

House Bill 1174

By: Representatives Willard of the 49th, Coleman of the 97th, Jones of the 46th, Casas of the 103rd, Porter of the 143rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 7 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, relating to termination, suspension, nonrenewal, demotion, or reprimand of
3 teachers or other school personnel, so as to change provisions relating to the hearing in the
4 procedure for terminating or suspending a contract of employment; to provide for the
5 recovery of attorney's fees and expenses of litigation; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 7 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
10 relating to termination, suspension, nonrenewal, demotion, or reprimand of teachers or other
11 school personnel, is amended by revising Code Section 20-2-940, relating to grounds and
12 procedure for terminating or suspending contract of employment, as follows:

13 "20-2-940.

14 (a) *Grounds for termination or suspension.* Except as otherwise provided in this
15 subsection, the contract of employment of a teacher, principal, or other employee having
16 a contract for a definite term may be terminated or suspended for the following reasons:

17 (1) Incompetency;

18 (2) Insubordination;

19 (3) Willful neglect of duties;

20 (4) Immorality;

21 (5) Inciting, encouraging, or counseling students to violate any valid state law, municipal
22 ordinance, or policy or rule of the local board of education;

23 (6) To reduce staff due to loss of students or cancellation of programs;

24 (7) Failure to secure and maintain necessary educational training; or

25 (8) Any other good and sufficient cause.

1 A teacher, principal, or other employee having a contract of employment for a definite term
 2 shall not have such contract terminated or suspended for refusal to alter a grade or grade
 3 report if the request to alter a grade or grade report was made without good and sufficient
 4 cause.

5 (b) *Notice.* Before the discharge or suspension of a teacher, principal, or other employee
 6 having a contract of employment for a definite term, written notice of the charges shall be
 7 given at least ten days before the date set for hearing and shall state:

8 (1) The cause or causes for his discharge, suspension, or demotion in sufficient detail to
 9 enable him fairly to show any error that may exist therein;

10 (2) The names of the known witnesses and a concise summary of the evidence to be used
 11 against him. The names of new witnesses shall be given as soon as practicable;

12 (3) The time and place where the hearing thereon will be held; and

13 (4) That the charged teacher or other person, upon request, shall be furnished with
 14 compulsory process or subpoena legally requiring the attendance of witnesses and the
 15 production of documents and other papers as provided by law.

16 (c) *Service.* All notices required by this part relating to suspension from duty shall be
 17 served either personally or by certified mail or statutory overnight delivery. All notices
 18 required by this part relating to demotion, termination, nonrenewal of contract, or
 19 reprimand shall be served by certified mail or statutory overnight delivery. Service shall
 20 be deemed to be perfected when the notice is deposited in the United States mail addressed
 21 to the last known address of the addressee with sufficient postage affixed to the envelope.

22 (d) *Counsel; testimony.* Any teacher, principal, or other person against whom such
 23 charges listed in subsection (a) of this Code section have been brought shall be entitled to
 24 be represented by counsel and, upon request, shall be entitled to have subpoenas or other
 25 compulsory process issued for attendance of witnesses and the production of documents
 26 and other evidence. Such subpoenas and compulsory process shall be issued in the name
 27 of the local board and shall be signed by the chairman or vice-chairman of the local board.
 28 In all other respects, such subpoenas and other compulsory process shall be subject to Part
 29 1 of Article 2 of Chapter 10 of Title 24, as now or hereafter amended.

30 (e) *Hearing.*

31 (1) The hearing shall be conducted before the local board, or the local board may
 32 designate a tribunal to consist of not less than three nor more than five impartial persons
 33 ~~possessing~~ chosen from a school district other than the district of the local board district
 34 and who possess academic expertise to conduct the hearing and submit its findings and
 35 recommendations to the local board for its decision thereon.

36 (2) The hearing shall be reported at the local board's expense. If the matter is heard by
 37 a tribunal, the transcript shall be prepared at the expense of the local board and an

1 original and two copies shall be filed in the office of the superintendent. If the hearing is
2 before the local board, the transcript need not be typed unless an appeal is taken to the
3 State Board of Education, in which event typing of the transcript shall be paid for by the
4 appellant. In the event of an appeal to the state board, the original shall be transmitted to
5 the state board as required by its rules.

6 (3) Oath or affirmation shall be administered to all witnesses by the chairman, any
7 member of the local board, or by the local board attorney. Such oath shall be as follows:

8 'You do solemnly swear (or affirm) that the evidence shall be the truth, the whole truth,
9 and nothing but the truth. So help you God.'

10 (4) All questions relating to admissibility of evidence or other legal matters shall be
11 decided by the chairman or presiding officer, subject to the right of either party to appeal
12 to the full local board or hearing tribunal, as the case may be; provided, however, the
13 parties by agreement may stipulate that some disinterested member of the State Bar of
14 Georgia shall decide all questions of evidence and other legal issues arising before the
15 local board or tribunal. In all hearings, the burden of proof shall be on the school system,
16 and it shall have the right to open and to conclude. Except as otherwise provided in this
17 subsection, the same rules governing nonjury trials in the superior court shall prevail.

18 (f) *Decision; appeals.* The local board shall render its decision at the hearing or within
19 five days thereafter. Where the hearing is before a tribunal, the tribunal shall file its
20 findings and recommendations with the local board within five days of the conclusion of
21 the hearing, and the local board shall render its decision thereon within ten days after the
22 receipt of the transcript. Appeals may be taken to the state board in accordance with Code
23 Section 20-2-1160, as now or hereafter amended, and the rules and regulations of the state
24 board governing appeals.

25 (g) *Superintendent's power to relieve from duty temporarily.* The superintendent of a local
26 school system may temporarily relieve from duty any teacher, principal, or other employee
27 having a contract for a definite term for any reason specified in subsection (a) of this Code
28 section, pending hearing by the local board in those cases where the charges are of such
29 seriousness or other circumstances exist which indicate that such teacher or employee
30 could not be permitted to continue to perform his duties pending hearing without danger
31 of disruption or other serious harm to the school, its mission, pupils, or personnel. In any
32 such case, the superintendent shall notify the teacher or employee in writing of such action,
33 which notice shall state the grounds thereof and shall otherwise comply with the
34 requirements of the notice set forth in subsection (b) of this Code section. Such action by
35 the superintendent shall not extend for a period in excess of ten working days, and during
36 such period it shall be the duty of the local board to conduct a hearing on the charges in the
37 same manner provided for in subsections (e) and (f) of this Code section, except that notice

1 of the time and place of hearing shall be given at least three days prior to the hearing.
2 During the period that the teacher or other employee is relieved from duty prior to the
3 decision of the local board, the teacher or employee shall be paid all sums to which he is
4 otherwise entitled. If the hearing is delayed after the ten-day period as set out in this
5 subsection at the request of the teacher or employee, then the teacher or employee shall not
6 be paid beyond the ten-day period unless he is reinstated by the local board, in which case
7 he shall receive all compensation to which he is otherwise entitled.
8 (h) Attorney's fees. If the teacher, principal, or other employee prevails in the decision at
9 the hearing and at the subsequent appeal, then such person shall be entitled to recover
10 reasonable attorney's fees and expenses of litigation."

11

SECTION 2.

12 All laws and parts of laws in conflict with this Act are repealed.