

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

HOUSE BILL 2227

AN ACT

AMENDING SECTIONS 15-536, 15-538.01 AND 15-539, ARIZONA REVISED STATUTES;
AMENDING SECTION 15-539, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT;
RELATING TO SCHOOL DISTRICT EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-536, Arizona Revised Statutes, is amended to
3 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 sections 15-539, 15-540, 15-541, 15-544 and 15-549, the
9 governing board shall offer a teaching contract for the next ensuing school
10 year to each certificated teacher who has not been employed by the school
11 district for more than the major portion of three consecutive school years
12 and who is under a contract of employment with the school district for the
13 current school year, unless the governing board, a member of the board acting
14 on behalf of the board or the superintendent of the school district gives
15 notice to the teacher of the board's intention not to offer a teaching
16 contract or unless such teacher has been dismissed pursuant to section
17 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the contract
18 for the ensuing year must be indicated within ~~thirty~~ FIFTEEN BUSINESS days
19 from the date of the TEACHER'S RECEIPT OF THE written contract or the offer
20 is revoked. The teacher accepts the contract by signing the contract and
21 returning it to the governing board or by making a written instrument which
22 accepts the terms of the contract and delivering it to the governing board.
23 If the written instrument includes terms in addition to the terms of the
24 contract offered by the board, the teacher fails to accept the contract.

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

1 C. Nothing in this section shall be construed 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 section 15-539, subsection G.

6 Sec. 2. Section 15-538.01, Arizona Revised Statutes, is amended to
7 read:

8 15-538.01. Offer of contract to certificated teacher employed
9 more than three consecutive school years

10 A. Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549, the
11 governing board shall offer to each certificated teacher who has been
12 employed by the school district for more than the major portion of three
13 consecutive school years and who is under contract of employment with the
14 school district for the current year a contract renewal for the next ensuing
15 school year unless the governing board, a member of the board acting on
16 behalf of the board or the superintendent of the school district gives notice
17 to the teacher of the board's intent not to offer a contract and to dismiss
18 the teacher as provided in section 15-539.

19 B. The teacher's acceptance of the contract must be indicated within
20 ~~thirty~~ TEN BUSINESS days from the date of the written contract or the offer
21 of a contract is revoked. The teacher accepts the contract by signing the
22 contract and returning it to the governing board or by making a written
23 instrument which accepts the terms of the contract and delivering it to the
24 governing board. If the written instrument includes terms in addition to the
25 terms of the contract offered by the board, the teacher fails to accept the
26 contract.

27 Sec. 3. Section 15-539, Arizona Revised Statutes, is amended to read:

28 15-539. Dismissal of certificated teacher; due process; written
29 charges; notice; hearing on request

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

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

44 C. The governing board shall give a certificated teacher who has been
45 employed by the school district for more than the major portion of three

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

1 D. The governing board shall develop a definition of inadequacy of
2 classroom performance that applies to notices issued pursuant to section
3 15-536, section 15-538 and this section. The governing board shall develop
4 its definition of inadequacy of classroom performance in consultation with
5 its certificated teachers. The consultation may be accomplished by holding a
6 public hearing, forming an advisory committee, providing teachers the
7 opportunity to respond to a proposed definition or obtaining teacher approval
8 of a career ladder program ~~that~~ WHICH defines inadequacy of classroom
9 performance.

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

20 F. The notice shall be in writing and shall be served ~~on~~ UPON the
21 certificated teacher personally or by United States registered or certified
22 mail addressed to the teacher's last known address. A copy of the charges,
23 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
24 15-541, 15-542 and 15-544 through 15-547, ~~—~~ shall be attached to the notice.

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

31 Sec. 4. Section 15-539, Arizona Revised Statutes, as amended by
32 section 3 of this act, is amended to read:

33 15-539. Dismissal of certificated teacher; due process; written
34 charges; notice; hearing on request

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

42 B. Whenever the superintendent presents a statement of charges wherein
43 the alleged cause for dismissal constitutes immoral or unprofessional
44 conduct, the governing board may adopt a resolution that a complaint be filed
45 with the department of education. Pending disciplinary action by the state

1 board of education, the certificated teacher may be reassigned by the
2 superintendent or placed on administrative leave by the board pursuant to
3 section 15-540.

4 C. The governing board shall give a certificated teacher who has been
5 employed by the school district for more than the major portion of three
6 consecutive school years notice of intention to dismiss if its intention to
7 dismiss is based on charges of inadequacy of classroom performance as defined
8 by the governing board pursuant to subsection D of this section. The
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11 ten instructional days ~~prior to~~ BEFORE the start of the period of time within
12 which to correct the inadequacy and overcome the grounds for the charge. The
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19 report its issuance to the governing board within five school days. The
20 written preliminary notice of inadequacy of classroom performance shall
21 specify the nature of the inadequacy of classroom performance with such
22 particularity as to furnish the teacher an opportunity to correct the
23 teacher's inadequacies and overcome the grounds for the charge. The written
24 preliminary notice of inadequacy of classroom performance shall be based on a
25 valid evaluation according to school district procedure, shall include a copy
26 of any evaluation pertinent to the charges made and shall state the date by
27 which the teacher has to correct the inadequacy and overcome the grounds for
28 the charge. That evaluation shall not be conducted within two instructional
29 days of any school break of one week or more. The written preliminary notice
30 of inadequacy of classroom performance shall allow the teacher not less than
31 ~~eighty-five~~ SIXTY instructional days within which to correct the inadequacy
32 and overcome the grounds for the charge. If within the time specified in the
33 written preliminary notice of inadequacy of classroom performance the teacher
34 does not demonstrate adequate classroom performance, the governing board
35 shall dismiss the teacher either within ~~thirty~~ TEN days of the service of a
36 subsequent notice of intention to dismiss or by the end of the contract year
37 in which the subsequent notice of intention to dismiss is served unless the
38 teacher has requested a hearing as provided in subsection G of this section.
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43 notice of inadequacy of classroom performance. If the governing board of a
44 school district has received approval to budget for a career ladder program,
45 the governing board may define inadequacy of classroom performance by

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3 more than one level is established, the same level of performance for minimum
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11 public hearing, forming an advisory committee, providing teachers the
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15 E. Any written statement of charges alleging unprofessional conduct,
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19 teacher will be able to prepare a defense. If applicable, it shall state the
20 statutes, rules or written objectives of the governing board ~~which~~ THAT the
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34 shall suspend the imposition of a suspension without pay or a dismissal
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