House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 149

HOUSE BILL 2500

AN ACT

AMENDING SECTIONS 15-501, 15-536, 15-537, 15-538, 15-538.01, 15-539 AND 15-550, ARIZONA REVISED STATUTES; RELATING TO CERTIFICATION AND EMPLOYMENT OF TEACHERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-501, Arizona Revised Statutes, is amended to read:

15-501. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrator" means any school district administrator except a school principal devoting not less than fifty per cent of his time to classroom teaching.

2. "Certificated teacher" means a person who holds a certificate from the state board of education to work in the schools of this state and who is employed under contract in a school district in a position ~~which~~ THAT requires certification except a psychologist or an administrator devoting less than fifty per cent of his time to classroom teaching.

3. "Full-time" means employed for a full school day, or its equivalent, or for a full class load, or its equivalent, as determined by the governing board.

4. "Governing board" means the governing board of a school district or a county school superintendent in the case of accommodation schools located in such county.

5. "INADEQUACY OF CLASSROOM PERFORMANCE" MEANS THE DEFINITION OF INADEQUACY CLASSROOM PERFORMANCE ADOPTED BY THE GOVERNING BOARD PURSUANT TO SECTION 15-538.

~~5.~~ 6. "Major portion of a school year" means full-time employment for fifty-one per cent of the school days during which school is in session, except that a certificated teacher is not deemed to have completed the major portion of the third school year of three consecutive years of employment until the end of the third school year.

7. "PERFORMANCE CLASSIFICATIONS" MEANS THE FOUR PERFORMANCE CLASSIFICATIONS ADOPTED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 15-203, SUBSECTION A, PARAGRAPH 38.

8. "QUALIFIED EVALUATOR" MEANS A SCHOOL PRINCIPAL OR OTHER PERSON WHO IS TRAINED TO EVALUATE TEACHERS AND WHO IS DESIGNATED BY THE GOVERNING BOARD TO EVALUATE THE SCHOOL DISTRICT'S CERTIFICATED TEACHERS.

~~6.~~ 9. "Superintendent" means the superintendent of schools of a school district.

~~7.~~ 10. "Suspension without pay" means suspension without pay for a period of time not to exceed ten school days.

Sec. 2. Section 15-536, Arizona Revised Statutes, is amended to read:

15-536. Offer of contract to probationary teacher; acceptance; notice to teacher of intention not to reemploy; definition

A. ~~Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549,~~ The governing board shall offer a teaching contract for the next ensuing school year to each ~~certificated~~ PROBATIONARY teacher ~~who has not been employed by the school district for more than the major portion of three consecutive~~

~~school years or who is beginning the teacher's fourth year of employment and who has been designated in one of the two lowest performance classifications pursuant to section 15-203, subsection A, paragraph 38 and who is under a contract of employment with the school district for the current school year~~, unless the governing board, a member of the board acting on behalf of the board or the superintendent of the school district gives notice to the teacher of the board's intention not to offer a teaching contract or unless such teacher has been dismissed pursuant to section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the contract for the ensuing year must be indicated within fifteen business days from the date of the teacher's receipt of the written contract or the offer is revoked. Receipt under this subsection will be deemed to have occurred when the written contract is personally delivered, placed in the teacher's school provided mailbox, including electronic mail, or two days after being placed in a United States postal service mailbox. The teacher accepts the contract by signing the contract and returning it to the governing board or by making a written instrument ~~which~~ THAT accepts the terms of the contract and delivering it to the governing board. If the written instrument includes terms in addition to the terms of the contract offered by the board, the teacher fails to accept the contract.

B. Notice of the board's intention not to reemploy the teacher shall be by delivering it personally to the teacher or by sending it by registered or certified mail to the teacher at the teacher's place of residence as recorded in the school district records. The notice shall incorporate a statement of reasons for not reemploying the teacher. If the reasons are charges of inadequacy of classroom performance ~~as defined by the governing board pursuant to section 15-539, subsection D~~, the board or its authorized representative~~, at least ninety days prior to such notice,~~ shall give the teacher written preliminary notice of inadequacy, specifying the nature of the inadequacy with such particularity as to furnish the teacher an opportunity to correct the inadequacies and ~~overcome the grounds for such charge~~ MAINTAIN ADEQUATE CLASSROOM PERFORMANCE AS DEFINED BY THE GOVERNING BOARD PURSUANT TO SECTION 15-538, SUBSECTION C. The governing board may delegate to employees of the governing board the general authority to issue preliminary notices of inadequacy of classroom performance to teachers pursuant to this subsection without the need for prior approval of each notice by the governing board. In all cases in which an employee of the governing board issues a preliminary notice of inadequacy of classroom performance without prior approval by the governing board, the employee shall report its issuance to the governing board within ~~five~~ TEN school days. The written notice of intention not to reemploy shall include a copy of any evaluation pertinent to the charges made and filed with the board.

C. This section shall not be construed to provide a ~~certificated~~ PROBATIONARY teacher ~~who has not been employed by the school district for more than the major portion of three consecutive school years and who has~~

~~received notice of the board's intention not to offer a teaching contract or a certificated teacher who has not been employed for more than the major portion of four consecutive school years, who is under contract pursuant to this section and who has been designated in one of the two lowest performance classifications pursuant to section 15-203, subsection A, paragraph 38~~ with the right to a hearing pursuant to section 15-539, subsection ~~G~~ F.

D. A CERTIFICATED TEACHER WHO IS CURRENTLY A CONTINUING TEACHER AS DEFINED IN SECTION 15-538.01 BUT WHO HAS BEEN DESIGNATED AFTER AN EVALUATION CONDUCTED ACCORDING TO THE REQUIREMENTS PURSUANT TO SECTION 15-537 IN THE LOWEST PERFORMANCE CLASSIFICATION FOR THE CURRENT SCHOOL YEAR SHALL BECOME A PROBATIONARY TEACHER AS DEFINED IN SECTION 15-536 FOR THE SUBSEQUENT SCHOOL YEAR AND SHALL REMAIN A PROBATIONARY TEACHER UNTIL THAT TEACHER'S PERFORMANCE CLASSIFICATION IS DESIGNATED IN EITHER OF THE TWO HIGHEST PERFORMANCE CLASSIFICATIONS.

E. FOR THE PURPOSES OF THIS SECTION, "PROBATIONARY TEACHER" MEANS A CERTIFICATED TEACHER WHO IS NOT A CONTINUING TEACHER.

Sec. 3. Section 15-537, Arizona Revised Statutes, is amended to read:

15-537. Performance of certificated teachers; evaluation system; confidentiality

A. The governing board of a school district shall establish a system for the evaluation of the performance of certificated teachers in the school district that meets the requirements prescribed in section 15-203, subsection A, paragraph 38 AND THAT RESULTS IN AT LEAST ONE EVALUATION OF EACH CERTIFICATED TEACHER BY A QUALIFIED EVALUATOR EACH SCHOOL YEAR. The objectives of the teacher performance evaluation system are to improve instruction and maintain instructional strengths. The governing board shall involve its certificated teachers in the development and periodic evaluation of the teacher performance evaluation system.

B. The school district governing board shall adopt teacher evaluation policies in a public meeting ~~by school year 2013-2014~~. Before the adoption of teacher evaluation policies, the school district governing board shall provide opportunities for public discussion on the proposed policies. The policies shall describe:

1. Incentives for teachers in the highest performance classification, ~~including~~ WHICH MAY INCLUDE multiyear contracts not to exceed three years. The policies shall specify that the offer and acceptance of a multiyear contract does not exclude that teacher from the application of section 15-538.01, 15-540, 15-541 or 15-549 and that the teacher may accept a multiyear contract offer or decline and accept a one year contract.

2. Incentives for teachers in the two highest performance classifications to work at schools that are assigned a letter grade of D or F pursuant to section 15-241.

3. Protections for teachers who are transferred to schools that are assigned a letter grade of D or F pursuant to section 15-241.

4. Protections for teachers if the principal of the school is designated in the lowest performance classification.

C. ~~Beginning in~~ BY school year 2015-2016, the policies prescribed in subsection B of this section shall describe:

~~1. Support and consequences for teachers designated in the lowest performance classification.~~

~~2.~~ 1. ~~An intervention option~~ PERFORMANCE IMPROVEMENT PLANS for teachers designated in the lowest performance classification ~~that includes the use of a performance improvement plan for those teachers pursuant to section 15-539. The policy shall specify that this intervention option may be used only once for each teacher~~.

~~3.~~ 2. Dismissal ~~policies~~ OR NONRENEWAL PROCEDURES pursuant to section 15-536 OR 15-539 for teachers who continue to be designated in the lowest performance classification ~~after using the intervention option prescribed in paragraph 2 of this subsection~~. THE PROCEDURES SHALL REQUIRE THAT THE SCHOOL DISTRICT ISSUE THE PRELIMINARY NOTICE OF INADEQUACY OF CLASSROOM PERFORMANCE NO LATER THAN THE SECOND CONSECUTIVE YEAR THAT THE TEACHER IS DESIGNATED IN ONE OF THE TWO LOWEST PERFORMANCE CLASSIFICATIONS UNLESS THE TEACHER IS IN THE FIRST OR SECOND YEAR OF EMPLOYMENT WITH THE SCHOOL DISTRICT OR HAS BEEN REASSIGNED TO TEACH A NEW SUBJECT OR GRADE LEVEL FOR THE PRECEDING OR CURRENT SCHOOL YEAR.

~~4. Dismissal policies pursuant to section 15-539 for teachers who are not provided an intervention option pursuant to paragraph 2 of this subsection. The policies shall require that the school district governing board initiate the notice of inadequacy of classroom performance process pursuant to section 15-539 no later than the second consecutive year that the teacher is designated in the lowest performance classification.~~

D. A teacher who has been employed by the school district for the major portion of three or more consecutive school years and who is CURRENTLY designated in the lowest performance classification for two consecutive school years shall not be transferred as a teacher to another school in that school district unless the school district has issued a PRELIMINARY notice of inadequacy of classroom performance and approved a performance improvement plan for the teacher pursuant to section 15-539 and the governing board has approved the new placement as in the best interests of the pupils in the school. A teacher who continues to be designated in one of the two lowest performance classifications shall not be permitted to transfer to another school. A teacher shall not be transferred more than once pursuant to this subsection.

E. The governing board shall prescribe specific procedures for the teacher performance evaluation system ~~pursuant to section 15-203, subsection A, paragraph 38~~, which shall include at least the following elements:

1. At least two actual classroom observations of the certificated teacher demonstrating teaching skills in a complete and uninterrupted lesson by the ~~person observing the teacher~~ QUALIFIED EVALUATOR. There shall be at

least sixty calendar days between the first and last observations. THE LAST OBSERVATION MAY FOLLOW THE ISSUANCE OF A PRELIMINARY NOTICE OF INADEQUACY OF CLASSROOM PERFORMANCE AND BE USED TO DETERMINE WHETHER THE TEACHER HAS CORRECTED INADEQUACIES AND HAS DEMONSTRATED ADEQUATE CLASSROOM PERFORMANCE. AN OBSERVATION SHALL NOT BE CONDUCTED WITHIN TWO INSTRUCTIONAL DAYS OF ANY SCHEDULED PERIOD IN WHICH SCHOOL IS NOT IN SESSION FOR ONE WEEK OR MORE. Within ten business days after each observation, the ~~person observing the teacher~~ QUALIFIED EVALUATOR shall provide written feedback to the teacher.

2. Specific and reasonable plans for the improvement of teacher performance as provided in subsection H of this section.

3. Appeal procedures for teachers who disagree with the evaluation of their performance, if the evaluation is for use as criteria for establishing compensation.

4. TRAINING REQUIREMENTS FOR QUALIFIED EVALUATORS.

5. A PLAN FOR THE APPROPRIATE USE OF QUANTITATIVE DATA OF STUDENT ACADEMIC PROGRESS IN EVALUATIONS OF ALL CERTIFICATED TEACHERS. THE PLAN MAY MAKE DISTINCTIONS BETWEEN CERTIFICATED TEACHERS WHO PROVIDE DIRECT INSTRUCTION TO STUDENTS AND CERTIFICATED TEACHERS WHO DO NOT PROVIDE DIRECT INSTRUCTION TO STUDENTS. THE PLAN MAY INCLUDE DATA FOR MULTIPLE SCHOOL YEARS AND MAY LIMIT THE USE OF DATA FOR CERTIFICATED TEACHERS WHO HAVE TAUGHT FOR LESS THAN TWO COMPLETE SCHOOL YEARS.

~~F. The governing board shall designate persons who are qualified to observe teachers and to serve as evaluators for the district's teacher performance evaluation system. The governing board shall ensure that persons evaluating teachers are trained and qualified to evaluate teachers.~~

F. THE GOVERNING BOARD MAY WAIVE THE REQUIREMENT OF A SECOND CLASSROOM OBSERVATION FOR A CONTINUING TEACHER WHOSE TEACHING PERFORMANCE BASED ON THE FIRST CLASSROOM OBSERVATION PLACES THE TEACHER IN ONE OF THE TWO HIGHEST PERFORMANCE CLASSIFICATIONS FOR THE CURRENT SCHOOL YEAR, UNLESS THE TEACHER REQUESTS A SECOND OBSERVATION.

G. The results of an annual evaluation conducted as provided in this section shall be in writing~~,~~ OR PROVIDED IN ELECTRONIC FORMAT TO THE CERTIFICATED TEACHER and a copy shall be transmitted OR PROVIDED IN AN ELECTRONIC FORMAT to the certificated teacher within five days after completion of the evaluation. The certificated teacher may initiate a written reaction or response to the evaluation.

H. Each evaluation shall include recommendations as to areas of improvement in the performance of the certificated teacher if the performance of the teacher warrants improvement. After transmittal of an evaluation, ~~a~~ THE QUALIFIED EVALUATOR OR ANOTHER board designee shall confer with the teacher to make specific recommendations as to areas of improvement in the teacher's performance. The QUALIFIED EVALUATOR OR OTHER board designee shall provide professional development opportunities for the certificated teacher to improve performance and follow up with the teacher after a reasonable

period of time for the purpose of ascertaining that the teacher is demonstrating adequate performance.

I. Copies of the evaluation report and performance classification of a certificated teacher retained by the governing board and the department of education are confidential, do not constitute a public record and shall not be released or shown to any person except:

1. To the certificated teacher who may make any use of it.

2. To authorized district officers and employees for all personnel matters regarding employment and contracts and for any hearing that relates to personnel matters.

3. To school districts and charter schools that inquire about the performance of the teacher for PROSPECTIVE employment purposes. A SCHOOL DISTRICT OR CHARTER SCHOOL THAT RECEIVES INFORMATION ABOUT A CERTIFICATED TEACHER FROM THE EVALUATION REPORT AND PERFORMANCE CLASSIFICATION SHALL USE THIS INFORMATION SOLELY FOR EMPLOYMENT PURPOSES AND SHALL NOT RELEASE TO OR ALLOW ACCESS TO THIS INFORMATION BY ANY OTHER PERSON, ENTITY, SCHOOL DISTRICT OR CHARTER SCHOOL.

4. For introduction in evidence or discovery in any court action between the governing board and the certificated teacher in which either:

(a) The competency of the teacher is at issue.

(b) The evaluation and performance classification were an exhibit at a hearing, the result of which is challenged.

J. Any school district policy pertaining to the transfer of teachers from one school to another school in a school district shall take into consideration the current distribution of teachers across all of the performance classifications and the needs of the pupils in the school district.

~~K. For the purposes of this section, "performance classification" means the four performance classifications adopted by the state board of education pursuant to section 15-203, subsection A, paragraph 38.~~

Sec. 4. Section 15-538, Arizona Revised Statutes, is amended to read:

15-538. <u>Preliminary notice of inadequacy of classroom performance; performance improvement plan; adoption of definition</u>

A. The governing board of any school district shall give any certificated teacher ~~who has not been employed by the school district for more than the major portion of three consecutive school years~~ notice of intention to dismiss or not to reemploy if such intention is based on charges of inadequacy of classroom performance ~~as defined by the governing board pursuant to section 15-539, subsection D~~. The governing board~~,~~ or its authorized representative, ~~shall,~~ at least ~~ninety~~ FORTY-FIVE INSTRUCTIONAL days ~~prior to~~ BEFORE such notice, SHALL give the teacher written preliminary notice of ~~his~~ inadequacy OF CLASSROOM PERFORMANCE, specifying the nature thereof with such particularity as to furnish the teacher an opportunity to correct ~~his~~ inadequacies and ~~overcome the grounds for such charge~~ MAINTAIN

ADEQUATE CLASSROOM PERFORMANCE AS DEFINED BY THE GOVERNING BOARD PURSUANT TO SECTION 15-538, SUBSECTION C. A NOTICE OF THE GOVERNING BOARD'S INTENTION TO DISMISS OR NOT TO REEMPLOY FOR INADEQUACY OF CLASSROOM PERFORMANCE SHALL NOT BE ISSUED UNTIL THE DISTRICT HAS COMPLETED AN OBSERVATION AT THE CONCLUSION OF A PERFORMANCE IMPROVEMENT PLAN ISSUED PURSUANT TO SUBSECTION B. The governing board may delegate to employees of the governing board the general authority to issue preliminary notices of inadequacy of classroom performance to teachers pursuant to this section without the need for prior approval of each notice by the governing board. In all cases in which an employee of the governing board issues a preliminary notice of inadequacy of classroom performance without prior approval by the governing board, the employee shall report its issuance to the governing board within ~~five~~ TEN school days. The written notice of intention to dismiss or not to reemploy shall include a copy of any VALID evaluation pertinent to the charges made ~~and filed with the governing board~~.

~~B. If the preliminary notice required in subsection A of this section is issued as a result of an intention to dismiss, such preliminary notice shall be given at least ninety days prior to service of notice of the intention to dismiss. If the preliminary notice is issued as a result of an intention not to reemploy, such preliminary notice shall be given no later than January 15.~~

B. THE PRELIMINARY NOTICE OF INADEQUACY OF CLASSROOM PERFORMANCE SHALL BE ACCOMPANIED BY A PERFORMANCE IMPROVEMENT PLAN DESIGNED TO HELP THE TEACHER CORRECT INADEQUACIES AND DEMONSTRATE ADEQUATE CLASSROOM PERFORMANCE.

C. THE GOVERNING BOARD SHALL ADOPT A DEFINITION OF INADEQUACY OF CLASSROOM PERFORMANCE THAT ALIGNS WITH THE PERFORMANCE CLASSIFICATIONS. THE GOVERNING BOARD'S DEFINITION MAY SET STANDARDS THAT EXCEED THE STANDARDS OF THE PERFORMANCE CLASSIFICATIONS AND APPLIES TO NOTICES ISSUED PURSUANT TO SECTIONS 15-536 AND 15-537 AND THIS SECTION. THE GOVERNING BOARD SHALL DEVELOP ITS DEFINITION OF INADEQUACY OF CLASSROOM PERFORMANCE IN CONSULTATION WITH ITS CERTIFICATED TEACHERS. THE CONSULTATION MAY BE ACCOMPLISHED BY HOLDING A PUBLIC HEARING, FORMING AN ADVISORY COMMITTEE OR PROVIDING TEACHERS THE OPPORTUNITY TO RESPOND TO A PROPOSED DEFINITION.

Sec. 5. Section 15-538.01, Arizona Revised Statutes, is amended to read:

15-538.01. <u>Offer of contract to continuing teacher; definition</u>

A. ~~Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549,~~ The governing board shall offer to each ~~certificated~~ CONTINUING teacher ~~who has been employed by the school district for more than the major portion of three consecutive school years and who is under contract of employment with the school district for the current year or who is not designated in the lowest performance classification pursuant to section 15-203, subsection A, paragraph 38 and was offered a contract in the prior year pursuant to section 15-536~~ a contract renewal for the next ensuing school year unless the governing board, a member of the board acting on behalf of the board or the

superintendent of the school district gives notice to the teacher of the board's intent not to offer a contract and to dismiss the teacher as provided in section 15-539.

B. The teacher's acceptance of the contract must be indicated within fifteen business days from the date of the teacher's receipt of the written contract or the offer of a contract is revoked. Receipt under this subsection will be deemed to have occurred when the written contract is personally delivered, placed in the teacher's school provided mailbox, including electronic mail, or two days after being placed in a United States postal service mailbox. The teacher accepts the contract by signing the contract and returning it to the governing board or by making a written instrument that accepts the terms of the contract and delivering it to the governing board. If the written instrument includes terms in addition to the terms of the contract offered by the board, the teacher fails to accept the contract.

C. A CERTIFICATED TEACHER WHO IS CURRENTLY A CONTINUING TEACHER AS DEFINED IN THIS SECTION BUT WHO HAS BEEN DESIGNATED AFTER AN EVALUATION CONDUCTED ACCORDING TO THE REQUIREMENTS PURSUANT TO SECTION 15-537 IN THE LOWEST PERFORMANCE CLASSIFICATION FOR THE CURRENT SCHOOL YEAR SHALL BECOME A PROBATIONARY TEACHER AS DEFINED IN SECTION 15-536 FOR THE SUBSEQUENT SCHOOL YEAR AND SHALL REMAIN A PROBATIONARY TEACHER UNTIL THAT TEACHER'S PERFORMANCE CLASSIFICATION IS DESIGNATED IN EITHER OF THE TWO HIGHEST PERFORMANCE CLASSIFICATIONS.

D. FOR THE PURPOSES OF THIS SECTION, "CONTINUING TEACHER" MEANS A CERTIFICATED TEACHER WHO HAS BEEN AND IS CURRENTLY EMPLOYED BY THE SCHOOL DISTRICT FOR THE MAJOR PORTION OF THREE CONSECUTIVE SCHOOL YEARS AND WHO HAS NOT BEEN DESIGNATED IN THE LOWEST PERFORMANCE CLASSIFICATION FOR THE PREVIOUS SCHOOL YEAR OR WHO HAS NOT REGAINED CONTINUING STATUS AFTER BEING DESIGNATED AS A PROBATIONARY TEACHER PURSUANT TO SUBSECTION C OF THIS SECTION.

Sec. 6. Section 15-539, Arizona Revised Statutes, is amended to read:

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

A. On 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, except as otherwise provided in this article, shall give notice to the teacher of its intention to suspend without pay or dismiss the teacher at the expiration of ten 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 governing board pursuant to section 15-540.

C. Except as provided in section 15-536, 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~~ WRITTEN PRELIMINARY NOTICE OF INADEQUACY OF CLASSROOM PERFORMANCE PURSUANT TO SECTION 15-538 if its intention to dismiss is based on charges of inadequacy of classroom performance ~~as defined by the governing board pursuant to subsection D of this section~~. ~~The governing board or its authorized representative shall give the teacher a written preliminary notice of inadequacy of classroom performance at least ten instructional days before the start of the period of time within which to correct the inadequacy and overcome the grounds for the charge. The governing board may delegate to employees of the governing board the general authority to issue preliminary notices of inadequacy of classroom performance to teachers pursuant to this section without the need for prior approval of each notice by the governing board. In all cases in which an employee of the governing board issues a preliminary notice of inadequacy of classroom performance without prior approval by the governing board, the employee shall report its issuance to the governing board within five school days. The written preliminary notice of inadequacy of classroom performance shall specify the nature of the inadequacy of classroom performance with such particularity as to furnish the teacher an opportunity to correct the teacher's inadequacies and overcome the grounds for the charge. The written preliminary notice of inadequacy of classroom performance shall be based on a valid evaluation according to school district procedure, shall include a copy of any evaluation pertinent to the charges made and shall state the date by which the teacher has to correct the inadequacy and overcome the grounds for the charge. That evaluation shall not be conducted within two instructional days of any school break of one week or more. The written preliminary notice of inadequacy of classroom performance shall allow the teacher not less than sixty instructional days within which to correct the inadequacy and overcome the grounds for the charge.~~ If within the time specified in the written preliminary notice of inadequacy of classroom performance the teacher does not demonstrate adequate classroom performance, the governing board shall dismiss the teacher either within ten days of the service of a subsequent notice of intention to dismiss or by the end of the contract year in which the subsequent notice of intention to dismiss is served unless the teacher has requested a hearing as provided in subsection ~~G~~ F of this section. If the teacher demonstrates adequate classroom performance during the period allowed to correct such deficiencies as specified in the written preliminary notice of inadequacy of classroom performance, the governing board may not dismiss the teacher for the reasons specified in the written preliminary notice of inadequacy of classroom performance. If the governing board of a school district has received approval to budget for a career ladder program,

the governing board may define inadequacy of classroom performance by establishing a single level of performance that is required of all teachers or by establishing more than one required level of performance. If more than one level is established, the same level of performance for minimum adequacy shall be required of all teachers who have completed the same number of years of teaching in the district.

~~D. The governing board shall develop a definition of inadequacy of classroom performance that aligns with the performance classifications adopted by the state board of education pursuant to section 15-203, subsection A, paragraph 38. This definition of inadequacy of classroom performance applies to notices issued pursuant to section 15-536, section 15-538 and this section. The governing board shall develop its definition of inadequacy of classroom performance in consultation with its certificated teachers. The consultation may be accomplished by holding a public hearing, forming an advisory committee, providing teachers the opportunity to respond to a proposed definition or obtaining teacher approval of a career ladder program that defines inadequacy of classroom performance.~~

~~E.~~ D. Any written statement of charges alleging unprofessional conduct, conduct in violation of the rules or policies of the governing board or inadequacy of classroom performance shall specify instances of behavior and the acts or omissions constituting the charge so that the certificated teacher will be able to prepare a defense. If applicable, it shall state the statutes, rules or written objectives of the governing board that the certificated teacher is alleged to have violated and set forth the facts relevant to each occasion of alleged unprofessional conduct, conduct in violation of the rules or policies of the governing board or inadequacy of classroom performance.

~~F.~~ E. The notice shall be in writing and shall be served on the certificated teacher personally or by United States registered or certified mail addressed to the teacher's last known address. A copy of the charges, together with a copy of this section and sections 15-501, 15-538.01, 15-540, 15-541, 15-542, ~~and~~ 15-544, ~~through~~ 15-545, 15-546 AND 15-547, shall be attached to the notice.

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

Sec. 7. Section 15-550, Arizona Revised Statutes, is amended to read:

15-550. <u>Unprofessional conduct; penalty</u>

A. A teacher who has been convicted of a dangerous crime against children as defined in section 13-705 or has been convicted of a violation of section 13-1404 or 13-1406 in which the victim was a minor or section 13-1405 or an act committed in another state or territory ~~which~~ THAT if committed in

this state would have been a dangerous crime against children or a violation of section 13-1404 or 13-1406 in which the victim was a minor or a violation of section 13-1405 is guilty of unprofessional conduct and the teacher's certificate shall be revoked permanently immediately on notification of conviction by the clerk of the court or the magistrate.

B. A teacher who has been convicted of a preparatory offense as prescribed in section 13-1001 of any of the offenses prescribed in subsection A of this section or any crime that requires the teacher to register as a sex offender is guilty of unprofessional conduct and the teacher's certificate shall be permanently revoked on notification of the conviction by a court of competent jurisdiction.

C. A person who is employed by a school district or who is an applicant for employment with a school district, who is arrested for or charged with any nonappealable offense listed in section 41-1758.03, subsection B and who does not immediately report the arrest or charge to the person's supervisor or potential employer is guilty of unprofessional conduct and the person shall be immediately dismissed from employment with the school district or immediately excluded from potential employment with the school district. ~~Nothing in~~ This subsection ~~shall be construed to~~ DOES NOT entitle a person dismissed pursuant to this subsection to a right to a hearing pursuant to section 15-539, subsection ~~G~~ F.

D. A person who is employed by a school district and who is convicted of any nonappealable offense listed in section 41-1758.03, subsection B or is convicted of any nonappealable offense that amounts to unprofessional conduct under this section shall immediately do all of the following:

1. Surrender any certificates issued by the department of education.

2. Notify the person's employer or potential employer of the conviction.

3. Notify the department of public safety of the conviction.

4. Surrender the person's fingerprint clearance card.

Sec. 8. Retroactivity

This act applies retroactively to from and after June 30, 2013.

APPROVED BY THE GOVERNOR APRIL 29, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.

On reconsideration

Passed the House February 28, 2013

by the following vote: 50 Ayes,

7 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 16, 2013

by the following vote: 19 Ayes,

11 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

25 day of April, 2013

at 3:30 o'clock P M.

Mikhaila Howard
Secretary to the Governor

Approved this 29th day of

April

at 5:20 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 30th day of April, 2013

at 9:35 o'clock a M.

Ken Bennett
Secretary of State

H.B. 2500