EDUCATION REFORM IN ILLINOIS

NON-REGULATORY GUIDANCE ON THE PERFORMANCE EVALUATION REFORM ACT AND SENATE BILL 7

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Introduction

The Performance Evaluation Reform Act (PERA) (Senate Bill 315; Public Act 96-0861) was passed by the Illinois General Assembly and signed by the Governor in January 2010. In summary, PERA requires, among other things, that:

- Upon the implementation date applicable to a school district or other covered entity, performance evaluations of the principals/assistant principals and teachers of that school district or other covered entity must include data and indicators of student growth as a "significant factor". (Note: Assistant principals were included as a result of P.A. 97-217, effective July 28, 2011);
- By September 1, 2012, principals, assistant principals, teachers in contractual continued service (i.e., tenured teachers) and probationary teachers (i.e., non-tenured teachers) be evaluated using a four rating category system ("Excellent", "Proficient", "Needs Improvement", and "Unsatisfactory"); and,
- Anyone undertaking an evaluation after September 1, 2012 must first complete a pre-qualification program provided or approved by the Illinois State Board of Education (ISBE).

PERA established the Performance Evaluation Advisory Council (PEAC) comprised of teachers, principals, superintendents and other interested stakeholders to advise ISBE on the development and implementation of improved performance evaluation systems and supports. The PEAC has been meeting monthly in Bloomington, Illinois since April 2010 and will continue to do so through 2017. The PEAC webpage, which includes a substantial amount of helpful information, can be found at: http://www.isbe.net/peac/. Recently, the PEAC has provided ISBE with recommendations for minimum standards for principal/assistant principal and teacher evaluations as well as "model" principal/assistant principal and teacher evaluations. At its November 19, 2011 meeting, and based on the recommendations of the PEAC, ISBE considered proposed administrative rules and authorized their publication to elicit public comment (the "Proposed PERA Administrative Rules"). An electronic version of the Proposed PERA Administrative Rules can be found at: http://www.isbe.net/rules/proposed/pdfs/50wf.pdf. ISBE expects that the Proposed PERA Administrative Rules will take effect, with any revisions based on public comment, around March or April of 2012.

Meanwhile, from late 2010 through April 2011, education stakeholders negotiated an education reform bill that stemmed in part from PERA. The bill was Senate Bill 7 and was signed into law as Public Act 97-8 by the Governor on June 13, 2011. Senate Bill 7 addresses, among other things:

- A standard upon which the State Superintendent may initiate certificate/license action against an educator for incompetency;
- Requirements for the filling of new and vacant positions;
- Acquisition of tenure;
- Reductions in force/layoffs and recall rights;
- The system for the dismissal of tenured teachers;
- Required school board member training; and,

- Processes related to collective bargaining and the right to strike.

This ISBE Non-Regulatory Guidance document addresses questions that ISBE has received regarding various provisions of PERA and P.A. 97-8 (a trailer bill making limited changes to P.A. 97-8 also was signed on June 13, 2011 and became P.A. 97-7). Throughout this document, P.A. 97-8 and P.A. 97-7 will collectively be referred to as "SB 7".

This document: (a) does not contain all of the information you will need to comply with these laws and any related administrative rules, but is intended to allay confusion and differing interpretations in the field; (b) provides ISBE's interpretation of various statutory provisions and does not impose any requirements beyond those included in any applicable laws and regulations; and (c) does not create or confer any rights for or on any person.

For additional information about PERA or SB 7 or if you are interested in commenting on this document, please e-mail edreform@isbe.net. ISBE will continue to review this document and may publish clarifications or modifications of specific sections when appropriate. This document and any updates will be made available on ISBE's web site at http://www.isbe.net/peac/.

SECTION A. PERFORMANCE EVALUATIONS

IMPLEMENTATION TIMELINE

Section 24A-2.5 of the School Code sets forth the implementation timeline for principal/assistant principal and teacher evaluation plans that are required to incorporate data and indicators of student growth as a significant factor.

Principal/assistant principal evaluations must incorporate data and indicators of student growth as a significant factor in all school districts and for all schools beginning with the 2012-2013 school year.

The implementation schedule for teacher evaluations that must incorporate data and indicators of student growth is more staggered:

- **Beginning September 1, 2012, at least 300 schools in CPS and in the remaining CPS schools by September 1, 2013.**
- **Those schools covered by funding under Section 1003(g) of Title I of the Elementary and Secondary Education Act ("SIG") awarded to their respective school districts, by the implementation date specified in the grant agreement;**
- **Beginning September 1, 2015, those school districts whose student performance ranks in the lowest 20 percent among all school districts of their type (i.e., elementary, high school, unit); and**
- **Beginning September 1, 2016, the remaining school districts in the state.**

The date by which a school district is required to incorporate data and indicators of student growth for teacher evaluations is known as the school district's "PERA Implementation Date."

A-1. How will the State Superintendent determine the school districts with student performance ranking in the lowest 20 percent among all school districts of their type such that those school districts will have a September 1, 2015 PERA Implementation Date for teacher evaluations instead of a September 1, 2016 PERA Implementation Date for teacher evaluations?

The Proposed PERA Administrative Rules state that "student performance" for this purpose shall be determined based upon a school district's overall performance on the spring 2014 administration of the State assessments authorized under Section 2-3.64 of the School Code (i.e., currently the Illinois Standards Achievement Test and the Prairie State Achievement Examination). Thus, those school districts required to implement PERA by September 1, 2015 will be made aware of that a year prior to that implementation date.

A-2. Can a school district accelerate its "PERA Implementation Date"?

Yes. SB 7 added a provision to Section 24A-2.5 of the School Code allowing school districts to implement performance evaluation systems for teachers that incorporate data and indicators of student growth before the deadline established in PERA, provided that a school district and its exclusive bargaining representative (or teachers, if there is no union) jointly agree in writing to an earlier implementation date. The earlier implementation date, which will become that school district's "PERA Implementation Date," cannot be before September 1, 2013.

A-3. Are special education cooperatives subject to PERA? If so, what is the "PERA Implementation Date" for special education cooperatives?

Special education cooperatives are subject to PERA and the "PERA Implementation Date" for special education cooperatives is September 1, 2016.

A-4. Are Regional Offices of Education subject to PERA with respect to the schools that they operate (e.g., Regional Safe Schools)?

No; however, unless precluded by a collective bargaining agreement, Regional Offices of Education have the latitude to incorporate data and indicators of student growth into the evaluation of teachers and administrators, as long as they comply with applicable requirements under the Illinois Educational Labor Relations Act (IELRA).

RATING CATEGORIES

PERA amended the School Code such that by no later than the 2012-2013 school year, school districts must use a four category rating system for both principal/assistant principal and teacher evaluations ("Excellent", "Proficient", "Needs Improvement" and "Unsatisfactory") instead of the three category rating system that had been required ("Excellent", "Satisfactory", "Unsatisfactory").

A-5. Before PERA, school districts were not required to use a specific rating system for non-tenured teachers. Has that changed?

Yes. Beginning September 1, 2012, school districts must use the four category rating system for non-tenured teachers. See Section 24A-5 of the School Code. Moreover, in the 2011-2012 school year, a school district that is subject to the new reductions in force requirements of Senate Bill 7 (see Section E of this Non-Regulatory Guidance (Reductions in Force and Recall)) will need to ensure that summative evaluations of non-tenured teachers align with the three category rating system that can be in effect until September 1, 2012 or the four category rating system.

A-6. Does the assignment of a rating to a non-tenured teacher in any way affect the school district's authority to not renew a teacher's contract at the end of any year during the teacher's probationary period?

No. While school districts will now be required to assign performance ratings to non-tenured teachers, school districts continue to have the discretion to not renew the contract of a probationary teacher at the end of any school year of the probationary teacher's probationary period, provided proper notice is provided to the teacher in accordance with applicable law.

A-7. After September 1, 2012, are school districts still eligible to apply for waivers from the Illinois General Assembly of what will then be the four required rating categories?

Yes. While the School Code does prohibit waivers of the four rating categories by a school district after the PERA Implementation Date for that school district, school districts are still permitted to apply for waivers up until that point in time. That said, in an effort to promote consistency in rating categories across the State, ISBE will be recommending that the Illinois General Assembly deny any waiver requests regarding rating categories subsequent to September 1, 2012. Even if such a waiver was granted by the Illinois General Assembly and in effect after September 1, 2012, the school district would still be required to align teachers' evaluation results to the four rating categories for reductions in force purposes (when the new reductions in force provisions apply to the district) and for all reporting requirements of ISBE.

PRINCIPAL/ASSISTANT PRINCIPAL EVALUATONS

As noted above, by law, principal/assistant principal evaluations beginning with the 2012-2013 school year must incorporate data and indicators of student growth as a "significant factor". (Assistant principals were included as a result of P.A. 97-217, effective July 28, 2011). ISBE's Proposed PERA Administrative Rules, among other things: (a) define "significant factor" at a minimum of 25% in 2012-2013, 25% in 2013-2014 and 30% in 2014-2015 and beyond; (b) set certain general types of assessments that can be used to measure student growth; and (c) require evaluation of principal practice to constitute at least 50% of the overall evaluation.

WHO IS COVERED?

A-8. How is "assistant principal" defined?

Section 50.30 of the Proposed PERA Administrative Rules defines "assistant principal" as "an administrative employee of the school district who is required to hold an administrative certificate issued in accordance with Article 21 of the School Code or a professional educator's license issued in accordance with Article 21B of the School Code endorsed for either general administration or principal, and who is assigned to assist the principal with his or her duties in the overall administration of the school."

A-9. Are administrators other than principals and assistant principals (as defined in the Proposed PERA Administrative Rules) required to be evaluated in accordance with PERA and the Proposed PERA Administrative Rules?

No.

A-10. How do the evaluation requirements for Chicago principals set forth in Section 34-8 of the School Code relate to the authority of Local School Councils to evaluate the performance of those principals (see Section 34-2.3)?

The evaluation of a Chicago Public Schools (CPS) principal by a Local School Council is not covered by PERA. The performance evaluation of the principal conducted by CPS's Chief Executive Officer or his or her designee, though, must be conducted in accordance with Section 34-8 of the School Code and, beginning no later than September 1, 2012, must, among other things, use data and indicators on student growth as a significant factor in rating principal performance.

FREQUENCY

Section 24A-15 of the School Code requires that, as of September 1, 2012, all principals and assistant principals be evaluated at least once every school year, no later than March 1. Section 34-8 of the School Code requires that, as of September 1, 2012, all principals in Chicago be evaluated every school year, no later than July 1.

A-11. Can a school district evaluate principals and assistant principals more frequently than permitted by law?

Yes, a school district may evaluate principals and assistant principals more frequently than the law requires—the law establishes the minimum number of evaluations a principal or assistant principal may receive.

PERA added to Section 24A-5 of the School Code the following statement: "Notwithstanding anything to the contrary in this Section or any other Section of the School Code, a principal shall not be prohibited from evaluating any teachers within a school during his or her first year as principal of such school." Such a principal can use this authority to evaluate a tenured teacher even if that tenured teacher was evaluated the previous year (and is therefore "off-cycle").

A-12. Would an evaluation conducted under this provision of Section 24A-5 count as an evaluation for purposes of, for example, reductions in force and tenured teacher dismissal, or is it purely informational?

An evaluation conducted under this provision of Section 24A-5 can be more than just informational; a rating can be assigned and the evaluation can count for such purposes.

A-13. Can a new principal in a school choose to evaluate just one or a few teachers "off-cycle" or does the principal need to evaluate all or none?

Under this provision of Section 24-5, a new principal can just evaluate one or a few teachers, but the administration needs to be mindful and careful regarding exposure to a discrimination claim.

A-14. Where a principal is in the first year in his or her school, is it only he or she who can evaluate any teachers or can he or she delegate that evaluation authority to another qualified evaluator?

A principal new to his or her school may delegate the authority to evaluate any teacher to any qualified evaluator, unless an applicable collective bargaining agreement restricts the principal's authority to delegate such evaluation authority.

COMPOSITION

A-15. What are the minimum components of the principal/assistant principal evaluation?

PERA and the Proposed PERA Administrative Rules require that the plan consider: (a) the principal's/assistant principal's specific duties, responsibilities, management and competence; (b) the principal's/assistant principal's strengths and weaknesses with supporting reasons; and (c) the performance goals for any principal or assistant principal who has a performance-based contract. See Proposed PERA Administrative Rules, Section 50.300.

Consideration of the professional practice of a principal/assistant principal shall comprise a minimum of 50 percent of the performance evaluation rating, and consideration of data and indicators of student growth shall represent at least 25 percent of the performance evaluation rating in school year 2012-2013, at least 25 percent of the performance evaluation rating in 2013-2014, and at least 30 percent of the performance evaluation rating in 2014-2015 and beyond. See Proposed PERA Administrative Rules, Sections 50.310 and 50.320.

PROFESSIONAL PRACTICE OF PRINCIPALS/ASSISTANT PRINCIPALS

A-16. Is a school district required to use a specific framework or rubric to evaluate the professional practice of its principals/assistant principals?

No; however the school district is required to use instruments and a rubric that align with the Standards for Principal Evaluation that are included at Appendix A of the Proposed PERA Administrative Rules, and the rubric must state the indicators for each standard and provide a clear description of at least four performance levels to be considered for each indicator. See Proposed PERA Administrative Rules, Section 50.320(a).

A-17. How often must a principal and assistant principal be observed?

The Proposed PERA Administrative Rules require a minimum of two formal (i.e., specific period of time that is scheduled) observations at the school in which the principal or assistant principal is employed. Feedback from the formal observations must be provided in writing (electronic or paper) to the principal or assistant principal no later than 10 principal work days after the day on which the observation occurred. See Proposed PERA Administrative Rules, Section 50.320(c).

A-18. Does the principal/assistant principal have any input into the evaluation of his or her professional practice?

Yes, based on the Proposed PERA Administrative Rules, by no later than February 1 of each year, or June 1 of each year for schools located in CPS, each principal/assistant principal is required to complete a self-assessment that is aligned to the rubric to be used to evaluate his or her professional practice. The self-assessment must be used as one input in determining a principal's/assistant principal's professional practice rating. See Proposed PERA Administrative Rules, Section 50.320(b).

STUDENT GROWTH FOR PRINCIPALS/ASSISTANT PRINCIPALS

A-19. Is there a deadline by which the data and indicators of student growth for principals/assistant principals must be established?

Yes, based on the Proposed PERA Administrative Rules, by no later than October 1 of each year, the qualified evaluator must inform the principal/assistant principal of the assessments and, for the assessments identified, the metrics and targets to be used. The qualified evaluator must also specify the weight of each assessment and target to be used. See Proposed PERA Administrative Rules, Section 50.310(b).

A-20. What types of assessments may be used to obtain the data and indicators of student growth for principals/assistant principals?

Per the Proposed PERA Administrative Rules (see Section 50.310(b)):

A school district must identify at least two assessments either from Type I or Type II (for an explanation of the three types of assessments (Type I, Type II and Type III), please visit the PEAC webpage at www.isbe.net/peac/), or review the definition of "Assessment" in Section 50.30 of the Proposed PERA Administrative Rules.

The ISAT and the PSAE (and/or the ACT as part of the PSAE) may be one of assessments to be used (and shall be considered a Type I assessment). By statute, CPS may use the ISAT and the PSAE as its sole measure of student growth.

Type III assessments may be used for schools serving a majority of students who are not given a Type I or Type II assessment. In such situations, the qualified evaluator and principal may identify at least two Type III assessments to be used.

A-21. Are there any limitations as to the students whose results can be included in the measure of student growth for a principal/assistant principal?

Yes, per the Proposed PERA Administrative Rules (see Section 50.310(b)(2)), a student must be enrolled in the school for a period of time sufficient for him or her to have results from at least two points in time on a comparable assessment. For instance, if a qualified evaluator were using an assessment administered three times in one year, and a student was only enrolled in the school

in time to take the third of the three administrations, the student's results could not be used in measuring student growth for the principal/assistant principal.

A-22. Must the student growth component of a principal's/assistant principal's evaluation cover the student growth of all students at the school?

No; however, school districts should strive to incorporate as many grades/students within a school as possible when incorporating data and indicators of student growth into a principal's or assistant principal's evaluation. Because certain assessments are not administered in all grades it is understood that there will be instances when certain grades or students will not be included in the consideration of student growth.

A-23. How can student growth be measured for a principal who is in his or her first year at a school?

Student growth for a principal in his or her first year at a school will need to be measured using assessments that have more than one data point within that school year.

MODEL PRINCIPAL/ASSISTANT PRINCIPAL EVALUATION

A-24. What is the "model" principal/assistant principal evaluation, and what part(s), if any, of this evaluation must a school district use?

PERA required that the PEAC recommend, and ISBE adopt, a "model" principal/assistant principal evaluation. The PEAC has made its recommendation, and ISBE intends to adopt this "model" at its December 2011 meeting. By law, the "model" will have student growth comprising 50% of the overall performance evaluation rating (30% will be academic assessments and 20% will be other objective measures of student growth such as graduation rate, attendance, and dual-credit earning rates). *This "model" evaluation, though, is only guidance and/or a resource for school districts; no school district is required to use any part of the "model" principal/assistant principal evaluation.*

TEACHER EVALUATIONS AND THE PERA JOINT COMMITTEE

Again, the implementation schedule for teacher evaluations that are required to incorporate data and indicators of student growth as a significant factor is staggered. The Proposed PERA Administrative Rules, among other things: (a) define "significant factor" at a minimum of 25% for the first two years of implementation for any school district implementing PERA in 2012-2013 or 2013-2014 (and at a minimum of 30% in all other instances); (b) set certain general types of assessments that can be used to measure student growth; and (c) establish minimum requirements for evaluation of teacher practice, including a minimum number of observations (that include pre-conferences and post-conferences). The requirements in the Proposed PERA Administrative Rules (Section 50.120) around the evaluation of teacher practice would take effect only at the point where a school district implements PERA.

WHO IS COVERED?

A-25. Are school service personnel (i.e., those with a Type 73 certificate) included within PERA's requirement that evaluations need to include student growth as a significant factor? If so, how will student growth be measured for such employees?

While Section 24-4(a) of the School Code defines teacher generally as "any and all school district employees regularly required to be certified under the laws relating to the certification of teachers," the Proposed PERA Administrative Rules exclude school service personnel from the definition of "teacher" such that evaluations of school service personnel (including, without limitation, school counselor, school psychologist, nonteaching school speech and language pathologist, school nurse, and school social worker) would not be required at any time to incorporate student growth as a significant factor. See Proposed PERA Administrative Rules, Section 50.30. Please understand that, as with any other component of the Proposed PERA Administrative Rules, this may change depending on public comment received.

FREQUENCY

Section 24A-5 of the School Code requires that (a) non-tenured teachers be evaluated at least once every school year; and (b) tenured teachers be evaluated at least once in the course of every two school years (except that a tenured teacher whose performance is rated as either "Needs Improvement" or "Unsatisfactory" must be evaluated once in the school year following the receipt of that rating).

A-26. Can a school district evaluate teachers more frequently than permitted by law? If so, how do those more frequent evaluations relate to reductions in force, tenure acquisition and tenured teacher dismissals?

Yes, a school district may evaluate teachers more frequently than the law requires—the law establishes the minimum number of evaluations a teacher may receive; however, it is the last summative evaluation for a school year that shall serve as the evaluation that counts with respect to tenure acquisition and as one of the summative evaluations (assuming more than one exists) for reductions in force (note that, if a tenured teacher is evaluated annually—even if not required by law—the annual evaluation would count for purposes of reductions in force and tenured teacher dismissal purposes). For more information on these issues, see Section D of this Non-Regulatory Guidance (Tenure Acquisition), Section E (Reductions in Force and Recall), and Section F (Tenured Teacher Dismissal).

A-27. As noted earlier, Section 24A-15 of the School Code requires that any evaluation plan for principals/assistant principals must ensure the evaluation takes place no later than March 1 (and by July 1 in Chicago). Is there a comparable deadline for the completion of teacher evaluations?

No, there is not. This is a process issue that is generally addressed in collective bargaining agreements and/or district evaluation plans/policies. However, for teacher evaluations for a school year to be considered for reductions in force in that year, the teacher evaluation generally

must be completed no later than 75 days prior to the end of the school term (though a school district may, with notice to the union (or teachers if there is no union) move teachers from Group 1 into another applicable Group based on an evaluation completed between 75 days and 45 days before the end of the school term). See Section E (Reduction in Force and Recall).

COMPOSITION

A-28. What are the minimum components of a teacher evaluation once a school district is required to implement, or otherwise implements, PERA?

PERA and the Proposed PERA Administrative Rules require that the plan consider the professional practice of the teachers as well as data and indicators of student growth. Per the Proposed PERA Administrative Rules, the consideration of data and indicators of student growth shall represent at least 30 percent of the performance evaluation rating, except that for a school district implementing PERA in school year 2012-2013 or 2013-2014, student growth need only represent at least 25% in the first and second years of implementation (for example, (a) a school district implementing PERA in 2013-2014 must have student growth representing at least 25% of the overall performance rating in 2013-2014 and 2014-2015, and then at least 30% thereafter; and (b) a school district implementing PERA in 2016-2017 must have student growth representing at least 30% of the overall performance rating in 2016-2017 and each year thereafter). See Proposed PERA Administrative Rules, Sections 50.110.

A-29. Once a school district is required to or otherwise implements PERA, does that mean that the school district can no longer use "professional growth plans" for teacher evaluations (where the qualified evaluator and teacher set goals that are not based on students' academic assessments)?

A school district can incorporate a "professional growth plan" into the evaluation plan of its teachers, either as part of the evaluation of teachers' professional practice or as a third component of the overall evaluation (i.e., in addition to the evaluation of professional practice and the consideration of data and indicators of student growth).

PROFESSIONAL PRACTICE FOR TEACHER EVALUATIONS

A-30. Is a school district required to use a specific framework or rubric (e.g., the Charlotte Danielson framework) to evaluate the professional practice of its teachers?

No; however, per the Proposed PERA Administrative Rules, the school district is required to use an instructional framework that is based on research regarding effective instruction, addresses at least planning, instructional delivery, and classroom management, and aligns to the Illinois Professional Teaching Standards. The framework shall align to the roles and responsibilities of each teacher who is being evaluated, and contain a rubric that aligns to the instructional framework being used. See Proposed PERA Administrative Rules, Section 50.120(a). The teacher evaluation plan must, by statute, consider the teacher's attendance and competency in the subject matter taught, as well as specify the teacher's strengths and weaknesses and the reasons for identifying the areas as such.

A-31. How often must a teacher be observed?

The Proposed PERA Administrative Rules (Section 50.120(c)) require that:

(a) a tenured teacher who has received an "Excellent" or "Proficient" (or "Satisfactory" prior to switch to the four rating system) performance evaluation rating in his or her last performance evaluation be observed at least twice during the two-year evaluation cycle, with at least one observation being formal;

(b) a tenured teacher who has received a "Needs Improvement" or "Unsatisfactory" performance evaluation rating in his or her last performance evaluation be observed at least three times during the school year following such evaluation rating, with at least two of the observations being formal; and

(c) a non-tenured teacher be observed at least three times, with at least two of the observations being formal.

A-32. Are there any specific requirements for either formal or informal observations of teachers' professional practice?

Yes, based on the Proposed PERA Administrative Rules, each formal observation must be preceded by a conference between the qualified evaluator and the teacher. In advance of the conference, the teacher must submit a written lesson plan and/or other evidence of planning, and the qualified evaluator and teacher must discuss the lesson plan or instructional planning and any areas on which the qualified evaluator should focus during the observation.

Following either a formal or an informal observation, the qualified evaluator must discuss with the teacher the evidence collected about the teacher's professional practice. If the qualified evaluator determines that the data and evidence collected to date may result in the teacher receiving either a "Needs Improvement" or "Unsatisfactory" summative performance evaluation rating, the qualified evaluator shall notify the teacher of that determination.
See Proposed PERA Administrative Rules, Section 50.120(c).

STUDENT GROWTH FOR TEACHER EVALUATIONS

A-33. What types of assessments may be used to obtain the data and indicators of student growth for teachers?

Per the Proposed PERA Administrative Rules (see Section 50.110), the performance evaluation plan must identify at least two assessments for evaluating each type of teacher. The identification of these assessments is the responsibility of the PERA Joint Committee (see more information on the PERA Joint Committee below).

The PERA Joint Committee is to identify at least one Type I or Type II assessment for each type of teacher with the understanding that the other assessment for the teacher will by a Type III

assessment determined between the teacher and his or her qualified evaluator. If the PERA Joint Committee determines that neither a Type I nor a Type II assessment can be identified for a type or types of teachers, then the PERA Joint Committee can determine that at least two Type III assessments will be used for such teachers. Again, for an explanation of the three types of assessments (Type I, Type II and Type III), please visit the PEAC webpage at www.isbe.net/peac/ or review the definition of "Assessment" in Section 50.30 of the Proposed PERA Administrative Rules.

Per the Proposed PERA Administrative Rules, neither the ISAT nor the PSAE may be used as one of assessments for measuring student growth for teacher evaluations; however, by statute, CPS may use the ISAT and the PSAE as its sole measure of student growth.

A-34. Must the student growth component of a teacher's evaluation cover all students that the teacher instructs during his or her evaluation cycle?

No; however, school districts should strive to incorporate as many students that the teacher instructs as possible when incorporating data and indicators of student growth into a teacher's evaluation. .

A-35. How will special education students, students receiving Title I services, and English language learners be treated for purpose of determining student growth?

The Proposed PERA Administrative Rules do not direct the way in which certain student characteristics should be considered for purpose of using data and indicators of student growth for these populations of students, but will require that the PERA Joint Committee in each district consider such issues during its statutory period for meeting. The PEAC will continue to study these issues, and expects to make additional recommendations to ISBE at some point in 2012. At that time, the PERA Administrative Rules will be amended to incorporate the PEAC recommendations, as appropriate.

MODEL TEACHER EVALUATION PLAN

A-36. What is the "model" teacher evaluation, and what part(s), if any, of this evaluation must a school district use?

PERA requires that the PEAC recommend, and ISBE adopt, a "model" teacher evaluation. By law, the "model" will have student growth comprising 50% of the overall performance evaluation rating. The PEAC is working diligently with national experts in the fields of assessment and teacher evaluations to recommend a "model" that will identify valid and reliable assessments for measuring student growth for teacher evaluations. At the point when the PEAC makes its recommendations, ISBE will initiate the process to incorporate those recommendations into the PERA Administrative Rules. As noted below, the "model" teacher evaluation that will be adopted by ISBE has more import than the "model" principal evaluation because, if the PERA Joint Committee does not reach agreement on any or all aspects of incorporating student growth into teacher evaluations, then the teacher evaluation plan defaults to the "model" for those student growth aspects on which the PERA Joint Committee was unable to agree.

PERA JOINT COMMITTEE

For teacher evaluations, Section 24A-4(b) of the School Code requires that at a point prior to a school district's implementation of PERA, the district must use a Joint Committee "composed of equal representation selected by the district and its teachers, or where applicable, the exclusive bargaining representative of its teachers" and if, "within 180 calendar days of the [Joint Committee's] first meeting, the Joint Committee does not reach agreement on the [evaluation plan], then the district shall implement the model evaluation plan established [by the State Board of Education] with respect to the use of data and indicators on student growth as a significant factor in rating teacher performance."

A- 37. Are school districts and unions required to designate a PERA Joint Committee together and have that PERA Joint Committee meet by December 1, 2011?

No. The PERA Joint Committee is often confused with the joint committee that is required to be established under Senate Bill 7 for the purpose of reductions-in-force (the "RIF Joint Committee") (see Section E of this Non-Regulatory Guidance) (Reductions in Force and Recall). The RIF Joint Committee is required to meet by December 1, 2011. Per the Proposed PERA Administrative Rules, though, the PERA Joint Committee need only meet by November 1 of the school year prior to the district's PERA Implementation Date.

A-38. Can a school district establish a PERA Joint Committee and can that PERA Joint Committee informally meet to generally discuss performance evaluations and student growth without triggering the 180-day clock?

Yes. Each school district and its teachers or the exclusive bargaining representatives of its teachers, if applicable, is encouraged to establish a PERA Joint Committee and have that PERA Joint Committee informally meet even if the school district will not be implementing PERA for a few more years. ISBE will assume that any PERA Joint Committee meetings in a school district before November 1 of the school year prior to a school district's required PERA Implementation Date are informal, unless the PERA Joint Committee members have all agreed in writing to an earlier first meeting date.

A-39. How are the members of both sides of the PERA Joint Committee selected?

The law does not prescribe how a school district, its teachers or its teachers' exclusive bargaining representative select their representatives to the PERA Joint Committee.

A-40. Must the composition of, or decisions made by, the PERA Joint Committee be endorsed by formal action of the school district's Board of Education?

No. Section 24A-4(b) of the School Code does not require the composition of, or decision(s) made by, the PERA Joint Committee to be approved by the school district's Board of Education; however, a school district certainly can have its Board of Education ratify the composition of the PERA Joint Committee and/or adopt the final evaluation plan, and the expectation is that a

school district administration will be keeping the school district's Board of Education appropriately apprised of relevant developments.

A-41. What is the responsibility of the PERA Joint Committee?

The PERA Joint Committee is responsible for developing the structure of a school district's teacher evaluation plan—including without limitation the components of the evaluation plan related to teacher practice as well as the data and indicators of student growth.

A-42. Is the PERA Joint Committee responsible for any aspect of a school district's principal/assistant principal evaluations?

No. The PERA Joint Committee is solely responsible for the development and updating of the school district's teacher evaluation plan.

A-43. What happens if the PERA Joint Committee does not come to agreement on one or more aspects of incorporating data and indicators of student growth into the school district's evaluation plan for teachers?

If the PERA Joint Committee does not, within 180 calendar days of its first official meeting, come to an agreement on one or more aspects of incorporating data and indicators of student growth into the teacher evaluation plan, then the teacher evaluation plan defaults to the "model" teacher evaluation plan for just those aspects of student growth about which there was no agreement. For example, if the PERA Joint Committee could not agree on the percentage that student growth would comprise of the overall teacher evaluation plan, then the teacher evaluation plan would default to the percentage in the "model" (which, by statute, is set at 50%). Similarly, if the PERA Joint Committee could not agree on a Type I or Type II assessment that would be used for 4th grade teachers in the school district, then the teacher evaluation plan would default to the Type I or II assessment that would be set forth in the "model" (which has not yet been determined).

A-44. How would a teacher evaluation plan adopted by a PERA Joint Committee be amended after it is implemented in order to improve the evaluation process or incorporate changes based on experience? Would it need to be presented to the PERA Joint Committee for action?

Article 24A of the School Code does not address subsequent changes to the evaluation plan resulting from the meetings of the PERA Joint Committee. It is assumed that a PERA Joint Committee would include as part of the evaluation plan, a process for the school district and teachers, or exclusive bargaining representative of teachers, as applicable, to amend the evaluation plan.

WHO CAN EVALUATE?

Section 24A-2.5 of the School Code defines an "evaluator" as (a) an administrator who has fulfilled all applicable pre-qualification and retraining requirements, or (b) other individuals who have fulfilled all applicable pre-qualification and retraining requirements,

provided however that if those other individuals are in the bargaining unit of a district's teachers (i.e., "peer evaluators"), the district and the union must agree to those individuals evaluating union members.

A-45. Can a school district use peer evaluators for teacher evaluations in the 2011-2012 school year, even if ISBE has not developed or approved a pre-qualification program (see Pre-Qualification and Retraining below)?

Yes, provided that if the peer evaluators are represented by a union, the district and union have agreed to those peer evaluators evaluating other bargaining unit members. In CPS, department chairs may evaluate teachers in their departments without union agreement, provided that CPS bargains with the union over the impact and effects of department chairs evaluating their department teachers. Note that peer evaluators, like any other evaluators, must be pre-qualified pursuant to Section 24A-3 of the School Code prior to conducting any evaluations in the 2012-2013 school year or beyond.

A-46. Who evaluates a person who serves as both the principal and superintendent?

There are a substantial number of school districts in Illinois where an individual serves as both the district superintendent as well as the principal at a school within the school district. Section 24A-15 of the School Code provides that, in such instances, the local Board of Education appoint an individual to evaluate the individual as a principal (with, for school year 2012-2013 and beyond, data and indicators of student growth being a significant factor in that evaluation). The law requires that any person so appointed must hold a registered Type 75 administrative certificate, and it is assumed that a person holding an administrative certificate endorsed for superintendent would be the most appropriate individual to evaluate a superintendent/principal. Moreover, beginning September 1, 2012, whoever evaluates a person serving as both the principal and superintendent must be appropriately pre-qualified.

PRE-QUALIFICATION AND RE-TRAINING OF EVALUATORS

Section 24A-3 of the School Code requires that "[a]ny evaluator undertaking an evaluation after September 1, 2012 must first successfully complete a pre-qualification program provided or approved by the State Board of Education. The program must involve rigorous training and an independent observer's determination that the evaluator's ratings properly align to the requirements established by the State Board pursuant to this Article." Furthermore, Section 24A-3 states that, once pre-qualified, evaluators must also participate in an in-service training ("retraining") provided or approved by the State Board of Education at least once during each certificate cycle.

A-47. ISBE has not yet developed such a pre-qualification and retraining program so is the September 1, 2012 deadline still in place?

Yes. In early November, based on the recommendation of the PEAC, ISBE issued a Request for Sealed Proposals (i.e., a competitive bidding process) for the development of a pre-qualification and retraining program for teacher and principal evaluations. ISBE is hopeful that, as a result of

this RFSP, a pre-qualification program will be developed by the entity receiving the award such that the pre-qualification program can begin to be administered in the Spring of 2012. If during the Spring of 2012, ISBE and other stakeholders see that there is insufficient time for the pre-qualification of all evaluators in advance of the 2012-2013 school year, ISBE and education stakeholders will work together on a possible legislative solution (which may involve pushing back the pre-qualification requirement one year).

A-48. Will the entity that is awarded the contract under the RFSP be the entity that actually conducts the training of prospective evaluators?

No. The entity that is awarded the contract under the RFSP will be developing modules for teacher evaluations (both a teacher practice and student growth module) and for principal/assistant principal evaluations (both a principal/assistant principal practice and a student growth module) and will be training trainers. The actual trainers will likely be entities familiar to the education field in Illinois, such as the Illinois Association of School Administrators, the Illinois Principals Association, the Illinois Education Association, the Illinois Federation of Teachers and the Regional Offices of Education.

A-49. Who will pay for the development of the prequalification and retraining modules? What about the actual training of the evaluators since the assumption is that the trainers will be assessing a charge for this work?

ISBE will be entering into a contract with an entity to develop the pre-qualification and retraining modules. ISBE expects that funds from the third phase of the Federal Race to the Top program (for which Illinois is guaranteed funding by the end of the 2011 calendar year) will fully cover the development of these modules and the cost of the entity training the trainers. It will then be up to the entities/individuals trained as trainers to determine whether they will charge superintendents, principals and others to take the prequalification and retraining courses. ISBE is exploring Federal, State and private funding sources to possibly cover some or all of the pre-qualification costs that could be incurred by school districts.

A-50. Is an evaluator for purposes of pre-qualification and retraining only the individual who assigns the final evaluation rating or does it also apply to anyone who conducts all or part of an observation that contributes to the evaluation?

Any individual who participates in an observation of a teacher's, principal's or assistant principal's practice must be pre-qualified and trained in accordance with the pre-qualification and retraining provisions of PERA and the Proposed PERA Administrative Rules.

A-51. Does the pre-qualification requirement apply to a principal who is in his or her first year in a school on or after September 1, 2012 and, on that basis, is evaluating tenured teachers "off-cycle"?

Yes, the pre-qualification requirement would apply to the principal with respect to any evaluations he or she conducts. Section 24A-5 of the School Code states that "[n]otwithstanding anything to the contrary in this Section or any other Section of the School Code, a principal shall

not be prohibited from evaluating any teachers within a school during his or her first year as principal of such school." The "notwithstanding anything to the contrary" clause was not intended to, and does not, exempt such a principal from the pre-qualification and re-training requirements of Section 24A-3.

A-52. Will the Illinois Administrator Academy that has been in place regarding evaluation ("IAA 1000: Introduction to the Evaluation of Certified Staff") continue to be offered and can it be used as a substitute for the State-developed pre-qualification and/or retraining program?

No. IAA 1000 will not be offered after June 30, 2012 and even if taken before that time cannot be used as a substitute for State-developed pre-qualification and retraining programs.

PROFESSIONAL DEVELOPMENT PLANS AND REMEDIATION PLANS

Section 24A-5(h) of the School Code states that, within 30 school days after assigning a tenured teacher a "Needs Improvement" rating, a school district, in consultation with the teacher and taking into account the teacher's on-going professional responsibilities (including his or her regular teacher assignments) must develop for that teacher a "professional development plan" directed to the areas that need improvement and that includes any supports the district will provide to address the areas that need improvement.

Section 24A-5(i) of the School Code states that, within 30 school days after assigning a tenured teacher an "Unsatisfactory" rating, a school district is required to develop and commence a 90 school day remediation plan (unless a shorter remediation period is provided for in a collective bargaining agreement) designed to correct cited deficiencies.

A-53. What must a professional development plan contain?

The law requires that the plan for a tenured teacher who receives a "Needs Improvement" rating be developed in consultation with the teacher and be targeted to the areas that have been identified as needing improvement. Furthermore, it must take into account the teacher's on-going professional responsibilities, including his/her regular teacher assignments, and set forth any support that the district will provide to address the areas identified as needing improvement.

A-54. Is there any required duration for a professional development plan?

No.

A-55. Can a remediation plan or professional development plan cross school years?

Yes. With respect to the Section 24A-5(i) remediation plan, there is a statutory 90 school day duration (unless a shorter duration is provided for in a collective bargaining agreement) but the remediation plan can span two school years. Thus, there is not an implicit deadline within the school year for completion of a teacher remediation plan. As for the Section 24A-5(h)

professional development plan, there is no 90-day timeline and that plan too can cross school years.

REPORTING BY SCHOOL DISTRICT OF EVALUATION RESULTS

Section 24A-20(c) of the School Code requires that "districts . . . submit data and information to the State Board on teacher and principal performance evaluations and evaluation plans in accordance with procedures and requirements for submissions established by the State Board. Such data shall include, without limitation, (i) data on the performance rating given to all teachers in contractual continued service, (ii) data on district recommendations to renew or not renew teachers not in contractual continued service, and (iii) data on the performance rating given to all principals.

A-56. What information regarding performance evaluation results are school districts required to report to ISBE and in what format?

The data reporting language from PERA is set forth above. Since SB 7 required all teachers, including non-tenured teachers, to be rated in accordance with the four rating categories, ISBE will collect data on performance rating for all teachers. In the State's application for State Fiscal Stabilization Funds (as part of the American Recovery and Reinvestment Act), the State had to commit to collecting data on the performance component, the student growth component, and the final summative performance evaluation rating.

It is nevertheless important to note that, pursuant to Section 24A-20(a)(1) of the School Code, the data collected may only be publicly reported in a manner whereby no teacher or administrator can be personally identified.

A-57. Will the State be reporting or otherwise publishing any of this performance evaluation data?

In November of 2011, the General Assembly passed a bill that will require modifications by ISBE to the school district and school report card. One data point that will be required to be included on that report card is the percentage of teachers in a school having received, cumulatively, one of the top two performance evaluation ratings (e.g., a school will be shown to have 70% of teachers having received "Excellent"/ "Proficient" if 20% of the teachers' most recent evaluation rating was "Excellent" and 50% of the teachers' most recent evaluation rating was "Proficient"). The Governor has not yet signed this legislation, but is expected to do so.

SECTION B. CERTIFICATION ACTION BY THE STATE

The School Code has long authorized the State Superintendent of Education to initiate action against the certificate of an educator for a number of bases identified in statute (such as "immorality", "unprofessional conduct" or "incompetency"). Unless the educator is convicted of a type of crime enumerated in statute, in which case revocation of the certificate(s) is automatic, the educator has a right to a due process hearing before the State Educator Preparation and Licensure Board (formerly the State Teacher Certification Board). Until Senate Bill 7, "incompetency" had never been defined. Now, "incompetency" is defined as two "Unsatisfactory" evaluations within a seven year period.

B-1. The modifications in Senate Bill 7 to Section 21-23 of the School Code currently do not appear on the ilga.gov website of the compiled statutes. Why?

Shortly after the enactment of SB 7, another bill was enacted that made modifications to Article 21 of the School Code. See Public Act 97-0607. Public Act 97-0607 repealed Section 21-23 of the School Code and essentially moved it to a new section, Section 21B-75 (Suspension or revocation of license). The SB 7 changes to Section 21-23 did not get transferred to Section 21B-75 in the version on the ilga.gov website. ISBE nevertheless interprets Section 21B-75 to include those changes made to Section 21-23 by SB 7.

B-2. Can an "Unsatisfactory" evaluation given prior to the effective date of SB 7 (June 13, 2011) count towards the two "Unsatisfactory" evaluations that may trigger certificate action?

Yes, though whether one or more of the "Unsatisfactory" evaluation ratings that trigger certificate action occurred prior to the effective date of SB 7 is one of the points that the State Superintendent must consider when deciding whether to pursue certificate action.

SECTION C. NEW AND VACANT POSITIONS

Before the enactment of SB 7, the School Code did not address the process by which school districts filled new and vacant positions. SB 7 added Section 24-1.5 to the School Code. Section 24-1.5 requires that a school district's selection of a candidate for a new or vacant position must be based upon the consideration of factors that "include without limitation certifications, qualifications, merit and ability (including performance evaluations if available) and relevant experience, provided that the length of continuing service with the school district [i.e., seniority with the school district] must not be considered as a factor, unless all other factors are determined by the school district to be equal."

C-1. When does Section 24-1.5 take effect?

Section 24-1.5 took effect on the effective date of SB 7 (June 13, 2011); however, if a collective bargaining agreement was in place at that time that conflicts with Section 24-1.5, that collective bargaining agreement governs (i.e., it is "grandfathered") until its expiration date.

C-2. Does Section 24-1.5 apply to all school districts in Illinois?

Section 24-1.5 applies to all school districts in Illinois except for Chicago.

C-3. Is a school district restricted to the factors specifically mentioned in Section 24-1.5 when filling a new or vacant position?

No, Section 24-1.5 states that a school district must consider those factors; however, the school district is not limited to considering only those factors. For example, a school district could consider performance in an interview as a factor. A school district is prohibited from considering "length of continuing service with the school district" unless all other factors considered are determined by the school district to be equal.

C-4. Does Section 24-1.5 apply to teaching positions required to be filled by recall?

No. Section 24-1.5 states that it does not apply to teaching positions required to be filled pursuant to Section 24-12 (Reduction in Force/Recall).

C-5. Does Section 24-1.5 apply to academic summer school positions?

Yes, these are teaching positions to which Section 24-1.5 would apply.

C-6. Does Section 24-1.5 apply to extracurricular assignments?

No, as these are not "teaching positions".

C-7. Does Section 24-1.5 apply when a school district is temporarily filling a position due to a teacher taking an approved leave of absence?

No. Section 24-1.5 is limited to the filling of new and vacant positions. A position that is temporarily available because of a teacher being on an approved leave is neither "new" nor "vacant" because the expectation is that the teacher on leave will be returning to that same position.

C-8. Does Section 24-1.5 pertain to those who may be applying for a new or vacant position from outside the district? If so, how does the school district with the new or vacant position ensure accurate performance evaluation information?

Yes, while the selection of new employees by a school district is still a "management right" pursuant to the Illinois Educational Labor Relations Act (115 ILCS 5/4), Section 24-1.5 does require that a school district consider all of the statutory factors for all candidates for the new or vacant position, even if some or all of the candidates are from outside of the school district. A school district is only required to consider performance evaluations if such evaluations are available and, even then, has discretion with respect to how much weight, if any, to assign those performance evaluations.

C-9. Can an employee or union grieve the school district's decision to select a particular candidate to fill a new or vacant position?

No, provided that the district adheres to any applicable collective bargaining agreement procedures. Section 24-1.5 clearly states that "a school district's decision to select a particular candidate to fill a new or vacant position is not subject to review under grievance resolution procedures . . . provided that, in making such a decision, a district does not fail to adhere to procedural requirements in a collective bargaining agreement relating to the filling of new or vacant positions."

C-10. Does Section 24-1.5 create a statutory cause of action for a candidate or a candidate's representative to challenge a school district's selection decision based on the school district's failure to adhere to the requirements of Section 24-1.5?

No.

SECTION D. TENURE ACQUISITION

Prior to SB 7, an employee's probationary period was four years. (See Section 24-11 of the School Code; and Section 34-84 of the School Code for Chicago). School districts had the authority to not renew a contract of a probationary teacher at the end of each of the four probationary years with 45 days written notice, and had to provide a specific, written reason for the not renewing the contract only to those whose contracts were not renewed after the fourth probationary year. A school district was not required to take performance evaluations into account when making decisions to renew or not renew contracts of probationary teachers or to ultimately grant tenure to teachers.

SB 7 now requires that, *beginning with a school district's "PERA Implementation Date,"* the acquisition of tenure will be based on performance evaluations. (See Section 24-11 of the School Code, and Section 34-84 of the School Code for Chicago).

D-1. What are the ways in which a teacher can acquire tenure in a school district after the PERA Implementation Date of that school district?

A teacher will be able to acquire tenure in one of three ways:

1) Standard Tenure Acquisition: Four consecutive school terms of service in which the teacher receives overall annual evaluation ratings of at least "Proficient" in the last school term and at least "Proficient" in either the second or third school term. For example, a teacher would be eligible for tenure with the following ratings: "Needs Improvement", "Needs Improvement", "Proficient", and "Proficient"; however a teacher would not be eligible for tenure with the following ratings: "Needs Improvement", "Proficient", "Proficient", and "Needs Improvement".
2) Accelerated Tenure: Three consecutive school terms of service in which the teacher receives three overall annual evaluations of "Excellent".
3) Tenure Portability: Two consecutive school terms of service in which the teacher receives two overall annual evaluations of "Excellent", but only if the teacher (a) previously obtained tenure in a different school district in Illinois; (b) voluntarily departed or was honorably dismissed from that school district immediately before teaching in the current school district; and (c) received, in his or her two most recent evaluations in the prior school district at least a "Proficient" rating (and both evaluations must have occurred after the prior district's PERA Implementation Date).

D-2. Since Chicago is required to implement PERA in at least 300 of its schools in 2012-2013 and in the rest of its schools in 2013-2014, what is Chicago's PERA Implementation Date for tenure acquisition purpose?

The tenure acquisition provisions in Section 34-84 of the School Code take effect for those teachers beginning in full-time service on or after July 1, 2013.

D-3. What type of notice must a school district provide a teacher if it is not renewing the contract of that teacher?

Whether before or after a school district's PERA Implementation Date, a full-time teacher who does not receive written notice from the school board at least 45 calendar days prior to the end of the school term shall be re-employed for the following school term (unless, after the school district's PERA Implementation Date, the teacher is not eligible for re-employment—see D-4 below).

The written notice must, in the following scenarios, contain specific reasons for dismissal: (a) before or after the school district's PERA Implementation Date, in the fourth (i.e., last) year of the teacher's probationary period (unless the teacher is not eligible for re-employment—see Question D-4 below); and (b) after the school district's PERA Implementation Date, in the third year of the teacher's probationary period if the teacher has received an "Excellent" rating in each of his or her first three years of his or her probationary period.

D-4. After a school district's PERA Implementation Date, if a teacher is not eligible for tenure at the end of his or her four year probationary period, can the school district still renew the teacher for a fifth or subsequent year?

No. In such a circumstance, the teacher must be dismissed.

D-5. Since a school district is required to evaluate non-tenured teachers annually, what happens for tenure acquisition purposes if a school district, after its PERA Implementation Date, does not evaluate a non-tenured teacher?

In such an instance, the teacher's performance evaluation rating for the school term for the purposes of tenure acquisition shall be "Proficient".

D-6. Since the new "tenure acquisition" provisions in Section 24-11 of the School Code take effect once a school district implements PERA, what is the implementation date for tenure acquisition purposes for school districts that have one or more schools with School Improvement Grants (SIG) and therefore had those schools implement PERA before the rest of the schools in the district?

The PERA Implementation Date for tenure acquisition for a school district is the date when PERA is required to be implemented in all schools within the school district. See Section 24-11(a). Thus, for school districts where one or more schools received a SIG, but others are not required to implement PERA until, for example, school year 2016-2017, the PERA Implementation Date for tenure acquisition purposes for all teachers within the school district would be 2016-2017.

D-7. In trying to determine whether an individual is eligible for tenure portability, how does a school district ensure the validity of the performance evaluations from the prior district?

A teacher only becomes eligible for tenure portability if he or she is moving from a school district that has implemented PERA and to a school district that has implemented PERA, and satisfies all other requirements set forth in Section 24-11(d)(3). One of those requirements is that the teacher's two most recent evaluation ratings in the first district were at least "Proficient". A school district can take reasonable steps to ensure whether a teacher has received such ratings and is therefore eligible for tenure portability. For example, a school district may require in an employment application that the teacher include proof of such performance evaluation ratings from the first district.

D-8. Can a teacher who achieved tenure in a school district in a state other than Illinois, and is now leaving the school district in that state to obtain a teacher position in Illinois, be eligible for tenure portability in the Illinois district?

No.

In addition to changing the way in which tenure may be acquired after a school district's PERA Implementation Date, Senate Bill 7 modified Section 24-11 and Section 34-84 (Chicago) of the School Code to clarify the number of days a teacher needs to be present and participating in the district's educational program in order for the school term to count towards the teacher's acquisition of tenure. In all school districts other than Chicago, this is now 120 days. See Section 24-11. In Chicago, it is 150 days. See Section 34-84. *Notably, these changes took effect upon the effective date of Senate Bill 7 and therefore are now in effect.*

D-9. Do days where one is on an approved Family and Medical Leave Act (FMLA) leave or military leave count towards the 120 days?

No, though a school district must, with respect to such leave, follow all applicable laws, including without limitation, the FMLA and Uniformed Service Employment and Reemployment Rights Act (USERRA); however, please note the FMLA exception discussed in Question D-12 below. For more information on FMLA and USERRA, please see the website of the United States Department of Labor: http://www.dol.gov/dol/topic/benefits-leave/fmla.htm; http://www.dol.gov/vets/programs/userra/.

D-10. If one is serving as a permanent substitute teacher for 120 days, does that year count as a year towards tenure?

Yes, it does.

D-11. Do days working "part-time" count towards the 120 days?

No, part-time days do not count toward the 120 days.

D-12. If a school district, as permitted under FMLA regulations, requires a teacher to take days of leave at the end of a school term (i.e., semester), do those days count towards the 120 days?

Yes. See 29 C.F.R. 825.602.

D-13. If a teacher does not meet the 120 day requirement for a school year, does that constitute a "break in service" such that the teacher must restart the entire probationary period?

No, as long as the teacher actually teaches or is otherwise present and participating in the district's educational program in the following school year.

SECTION E. REDUCTIONS IN FORCE AND RECALL

Prior to SB 7, reductions in force (RIF) in all school districts and joint agreements (e.g., special education cooperatives) subject to Section 24-12 of the School Code (all school districts other than Chicago) occurred strictly based on seniority. Non-tenured teachers were required to be reduced prior to tenured teachers. Then, if necessary, tenured teachers were reduced by seniority.

SB 7 amended Section 24-12 so that performance, based on performance evaluation ratings, now takes precedence over seniority in the context of a RIF. As described further below, the process for determining the order of dismissal will—among other things--involve: (a) categorizing employees in one or more position lists by certification and qualifications; and (b) placing employees on each position list in one of four "Groups" based on performance evaluations, if any.

In this Section E, the term "school districts" includes without limitation joint agreements such as special education cooperatives.

APPLICABILITY

E-1. Are all school districts covered by these RIF provisions?

No. Section 24-12(b) and (c) cover all school districts except the Chicago Public Schools, so the Chicago Public Schools are not affected by the changes made in SB 7 regarding reductions in force.

E-2. Do the provisions of Sections 24-12(b) and (c) apply to a school district if the school district and its union have a collective bargaining agreement that conflicts with these Sections provisions on reduction in force and recall?

Certain provisions of new Sections 24-12(b) and (c) regarding RIF and recall rights may not apply to a school district until a later point in time because "any provisions regarding the sequence of honorable dismissals and recall of honorably dismissed teachers in a collective bargaining agreement entered into on or before January 1, 2011 and in effect on June 13, 2011 that conflict with Sections 24-12(b) and (c) remain in effect through the expiration of such agreement or June 30, 2013, whichever is earlier." This is commonly referred to as having a "grandfathered" collective bargaining agreement with respect to RIF and recall rights.

E-3. So, then, if a district has a collective bargaining agreement entered into on September 1, 2010 and that expires on June 30, 2012 and that includes a provision that RIF and recall will be based on seniority, what happens?

In such a case, a RIF for which notice is provided in the 2011-2012 school year will continue to be based solely on seniority. Moreover, if the collective bargaining agreement also had

addressed recall rights, then the language around recall rights would also be applicable to the RIF for which notice is provided in the 2011-2012 school year.

E-4. What happens if a collective bargaining agreement entered into prior to January 1, 2011 with a term through June 30, 2013 and that includes a provision that RIF and recall are based on seniority is "opened" pursuant to the CBA solely for the purpose of salary/benefit negotiations or extension of the CBA term—does the CBA lose its grandfathered status?

No. Most "reopener" provisions in a CBA reopen a provision after a number of years but short of the specified termination date of the CBA. The reopening of the CBA for the limited purpose does not destroy the grandfather. If, however, the CBA was reopened after January 1, 2011 for purposes of extending the term of the CBA, the extension of the term of the CBA would not extend the grandfather beyond the original end date of the CBA term.

CREATION OF LISTS BY POSITIONS

E-5. Is the school district responsible for categorizing the teachers by position(s)? Does the RIF Joint Committee (further discussed below) have any authority in this regard?

Yes, the school district is responsible for categorizing teachers by position(s). The RIF Joint Committee does not have statutory authority to participate in this categorization process.

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E-6. Because each teacher "must be categorized into one or more positions for which the teacher is qualified to hold, based upon legal qualifications and any other qualifications established in a district or joint agreement job description," are school districts now required to have job descriptions for all teachers?

No. If a school district does not have job descriptions for one or more positions, then certification and legal qualifications will be the only basis for including or excluding a teacher from the relevant position list.

E-7. How does the May 10 date in Section 24-12 affect the inclusion or exclusion of a teacher from a position list?

Section 24-12 requires that a qualification established by a school district in a job description can only be used to place or not place a teacher in a job category if the qualification was included in the job description by the May 10 prior to the year in which the sequence of dismissal is determined. For example, if a job qualification was added by a school district to a job description on April 1, 2012, it can be used in the creation of position lists relevant to a reduction in force taking place in the 2012-2013 school year (but it could not be used for a reduction in force taking place in the 2011-2012 school year).

E-8. What is an example of "other qualifications" beyond legal qualifications?

A school district may decide that content teachers (e.g., science, math, social studies) may need to be CRISS-trained. CRISS is a set of strategies to teach reading and literacy skills through the curriculum. A school district may also decide that a middle school math endorsement would be required for anyone teaching math to students in particular grades.

E-9. Can years of experience or years of relevant experience be used as a job qualification if included in a job description before May 10 of the year preceding the reduction in force?

Yes, but only if such a job qualification applies to all teachers in that position.

E-10. Is a teacher who is legally and otherwise qualified for a position to be included on a position list even if he or she did not teach in that position during the year in question?

Yes. A teacher shall be included on all position lists for which he or she meets the legal qualifications and, where applicable, any other requirements timely established by the school district.

"GROUPING" OF EMPLOYEES WITHIN POSITION LISTS

Section 24-12 requires that, within each position, the school district must establish four groupings of teachers qualified to hold the position as follows:

(1) Group 1 shall consist of each non-tenured who has not received a performance evaluation rating;
(2) Group 2 shall consist of each teacher with a "Needs Improvement" or "Unsatisfactory" performance evaluation rating on either of the teacher's last two performance evaluation ratings;
(3) Group 3 shall consist of each teacher with a performance evaluation rating of at least "Satisfactory" or "Proficient" on both of the teacher's last two performance evaluation ratings, if two ratings are available, or on the teacher's last performance evaluation rating, if only one rating is available; and
(4) Group 4 shall consist of each teacher whose last two performance evaluation ratings are "Excellent" as well as each teacher with two "Excellent" performance evaluation ratings out of the teachers' last three performance evaluation ratings with a third rating of "Satisfactory" or "Proficient".

Among teachers qualified to hold a position, teachers must be dismissed in the order of their Groups, with teachers in Group 1 dismissed first and teachers in Group 4 dismissed last.

E-11. How is the sequence of dismissal decided within each of the 4 Groups?

Within Group 1, the sequence is at the discretion of the school district.

Within Group 2, the sequence is based on the average of the performance evaluation ratings received, with the teachers with the lowest average performance evaluation rating dismissed first.

A teacher's average performance evaluation rating must be calculated using the average of the teacher's last two performance evaluation ratings, if two ratings are available, or the teacher's last performance evaluation rating, if only one rating is available. The average is calculated using the following numeric values: 4 for "Excellent"; 3 for "Proficient" or "Satisfactory" (since "Satisfactory" can be used through the 2011-2012 school year); 2 for "Needs Improvement"; and 1 for "Unsatisfactory". Teachers with the same average performance evaluation rating will be dismissed based on seniority unless a different method for determining the sequence of dismissal has been agreed to in a collective bargaining agreement.

Within Groups 3 and 4, the sequence is based on seniority, unless a different method for determining the sequence of dismissal has been agreed to in a collective bargaining agreement.

E-12. So, how can a school district implement RIF provisions in 2011-2012 if it still has a three rating category system ("Excellent"; "Satisfactory"; "Unsatisfactory") for teacher evaluations?

A three rating category system is not a barrier to implement the RIF provisions in 2011-2012. Having such a three rating category system just means that a school district will not have any teachers with "Needs Improvement" ratings and thus the only teachers who would be in Group 2 in any position list would be those who may have received an "Unsatisfactory" on either of the teacher's last two performance evaluation ratings.

E-13. What if there is a tie in seniority in Groups 3 and 4 (or if employees in Group 2 have the same average evaluation score and have the same seniority date)? For example, two or more employees had the same exact hire date.

If there is such a tie in seniority in any of Groups 2, 3 or 4, then the school district would have the discretion to determine the sequence of dismissal between or among the teachers who are tied, unless the applicable collective bargaining agreement or school board policy provides how such ties are broken.

E-14. If a school district has had a waiver from the required performance evaluation rating categories for tenured teachers, how does that district address the RIF grouping process?

Assuming that the new RIF grouping process applies to the school district (i.e., the school district is not covered by a grandfathered collective bargaining agreement which provides a method for determining RIFs which is different from the new RIF grouping process), the district must establish a basis for converting the ratings which teachers (both tenured and non-tenured) have received under the evaluation system it developed pursuant to the waiver into the three or four statutory rating categories. In doing this, the law requires the district consult with the RIF Joint Committee (discussed further below). The RIF Joint Committee must work towards a recommendation to the school district on how the ratings will be converted. (A district cannot decide not to forego using prior evaluations because they were provided under a system developed pursuant to a waiver.)

If the RIF Joint Committee cannot come up with an agreed approach to evaluations developed pursuant to a waiver, or the district disagrees with the recommendation of the RIF Joint Committee, then the school district would need to make the decision as to how to convert the ratings, doing so in good faith cooperation with their union representative, and meet all other applicable requirements under the IELRA.

E-15. Is the RIF Joint Committee also responsible for assigning a rating category to prior evaluations of non-tenured teachers if no summative ratings had been previously assigned to those teachers? Or, are those non-tenured teachers placed in Group 1 unless or until they receive an evaluation rating for the school year in which the RIF is occurring?

Yes. Section 24-12(b) states that "[f]or performance evaluation ratings determined prior to September 1, 2012, any school district or joint agreement with a performance evaluation rating system that does not use either [the three- or four-category rating system set forth in statute] for all teachers must establish a basis for assigning each teacher a rating that complies with [the three- or four-category rating system set forth in statute] for all of the performance evaluation ratings that are to be used to determine the sequence of dismissal." Thus, if a school district has evaluated its non-tenured teachers but not previously assigned evaluation ratings to them, the RIF Joint Committee and the school district must follow the same process identified in Question E-14 above to assign/convert the ratings.

These non-tenured teachers should not be included in Group 1. The intent of the education stakeholders was that Group 1 was to include those teachers for whom a school district had only one opportunity to evaluate and did not (i.e., a first year non-tenured teacher).

E-16. What about teachers who just obtained tenure but, as a probationary teacher, he or she never received a performance evaluation rating?

Again, in light of Section 24-12(b), the school district and RIF Joint Committee would be required to follow the same process identified in Question E-14 to assign/convert the ratings.

E-17. To how many evaluations must a RIF Joint Committee/school district retroactively assign ratings?

RIF Joint Committees are encouraged to work towards retroactively converting/assigning ratings with respect to teachers' previous three evaluations since a teacher's previous three evaluations may be relevant in placing him or her in Group 4 (there is no situation where the fourth oldest evaluation would be relevant to placing a teacher in a Group).

E-18. If a school district conducts summative evaluations of its non-tenured teachers more than once during a school year, do all of these evaluations count when placing the teacher in a Group?

As noted earlier, a school district may evaluate employees more frequently than the law requires. The law establishes the minimum number of evaluations an employee may receive; however, for the purposes of RIF, it is the last summative evaluation for a school year that shall serve as one of the summative evaluations (assuming more than one exists) that counts with respect to evaluations relevant to grouping in a RIF.

E-19. If a school district permissibly conducts summative evaluations of its tenured teachers annually, do each of those annual summative evaluations count when placing the teacher in a Group?

Yes.

E-20. May a performance evaluation rating be used to place a teacher into a Group if the rating is the subject of a grievance resolution or arbitration procedure?

Yes; however, if the performance evaluation is nullified as the result of an arbitration determination, the performance evaluation may not be used in placing the teacher in a Group.

E-21. What happens as it relates to placement of a teacher in a Group if a school district has not conducted a required performance evaluation in any given school year?

In such a case, and as long as that teacher has received at least one performance evaluation rating conducted by the school district and already being used to determine the sequence of dismissal, the teacher's performance evaluation rating for that school year is considered to be "Proficient" and that rating too is to be counted in determining the Group in which to place the teacher. See Section 24-12(b).

E-22. Does the performance evaluation rating at the end of a remediation plan (for a teacher who had received an "Unsatisfactory" rating) count for purposes of placement of the teacher in a Group?

No. See Section 24-12(b).

E-23. How is performance calculated for an individual who was reassigned from an administrator position to a teaching position?

The school district is to use the most recent evaluation ratings, whether those ratings were for time serving as an administrator or teacher.

SEQUENCE OF HONORABLE DISMISSAL LIST

Section 24-12 states that each school district must, in consultation with its union, establish a Sequence of Honorable Dismissal List categorized by positions and Groups. Copies of this list must be distributed to the union at least 75 calendar days prior to the end of the school term. A teacher must receive written notice of being the subject of a reduction in force at least 45 calendar days before the end of the school year.

E-24. Is a school district with a CBA that is "grandfathered" required to prepare a Sequence of Honorable Dismissal List that groups employees based on performance?

No. For any school year in which a school district has a CBA that is "grandfathered," the school district only would be required to prepare a seniority list in the same fashion it was required to compile such a list before the passage of SB 7.

E-25. Once the new RIF provisions are triggered for a school district, does the school district still need to post a "seniority list"?

No, at that time, a separate seniority list will not need to be posted. A school district will nevertheless need a seniority list as seniority will still be relevant in terms of the sequence of dismissal (unless an alternative method for determining the sequence of dismissal has been agreed to in a CBA) and may be relevant to other provisions in a CBA.

E-26. What if a school district completes a summative evaluation of a teacher between 75 days and 45 days before the end of the school term—can that affect the Group in which one is placed within a position list?

The only way a summative evaluation completed between 75 days and 45 days from the end of the school term can affect a teacher's Group placement is if the teacher was in Group 1. In such an instance, the school district may, with notice to the union, move the teacher to another applicable Group.

E-27. To whom does the school district provide the Sequence of Honorable Dismissal List if the school district does not have a union?

In such an instance, the school district should consult with its teachers to determine the most efficient way to provide the teachers with information regarding the list without compromising the privacy of teachers (given that the list may, directly or indirectly, contain information regarding performance).

E-28. What can be done to prevent a district or a union from disseminating the Sequence of Honorable Dismissal List?

PERA prohibits the disclosure of a teacher's evaluation. SB 7 specifically provides that a teacher's grouping and ranking in the Sequence of Honorable Dismissal List shall be deemed a part of the teacher's performance evaluation, and that information may be disclosed to the union,

notwithstanding any laws prohibiting disclosure of such information. So as to best ensure that inadvertent disclosure of the Sequence of Honorable Dismissal List does not expose an individual's performance ratings, school districts should consider including on the list randomly generated employee numbers and developing a key to those numbers. Similarly, school districts should not include seniority dates on the list of honorable dismissal, as the seniority date could identify individuals if the list were to be inadvertently disclosed.

RIF JOINT COMMITTEE

Section 24-12(c) requires that each school district and special education joint agreement use a joint committee composed of equal representation selected by the school board and its teachers (or if applicable the exclusive bargaining representative of its teachers) to address certain matters related to reductions in force.

E-29. By when must the RIF Joint Committee meet?

The RIF Joint Committee must be established and the first meeting of the committee must occur on or before December 1, 2011.

E-30. Can a district and its union (or teachers, if there is no union) agree to postpone the statutory deadline for the RIF Joint Committee first meeting?

No.

E-31. Must a district establish a RIF Joint Committee in a school year for which the CBA is "grandfathered" (and therefore reductions in force will occur for that school year based solely on seniority)?

Yes, the RIF Joint Committee must still be established and meet. While the RIF Joint Committee will not have the time pressure of trying to reach agreement on some issues by February 1, 2012, it never hurts to begin discussions early.

E-32. Who decides how many individuals will serve on the RIF Joint Committee?

The number of individuals on the RIF Joint Committee is to be determined by the school board and union, if one exists) or teachers, provided that there must be an equal number selected by each party.

E-33. How are the members of both sides of the RIF Joint Committee selected?

As noted immediately above, the members are selected by the school board and the union, if one exists, or teachers if there is no union.

E-34. What matters must the RIF Joint Committee consider?

The RIF Joint Committee must consider:

(1) Whether to establish criteria for excluding from Group 2 and placing into Group 3 a teacher whose last two performance evaluations include a "Needs Improvement" and either a "Proficient" or "Excellent".

(2) Whether to establish an alternative definition for Group 4, which must take into account prior performance evaluation ratings and may take into account other factors that relate to the school district's or program's educational objectives. An alternative definition for Group 4 may not permit the inclusion of a teacher in the grouping with a "Needs Improvement" or "Unsatisfactory" performance evaluation rating on either of the teacher's last two performance evaluation ratings.

(3) Whether to include within the definition of a performance evaluation rating a performance evaluation rating administered by a school district or joint agreement other than the school district or joint agreement determining the sequence of dismissal.

(4) For each school district or joint agreement that administers performance evaluation ratings that are inconsistent with the three or four rating category system, the school district or joint agreement must consult with the joint committee on the basis for assigning a rating that complies with subsection (d) of Section 24A-5 of the School Code to each performance evaluation rating that will be used in a sequence of dismissal.

E-35. Does the RIF Joint Committee have statutory authority to identify the position categories and/or to compile the Sequence of Honorable Dismissal List?

No.

E-36. Should the RIF Joint Committee focus on individual teachers when considering whether to move teachers from Group 2 to 3 or to move teachers into Group 4?

No. When considering these issues, a RIF Joint Committee is not to focus on moving individual teachers within and among Groups. Instead, the RIF Joint Committee is to make general determinations that, for example, it would be in the best interests of the school district, that any and all teachers who have their most recent 2 evaluation ratings as Needs Improvement and then Excellent should be in Group 3 and not Group 2.

E-37. By when does the RIF Joint Committee have to reach (or not reach) agreement on the issues within its authority?

Agreement by the RIF Joint Committee as to a matter requires a majority vote of all RIF Joint Committee members. If no agreement is reached on a matter, the statutory requirements apply. The RIF Joint Committee must reach agreement on a matter on or before February 1 of a school

year for the agreement of the RIF Joint Committee to apply to sequence of dismissal determined during that school year.

E-38. Can a RIF Joint Committee change its decision as to any of the issues on which it reached agreement for a subsequent school year?

Yes, but it must do so by February 1 of the relevant school year. Otherwise, "the agreement of [the RIF Joint Committee] shall apply to the sequence of dismissal until the agreement is amended or terminated by the [RIF Joint Committee]." Section 24-12(c).

E-39. Does each member of the RIF Joint Committee have a "vote" or does each party vote as a block?

The expectation is that each member of the RIF Joint Committee has an individual vote on any issue before the RIF Joint Committee.

E-40. Must the decisions made by the RIF Joint Committee be endorsed by formal action of the school district's Board of Education?

No. Section 24-12(c) states that agreement by the Joint Committee as to a matter requires the majority vote of all Joint Committee members. Once that majority is achieved, there is no requirement to have that decision approved by the Board of Education; however, as was indicated earlier with respect to the PERA Joint Committee, a school district certainly can have its Board of Education ratify the decisions made by the RIF Joint Committee, and the expectation is that a school district administration will be keeping the school district's Board of Education appropriately apprised of relevant developments.

NOTICE, REDUCTIONS AND BUMPING RIGHTS

E-41. If a school district is reducing personnel in a particular position and there are more legally and otherwise qualified individuals on that position list than actually are teaching in that position, who gets reduced?

The teacher(s) identified for honorable dismissal is/are the teacher(s) teaching during the relevant school year in the position that the school district is seeking to reduce. See also Question E-__

E-42. So, who is subject to honorable dismissal in the following scenario? A high school district needs to reduce a position from its English Department. The English Department currently has 10 teachers and will be going to 9 teachers. Jane has been a math teacher for the last 5 years but is certified and qualified to be an English teacher (and is therefore on both the English and Math position lists). Her last evaluation was a Needs Improvement and she finds herself in Group 2 (on both the English and Math lists). There are 15 individuals on the English list, even though there are only 10 teachers teaching English (the others are teaching other subjects), and Jane is at the bottom of that English list. Does Jane get reduced, or does the reduction come only from the 10 individuals currently teaching English?

No, Jane does not get reduced. The reduction comes from the 10 who are teaching English at the time the RIF decision is made. As noted below, though, it is possible that Jane may be bumped out of her Math position.

E-43. Do bumping rights still exist under the new RIF provisions?

Yes. For example, in the scenario above, if the English teacher who is reduced, was certified and qualified to teach Math (and therefore, like Jane, was on the Math list), he or she would be able to bump a Math teacher in that area who is in a lower performance group/subgroup or in the same group/subgroup as he or she is in but ranked lower on the order of dismissals.

E-44. What can a union or teachers do if they suspect a school district is using the reduction in force provisions to target more senior, higher-paid teachers for reduction?

Any member of the RIF Joint Committee may, no later than 10 calendar days after the distribution of a Sequence of Honorable Dismissal List, request a list of the most recent and prior performance ratings of each teacher identified only by seniority (and the school district must provide that list within five calendar days of the request).

If, after review of the list, any member of the RIF Joint Committee has a good faith belief that a disproportionate number of teachers with greater length of continuing service with the district or joint agreement have received a recent performance evaluation rating lower than the prior rating, the member may request that the RIF Joint Committee review the list to assess whether such a trend may exist. Following the RIF Joint Committee's review, but by no later than the end of the applicable school term, the RIF Joint Committee or any member or members of the RIF Joint Committee may submit a report of the review to the employing board and exclusive bargaining representative, if any.

However, this process cannot impact the order of honorable dismissal or a school district's or joint agreement's authority to carry out a reduction in force.

RECALL

Section 24-12(b) of the School Code states that, if the school board has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions becoming available must be tendered to the teachers so removed or dismissed who were in Groups 3 or 4 of the Sequence of Honorable Dismissal List and are qualified to hold the positions based on legal qualifications and any other qualifications established in a district job description on or before the May 10 prior to the date of the positions becoming available.

E-45. Do teachers in Group 1 or Group 2 who were reduced have recall rights?

No.

SECTION F. TENURED TEACHER DISMISSAL SYSTEM

The tenured teacher dismissal system is used in those situations where a school district is seeking to terminate the employment of a tenured teacher, either for poor performance or misconduct (or a combination of the two). The law allows that, in such an instance, a tenured teacher has the right to timely request a due process hearing before a hearing officer. Because of frequent concerns about the time and cost of the tenured teacher dismissal hearing process, the process was streamlined and, in some respects, restructured. See Section 24-12(d), Section 24-16.5, and Section 34-85c (Chicago) of the School Code.

F-1. When do the new streamlined procedures take effect?

Per Section 24-12(d)(11), the new streamlined procedures for tenured teacher dismissal hearings apply to dismissals instituted on or after September 1, 2011.

F-2. Will the State Board be modifying its administrative rules around tenured teacher dismissal hearings?

Yes, staff at ISBE expect in December 2011 or January 2012 to recommend proposed changes to Part 51 of Title 23 of the Illinois Administrative Code for the State Board's consideration and authorization to publish the proposal to elicit public comment.

F-3. Section 24-12(d)(3) requires that, beginning September 1, 2012, any individual on the State Board's master list of hearing officers must have participated in a training provided or approved by the State Board of Education. When will the training for hearing officers be developed?

ISBE expects to offer training for tenured teacher dismissal hearing officers beginning in the Spring of 2012.

F-4. Must a teacher be offered a remediation plan in every instance that he or she receives an "Unsatisfactory" rating?

No, per Section 24A-5(n) of the School Code, after a school district's PERA Implementation Date, if a tenured teacher successfully completes a remediation plan and receives a subsequent rating of "Unsatisfactory" in the 36-month period following the successful completion of the remediation plan, the school district may forego remediation and seek dismissal.

F-5. What is the Optional Alternative Evaluation Dismissal ("OAED") Process for PERA Evaluations?

SB 7 established a new section of the School Code, Section 24-16.5, that allows (in all school districts, including the Chicago Public Schools) for an even more streamlined hearing procedure for the dismissal of tenured teachers related to performance. A school district may only utilize the OAED process on or after the school district's PERA Implementation Date.

SECTION G. SCHOOL BOARD MEMBER TRAINING

Section 10-16a of the School Code requires that school board members elected or appointed to their seat after June 13, 2011 must complete within the first year of their term a minimum of four hours of professional development leadership training covering topics in education and labor law, financial oversight and accountability, and fiduciary responsibilities of a board member.

G-1. Must board members undergo this training more than once (e.g., if elected after being appointed, or if re-elected)?

No. A board member need only go through the board member training during his or her first term (after the effective date). So, if an individual is elected to a local board in April 2013 and completes the training requirement in June 2013, he or she will not be required to complete another training if re-elected.

G-2. Can a currently sitting district board member fully and finally satisfy the Section 10-16a requirement by completing an approved training prior to the next election?

Yes. So as to meet the intent of the board member training provision, which was to see as many school board members as possible trained, ISBE is interpreting Section 10-16a to allow a board member who took office prior to June 13, 2011 to complete the requirement prior to being re-elected.

G-3. What entities and/or individuals can administer the school board member training?

Section 10-16a authorizes the training to be administered by the Illinois Association of School Boards (IASB) as well as any other entity approved by the State Board of Education, in consultation with the IASB.

G-4. When will training for Board members be available?

The IASB has indicated that it expects to have training available by early 2012.

G-5. How will entities other than the IASB be approved to offer board member training?

ISBE has proposed a rulemaking, currently out for public comment until December 19, 2011, that establishes the process by which anyone may apply for approval to offer board member training. See http://www.isbe.net/rules/proposed/pdfs/1wf_training.pdf.

G-6. Is the training required under Section 10-16a the same training that a school board member must complete in order to be authorized to vote in a teacher dismissal under the OAED process?

Not necessarily. Subsection (f) of Section 24-16.5 of the School Code (establishing the OAED Process) does require that only "PERA-trained board members" may participate in a vote to dismiss a teacher under the OAED Process. A "PERA-trained board member" is defined in Section 24-16.5(a) as a member of a board who has completed a training program on PERA evaluations either administered or approved by ISBE. An entity seeking approval to offer the training required by Section 10-16a of the School Code could, but is not required to, include in its request for approval a piece on PERA evaluations.

SECTION H. COLLECTIVE BARGAINING/STRIKE

In both P.A. 97-8 (and trailer legislation, Public Act 97-007, signed that same day) (collectively, SB 7), changes were made to the Illinois Educational Labor Relations Act (105 ILCS 5/1 et seq.) in order to promote agreement in labor-management negotiations.

For instance, in all school districts other than Chicago:

- **Either party or the mediator may declare "an impasse" 15 calendar days after the mediation has commenced;**
- **Within 7 calendar days after the declaration of impasse, each party must submit to the other party, the mediator, and the Illinois Educational Labor Relations Board (IELRB) in writing the final offer of the party, including a cost summary of the offer; and,**
- **Seven calendar days after receipt of the parties' final offers, (a) the IELRB shall make public on its website the final offers and each party's cost summary on those issues where there was not agreement http://www2.illinois.gov/elrb/Pages/FinalOffers.aspx; and (b) the school district must notify relevant news media outlets (those that have filed an annual request for notices from the school district under the Open Meetings Act) about the availability of the final offers on the IELRB's website.**

H-1. Can a school district put its final offer on its own website?

Yes.

H-2. Must impasse be declared and final offers disclosed in order for a union to strike?

The intent of the education stakeholders was that "impasse" necessitating the need to post the parties' final offers must be declared, and the parties' final offers, must be posted before a union is able to strike.

H-3. Is a union now required to have 75% of bargaining unit employees who are members voting in favor of a strike in order to be authorized to strike?

Section 13(b)(2.10) of the IELRA requires that, in order for the employees in the Chicago Public Schools to strike, at least three-fourths of all bargaining unit employees who are members of the union must have affirmatively voted to authorize the strike (provided that all members of the union at the time of a strike authorization vote are eligible to vote). This provision is not applicable to any school districts/unions outside Chicago.