

Senate Bill 153

By: Senators Rogers of the 21st and Hill of the 32nd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
2 elementary and secondary education, so as to provide certain requirements and rights relating  
3 to professional development plans for personnel who have deficiencies and other needs; to  
4 revise certain provisions relating to termination or suspension of a contract of employment;  
5 to provide for certain definitions; to provide for related matters; to repeal conflicting laws;  
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
10 secondary education, is amended in Code Section 20-2-210, relating to annual performance  
11 evaluations, by revising subsection (a) as follows:

12 "(a) All personnel employed by local units of administration, including school  
13 superintendents, shall have their performance evaluated annually by appropriately trained  
14 evaluators. All such performance evaluation records shall be part of the personnel  
15 evaluation file and shall be confidential. In the case of local school superintendents, such  
16 evaluations shall be performed by the local board of education. Certificated professional  
17 personnel who have deficiencies and other needs shall have professional development plans  
18 designed to mitigate such deficiencies and other needs as may have been identified during  
19 the evaluation process. Local units of administration shall adopt a policy to explain by  
20 October 1 of each year the professional development plans to the affected certificated  
21 professional personnel and to further clarify the impact of a professional development plan  
22 on retention and evaluation of employees, including the employees' rights in the process.  
23 Such certificated professional personnel shall have the right to the presence of an individual  
24 of his or her choice at any meeting with the employee when such professional development  
25 plan is implemented, extended, or ended. Professional development plans shall not be  
26 implemented for the sole purpose of cutting staff for budgetary reasons. Professional

27 development plans shall include a reasonable time for remediation of at least 30 days with  
 28 clear direction on how the remediation should be accomplished. Progress relative to  
 29 completing the annual professional development plan shall be assessed during the annual  
 30 evaluation process. The state board shall develop a model annual evaluation instrument for  
 31 each classification of professional personnel certificated by the Professional Standards  
 32 Commission. The local units of administration are authorized to use the models developed  
 33 by the State Board of Education."

34 **SECTION 2.**

35 Said chapter is further amended by revising Code Section 20-2-940, relating to grounds and  
 36 procedure for terminating or suspending contract of employment, as follows:

37 "20-2-940.

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

42 (1) Incompetency;

43 (2) Insubordination;

44 (3) Willful neglect of duties;

45 (4) Immorality;

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

48 (6) To reduce staff due to loss of students or cancellation of programs and due to no fault  
 49 or performance issue of the teacher, administrator, or other employee. In the event that  
 50 a teacher, administrator, or other employee is terminated or suspended pursuant to this  
 51 paragraph, the local unit of administration shall:

52 (A) Provide reemployment procedures for such teacher, administrator, or other  
 53 employee so that any such teacher, administrator, or other employee is included in a  
 54 rehire pool to be considered first for employment if the local unit of administration  
 55 subsequently hires additional employees based on program needs and shall ensure that  
 56 no person shall be hired prior to two weeks after the beginning of the school year in  
 57 which the reduction in staff is implemented unless he or she is part of the rehire pool  
 58 or unless no one in the rehire pool possesses the necessary qualifications; and

59 (B) Specify in writing to such teacher, administrator, or other employee that the  
 60 termination or suspension is due to no fault or performance issues of such teacher,  
 61 administrator, or other employee.

62 A local unit of administration shall ensure that any reduction in staff policy which is in  
 63 place at the time a teacher, administrator, or other employee signs a contract shall be  
 64 applicable to such teacher, administrator, or other employee and shall not be changed  
 65 after January 1 of the school year for which the contract is in effect;

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

67 (8) Any other good and sufficient cause.

68 A teacher, ~~principal~~ administrator, or other employee having a contract of employment for  
 69 a definite term shall not have such contract terminated or suspended for refusal to alter a  
 70 grade or grade report if the request to alter a grade or grade report was made without good  
 71 and sufficient cause. A teacher, administrator, or other employee having a contract of  
 72 employment for a definite term shall not have such contract terminated or suspended for  
 73 speaking out on matters of public concern. For purposes of this subsection, the term  
 74 'speaking out' means speech on matters of public concern by an individual made in his or  
 75 her capacity either as a citizen or as a public school employee.

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

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

82 (2) The names of the known witnesses and a concise summary of the evidence to be used  
 83 against him or her. The names of new witnesses shall be given as soon as practicable,  
 84 when applicable;

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

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

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

95 (d) **Counsel; testimony.** Any teacher, ~~principal~~ administrator, or other person against  
 96 whom such charges or reasons listed in subsection (a) of this Code section have been  
 97 brought shall be entitled to be represented by counsel and, upon request, shall be entitled  
 98 to have subpoenas or other compulsory process issued for attendance of witnesses and the

99 production of documents and other evidence. Such subpoenas and compulsory process  
 100 shall be issued in the name of the local board and shall be signed by the ~~chairman~~  
 101 chairperson or ~~vice-chairman~~ vice chairperson of the local board. In all other respects, such  
 102 subpoenas and other compulsory process shall be subject to Part 1 of Article 2 of Chapter  
 103 10 of Title 24, as now or hereafter amended.

104 (e) **Hearing.**

105 (1) The hearing shall be conducted before the local board, or the local board may  
 106 designate a tribunal to consist of not less than three nor more than five impartial persons  
 107 possessing academic expertise to conduct the hearing and submit its findings and  
 108 recommendations to the local board for its decision thereon. If a tribunal is appointed,  
 109 the tribunal members shall receive training arranged by the local board and conducted by  
 110 an impartial party. For purposes of this subsection, the term 'impartial' means having no  
 111 financial affiliation with the current local school system and not currently employed by  
 112 the local board.

113 (2) The hearing shall be reported at the local board's expense. If the matter is heard by  
 114 a tribunal, the transcript shall be prepared at the expense of the local board and an  
 115 original and two copies shall be filed in the office of the superintendent. If the hearing is  
 116 before the local board, the transcript need not be typed unless an appeal is taken to the  
 117 State Board of Education, in which event typing of the transcript shall be paid for by the  
 118 appellant. In the event of an appeal to the state board, the original shall be transmitted to  
 119 the state board as required by its rules.

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

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

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

134 (f) **Decision; appeals.** The local board shall render its decision at the hearing or within  
 135 five days thereafter. Where the hearing is before a tribunal, the tribunal shall file its

136 findings and recommendations with the local board within five days of the conclusion of  
 137 the hearing, and the local board shall render its decision thereon within ten days after the  
 138 receipt of the transcript. Appeals may be taken to the state board in accordance with Code  
 139 Section 20-2-1160, as now or hereafter amended, and the rules and regulations of the state  
 140 board governing appeals.

141 **(g) Superintendent's power to relieve from duty temporarily.** The superintendent of  
 142 a local school system may temporarily relieve from duty any teacher, principal, or other  
 143 employee having a contract for a definite term for any reason specified in subsection (a)  
 144 of this Code section, pending hearing by the local board in those cases where the charges  
 145 are of such seriousness or other circumstances exist which indicate that such teacher or  
 146 employee could not be permitted to continue to perform his or her duties pending hearing  
 147 without danger of disruption or other serious harm to the school, its mission, pupils, or  
 148 personnel. In any such case, the superintendent shall notify the teacher or employee in  
 149 writing of such action, which notice shall state the grounds thereof and shall otherwise  
 150 comply with the requirements of the notice set forth in subsection (b) of this Code section.  
 151 Such action by the superintendent shall not extend for a period in excess of ten working  
 152 days, and during such period, it shall be the duty of the local board to conduct a hearing on  
 153 the charges in the same manner provided for in subsections (e) and (f) of this Code section,  
 154 except that notice of the time and place of hearing shall be given at least three days prior  
 155 to the hearing. During the period that the teacher or other employee is relieved from duty  
 156 prior to the decision of the local board, the teacher or employee shall be paid all sums to  
 157 which he or she is otherwise entitled. If the hearing is delayed after the ten-day period as  
 158 set out in this subsection at the request of the teacher or employee, then the teacher or  
 159 employee shall not be paid beyond the ten-day period unless he or she is reinstated by the  
 160 local board, in which case he or she shall receive all compensation to which he or she is  
 161 otherwise entitled."

162 **SECTION 3.**

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