



Governor Quinn Signs Education Reform Legislation

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On Monday, June 13, 2011, Governor Quinn signed into law **Senate Bill 7**, the sweeping education reform bill that is the product of months of negotiations between a broad group of stakeholders that included representatives from both management and labor. The Governor also signed House Bill 1197, a trailer bill to Senate Bill 7. Effective immediately, the reform legislation significantly amends the Illinois School Code and the Illinois Educational Labor Relations Act (IELRA). It dramatically impacts teacher tenure, layoff and dismissal policies, and how impasses in collective bargaining are resolved. Included in the legislation are the following significant reforms applicable to all Illinois school districts outside of Chicago. However, as noted below, some of the provisions also or solely apply to Chicago Public Schools (CPS).

Time frame for probationary period re-defined

Under the legislation, the teacher probationary period remains at four school terms. It requires that a teacher actually teach or be otherwise present and participating in the district's educational program for 120 days or more in a given school term in order for that school term to be counted toward attaining tenure. The days a teacher is absent on a leave of absence under the Family Medical Leave Act (FMLA) will be counted as days of teaching or participating in the district's educational program for tenure purposes. The requirement that a first year probationary teacher begin his or her full-time employment before November 1 has been removed. This new definition of "school term" is effective immediately.

Teachers required to earn strong performance reviews prior to earning tenure

The new law requires a specified number of "proficient" or "excellent" performance evaluation ratings in order for a teacher to attain tenure. In particular, a teacher must receive an overall annual evaluation rating of at least "proficient" in the last school term and in either the second or third school term in order to be eligible for tenure. These changes apply to teachers first employed in a school district after the Performance Evaluation Reform Act (PERA) implementation date, which for most school districts is September 1, 2016. A similar provision applies to CPS teachers first employed after July 1, 2013. The legislation also allows districts to accelerate the implementation of the performance evaluation process under PERA with union agreement, provided that the implementation date is not earlier than September 1, 2013.

High-performing teachers rewarded with "accelerated tenure" and "tenure portability"

The legislation gives teachers with high performance evaluations the opportunity to attain "accelerated tenure," in which the teacher would be eligible for tenure if he or she completes three consecutive school terms at a district and receives three overall annual evaluation ratings of "excellent" in those terms. The new law also provides "tenure portability" to high-performing teachers who transfer to a different school district, including CPS. Those teachers who previously attained tenure in another school district but voluntarily resign or are honorably dismissed from that district are now eligible to attain tenure in a new district within two years so long as they received a rating of at least "proficient" in the last two years at the former school district and receive two overall annual evaluation ratings of "excellent" at the new district. These provisions apply to all Illinois school district full-time teachers who are first employed after the PERA implementation date (or, for CPS teachers, those teachers first employed after July 1, 2013).

Layoffs must be based primarily on performance ratings rather than seniority

The legislation extends honorable dismissal, reduction in force, and recall rights to probationary teachers, and introduces a new procedure for carrying out reductions in force and recall decisions effective for the 2011-2012 school year.

If a probationary teacher is dismissed for a reason other than a reduction in force, the teacher must be provided written notice of dismissal, rather than notice of non-renewal, at least 45 days before the end of the school term.

The legislation creates four specific tasks that districts must complete when making reduction in force and recall decisions. First, teachers must be categorized into one or more positions based on legal qualifications and job descriptions. Districts should begin work on this categorization process soon.



Second, the teachers must be placed into four groupings based primarily on performance evaluation ratings. As the position categorization process is completed, districts should begin the process of placing teachers into the respective groupings.

Third, districts must determine the sequence of dismissal within each grouping, with the first grouping's sequence based on the district's discretion, the second grouping's sequence based on performance evaluation ratings, and the third and fourth groupings' sequences based on straight seniority unless an alternative method is established. Seniority would also serve as a tiebreaker for those teachers in grouping 2 if all other factors are equal. This sequence of honorable dismissal list must be distributed to the applicable bargaining representative at least 75 calendar days before the end of the school term, however teachers can be moved from one group to another until 45 days before the end of the school term.

Fourth, each district must establish and convene a joint committee by December 1, 2011, composed of members selected by the school board and the exclusive bargaining representative to consider certain modifications to the criteria for placing teachers in the various groupings.

Those teachers placed in groupings 3 and 4 will be eligible for recall, and must be recalled in reverse order of dismissal, unless an alternative order is established in a collective bargaining agreement. Any conflicting collective bargaining agreement provisions regarding reduction in force and recall entered into on or before January 1, 2011, and in effect on June 13, 2011, shall remain in effect through June 30, 2013, or the expiration of the agreement, whichever is earlier.

Teacher dismissal process streamlined

The legislation streamlines the tenured teacher dismissal process with shortened timelines for all Illinois school districts, including CPS. For performance-related dismissal cases, including cases in CPS, the legislation also creates an optional alternative evaluative dismissal process where the decision of a hearing officer may serve as a recommendation to the board of education which then makes the final decision rather than the hearing officer. This optional process is only available to districts with PERA-compliant evaluation plans and must be in place before starting a remediation plan under this option. For conduct-related dismissal cases, the hearing officer's decision serves only as a recommendation to the board, which then makes the final decision.

Merit takes priority when hiring and filling vacant positions

The legislation adds a new provision to the School Code on filling new and vacant teaching positions other than recall positions. Certification, qualifications, merit and ability (including performance evaluations), and "relevant experience" are the determining factors when filling new and vacant positions. Seniority may be used only as a tie breaker when all other factors are equal. Collective bargaining agreement provisions regarding the filling of vacant and new positions in existence on June 13, 2011, remain effective for the term of the agreement.

Certification revocation for incompetency

The legislation requires the State Superintendent to initiate certification revocation procedures against a teacher who receives two unsatisfactory evaluation ratings within a 7-year period.

Impasse resolution and mediation

In school districts other than CPS, the legislation requires that additional steps be taken before unions are permitted to engage in a strike if an impasse is declared during the mediation process. Either the district or the union may declare an impasse 15 days after mediation has commenced. The parties then must exchange "final offers" within seven days of the impasse declaration. If no settlement is reached after seven additional days, the final offers must be made public and posted on the district's website. If the dispute still is not settled within 14 days after the publication of the final offers, only then may the union engage in a strike, provided that it gives the district, the regional superintendent, and the Illinois Educational Labor Relations Board (IELRB) 10 days advance notice of its intent to engage in a strike; the collective bargaining agreement has expired or been terminated; and the parties have not mutually submitted the unresolved issues to arbitration.

Other reforms

In addition to the above reforms, the legislation modifies PERA to require that the new evaluation ratings (excellent, proficient, needs improvement, and unsatisfactory) be used for probationary teacher evaluations as well as tenured teacher evaluations by September 1, 2012.



The legislation also mandates professional development training for newly elected school board members on education and labor law, financial oversight and accountability, and fiduciary responsibilities of school board members.

The new law also contains several provisions exclusive to CPS, including making the length of the school and work day and year in Chicago a “permissive” subject of bargaining; creating a 90-day independent “fact-finding” process if the parties fail to reach an agreement through mediation, followed by a 30-day period where the fact-finder’s conclusions are made public; moving the strike vote in the Chicago Teachers Union (CTU) from a simple majority of those voting to a $\frac{3}{4}$ vote of all CTU members; and expressly providing that the IELRB, the mediator, or the fact-finder have no jurisdiction over disputes or impasses related to the subjects of bargaining set forth in Section 4.5 of the IELRA.

More Information

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