

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2557

5 By: Representatives Chesterfield, Bond, Blount
6 By: Senator G. Jeffress
7

For An Act To Be Entitled

8
9
10 AN ACT TO AMEND THE PUBLIC SCHOOL EMPLOYEE FAIR
11 HEARING ACT; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO AMEND THE PUBLIC SCHOOL
15 EMPLOYEE FAIR HEARING ACT.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 6-17-1703(a), regarding termination or
21 nonrenewal under the Public School Employee Fair Hearing Act, Arkansas Code §
22 6-17-1701 et seq., is amended to read as follows:

23 (a)(1) The superintendent of a school district may recommend
24 termination of an employee during the term of any contract or the nonrenewal
25 of a full-time nonprobationary employee's contract when:

26 (A) There is a reduction in force created by district-wide
27 reduction in classified staff; or

28 (B) For:

29 (i) Incompetent performance;

30 (ii) Conduct which materially interferes with the
31 continued performance of the employee's duties;

32 (iii) Repeated or material neglect of duty; or

33 (iv) Other just and reasonable cause.

34 (2) The superintendent shall give ~~provided that he gives~~ notice
35 in writing, personally delivered, or by letter posted by registered or
36 certified mail to the employee's residence address as reflected in the



1 employee's personnel file.

2
 3 SECTION 2. Arkansas Code § 6-17-1703(d), regarding termination or
 4 nonrenewal under the Public School Employee Fair Hearing Act, Arkansas Code §
 5 6-17-1701 et seq., is amended to read as follows:

6 (d) The notice shall further state that an employee being recommended
 7 for termination or a full-time nonprobationary employee being recommended for
 8 nonrenewal is entitled to a hearing before the school board upon request,
 9 provided that the request is made in writing to the superintendent within
 10 ~~twenty five (25)~~ thirty (30) calendar days from receipt of the notice.

11
 12 SECTION 3. Arkansas Code § 6-17-1704(b), regarding immediate
 13 suspension and notice under the Public School Employee Fair Hearing Act,
 14 Arkansas Code § 6-17-1701 et seq., is amended to read as follows:

15 (b) The notice shall include a statement of reasons for the
 16 suspension, state whether the superintendent is recommending termination, and
 17 state that a hearing before the school board is available upon request,
 18 provided that the request is made in writing to the superintendent within
 19 ~~twenty five (25)~~ thirty (30) calendar days from receipt of the notice.

20
 21 SECTION 4. Arkansas Code § 6-17-1705(c), regarding hearings under the
 22 Public School Employee Fair Hearing Act, Arkansas Code § 6-17-1701 et seq.,
 23 is amended to read as follows:

24 (c) ~~In hearings held concerning a recommendation for the termination~~
 25 ~~of an employee's contract, either the board or the employee may elect to have~~
 26 ~~a record of the hearing made at the board's expense. It shall not be~~
 27 necessary that a full record of the proceedings at the hearing be made and
 28 preserved unless:

29 (1) The board shall elect to make and preserve a record of the
 30 hearing at its own expense, in which event a copy shall be furnished to the
 31 employee, upon request, without cost to the employee; or

32 (2) A written request is filed with the board by the employee at
 33 least twenty-four (24) hours prior to the time set for the hearing, in which
 34 event the board shall make and preserve at its own expense a record of the
 35 hearing and shall furnish a transcript to the employee without cost.

1 SECTION 5. Arkansas Code § 6-17-1705(d), regarding hearings under the
 2 Public School Employee Fair Hearing Act, Arkansas Code § 6-17-1701 et seq.,
 3 is amended to read as follows:

4 ~~(d) In hearings held concerning a recommendation for the nonrenewal of~~
 5 ~~a full-time non-probationary employee, either the board or the employee may~~
 6 ~~elect to have a record of the hearing made, and the expense for the record~~
 7 ~~shall be shared equally between the board and the employee. The board shall~~
 8 ~~not consider at the hearing any new reasons for the suspension, termination,~~
 9 ~~or nonrenewal of the contract of the employee which were not specified in the~~
 10 ~~notices provided pursuant to this subchapter.~~

11
 12 SECTION 6. Arkansas Code § 6-17-1705, regarding hearings under the
 13 Public School Employee Fair Hearing Act, Arkansas Code § 6-17-1701 et seq.,
 14 is amended to add an additional subsection to read as follows:

15 (g)(1) The exclusive remedy for any nonprobationary full-time employee
 16 who is aggrieved by a decision made by the school board shall be an appeal
 17 from the school board's decision to the circuit court of the county in which
 18 the school district is located.

19 (2) An appeal under this subsection shall be filed within
 20 seventy-five (75) days from the date of the written notice of the action of
 21 the board.

22 (3) Additional testimony and evidence may be introduced on
 23 appeal to show the facts and circumstances related to the termination and
 24 whether the termination was lawful or unlawful.

25
 26 SECTION 7. Arkansas Code Title 10, Subsection 17 is amended to add the
 27 following sections:

28 6-17-1706. Construction.

29 (a)(1) The standard for suspension, termination, or nonrenewal of the
 30 contract of a full-time employee shall be for just and reasonable cause; and

31 (2) A suspension, termination, nonrenewal, or other disciplinary
 32 action by a school district shall be void unless the school district
 33 substantially complies with all provisions of this subchapter and the school
 34 district's applicable personnel policies.

35
 36 6-17-1707. Evaluation.

1 (a) Each employee employed by the board of directors of a school
 2 district shall be annually evaluated in writing.

3 (b) If a superintendent or other school administrator charged with the
 4 supervision of an employee believes or has reason to believe that an employee
 5 is having difficulties or problems meeting the expectations of the school
 6 district or its administration and the administrator believes or has reason
 7 to believe the problems could lead to termination or nonrenewal of the
 8 contract of the employee, the administrator shall bring the problems and
 9 difficulties to the attention of the employee involved in writing and shall
 10 document the efforts which have been undertaken to assist the employee to
 11 correct whatever appears to be the cause for the potential termination or
 12 nonrenewal of the contract of the employee.

13
 14 6-17-1708. Employee personnel file.

15 (a) The school district shall maintain a personnel file for each
 16 employee that shall be available to the employee for inspection and copying
 17 at the employee's expense during normal office hours.

18 (b) The employee may submit for inclusion in the file written
 19 information in response to any of the material contained therein.

20
 21 6-17-1709. Contract renewal – Notice of nonrenewal – Rescission.

22 Every contract of employment made between an employee and the board of
 23 directors of a school district shall be renewed in writing on the same terms
 24 and for the same salary, unless increased or decreased by law, for the next
 25 school year succeeding the date of termination fixed therein, which renewal
 26 may be made by an endorsement on the existing contract instrument unless the
 27 recommendation of nonrenewal of a nonprobationary employee's contract is made
 28 no later than thirty (30) calendar days prior to the beginning of the
 29 employee's next contract period.