

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)

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

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

4 15-501. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

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

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

23 ~~5-~~ 6. "Major portion of a school year" means full-time employment for  
24 fifty-one per cent of the school days during which school is in session,  
25 except that a certificated teacher is not deemed to have completed the major  
26 portion of the third school year of three consecutive years of employment  
27 until the end of the third school year.

28 7. "PERFORMANCE CLASSIFICATIONS" MEANS THE FOUR PERFORMANCE  
29 CLASSIFICATIONS ADOPTED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION  
30 15-203, SUBSECTION A, PARAGRAPH 38.

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

34 ~~6-~~ 9. "Superintendent" means the superintendent of schools of a  
35 school district.

36 ~~7-~~ 10. "Suspension without pay" means suspension without pay for a  
37 period of time not to exceed ten school days.

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

39 15-536. Offer of contract to probationary teacher; acceptance;  
40 notice to teacher of intention not to reemploy;  
41 definition

42 A. ~~Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549,~~ The  
43 governing board shall offer a teaching contract for the next ensuing school  
44 year to each ~~certificated~~ PROBATIONARY teacher ~~who has not been employed by~~  
45 ~~the school district for more than the major portion of three consecutive~~  
46 ~~school years or who is beginning the teacher's fourth year of employment and~~

1 ~~who has been designated in one of the two lowest performance classifications~~  
2 ~~pursuant to section 15-203, subsection A, paragraph 38 and who is under a~~  
3 ~~contract of employment with the school district for the current school year,~~  
4 unless the governing board, a member of the board acting on behalf of the  
5 board or the superintendent of the school district gives notice to the  
6 teacher of the board's intention not to offer a teaching contract or unless  
7 such teacher has been dismissed pursuant to section 15-538, 15-539, 15-541 or  
8 15-544. The teacher's acceptance of the contract for the ensuing year must  
9 be indicated within fifteen business days from the date of the teacher's  
10 receipt of the written contract or the offer is revoked. Receipt under this  
11 subsection will be deemed to have occurred when the written contract is  
12 personally delivered, placed in the teacher's school provided mailbox,  
13 including electronic mail, or two days after being placed in a United States  
14 postal service mailbox. The teacher accepts the contract by signing the  
15 contract and returning it to the governing board or by making a written  
16 instrument ~~which~~ THAT accepts the terms of the contract and delivering it to  
17 the governing board. If the written instrument includes terms in addition to  
18 the terms of the contract offered by the board, the teacher fails to accept  
19 the contract.

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

42 C. This section shall not be construed to provide a ~~certificated~~  
43 ~~PROBATIONARY~~ teacher ~~who has not been employed by the school district for~~  
44 ~~more than the major portion of three consecutive school years and who has~~  
45 ~~received notice of the board's intention not to offer a teaching contract or~~  
46 ~~a certificated teacher who has not been employed for more than the major~~

1 ~~portion of four consecutive school years, who is under contract pursuant to~~  
2 ~~this section and who has been designated in one of the two lowest performance~~  
3 ~~classifications pursuant to section 15-203, subsection A, paragraph 38~~ with  
4 the right to a hearing pursuant to section 15-539, subsection ~~G~~ F.

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

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

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

16 15-537. Performance of certificated teachers; evaluation  
17 system; confidentiality

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

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

32 1. Incentives for teachers in the highest performance classification,  
33 ~~including~~ WHICH MAY INCLUDE multiyear contracts not to exceed three years.  
34 The policies shall specify that the offer and acceptance of a multiyear  
35 contract does not exclude that teacher from the application of section  
36 15-538.01, 15-540, 15-541 or 15-549 and that the teacher may accept a  
37 multiyear contract offer or decline and accept a one year contract.

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

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

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

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

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

3 ~~2. 1. An intervention option~~ PERFORMANCE IMPROVEMENT PLANS for  
4 teachers designated in the lowest performance classification ~~that includes~~  
5 ~~the use of a performance improvement plan for those teachers pursuant to~~  
6 ~~section 15-539. The policy shall specify that this intervention option may be~~  
7 ~~used only once for each teacher.~~

8 ~~3. 2. Dismissal policies~~ OR NONRENEWAL PROCEDURES pursuant to section  
9 15-536 OR 15-539 for teachers who continue to be designated in the lowest  
10 performance classification ~~after using the intervention option prescribed in~~  
11 ~~paragraph 2 of this subsection.~~ THE PROCEDURES SHALL REQUIRE THAT THE SCHOOL  
12 DISTRICT ISSUE THE PRELIMINARY NOTICE OF INADEQUACY OF CLASSROOM PERFORMANCE  
13 NO LATER THAN THE SECOND CONSECUTIVE YEAR THAT THE TEACHER IS DESIGNATED IN  
14 ONE OF THE TWO LOWEST PERFORMANCE CLASSIFICATIONS UNLESS THE TEACHER IS IN  
15 THE FIRST OR SECOND YEAR OF EMPLOYMENT WITH THE SCHOOL DISTRICT OR HAS BEEN  
16 REASSIGNED TO TEACH A NEW SUBJECT OR GRADE LEVEL FOR THE PRECEDING OR CURRENT  
17 SCHOOL YEAR.

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

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

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

39 1. At least two actual classroom observations of the certificated  
40 teacher demonstrating teaching skills in a complete and uninterrupted lesson  
41 by the ~~person observing the teacher~~ QUALIFIED EVALUATOR. There shall be at  
42 least sixty calendar days between the first and last observations. THE LAST  
43 OBSERVATION MAY FOLLOW THE ISSUANCE OF A PRELIMINARY NOTICE OF INADEQUACY OF  
44 CLASSROOM PERFORMANCE AND BE USED TO DETERMINE WHETHER THE TEACHER HAS  
45 CORRECTED INADEQUACIES AND HAS DEMONSTRATED ADEQUATE CLASSROOM PERFORMANCE.  
46 AN OBSERVATION SHALL NOT BE CONDUCTED WITHIN TWO INSTRUCTIONAL DAYS OF ANY

1 SCHEDULED PERIOD IN WHICH SCHOOL IS NOT IN SESSION FOR ONE WEEK OR MORE.  
2 Within ten business days after each observation, the ~~person observing the~~  
3 ~~teacher~~ QUALIFIED EVALUATOR shall provide written feedback to the teacher.

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

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

9 4. TRAINING REQUIREMENTS FOR QUALIFIED EVALUATORS.

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

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

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

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

32 H. Each evaluation shall include recommendations as to areas of  
33 improvement in the performance of the certificated teacher if the performance  
34 of the teacher warrants improvement. After transmittal of an evaluation, ~~a~~  
35 ~~THE QUALIFIED EVALUATOR OR ANOTHER~~ board designee shall confer with the  
36 teacher to make specific recommendations as to areas of improvement in the  
37 teacher's performance. The ~~QUALIFIED EVALUATOR OR OTHER~~ board designee shall  
38 provide professional development opportunities for the certificated teacher  
39 to improve performance and follow up with the teacher after a reasonable  
40 period of time for the purpose of ascertaining that the teacher is  
41 demonstrating adequate performance.

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

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

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

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

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

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

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

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

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

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

25           15-538. Preliminary notice of inadequacy of classroom  
26 performance; performance improvement plan; adoption  
27 of definition

28           A. The governing board of any school district shall give any  
29 certificated teacher ~~who has not been employed by the school district for~~  
30 ~~more than the major portion of three consecutive school years~~ notice of  
31 intention to dismiss or not to reemploy if such intention is based on charges  
32 of inadequacy of classroom performance ~~as defined by the governing board~~  
33 ~~pursuant to section 15-539, subsection D.~~ The governing board, ~~or its~~  
34 authorized representative, ~~shall,~~ at least ~~ninety~~ FORTY-FIVE INSTRUCTIONAL  
35 days ~~prior to~~ BEFORE such notice, SHALL give the teacher written preliminary  
36 notice of ~~his~~ inadequacy OF CLASSROOM PERFORMANCE, specifying the nature  
37 thereof with such particularity as to furnish the teacher an opportunity to  
38 correct ~~his~~ inadequacies and ~~overcome the grounds for such charge~~ MAINTAIN  
39 ADEQUATE CLASSROOM PERFORMANCE AS DEFINED BY THE GOVERNING BOARD PURSUANT TO  
40 SECTION 15-538, SUBSECTION C. A NOTICE OF THE GOVERNING BOARD'S INTENTION TO  
41 DISMISS OR NOT TO REEMPLOY FOR INADEQUACY OF CLASSROOM PERFORMANCE SHALL NOT  
42 BE ISSUED UNTIL THE DISTRICT HAS COMPLETED AN OBSERVATION AT THE CONCLUSION  
43 OF A PERFORMANCE IMPROVEMENT PLAN ISSUED PURSUANT TO SUBSECTION B. The  
44 governing board may delegate to employees of the governing board the general  
45 authority to issue preliminary notices of inadequacy of classroom performance  
46 to teachers pursuant to this section without the need for prior approval of

1 each notice by the governing board. In all cases in which an employee of the  
2 governing board issues a preliminary notice of inadequacy of classroom  
3 performance without prior approval by the governing board, the employee shall  
4 report its issuance to the governing board within ~~five~~ TEN school days. The  
5 written notice of intention to dismiss or not to reemploy shall include a  
6 copy of any VALID evaluation pertinent to the charges made ~~and filed with the~~  
7 ~~governing board.~~

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

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

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

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

28 15-538.01. Offer of contract to continuing teacher; definition

29 A. ~~Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549,~~ The  
30 governing board shall offer to each ~~certificated~~ CONTINUING teacher ~~who has~~  
31 ~~been employed by the school district for more than the major portion of three~~  
32 ~~consecutive school years and who is under contract of employment with the~~  
33 ~~school district for the current year or who is not designated in the lowest~~  
34 ~~performance classification pursuant to section 15-203, subsection A,~~  
35 ~~paragraph 38 and was offered a contract in the prior year pursuant to section~~  
36 ~~15-536~~ a contract renewal for the next ensuing school year unless the  
37 governing board, a member of the board acting on behalf of the board or the  
38 superintendent of the school district gives notice to the teacher of the  
39 board's intent not to offer a contract and to dismiss the teacher as provided  
40 in section 15-539.

41 B. The teacher's acceptance of the contract must be indicated within  
42 fifteen business days from the date of the teacher's receipt of the written  
43 contract or the offer of a contract is revoked. Receipt under this  
44 subsection will be deemed to have occurred when the written contract is  
45 personally delivered, placed in the teacher's school provided mailbox,  
46 including electronic mail, or two days after being placed in a United States

1 postal service mailbox. The teacher accepts the contract by signing the  
2 contract and returning it to the governing board or by making a written  
3 instrument that accepts the terms of the contract and delivering it to the  
4 governing board. If the written instrument includes terms in addition to the  
5 terms of the contract offered by the board, the teacher fails to accept the  
6 contract.

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

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

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

22 15-539. Dismissal of certificated teacher; due process; written  
23 charges; notice; hearing on request

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

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

38 C. Except as provided in section 15-536, the governing board shall  
39 give a certificated teacher ~~who has been employed by the school district for~~  
40 ~~more than the major portion of three consecutive school years notice of~~  
41 ~~intention to dismiss~~ WRITTEN PRELIMINARY NOTICE OF INADEQUACY OF CLASSROOM  
42 PERFORMANCE PURSUANT TO SECTION 15-538 if its intention to dismiss is based  
43 on charges of inadequacy of classroom performance ~~as defined by the governing~~  
44 ~~board pursuant to subsection D of this section. The governing board or its~~  
45 ~~authorized representative shall give the teacher a written preliminary notice~~  
46 ~~of inadequacy of classroom performance at least ten instructional days before~~

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

41 ~~D. The governing board shall develop a definition of inadequacy of~~  
42 ~~classroom performance that aligns with the performance classifications~~  
43 ~~adopted by the state board of education pursuant to section 15-203,~~  
44 ~~subsection A, paragraph 38. This definition of inadequacy of classroom~~  
45 ~~performance applies to notices issued pursuant to section 15-536, section~~  
46 ~~15-538 and this section. The governing board shall develop its definition of~~

~~1 inadequacy of classroom performance in consultation with its certificated  
2 teachers. The consultation may be accomplished by holding a public hearing,  
3 forming an advisory committee, providing teachers the opportunity to respond  
4 to a proposed definition or obtaining teacher approval of a career ladder  
5 program that defines inadequacy of classroom performance.~~

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

16 ~~F.~~ E. The notice shall be in writing and shall be served on the  
17 certificated teacher personally or by United States registered or certified  
18 mail addressed to the teacher's last known address. A copy of the charges,  
19 together with a copy of this section and sections 15-501, 15-538.01, 15-540,  
20 15-541, 15-542, ~~and~~ 15-544, ~~through~~ 15-545, 15-546 AND 15-547, shall be  
21 attached to the notice.

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

28 Sec. 7. Section 15-550, Arizona Revised Statutes, is amended to read:  
29 15-550. Unprofessional conduct; penalty

30 A. A teacher who has been convicted of a dangerous crime against  
31 children as defined in section 13-705 or has been convicted of a violation of  
32 section 13-1404 or 13-1406 in which the victim was a minor or section 13-1405  
33 or an act committed in another state or territory ~~which~~ THAT if committed in  
34 this state would have been a dangerous crime against children or a violation  
35 of section 13-1404 or 13-1406 in which the victim was a minor or a violation  
36 of section 13-1405 is guilty of unprofessional conduct and the teacher's  
37 certificate shall be revoked permanently immediately on notification of  
38 conviction by the clerk of the court or the magistrate.

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

45 C. A person who is employed by a school district or who is an  
46 applicant for employment with a school district, who is arrested for or

1 charged with any nonappealable offense listed in section 41-1758.03,  
2 subsection B and who does not immediately report the arrest or charge to the  
3 person's supervisor or potential employer is guilty of unprofessional conduct  
4 and the person shall be immediately dismissed from employment with the school  
5 district or immediately excluded from potential employment with the school  
6 district. ~~Nothing in~~ This subsection ~~shall be construed to~~ DOES NOT entitle  
7 a person dismissed pursuant to this subsection to a right to a hearing  
8 pursuant to section 15-539, subsection ~~G~~ F.

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

- 13 1. Surrender any certificates issued by the department of education.
- 14 2. Notify the person's employer or potential employer of the  
15 conviction.
- 16 3. Notify the department of public safety of the conviction.
- 17 4. Surrender the person's fingerprint clearance card.

18 Sec. 8. Retroactivity

19 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.