

The Report Card - December 2011 Edition

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Teacher Tenure Under SB7 and PERA

This issue of *The Report Card* is the fifth and final article in a series covering the various changes to Illinois law affected by Senate Bill 7 (Public Act 097-0008) (Act). Amendments to the Act change the pathway to tenure for teachers hired after a school district implements the Performance Evaluation Review Act (PERA), relating achievement of tenure to performance. As in the past, teachers still must make it through a durational period of probation to achieve tenured status. But, now they must do so while achieving acceptable ratings during their terms of service. In return, one's level of performance can accelerate the tenure timetable.

The teacher-evaluation process outlined in PERA, 105 ILCS 5/24A, directly relates to the achievement of tenure for Illinois teachers. As the legislative purpose behind PERA is to help administrators distinguish between effective and ineffective teachers, these two pieces of legislation complement each other nicely. With that in mind, PERA will require any evaluator undertaking an evaluation after September 1, 2012, to have completed an Illinois State Board of Education (ISBE) prequalification program. The evaluator also need not be an administrator. Under PERA, all districts must evaluate nontenured teachers at least once each school year, and tenured teachers at least once every two school years. After September 1, 2012, all districts must move from a three-tier to a four-tier evaluation system. These evaluations then become key to the tenure process under the Act.

Credit toward tenure continues to accrue on a straight four-consecutive-school-term schedule for teachers first employed in a district before the district implements its PERA-evaluation system. For these teachers, evaluation performance ratings are inapposite to a tenure award as the award is contingent upon longevity within the district and not performance, per se. Once PERA is in effect, however, the tenure analysis requires a more refined, individualized assessment for teachers hired after that date. This is particularly true for those teachers who excel at their craft or who achieved tenure previously in another Illinois school district or joint agreement program, left that district or program in good standing, and had no break in employment before joining the current district or program.

Specifically, the Act establishes three avenues for achieving tenure by teachers first hired post-PERA

implementation, outlined below. The tracks are not exclusive—if a teacher fails to qualify in one track, he or she still can qualify under another. Therefore, school administrators responsible for human resources will need to modify their systems for monitoring each teacher’s progress toward tenure attainment to account for these variances.

Each tenure track is contingent upon continued full-time service to the district or program over consecutive school terms. A “school term” continues to be defined as the period between July 1 and June 30 when school is actually in session. However, what constitutes full-time service, for purposes of post-PERA tenure calculations, has changed. For districts having less than 500,000 inhabitants, full-time service requires that the teacher actually worked 120 days of the school term. For districts with 500,000 or more inhabitants, the work requirement is 150 days.

The Tenure Tracks

Consistent Proficiency (Four consecutive school terms): The Act preserves the four-consecutive-school-terms track to tenure. However, to achieve tenured status, probationary teachers will be required to achieve two overall annual evaluation ratings of at least “proficient” within this four-consecutive-school-term period. One of the ratings of proficient or better must be issued in the last school term of the probationary period while the other may be earned in either the second or third school term. This approach recognizes the challenges newer teachers face in adjusting to the classroom by not requiring a “proficient” or better rating in all four school terms.

Failure of the fourth-year probationary teacher to meet the minimal performance expectations set forth in the Act dictates the teacher’s dismissal at the end of the fourth school term. The Act removed any opportunity for the exercise of discretion by the administration and board in this circumstance. However, districts retain the ability to nonrenew a fourth-year probationary teacher even if the teacher has met the minimum proficiency standards, provided the district issues an appropriate notice of nonrenewal in a timely manner.

Excellence (Three consecutive school terms): High achieving teachers potentially can be rewarded with early tenure. If a probationary teacher achieves ratings of “excellent” for three consecutive school terms on a PERA evaluation and is renewed for the following term, he or she will have achieved tenure. This tenure track benefits those teachers who start their careers with a district in stellar fashion and maintain that trajectory throughout their first three consecutive school terms. If the teacher’s overall evaluation outcome is less than excellent in any one of these first three years, he or she still can achieve tenure under the terms applicable to the four-consecutive-school-terms track.

Although districts generally strive to attract and retain strong performers, circumstances sometimes dictate a need to let such teachers go, and the Act does not preclude such decisions by the board. Probationary teachers with “excellent” PERA evaluation ratings can be honorably dismissed in any year, but must be given timely notice of the dismissal, in writing, with a reason provided if issued in the last probationary year.

Experience (Two consecutive school terms): Teachers previously tenured in an Illinois school district who seek new challenges or unexpectedly find themselves in circumstances necessitating a move to another school district may capitalize on their experience, provided certain conditions are met. These probationary teachers may obtain tenure after two consecutive school terms if: (1) the teacher is first employed by the current district in the school term immediately following the end of employment with the prior district; (2) the teacher was tenured in the previous school district; (3) the teacher's departure from the prior school district was voluntary or the result of an honorable dismissal; (4) the teacher's overall rating on the last two PERA evaluations (annual or biannual) at the prior school district was proficient or better; and (5) the teacher obtained an overall rating of "excellent" on his or her annual evaluations with the current district in the two consecutive school terms. Because this tenure option is contingent upon PERA evaluations being in effect at both the departing and receiving school districts and PERA evaluations are not required to be in effect until September 1, 2012, tenure activity based on this accelerated track may be minimal until fiscal year 2016 or 2017.

Hinshaw's Education Reform Act Database Now Available to Clients

Hinshaw now has a complimentary tool for its clients to help make compliance with SB7 requirements easier. The database allows school districts to track teacher tenure, certification and evaluation data efficiently within a single system and assist with record-keeping and decision-making.

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