preparation, including provision
25 for written interrogatories and requests for production of
26 documents, provided that discovery depositions are

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

1 provided under paragraph (6.5) of this subsection. The
2 hearing officer shall consider and give weight to all of
3 the teacher's evaluations written pursuant to Article 24A
4 that are relevant to the issues in the hearing.

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

26 (6.5) In the case of charges involving sexual abuse or

1 severe physical abuse of a student or a person under the
2 age of 18, the hearing officer shall make alternative
3 hearing procedures to protect a witness who is a student
4 or who is under the age of 18 from being intimidated or
5 traumatized. Alternative hearing procedures may include,
6 but are not limited to: (i) testimony made via a
7 telecommunication device in a location other than the
8 hearing room and outside the physical presence of the
9 teacher and other hearing participants, (ii) testimony
10 outside the physical presence of the teacher, or (iii)
11 non-public testimony. During a testimony described under
12 this subsection, each party must be permitted to ask a
13 witness who is a student or who is under 18 years of age
14 all relevant questions and follow-up questions. All
15 questions must exclude evidence of the witness' sexual
16 behavior or predisposition, unless the evidence is offered
17 to prove that someone other than the teacher subject to
18 the dismissal hearing engaged in the charge at issue.

19 (7) The hearing officer shall, within 30 days from the
20 conclusion of the hearing or closure of the record,
21 whichever is later, make a decision as to whether or not
22 the teacher shall be dismissed pursuant to Article 24A of
23 this Code or report to the school board findings of fact
24 and a recommendation as to whether or not the teacher
25 shall be dismissed for cause and shall give a copy of the
26 decision or findings of fact and recommendation to both

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

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

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

26 If the school board dismisses the teacher

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

14 If the school board retains the teacher, the school
15 board shall enter a written order stating the amount of
16 back pay and lost benefits, less mitigation, to be paid to
17 the teacher, within 45 days after its retention order.
18 Should the teacher object to the amount of the back pay and
19 lost benefits or amount mitigated, the teacher shall give
20 written objections to the amount within 21 days. If the
21 parties fail to reach resolution within 7 days, the
22 dispute shall be referred to the hearing officer, who
23 shall consider the school board's written order and
24 teacher's written objection and determine the amount to
25 which the school board is liable. The costs of the hearing
26 officer's review and determination must be paid by the

1 board.

2 (9) The decision of the hearing officer pursuant to
3 Article 24A of this Code or of the school board's decision
4 to dismiss for cause is final unless reviewed as provided
5 in Section 24-16 of this Code. If the school board's
6 decision to dismiss for cause is contrary to the hearing
7 officer's recommendation, the court on review shall give
8 consideration to the school board's decision and its
9 supplemental findings of fact, if applicable, and the
10 hearing officer's findings of fact and recommendation in
11 making its decision. In the event such review is
12 instituted, the school board shall be responsible for
13 preparing and filing the record of proceedings, and such
14 costs associated therewith must be divided equally between
15 the parties.

16 (10) If a decision of the hearing officer for
17 dismissal pursuant to Article 24A of this Code or of the
18 school board for dismissal for cause is adjudicated upon
19 review or appeal in favor of the teacher, then the trial
20 court shall order reinstatement and shall remand the
21 matter to the school board with direction for entry of an
22 order setting the amount of back pay, lost benefits, and
23 costs, less mitigation. The teacher may challenge the
24 school board's order setting the amount of back pay, lost
25 benefits, and costs, less mitigation, through an expedited
26 arbitration procedure, with the costs of the arbitrator

1 borne by the school board.

2 Any teacher who is reinstated by any hearing or
3 adjudication brought under this Section shall be assigned
4 by the board to a position substantially similar to the
5 one which that teacher held prior to that teacher's
6 suspension or dismissal.

7 (11) Subject to any later effective date referenced in
8 this Section for a specific aspect of the dismissal
9 process, the changes made by Public Act 97-8 shall apply
10 to dismissals instituted on or after September 1, 2011.
11 Any dismissal instituted prior to September 1, 2011 must
12 be carried out in accordance with the requirements of this
13 Section prior to amendment by Public Act 97-8.

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

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

21 Section 99. Effective date. This Act takes effect January
22 1, 2024.