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FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 165.

SENATE BILL 1230

AN ACT

AMENDING SECTIONS 15-539 AND 15-541, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT OF TEACHERS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-539, Arizona Revised Statutes, is amended to read:

15-539. Dismissal of certificated teacher; due process; written charges; notice; hearing on request

A. Upon a written statement of charges presented by the superintendent, charging that there exists cause for the suspension without pay for a period of time greater than ten school days or dismissal of a certificated teacher of the district, the governing board shall, except as otherwise provided in this article, give notice to the teacher of its intention to suspend without pay or dismiss the teacher at the expiration of thirty days from the date of the service of the notice.

B. Whenever the superintendent presents a statement of charges wherein the alleged cause for dismissal constitutes immoral or unprofessional conduct, the governing board may adopt a resolution that a complaint be filed with the department of education. Pending disciplinary action by the state board of education, the certificated teacher may be reassigned by the superintendent or placed on administrative leave by the board pursuant to section 15-540.

C. The governing board shall give a certificated teacher who has been employed by the school district for more than the major portion of three consecutive school years notice of intention to dismiss if its intention to dismiss is based on charges of inadequacy of classroom performance as defined by the governing board. The governing board or its authorized representative

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1 shall give the teacher a written preliminary notice of inadequacy of
2 classroom performance ~~by the preceding May 15~~ AT LEAST TEN INSTRUCTIONAL DAYS
3 PRIOR TO THE START OF THE PERIOD OF TIME WITHIN WHICH TO CORRECT THE
4 INADEQUACY AND OVERCOME THE GROUNDS FOR THE CHARGE. The governing board may
5 delegate to employees of the governing board the general authority to issue
6 preliminary notices of inadequacy of classroom performance to teachers
7 pursuant to this section without the need for prior approval of each notice
8 by the governing board. In all cases in which an employee of the governing
9 board issues a preliminary notice of inadequacy of classroom performance
10 without prior approval by the governing board, the employee shall report its
11 issuance to the governing board within five school days. The written
12 preliminary notice of inadequacy of classroom performance shall specify the
13 nature of the inadequacy of classroom performance with such particularity as
14 to furnish the teacher an opportunity to correct the teacher's inadequacies
15 and overcome the grounds for the charge. The written preliminary notice of
16 inadequacy of classroom performance shall BE BASED ON A VALID EVALUATION
17 ACCORDING TO SCHOOL DISTRICT PROCEDURE AND SHALL include a copy of any
18 evaluation pertinent to the charges made and state the date by which the
19 teacher has to correct the inadequacy and overcome the grounds for the
20 charge. THAT EVALUATION SHALL NOT BE CONDUCTED WITHIN TWO INSTRUCTIONAL DAYS
21 OF ANY SCHOOL BREAK OF ONE WEEK OR MORE. The written preliminary notice of
22 inadequacy of classroom performance shall allow the teacher ~~one summer~~
23 ~~vacation period to obtain additional education if the teacher so desires and~~
24 ~~one full semester of teaching time subsequent to the opportunity for~~
25 ~~additional education, OR AN EQUIVALENT PERIOD OF INSTRUCTIONAL DAYS SPECIFIED~~
26 ~~BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 15-203 TO ACCOMMODATE~~
27 ~~TEACHERS WHO ARE EMPLOYED IN YEAR-ROUND SCHOOL YEAR OPERATION PROGRAMS OR~~
28 ~~OTHER SCHOOLS THAT DO NOT USE A TRADITIONAL SCHOOL YEAR CALENDAR, within~~
29 ~~which to correct the inadequacy and overcome the grounds for the charge. ,~~
30 ~~unless another time frame has been adopted by the state board of education~~
31 ~~for qualified schools pursuant to section 15-203, subsection A, paragraph 34.~~
32 If within the time specified in the written preliminary notice of inadequacy
33 of classroom performance the teacher does not demonstrate adequate classroom
34 performance, the governing board shall dismiss the teacher either within
35 thirty days of the service of a subsequent notice of intention to dismiss or
36 by the end of the contract year in which the subsequent notice of intention
37 to dismiss is served unless the teacher has requested a hearing as provided
38 in subsection G of this section. If the teacher demonstrates adequate
39 classroom performance during the period allowed to correct such deficiencies
40 as specified in the written preliminary notice of inadequacy of classroom
41 performance, the governing board may not dismiss the teacher for the reasons
42 specified in the written preliminary notice of inadequacy of classroom
43 performance. If the governing board of a school district has received
44 approval to budget for a career ladder program, the governing board may

1 define inadequacy of classroom performance by establishing a single level of
2 performance which is required of all teachers or by establishing more than
3 one required level of performance. If more than one level is established,
4 ~~the following restrictions shall apply:~~

5 ~~1. The governing board may require increased levels of performance~~
6 ~~only during the first six years of teaching in the school district. A single~~
7 ~~level of performance to demonstrate minimum adequacy shall be required of~~
8 ~~teachers who have taught for seven or more years in the district.~~

9 ~~2-~~ the same level of performance for minimum adequacy shall be
10 required of all teachers who have completed the same number of years of
11 teaching in the district.

12 D. The governing board shall develop its definition of inadequacy of
13 classroom performance in consultation with its certificated teachers. The
14 consultation may be accomplished by holding a public hearing, forming an
15 advisory committee, providing teachers the opportunity to respond to a
16 proposed definition or obtaining teacher approval of a career ladder program
17 which defines inadequacy of classroom performance.

18 E. Any written statement of charges alleging unprofessional conduct,
19 conduct in violation of the rules or policies of the governing board or
20 inadequacy of classroom performance shall specify instances of behavior and
21 the acts or omissions constituting the charge so that the certificated
22 teacher will be able to prepare a defense. It shall, if applicable, state
23 the statutes, rules or written objectives of the governing board which the
24 certificated teacher is alleged to have violated and set forth the facts
25 relevant to each occasion of alleged unprofessional conduct, conduct in
26 violation of the rules or policies of the governing board or inadequacy of
27 classroom performance.

28 F. The notice shall be in writing and shall be served upon the
29 certificated teacher personally or by United States registered or certified
30 mail addressed to the teacher's last known address. A copy of the charges,
31 together with a copy of this section and sections 15-501, 15-538.01, 15-540
32 through 15-542 and 15-544 through 15-547 shall be attached to the notice.

33 G. The certificated teacher who receives notice that there exists
34 cause for dismissal or suspension without pay shall have the right to a
35 hearing if the teacher files a written request with the governing board
36 within thirty days of service of notice. The filing of a timely request
37 shall suspend the imposition of a suspension without pay or a dismissal
38 pending completion of the hearing.

39 Sec. 2. Section 15-541, Arizona Revised Statutes, is amended to read:
40 15-541. Hearing on dismissal

41 A. The governing board shall DECIDE WHETHER TO hold a hearing on the
42 dismissal or suspension WITHOUT PAY FOR A PERIOD OF TIME LONGER THAN TEN
43 DAYS of a certificated teacher as provided in this article. IF THE GOVERNING
44 BOARD DECIDES NOT TO HOLD A HEARING, THE GOVERNING BOARD SHALL DESIGNATE A

1 HEARING OFFICER TO HOLD THE HEARING, HEAR THE EVIDENCE, PREPARE A RECORD AND
2 ISSUE A RECOMMENDATION TO THE GOVERNING BOARD FOR ACTION. THE GOVERNING
3 BOARD MAY PROVIDE BY POLICY OR VOTE AT ITS ANNUAL ORGANIZATIONAL MEETING THAT
4 ALL HEARINGS CONDUCTED PURSUANT TO THIS SECTION WILL BE CONDUCTED BEFORE A
5 HEARING OFFICER. THE HEARING OFFICER WILL BE MUTUALLY AGREED UPON BY THE
6 PARTIES TO THE HEARING. IF THE PARTIES CANNOT MUTUALLY AGREE ON A HEARING
7 OFFICER, A HEARING OFFICER WILL BE SELECTED BY THE GOVERNING BOARD FROM A
8 LIST PROVIDED BY THE DEPARTMENT OF EDUCATION OR THE AMERICAN ARBITRATION
9 ASSOCIATION. THE HEARING SHALL BE HELD not less than ten nor more than
10 twenty-five days after the request is filed UNLESS ALL PARTIES TO THE HEARING
11 MUTUALLY AGREE TO A DIFFERENT HEARING DATE, and notice of the time and place
12 of the hearing shall be given to the teacher not less than three days before
13 the date of the hearing. The teacher may request ~~a~~ THAT THE HEARING BE
14 CONDUCTED IN public or private ~~hearing before the board~~. At the hearing the
15 teacher may appear in person and by counsel, if desired, and may present any
16 testimony, evidence or statements, either oral or in writing, in ~~his~~ THE
17 TEACHER'S behalf. The governing board OR THE HEARING OFFICER shall prepare
18 an official record of the hearing, including all testimony recorded manually
19 or by mechanical device, and exhibits, ~~but the board shall not be required~~
20 ~~to transcribe the record unless requested by the teacher, who shall be~~
21 ~~furnished with a complete transcript upon the payment of the actual cost.~~
22 THE TEACHER WHO IS THE SUBJECT OF THE HEARING MAY NOT REQUEST THAT THE
23 TESTIMONY BE TRANSCRIBED UNLESS THE TEACHER AGREES IN WRITING TO PAY THE
24 ACTUAL COST OF THE TRANSCRIPTION. Within ten days ~~following the~~ AFTER A
25 hearing CONDUCTED BY THE GOVERNING BOARD, the board shall determine whether
26 there existed good and just cause for the notice of dismissal or suspension
27 and shall render its decision accordingly, either affirming or withdrawing
28 the notice of dismissal or suspension. WITHIN TEN DAYS AFTER A HEARING
29 CONDUCTED BY A HEARING OFFICER, THE HEARING OFFICER SHALL DELIVER A WRITTEN
30 RECOMMENDATION TO THE GOVERNING BOARD THAT INCLUDES FINDINGS OF FACT AND
31 CONCLUSIONS. PARTIES TO THE HEARING HAVE THE RIGHT TO OBJECT TO THE FINDINGS
32 OF THE HEARING OFFICER AND PRESENT ORAL AND WRITTEN ARGUMENTS TO THE
33 GOVERNING BOARD.

34 B. A HEARING HELD PURSUANT TO THIS SECTION MAY NOT BE CONDUCTED BY ANY
35 HEARING OFFICER HAVING A PERSONAL INTEREST WHICH WOULD CONFLICT WITH HIS OR
36 HER OBJECTIVITY IN THE HEARING. THE GOVERNING BOARD HAS AN ADDITIONAL TEN
37 DAYS TO DETERMINE WHETHER GOOD AND JUST CAUSE EXISTED FOR THE NOTICE OF
38 DISMISSAL OR SUSPENSION AND SHALL RENDER ITS DECISION ACCORDINGLY, EITHER
39 AFFIRMING OR WITHDRAWING THE NOTICE OF SUSPENSION OR DISMISSAL. Good and
40 just cause does not include religious or political beliefs or affiliations
41 unless they are in violation of the oath of the teacher.