

REFERENCE TITLE: school districts; personnel decisions

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2226

Introduced by
Representative Hendrix

AN ACT

AMENDING SECTION 15-502, ARIZONA REVISED STATUTES; AMENDING SECTION 15-502, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; REPEALING SECTION 15-504, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 15-504; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 15-539, ARIZONA REVISED STATUTES; AMENDING SECTION 15-539, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 15-541, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 15-541, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 15-544, ARIZONA REVISED STATUTES; AMENDING SECTION 15-544, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; REPEALING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 12, SECTION 76; RELATING TO SCHOOL EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-502, Arizona Revised Statutes, is amended to
3 read:

4 15-502. Employment of school district personnel; payment of
5 wages of discharged employee

6 A. The governing board MAY at any time ~~may~~ employ and fix the salaries
7 and benefits of employees necessary for the succeeding year. The contracts
8 of all certificated employees shall be in writing, and all employees shall be
9 employed subject to THE PROVISIONS OF section 38-481. The governing board
10 may obtain the services of any employee, including teachers, substitute
11 teachers and administrators, by contracting with a private entity that
12 employs personnel required by the school district.

13 B. A teacher shall not be employed if the teacher has not received a
14 certificate for teaching granted by the proper authorities. If a teacher has
15 filed an application and completed all of the requirements for a certificate
16 but time does not allow a teacher to receive a certificate before the
17 commencement of employment, the conditional certificate shall serve as a
18 certificate for the payment of wages, provided that the teacher files the
19 conditional certificate with the county school superintendent and the
20 certificate is issued within three months of the date of commencing
21 employment. In order to be paid wages beyond the three month period
22 prescribed in this subsection, the teacher shall file the certificate with
23 the county school superintendent. Any contract issued to a teacher who has
24 completed certificate requirements but has not received a certificate shall
25 be specifically contingent upon receipt of such a certificate. The governing
26 board of a school district that is subject to section 15-914.01 shall adhere
27 to the duties described in section 15-302, subsection A, paragraph 9 for
28 purposes of this subsection.

29 C. No dependent, as defined in section 43-1001, of a governing board
30 member may be employed in the school district in which the person to whom
31 such dependent is so related is a governing board member, except by consent
32 of the board.

33 D. The governing board may employ certificated teachers under contract
34 as part-time classroom teachers. Notwithstanding any other statute, a
35 certificated teacher who has been employed by the school district for more
36 than the major portion of three consecutive school years does not lose the
37 entitlement to the procedures prescribed in sections 15-538.01, 15-539
38 through 15-544 and 15-547 if the teacher is employed under contract on a
39 part-time basis for at least forty per cent time. ~~For the purposes of AS~~
40 ~~USED IN~~ this subsection, "forty per cent time" means employed for at least
41 forty per cent of the school day required of full-time teachers of the same
42 grade level or for at least forty per cent of the class load assigned to
43 full-time teachers of the same grade level, as determined by the governing
44 board.

1 ~~E. The governing board may employ a business manager who has expertise~~
2 ~~in finance. For the purposes of this subsection, "expertise in finance"~~
3 ~~means one or more of the following:~~

4 ~~1. A baccalaureate degree in accounting, finance, school finance or~~
5 ~~public finance.~~

6 ~~2. A graduate degree in accounting, finance, school finance or public~~
7 ~~finance.~~

8 ~~3. Other finance training or finance experience that the governing~~
9 ~~board determines is sufficient to qualify the person to administer the~~
10 ~~business operations of the school district.~~

11 ~~F.~~ E. Notwithstanding sections 23-351 and 23-353, if an employee is
12 discharged from the service of a school district, the school district shall
13 pay the wages due to the employee within ten calendar days from the date of
14 discharge.

15 ~~G.~~ F. Each school district shall establish policies and procedures to
16 provide teachers with personal liability insurance.

17 ~~H. Notwithstanding any other law, a school district shall not adopt~~
18 ~~policies that provide employment retention priority for teachers based on~~
19 ~~tenure or seniority.~~

20 Sec. 2. Section 15-502, Arizona Revised Statutes, as amended by
21 section 1 of this act, is amended to read:

22 15-502. Employment of school district personnel; payment of
23 wages of discharged employee

24 A. The governing board ~~may~~ at any time MAY employ and fix the salaries
25 and benefits of employees necessary for the succeeding year. The contracts
26 of all certificated employees shall be in writing, and all employees shall be
27 employed subject to ~~the provisions of~~ section 38-481. The governing board
28 may obtain the services of any employee, including teachers, substitute
29 teachers and administrators, by contracting with a private entity that
30 employs personnel required by the school district.

31 B. A teacher shall not be employed if the teacher has not received a
32 certificate for teaching granted by the proper authorities. If a teacher has
33 filed an application and completed all of the requirements for a certificate
34 but time does not allow a teacher to receive a certificate before the
35 commencement of employment, the conditional certificate shall serve as a
36 certificate for the payment of wages, provided that the teacher files the
37 conditional certificate with the county school superintendent and the
38 certificate is issued within three months of the date of commencing
39 employment. In order to be paid wages beyond the three month period
40 prescribed in this subsection, the teacher shall file the certificate with
41 the county school superintendent. Any contract issued to a teacher who has
42 completed certificate requirements but has not received a certificate shall
43 be specifically contingent upon receipt of such a certificate. The governing
44 board of a school district that is subject to section 15-914.01 shall adhere
45 to the duties described in section 15-302, subsection A, paragraph 9 for
46 purposes of this subsection.

1 C. No dependent, as defined in section 43-1001, of a governing board
2 member may be employed in the school district in which the person to whom
3 such dependent is so related is a governing board member, except by consent
4 of the board.

5 D. The governing board may employ certificated teachers under contract
6 as part-time classroom teachers. Notwithstanding any other statute, a
7 certificated teacher who has been employed by the school district for more
8 than the major portion of three consecutive school years does not lose the
9 entitlement to the procedures prescribed in sections 15-538.01, 15-539
10 through 15-544 and 15-547 if the teacher is employed under contract on a
11 part-time basis for at least forty per cent time. ~~As used in~~ FOR THE
12 PURPOSES OF this subsection, "forty per cent time" means employed for at
13 least forty per cent of the school day required of full-time teachers of the
14 same grade level or for at least forty per cent of the class load assigned to
15 full-time teachers of the same grade level, as determined by the governing
16 board.

17 E. THE GOVERNING BOARD MAY EMPLOY A BUSINESS MANAGER WHO HAS EXPERTISE
18 IN FINANCE. FOR THE PURPOSES OF THIS SUBSECTION, "EXPERTISE IN FINANCE"
19 MEANS ONE OR MORE OF THE FOLLOWING:

20 1. A BACCALAUREATE DEGREE IN ACCOUNTING, FINANCE, SCHOOL FINANCE OR
21 PUBLIC FINANCE.

22 2. A GRADUATE DEGREE IN ACCOUNTING, FINANCE, SCHOOL FINANCE OR PUBLIC
23 FINANCE.

24 3. OTHER FINANCE TRAINING OR FINANCE EXPERIENCE THAT THE GOVERNING
25 BOARD DETERMINES IS SUFFICIENT TO QUALIFY THE PERSON TO ADMINISTER THE
26 BUSINESS OPERATIONS OF THE SCHOOL DISTRICT.

27 ~~E-~~ F. Notwithstanding sections 23-351 and 23-353, if an employee is
28 discharged from the service of a school district, the school district shall
29 pay the wages due to the employee within ten calendar days from the date of
30 discharge.

31 ~~F-~~ G. Each school district shall establish policies and procedures to
32 provide teachers with personal liability insurance.

33 H. NOTWITHSTANDING ANY OTHER LAW, A SCHOOL DISTRICT SHALL NOT ADOPT
34 POLICIES THAT PROVIDE EMPLOYMENT RETENTION PRIORITY FOR TEACHERS BASED ON
35 TENURE OR SENIORITY.

36 Sec. 3. Repeal

37 Section 15-504, Arizona Revised Statutes, is repealed.

38 Sec. 4. Title 15, chapter 5, article 1, Arizona Revised Statutes, is
39 amended by adding a new section 15-504, to read:

40 15-504. Contract days for professional association activities;
41 prohibition

42 SCHOOL DISTRICT EMPLOYMENT CONTRACTS SHALL NOT INCLUDE COMPENSATED DAYS
43 FOR PROFESSIONAL ASSOCIATION ACTIVITIES. FOR THE PURPOSES OF THIS SECTION,
44 PROFESSIONAL ASSOCIATION ACTIVITIES DO NOT INCLUDE CONDUCT THAT OCCURS DURING
45 A FIELD TRIP FOR PUPILS. THIS SECTION DOES NOT PROHIBIT INDIVIDUAL EMPLOYEES

1 OF SCHOOL DISTRICTS FROM TAKING COMPENSATED LEAVE TIME FOR ANY PERSONAL
2 PURPOSE, ANY PROFESSIONAL PURPOSE OR ANY OTHER LAWFUL PURPOSE.

3 Sec. 5. Section 15-536, Arizona Revised Statutes, is amended to read:

4 15-536. Offer of contract to certificated teacher who has not
5 been employed more than three consecutive school
6 years; acceptance; notice to teacher of intention not
7 to reemploy

8 A. Subject to THE PROVISIONS OF sections 15-539, 15-540, 15-541,
9 15-544 and 15-549, the governing board shall, BETWEEN MARCH 15 AND MAY 15,
10 offer a teaching contract for the next ensuing school year to each
11 certificated teacher who has not been employed by the school district for
12 more than the major portion of three consecutive school years and who is
13 under a contract of employment with the school district for the current
14 school year, unless, ON OR BEFORE APRIL 15, the governing board, a member of
15 the board acting on behalf of the board or the superintendent of the school
16 district gives notice to the teacher of the board's intention not to offer a
17 teaching contract, ~~or~~ unless such teacher has been dismissed pursuant to
18 section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the
19 contract for the ensuing year must be indicated within thirty days from the
20 date of the written contract or the offer is revoked. The teacher accepts
21 the contract by signing the contract and returning it to the governing board
22 or by making a written instrument which accepts the terms of the contract and
23 delivering it to the governing board. If the written instrument includes
24 terms in addition to the terms of the contract offered by the board, the
25 teacher fails to accept the contract.

26 B. Notice of the board's intention not to reemploy the teacher shall
27 be by delivering it personally to the teacher or by sending it by registered
28 or certified mail BEARING A POSTMARK OF ON OR BEFORE APRIL 15, DIRECTED to
29 the teacher at ~~the teacher's~~ HIS place of residence as recorded in the school
30 district records. The notice shall incorporate a statement of reasons for
31 not reemploying the teacher. If the reasons are charges of inadequacy of
32 classroom performance as defined by the governing board pursuant to section
33 15-539, subsection D, the board, or its authorized representative, SHALL, at
34 least ninety days prior to such notice, ~~shall~~ give the teacher written
35 preliminary notice of HIS inadequacy, specifying the nature of the inadequacy
36 with such particularity as to furnish the teacher an opportunity to correct
37 ~~the~~ HIS inadequacies and overcome the grounds for such charge. The governing
38 board may delegate to employees of the governing board the general authority
39 to issue preliminary notices of inadequacy of classroom performance to
40 teachers pursuant to this subsection without the need for prior approval of
41 each notice by the governing board. In all cases in which an employee of the
42 governing board issues a preliminary notice of inadequacy of classroom
43 performance without prior approval by the governing board, the employee shall
44 report its issuance to the governing board within five school days. The
45 written notice of intention not to reemploy shall include a copy of any
46 evaluation pertinent to the charges made and filed with the board.

1 C. Nothing in this section shall be construed **SO AS** to provide a
2 certificated teacher who has not been employed by the school district for
3 more than the major portion of three consecutive school years and who has
4 received notice of the board's intention not to offer a teaching contract
5 with the right to a hearing pursuant to **THE PROVISIONS OF** section 15-539,
6 subsection G.

7 Sec. 6. Section 15-536, Arizona Revised Statutes, as amended by
8 section 5 of this act, is amended to read:

9 **15-536. Offer of contract to certificated teacher who has not**
10 **been employed more than three consecutive school**
11 **years; acceptance; notice to teacher of intention not**
12 **to reemploy**

13 A. Subject to ~~the provisions of~~ sections 15-539, 15-540, 15-541,
14 15-544 and 15-549, the governing board shall, ~~between March 15 and May 15,~~
15 offer a teaching contract for the next ensuing school year to each
16 certificated teacher who has not been employed by the school district for
17 more than the major portion of three consecutive school years and who is
18 under a contract of employment with the school district for the current
19 school year, unless, ~~on or before April 15,~~ the governing board, a member of
20 the board acting on behalf of the board or the superintendent of the school
21 district gives notice to the teacher of the board's intention not to offer a
22 teaching contract, ~~OR~~ unless such teacher has been dismissed pursuant to
23 section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the
24 contract for the ensuing year must be indicated within thirty days from the
25 date of the written contract or the offer is revoked. The teacher accepts
26 the contract by signing the contract and returning it to the governing board
27 or by making a written instrument which accepts the terms of the contract and
28 delivering it to the governing board. If the written instrument includes
29 terms in addition to the terms of the contract offered by the board, the
30 teacher fails to accept the contract.

31 B. Notice of the board's intention not to reemploy the teacher shall
32 be by delivering it personally to the teacher or by sending it by registered
33 or certified mail ~~bearing a postmark of on or before April 15, directed~~ to
34 the teacher at ~~his~~ **THE TEACHER'S** place of residence as recorded in the school
35 district records. The notice shall incorporate a statement of reasons for
36 not reemploying the teacher. If the reasons are charges of inadequacy of
37 classroom performance as defined by the governing board pursuant to section
38 15-539, subsection D, the board, ~~or its authorized representative, shall,~~ at
39 least ninety days prior to such notice, **SHALL** give the teacher written
40 preliminary notice of ~~his~~ inadequacy, specifying the nature of the inadequacy
41 with such particularity as to furnish the teacher an opportunity to correct
42 ~~his~~ **THE** inadequacies and overcome the grounds for such charge. The governing
43 board may delegate to employees of the governing board the general authority
44 to issue preliminary notices of inadequacy of classroom performance to
45 teachers pursuant to this subsection without the need for prior approval of
46 each notice by the governing board. In all cases in which an employee of the

1 governing board issues a preliminary notice of inadequacy of classroom
2 performance without prior approval by the governing board, the employee shall
3 report its issuance to the governing board within five school days. The
4 written notice of intention not to reemploy shall include a copy of any
5 evaluation pertinent to the charges made and filed with the board.

6 C. Nothing in this section shall be construed ~~so as~~ to provide a
7 certificated teacher who has not been employed by the school district for
8 more than the major portion of three consecutive school years and who has
9 received notice of the board's intention not to offer a teaching contract
10 with the right to a hearing pursuant to ~~the provisions of~~ section 15-539,
11 subsection G.

12 Sec. 7. Section 15-538.01, Arizona Revised Statutes, is amended to
13 read:

14 15-538.01. Offer of contract to certificated teacher employed
15 more than three consecutive school years

16 A. Subject to **THE PROVISIONS OF** sections 15-539, 15-540, 15-541,
17 15-544 and 15-549, the governing board shall, **BETWEEN MARCH 15 AND MAY 15**,
18 offer to each certificated teacher who has been employed by the school
19 district for more than the major portion of three consecutive school years
20 and who is under contract of employment with the school district for the
21 current year a contract renewal for the next ensuing school year unless **ON OR**
22 **BEFORE MAY 15** the governing board, a member of the board acting on behalf of
23 the board or the superintendent of the school district gives notice to the
24 teacher of the board's intent not to offer a contract and to dismiss the
25 teacher as provided in section 15-539.

26 B. The teacher's acceptance of the contract must be indicated within
27 thirty days from the date of the written contract or the offer of a contract
28 is revoked. The teacher accepts the contract by signing the contract and
29 returning it to the governing board or by making a written instrument which
30 accepts the terms of the contract and delivering it to the governing board.
31 If the written instrument includes terms in addition to the terms of the
32 contract offered by the board, the teacher fails to accept the contract.

33 **C. IF DISMISSAL PROCEEDINGS IN REFERENCE TO THE TEACHER CONTRACT**
34 **CANNOT BE COMPLETED BY MAY 15 THROUGH NO FAULT OF THE GOVERNING BOARD OR THE**
35 **SUPERINTENDENT, OR IF THE INCIDENTS RELIED ON IN WHOLE OR IN PART OCCURRED**
36 **AFTER MAY 15, DISMISSAL PROCEEDINGS MAY CONTINUE OR BE INITIATED.**

37 Sec. 8. Section 15-538.01, Arizona Revised Statutes, as amended by
38 section 7 of this act, is amended to read:

39 15-538.01. Offer of contract to certificated teacher employed
40 more than three consecutive school years

41 A. Subject to ~~the provisions of~~ sections 15-539, 15-540, 15-541,
42 15-544 and 15-549, the governing board shall, ~~between March 15 and May 15~~,
43 offer to each certificated teacher who has been employed by the school
44 district for more than the major portion of three consecutive school years
45 and who is under contract of employment with the school district for the
46 current year a contract renewal for the next ensuing school year unless ~~on or~~

1 ~~before May 15~~ the governing board, a member of the board acting on behalf of
2 the board or the superintendent of the school district gives notice to the
3 teacher of the board's intent not to offer a contract and to dismiss the
4 teacher as provided in section 15-539.

5 B. The teacher's acceptance of the contract must be indicated within
6 thirty days from the date of the written contract or the offer of a contract
7 is revoked. The teacher accepts the contract by signing the contract and
8 returning it to the governing board or by making a written instrument which
9 accepts the terms of the contract and delivering it to the governing board.
10 If the written instrument includes terms in addition to the terms of the
11 contract offered by the board, the teacher fails to accept the contract.

12 ~~C. If dismissal proceedings in reference to the teacher cannot be~~
13 ~~completed by May 15 through no fault of the governing board or the~~
14 ~~superintendent, or if the incidents relied on in whole or in part occurred~~
15 ~~after May 15, dismissal proceedings may continue or be initiated.~~

16 Sec. 9. Section 15-539, Arizona Revised Statutes, is amended to read:

17 15-539. Dismissal of certificated teacher; due process; written
18 charges; notice; hearing on request

19 A. ~~On~~ UPON a written statement of charges presented by the
20 superintendent, charging that there exists cause for the suspension without
21 pay for a period of time greater than ten school days or dismissal of a
22 certificated teacher of the district, the governing board SHALL, except as
23 otherwise provided in this article, ~~shall~~ give notice to the teacher of its
24 intention to suspend without pay or dismiss the teacher at the expiration of
25 ~~ten~~ THIRTY days from the date of the service of the notice.

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

33 C. The governing board shall give a certificated teacher who has been
34 employed by the school district for more than the major portion of three
35 consecutive school years notice of intention to dismiss if its intention to
36 dismiss is based on charges of inadequacy of classroom performance as defined
37 by the governing board pursuant to subsection D of this section. The
38 governing board or its authorized representative shall give the teacher a
39 written preliminary notice of inadequacy of classroom performance at least
40 ten instructional days ~~before~~ PRIOR TO the start of the period of time within
41 which to correct the inadequacy and overcome the grounds for the charge. The
42 governing board may delegate to employees of the governing board the general
43 authority to issue preliminary notices of inadequacy of classroom performance
44 to teachers pursuant to this section without the need for prior approval of
45 each notice by the governing board. In all cases in which an employee of the
46 governing board issues a preliminary notice of inadequacy of classroom

1 performance without prior approval by the governing board, the employee shall
2 report its issuance to the governing board within five school days. The
3 written preliminary notice of inadequacy of classroom performance shall
4 specify the nature of the inadequacy of classroom performance with such
5 particularity as to furnish the teacher an opportunity to correct the
6 teacher's inadequacies and overcome the grounds for the charge. The written
7 preliminary notice of inadequacy of classroom performance shall be based on a
8 valid evaluation according to school district procedure, shall include a copy
9 of any evaluation pertinent to the charges made and shall state the date by
10 which the teacher has to correct the inadequacy and overcome the grounds for
11 the charge. That evaluation shall not be conducted within two instructional
12 days of any school break of one week or more. The written preliminary notice
13 of inadequacy of classroom performance shall allow the teacher not less than
14 ~~sixty~~ EIGHTY-FIVE instructional days within which to correct the inadequacy
15 and overcome the grounds for the charge. If within the time specified in the
16 written preliminary notice of inadequacy of classroom performance the teacher
17 does not demonstrate adequate classroom performance, the governing board
18 shall dismiss the teacher either within ~~ten~~ THIRTY days of the service of a
19 subsequent notice of intention to dismiss or by the end of the contract year
20 in which the subsequent notice of intention to dismiss is served unless the
21 teacher has requested a hearing as provided in subsection G of this section.
22 If the teacher demonstrates adequate classroom performance during the period
23 allowed to correct such deficiencies as specified in the written preliminary
24 notice of inadequacy of classroom performance, the governing board may not
25 dismiss the teacher for the reasons specified in the written preliminary
26 notice of inadequacy of classroom performance. If the governing board of a
27 school district has received approval to budget for a career ladder program,
28 the governing board may define inadequacy of classroom performance by
29 establishing a single level of performance ~~that~~ WHICH is required of all
30 teachers or by establishing more than one required level of performance. If
31 more than one level is established, the same level of performance for minimum
32 adequacy shall be required of all teachers who have completed the same number
33 of years of teaching in the district.

34 D. The governing board shall develop a definition of inadequacy of
35 classroom performance that applies to notices issued pursuant to section
36 15-536, section 15-538 and this section. The governing board shall develop
37 its definition of inadequacy of classroom performance in consultation with
38 its certificated teachers. The consultation may be accomplished by holding a
39 public hearing, forming an advisory committee, providing teachers the
40 opportunity to respond to a proposed definition or obtaining teacher approval
41 of a career ladder program ~~that~~ WHICH defines inadequacy of classroom
42 performance.

43 E. Any written statement of charges alleging unprofessional conduct,
44 conduct in violation of the rules or policies of the governing board or
45 inadequacy of classroom performance shall specify instances of behavior and
46 the acts or omissions constituting the charge so that the certificated

1 teacher will be able to prepare a defense. If applicable, it shall state the
 2 statutes, rules or written objectives of the governing board ~~that~~ WHICH the
 3 certificated teacher is alleged to have violated and set forth the facts
 4 relevant to each occasion of alleged unprofessional conduct, conduct in
 5 violation of the rules or policies of the governing board or inadequacy of
 6 classroom performance.

7 F. The notice shall be in writing and shall be served ~~on~~ UPON the
 8 certificated teacher personally or by United States registered or certified
 9 mail addressed to the teacher's last known address. A copy of the charges,
 10 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
 11 15-541, 15-542 and 15-544 through 15-547, ~~—~~ shall be attached to the notice.

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

18 Sec. 10. Section 15-539, Arizona Revised Statutes, as amended by
 19 section 9 of this act, is amended to read:

20 15-539. Dismissal of certificated teacher; due process; written
 21 charges; notice; hearing on request

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

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

36 C. The governing board shall give a certificated teacher who has been
 37 employed by the school district for more than the major portion of three
 38 consecutive school years notice of intention to dismiss if its intention to
 39 dismiss is based on charges of inadequacy of classroom performance as defined
 40 by the governing board pursuant to subsection D of this section. The
 41 governing board or its authorized representative shall give the teacher a
 42 written preliminary notice of inadequacy of classroom performance at least
 43 ten instructional days ~~prior to~~ BEFORE the start of the period of time within
 44 which to correct the inadequacy and overcome the grounds for the charge. The
 45 governing board may delegate to employees of the governing board the general
 46 authority to issue preliminary notices of inadequacy of classroom performance

1 to teachers pursuant to this section without the need for prior approval of
2 each notice by the governing board. In all cases in which an employee of the
3 governing board issues a preliminary notice of inadequacy of classroom
4 performance without prior approval by the governing board, the employee shall
5 report its issuance to the governing board within five school days. The
6 written preliminary notice of inadequacy of classroom performance shall
7 specify the nature of the inadequacy of classroom performance with such
8 particularity as to furnish the teacher an opportunity to correct the
9 teacher's inadequacies and overcome the grounds for the charge. The written
10 preliminary notice of inadequacy of classroom performance shall be based on a
11 valid evaluation according to school district procedure, shall include a copy
12 of any evaluation pertinent to the charges made and shall state the date by
13 which the teacher has to correct the inadequacy and overcome the grounds for
14 the charge. That evaluation shall not be conducted within two instructional
15 days of any school break of one week or more. The written preliminary notice
16 of inadequacy of classroom performance shall allow the teacher not less than
17 ~~eighty-five~~ SIXTY instructional days within which to correct the inadequacy
18 and overcome the grounds for the charge. If within the time specified in the
19 written preliminary notice of inadequacy of classroom performance the teacher
20 does not demonstrate adequate classroom performance, the governing board
21 shall dismiss the teacher either within ~~thirty~~ TEN days of the service of a
22 subsequent notice of intention to dismiss or by the end of the contract year
23 in which the subsequent notice of intention to dismiss is served unless the
24 teacher has requested a hearing as provided in subsection G of this section.
25 If the teacher demonstrates adequate classroom performance during the period
26 allowed to correct such deficiencies as specified in the written preliminary
27 notice of inadequacy of classroom performance, the governing board may not
28 dismiss the teacher for the reasons specified in the written preliminary
29 notice of inadequacy of classroom performance. If the governing board of a
30 school district has received approval to budget for a career ladder program,
31 the governing board may define inadequacy of classroom performance by
32 establishing a single level of performance ~~which~~ THAT is required of all
33 teachers or by establishing more than one required level of performance. If
34 more than one level is established, the same level of performance for minimum
35 adequacy shall be required of all teachers who have completed the same number
36 of years of teaching in the district.

37 D. The governing board shall develop a definition of inadequacy of
38 classroom performance that applies to notices issued pursuant to section
39 15-536, section 15-538 and this section. The governing board shall develop
40 its definition of inadequacy of classroom performance in consultation with
41 its certificated teachers. The consultation may be accomplished by holding a
42 public hearing, forming an advisory committee, providing teachers the
43 opportunity to respond to a proposed definition or obtaining teacher approval
44 of a career ladder program ~~which~~ THAT defines inadequacy of classroom
45 performance.

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

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

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

22 Sec. 11. Section 15-541, Arizona Revised Statutes, is amended to read:
23 15-541. Hearing on dismissal

24 A. The governing board shall decide whether to hold a hearing on the
25 dismissal or suspension without pay for a period of time longer than ten days
26 of a certificated teacher as provided in this article. If the governing
27 board decides not to hold a hearing, the governing board shall designate a
28 hearing officer to hold the hearing, hear the evidence, prepare a record and
29 issue a recommendation to the governing board for action. The governing
30 board may provide by policy or vote at its annual organizational meeting that
31 all hearings conducted pursuant to this section ~~shall~~ WILL be conducted
32 before a hearing officer. The hearing officer ~~shall~~ WILL be mutually agreed
33 upon by the parties to the hearing. If the parties cannot mutually agree on
34 a hearing officer, a hearing officer ~~shall~~ WILL be selected by the governing
35 board from a list provided by the department of education or the American
36 arbitration association. The hearing shall be held not less than ~~fifteen~~ TEN
37 nor more than ~~thirty~~ TWENTY-FIVE days after the request is filed unless all
38 parties to the hearing mutually agree to a different hearing date, and notice
39 of the time and place of the hearing shall be given to the teacher not less
40 than three days before the date of the hearing. The teacher may request that
41 the hearing be conducted in public or private. At the hearing the teacher
42 may appear in person and by counsel, if desired, and may present any
43 testimony, evidence or statements, either oral or in writing, in the
44 teacher's behalf. The governing board or the hearing officer shall prepare
45 an official record of the hearing, including all testimony recorded manually
46 or by mechanical device, and exhibits. The teacher who is the subject of the

1 hearing may not request that the testimony be transcribed unless the teacher
 2 agrees in writing to pay the actual cost of the transcription. Within ten
 3 days after a hearing conducted by the governing board, the board shall
 4 determine whether there existed good and just cause for the notice of
 5 dismissal or suspension and shall render its decision accordingly, either
 6 affirming or withdrawing the notice of dismissal or suspension. Within ten
 7 days after a hearing conducted by a hearing officer, the hearing officer
 8 shall deliver a written recommendation to the governing board that includes
 9 findings of fact and conclusions. Parties to the hearing have the right to
 10 object to the findings of the hearing officer and present oral and written
 11 arguments to the governing board.

12 B. A hearing held pursuant to this section may not be conducted by any
 13 hearing officer having a personal interest which would conflict with ~~the~~
 14 ~~hearing officer's~~ HIS OR HER objectivity in the hearing. The governing board
 15 has an additional ten days to determine whether good and just cause existed
 16 for the notice of dismissal or suspension and shall render its decision
 17 accordingly, either affirming or withdrawing the notice of suspension or
 18 dismissal. Good and just cause does not include religious or political
 19 beliefs or affiliations unless they are in violation of the oath of the
 20 teacher.

21 Sec. 12. Section 15-541, Arizona Revised Statutes, as amended by
 22 section 11 of this act, is amended to read:

23 15-541. Hearing on dismissal

24 A. The governing board shall decide whether to hold a hearing on the
 25 dismissal or suspension without pay for a period of time longer than ten days
 26 of a certificated teacher as provided in this article. If the governing
 27 board decides not to hold a hearing, the governing board shall designate a
 28 hearing officer to hold the hearing, hear the evidence, prepare a record and
 29 issue a recommendation to the governing board for action. The governing
 30 board may provide by policy or vote at its annual organizational meeting that
 31 all hearings conducted pursuant to this section ~~will~~ SHALL be conducted
 32 before a hearing officer. The hearing officer ~~will~~ SHALL be mutually agreed
 33 upon by the parties to the hearing. If the parties cannot mutually agree on
 34 a hearing officer, a hearing officer ~~will~~ SHALL be selected by the governing
 35 board from a list provided by the department of education or the American
 36 arbitration association. The hearing shall be held not less than ~~ten~~ FIFTEEN
 37 nor more than ~~twenty-five~~ THIRTY days after the request is filed unless all
 38 parties to the hearing mutually agree to a different hearing date, and notice
 39 of the time and place of the hearing shall be given to the teacher not less
 40 than three days before the date of the hearing. The teacher may request that
 41 the hearing be conducted in public or private. At the hearing the teacher
 42 may appear in person and by counsel, if desired, and may present any
 43 testimony, evidence or statements, either oral or in writing, in the
 44 teacher's behalf. The governing board or the hearing officer shall prepare
 45 an official record of the hearing, including all testimony recorded manually
 46 or by mechanical device, and exhibits. The teacher who is the subject of the

1 hearing may not request that the testimony be transcribed unless the teacher
2 agrees in writing to pay the actual cost of the transcription. Within ten
3 days after a hearing conducted by the governing board, the board shall
4 determine whether there existed good and just cause for the notice of
5 dismissal or suspension and shall render its decision accordingly, either
6 affirming or withdrawing the notice of dismissal or suspension. Within ten
7 days after a hearing conducted by a hearing officer, the hearing officer
8 shall deliver a written recommendation to the governing board that includes
9 findings of fact and conclusions. Parties to the hearing have the right to
10 object to the findings of the hearing officer and present oral and written
11 arguments to the governing board.

12 B. A hearing held pursuant to this section may not be conducted by any
13 hearing officer having a personal interest which would conflict with ~~his or~~
14 ~~her~~ THE HEARING OFFICER'S objectivity in the hearing. The governing board
15 has an additional ten days to determine whether good and just cause existed
16 for the notice of dismissal or suspension and shall render its decision
17 accordingly, either affirming or withdrawing the notice of suspension or
18 dismissal. Good and just cause does not include religious or political
19 beliefs or affiliations unless they are in violation of the oath of the
20 teacher.

21 Sec. 13. Section 15-544, Arizona Revised Statutes, is amended to read:
22 15-544. Limitations on reduction of salaries or personnel

23 A. A governing board may reduce salaries or eliminate certificated
24 teachers in a school district in order to effectuate economies in the
25 operation of the district or to improve the efficient conduct and
26 administration of the schools of the school district, **BUT NO REDUCTION IN THE**
27 **SALARY OF A CERTIFICATED TEACHER WHO HAS BEEN EMPLOYED BY THE SCHOOL DISTRICT**
28 **FOR MORE THAN THE MAJOR PORTION OF THREE CONSECUTIVE SCHOOL YEARS SHALL BE**
29 **MADE EXCEPT IN ACCORDANCE WITH A GENERAL SALARY REDUCTION IN THE SCHOOL**
30 **DISTRICT BY WHICH THE TEACHER IS EMPLOYED, AND IN SUCH CASE THE REDUCTION**
31 **SHALL BE APPLIED EQUITABLY AMONG ALL SUCH TEACHERS.**

32 B. Notice of a general salary reduction shall be given each
33 certificated teacher affected **NOT LATER THAN MAY 15 BEFORE THE FISCAL YEAR IN**
34 **WHICH THE REDUCTION IS TO TAKE EFFECT.**

35 C. **A CERTIFICATED TEACHER DISMISSED FOR REASONS OF ECONOMY OR TO**
36 **IMPROVE THE EFFICIENT CONDUCT AND ADMINISTRATION OF THE SCHOOLS OF THE SCHOOL**
37 **DISTRICT SHALL HAVE A PREFERRED RIGHT OF REAPPOINTMENT IN THE ORDER OF**
38 **ORIGINAL EMPLOYMENT BY THE GOVERNING BOARD IN THE EVENT OF AN INCREASE IN THE**
39 **NUMBER OF CERTIFICATED TEACHERS OR THE REESTABLISHMENT OF SERVICES WITHIN A**
40 **PERIOD OF THREE YEARS.**

41 ~~C.~~ D. The provisions of this section do not apply to reductions in
42 salary from monies from the classroom site fund pursuant to section 15-977.

1 Sec. 14. Section 15-544, Arizona Revised Statutes, as amended by
2 section 13 of this act, is amended to read:

3 15-544. Limitations on reduction of salaries or personnel

4 A. A governing board may reduce salaries or eliminate certificated
5 teachers in a school district in order to effectuate economies in the
6 operation of the district or to improve the efficient conduct and
7 administration of the schools of the school district, ~~but no reduction in the~~
8 ~~salary of a certificated teacher who has been employed by the school district~~
9 ~~for more than the major portion of three consecutive school years shall be~~
10 ~~made except in accordance with a general salary reduction in the school~~
11 ~~district by which the teacher is employed, and in such case the reduction~~
12 ~~shall be applied equitably among all such teachers.~~

13 B. Notice of a general salary reduction shall be given each
14 certificated teacher affected ~~not later than May 15 before the fiscal year in~~
15 ~~which the reduction is to take effect.~~

16 ~~C. A certificated teacher dismissed for reasons of economy or to~~
17 ~~improve the efficient conduct and administration of the schools of the school~~
18 ~~district shall have a preferred right of reappointment in the order of~~
19 ~~original employment by the governing board in the event of an increase in the~~
20 ~~number of certificated teachers or the reestablishment of services within a~~
21 ~~period of three years.~~

22 ~~D.~~ C. The provisions of this section do not apply to reductions in
23 salary from monies from the classroom site fund pursuant to section 15-977.

24 Sec. 15. Repeal

25 Laws 2009, third special session, chapter 12, section 76 is repealed.

26 Sec. 16. Career ladder programs: maximum base level increase
27 for fiscal year 2010-2011; applicability

28 A. Notwithstanding section 15-918.04, Arizona Revised Statutes, for
29 fiscal year 2010-2011 the maximum base level increase that is permitted for a
30 school district that participates in the career ladder program shall be five
31 per cent.

32 B. For fiscal year 2010-2011, the career ladder program is limited
33 only to teachers who participated in the program in the prior fiscal year.

34 C. This section does not apply to contracts executed before the
35 effective date of this act.