

### **III. Evaluations, Reductions-in-Force, Dismissals, and Non-renewals**

#### **A. Elementary and Secondary Teachers**

The laws governing teacher evaluations were amended by the Performance Evaluation Reform Act of 2010 (PERA) and to a lesser extent in 2011 by Senate Bill 7 (SB7). These laws take effect in stages and the timeframe will differ from district to district. All districts must fully implement the changes in 2016-17. For purposes of this section, “PERA implementation” means the date on which a school district is required to use student growth indicators as a significant factor in summative evaluation ratings for teachers.

##### **1. Teacher Evaluations**

All public school districts must develop evaluation plans for its teachers. The plans must be meet the minimum standards set forth in the School Code and in regulations issued by the State Board of Education. See Part 50 rules. At the end of the evaluation, a teacher ultimately receives a summative rating of “excellent,” “proficient,” “needs improvement,” or “unsatisfactory.” The summative rating must include a description of the teacher’s strengths and weaknesses. All evaluations must be conducted by an administrator or peer evaluator who has successfully completed a pre-qualification program provided by the State Board of Education and been successfully retrained during every license renewal cycle. You can check whether an evaluator has passed the pre-qualification program by looking at the State Board of Education website. [www.isbe.net](http://www.isbe.net).

Tenured teachers must be given a summative evaluation rating at least once every two years. However, tenured teachers who receive an “unsatisfactory” or “needs improvement” rating must receive a full summative evaluation in the year following the “unsatisfactory” or “needs improvement” rating. Probationary teachers must receive a summative evaluation rating at least once every year.

To meet the State Board of Education requirements, all tenured teacher evaluations must include at least two in-person observations of the teacher in the classroom. One of these observations must be a “formal” observation, meaning that both pre-observation and post-observation conferences must be held and the evaluator must observe the teacher for at least 45 minutes, an entire lesson, or an entire class period. All probationary teacher evaluations must include at least three in-person observations of the teacher in the classroom, and two must be “formal” observations.

Once a school district is required under PERA to include student growth indicators as a significant factor in a teacher's evaluation, at least 30% (25% in the first two years of implementation) of the summative evaluation rating must be based on student growth. In districts outside of Chicago, student growth cannot be measured by how the students perform on state tests such as ISAT/PSAE. Each district is required to form a joint committee of equal district and union representatives to determine which factors and data will be used to measure student growth. If the joint committee fails to reach consensus regarding how student growth will be incorporated into the summative evaluation rating, the plan will default to a model plan developed by the State Board of Education. The minimum requirements of the state default plan can be found here: <http://www.isbe.net/rules/archive/pdfs/50ARK.pdf>.

A video webinar developed by IEA's Center for Educational Innovation provides more information about the major components of PERA and the use of student growth on the evaluation process: Follow this link for the webinar conducted on 5/10/12: [Illinois Performance Evaluation and You](#).

A tenured teacher who receives a "needs improvement" rating must complete a Professional Development Plan (PDP). The district is required to develop the plan in consultation with the teacher. The purpose of the PDP is to specifically address the areas of teaching practice identified in the summative evaluation as needing improvement and provide guidance, support, and activities to the teacher designed to help improve teaching practice in those areas. The PDP must be created within 30 school days of receiving the "needs improvement" rating. The plan must take into account the teacher's ongoing professional responsibilities including the regular teaching assignments. The School Code does not establish the duration of a PDP, set forth any requirements to observe or evaluate a teacher on a PDP, or require that a summative rating be issued upon completion of the PDP. Your district and local union may provide for these and other details concerning a PDP. Tenured teachers receiving a "needs improvement" rating must receive a summative evaluation in the school year following the "needs improvement" rating.

A tenured teacher who receives an "unsatisfactory" rating must complete a remediation plan. The district is required to develop the plan in conjunction with the remediating teacher and with a consulting teacher who has at least five years of teaching experience and an excellent rating who has been selected to assist the teacher in the remediation. The purpose of the remediation plan is to specifically address the teaching practice identified in the summative evaluation as deficient and provide guidance, support, and activities to the teacher that are designed to help remediate teaching practice. The remediation plan must be created within 30 *school days*. The remediation plan lasts for 90 school days unless a collective bargaining agreement provides for a shorter period. During the remediation period, the teacher must be assessed by a qualified evaluator at 45 days and at the end of the period. If the teacher is rated satisfactory at the end of the remediation period, he or she is returned to the regular evaluation schedule. If teacher is rated unsatisfactory at the end of the remediation period, the teacher must be dismissed according to the specifications of Section 24-12 of the School Code.

## 2. Reductions in Force – Honorable Dismissals of Teachers

Beginning with the 2011-2012 school year, the law determining layoff order changed. According to SB7, RIF and recall procedures are now based on the teacher's license, qualifications, performance evaluations, and seniority. Tenured teachers may be RIF'd before probationary teachers if the tenured teacher(s) have lower performance evaluations.

A video by IEA Associate General Counsel Rachel Clark explaining teacher RIF order can be found [here](#). See Chapter 3 for the video for teachers.

If a summative evaluation rating was not given when scheduled, the teacher will be considered to have received a rating of "proficient," as long as the teacher has had at least one prior evaluation in the district. Additionally, the teacher should check with their union representative to see if they have rights to grieve evaluation process violations under the CBA or otherwise challenge an evaluator's failure to provide a summative rating.

Once summative ratings are given, the district must categorize each teacher into one or more positions for which the teacher is licensed and qualified (based upon legal qualifications and qualifications in the job descriptions established on or before May 10th of the school year prior to the RIF). For each position (i.e., "art teacher," "social worker," etc.), the district must establish four groupings of teachers based upon the teachers' last two performance evaluations as follows:

- 1) part-time teachers and probationary teachers who have not received a summative evaluation rating;
- 2) teachers who have received at least one "needs improvement" or "unsatisfactory" summative evaluation rating in their last two evaluations;
- 3) teachers whose last two summative evaluation ratings are no lower than a "satisfactory" or "proficient;" and
- 4) teachers whose last two performance evaluation ratings are "excellent," or two of the last three evaluations are "excellent" and the third is "satisfactory" or "proficient."

The RIF must begin with Group 1 and end, if necessary, with Group 4.

- 1) Teachers in Group 1 are dismissed in any order, at the discretion of the district.
- 2) Teachers in Group 2 are dismissed by subgroups created by averaging the teachers' performance evaluation ratings.
  - a. Teachers with the lowest average are dismissed before teachers with a higher average.
    - i. (1 for "unsatisfactory" + 3 for "proficient" = subgroup 2; 2 for "needs improvement" + 3 for "proficient" = subgroup 2.5)

- b. Teachers with the same average are dismissed by inverse seniority (*i.e.*, teachers with the least amount of continued service with the school are dismissed first), unless a CBA provides otherwise.
  - i. (1 for “unsatisfactory” + 3 for “proficient” = subgroup 2; 2 for “needs improvement” + 2 for “needs improvement” = subgroup 2)
- 3) Teachers in Group 3 are dismissed by inverse seniority without subgroups.
- 4) Teacher in Group 4 are also dismissed by inverse seniority without subgroups.

A joint committee of equal district and teacher representatives can agree, by majority vote, to set criteria that would allow teachers to move from Group 2 to Group 3, from Group 3 to Group 4, and/or create an alternate definition of Group 4. Your CBA may have other procedures.

At least 75 days before the end of the school term, the district is required to post the annual RIF list establishing the sequence of honorable dismissals categorized by positions and groupings but without the names of the teachers. Adjustments to the list are allowed from 75 days until 45 days before the end of the school term for teachers in Group 1 who receive a summative evaluation rating before the RIF notices are sent. If there is an error in the RIF list, it must be challenged and brought to the district’s attention immediately. In addition, the district is required to post a list of teachers’ seniority in the district, at least 75 days before the end of the school term.

If the joint committee (made up of an equal number of district and teacher representatives) notices a trend in which more senior teachers have received lower evaluations and therefore more likely to be RIF’d, there are three lines of defense: First, a joint committee member can request from the district a list (without the teachers’ names) of all teachers’ previous and current evaluation ratings and the number of years worked. After receiving this information, the committee members may request that the full committee review the data. After such review, the committee or a member may submit a report flagging any inconsistencies to the school board and union and can be released to the media and public. Second, if the information reveals possible age discrimination, an employment discrimination charge can be filed. Third, if the information reveals that union activists or supporters have received lower evaluations, an unfair labor practice charge can be filed.

If the district decides to proceed with the RIF, written notice must be given to the teachers being dismissed at least 45 days prior to the end of the school term together with a statement of honorable dismissal. Any teacher honorably dismissed must be paid earned compensation on or before the third business day following the end of the school term.

A teacher who is honorably dismissed may have recall rights. Teachers (tenured and non-tenured) in Groups 3 and 4 are recalled in reverse order of RIF if a position that teacher is qualified to teach (based upon legal qualifications and qualifications included in the job descriptions on or before May 10th of the previous school year) becomes vacant within one calendar year from the beginning of the following school term. In certain circumstances, these

recall rights extend to two years. Teachers in Group 2 are recalled if positions become available before February 1 of the school year following the RIF and if the teacher is in Group 2 due to one “needs improvement” rating and one “proficient” or “excellent” rating. Teachers in Group 2 due to an “unsatisfactory” rating of any kind do not have statutory recall rights nor do teachers in Group 1. Teachers without statutory recall rights may be considered for recall under a CBA.

Additionally, if a special education joint agreement is dissolved, tenured special education teachers are placed on all member districts’ RIF lists and are RIF’d first according to the same criteria as teachers employed by the member districts (license/qualifications, performance evaluation rating, and inverse seniority).

A teacher’s grouping and ranking on a RIF list are considered part of the teacher’s performance evaluation, and therefore are prohibited from disclosure under the Personnel Records Review Act. However, disclosure to the union is required.

### **3. Non-Renewal of Non-Tenured Teachers**

There are currently two sets of rules for the non-renewal of non-tenured teachers, depending upon whether the teacher was first employed by his or her district prior to or on or after the district’s PERA implementation date. Teachers first employed full-time by their district prior to the PERA implementation date are subject to a four-year probationary period. First, second, and third-year probationary teachers have the least statutory protection. To non-renew them, the district need only give written notice, at least 45 days prior to the end of the school term, that it does not intend to re-employ them for the following year. No reasons must be given. A fourth-year teacher must be given written notice of dismissal at least 45 days prior to the end of the school term delivered by certified mail, and the notice must state the specific reasons for dismissal. Fourth-year probationary teachers do not have a right to a hearing when they are non-renewed unless there is a specific provision in a CBA, employee handbook, or board policy that provides a right to a hearing

Teachers hired full-time on or after the PERA implementation date are subject to three types of probationary periods based on the teachers’ evaluation ratings. First, a teacher is tenured after a four-year probationary period where a teacher receives an annual evaluation of at least “proficient” or higher in probationary year two or three, and at least a “proficient” or higher rating in year four. If a teacher fails to meet these requirements, the teacher must be dismissed at the end of the fourth year. Second, a teacher is tenured after three consecutive years of receiving annual “excellent” evaluation ratings. Third, if a teacher who was tenured in one district and received a rating of at least “proficient” in the last two PERA-based evaluations in her that district later starts to work in a new district, the teacher is tenured either when he or she receives two consecutive, annual “excellent” evaluation ratings from the new district or completes a four-year probationary period with “proficient” ratings. The non-renewal rules remain the same after the PERA implementation date.

If the school fails to provide the 45 day written notice of dismissal to any probationary teacher, the teacher is automatically renewed for the next year, unless he or she is required to be dismissed for failure to receive an annual evaluation of at least “proficient” or higher in probationary year two or three, and at least “proficient” or higher in year four after PERA implementation.

A non-tenured teacher who is terminated in the middle of the school year does have a right to a hearing prior to dismissal and may likely have other due process and contractual protections. Additionally, non-tenured teachers may not be dismissed for illegal reasons, such as sex, race, age, disability, or union discrimination.

#### **4. Tenured Teacher Dismissals**

A tenured teacher who is dismissed for cause has a number of statutory protections. If the district decides to dismiss a teacher, written notice of the charges, including a bill of particulars and the teacher’s right to request a hearing either before a mutually selected hearing officer whose cost will be split equally between the teacher and the district, or a district-selected hearing officer whose cost is fully paid by the district, must be mailed to the teacher and served upon the teacher either by certified mail, return receipt requested, or personal delivery with receipt. The teacher has seventeen days in which to request in writing that a hearing be scheduled. If no hearing is requested, the teacher is considered to be discharged. Requests for a hearing must be made to the secretary of the local board of education.

If the teacher requests a hearing before a mutually selected hearing officer, the Illinois State Board of Education (ISBE) is notified and provides to both the school board and the teacher a list of five impartial hearing officers certified by a national arbitration organization with five years of experience in labor and employment matters and trained by the ISBE on evaluative and non-evaluative dismissals. Both sides alternately strike the names to arrive at the person who will serve as the hearing officer or may request a second list from the ISBE. If there is no suitable hearing officer on the list, then both sides may also mutually agree to select a hearing officer who is not on a list provided by the ISBE. If the teacher requests a hearing before a district-selected hearing officer, the district must select a name from the master list of qualified hearing officers provided by the ISBE.

If the teacher requests a hearing, he or she must file an answer to the bill of particulars with any affirmative defenses. A hearing is then scheduled within 75 days of selecting the hearing officer and must be concluded within 120 days. At least 10 days prior to the hearing, each side must disclose to the other side a summary of the facts or opinions of each witness who will be called to testify and documentary evidence that will be used to present their case. The teacher’s initial answer and affirmative defenses must be updated after the pre-hearing discovery. At the hearing,

the district has the burden of proving by a preponderance of the evidence that cause exists for dismissal (and, if appropriate, that the cause is irremediable). Each side has three days to present its case (or two days for a dismissal under Performance Dismissal Option 2 discussed below). Both sides have a right to be represented by counsel and to cross-examine each other's witnesses. All testimony is taken under oath and transcribed. The costs of the court reporter will be paid by the party or parties paying for the hearing officer. Any post-hearing briefs must be submitted by the parties no later than 21 days after a party's receipt of the hearing transcript.

Decisions for teacher dismissal cases are handled differently depending on whether the teacher is being dismissed for misconduct or unsatisfactory performance. There are two ways in which teacher performance dismissal cases can be handled depending on whether the district has implemented PERA and whether the district opts to use the alternative PERA evaluation dismissal process.

a. Performance Dismissal Option 1—available before and after PERA implementation

The issues before a hearing officer in a hearing for performance dismissal are whether the performance was unsatisfactory, the evaluations were valid or appropriate, whether the remediation plan was properly implemented, and whether the unsatisfactory performance was successfully remediated. At the conclusion of the hearing and filing of briefs, the hearing officer is required to issue a written decision within 30 days, determining whether to retain or dismiss the teacher. If the hearing officer fails to provide a decision within 30 days without good cause, then a new hearing officer may be mutually selected by the parties to rehear the charges.

If the hearing officer's decision is in favor of the teacher, then the teacher is reinstated in the same or substantially similar position, and the hearing officer determines how much the district must compensate the teacher for lost pay and benefits.

If the hearing officer finds against the teacher, the teacher is dismissed. This decision may be appealed to circuit court, but the issues considered on appeal are limited. No new testimony is taken, and the court may only reverse the decision of the hearing officer if it is against the manifest weight of the evidence or if a procedural error exists.

b. Performance Dismissal Option 2—PERA Evaluation

After its PERA implementation date, a district has the option to follow an alternative performance (i.e. poor evaluation) dismissal procedure. Before it has the option to use this dismissal process, the district must first train its school board members in the PERA evaluation system. Under PERA, a teacher can only be dismissed for cause by receiving a PERA evaluation of "unsatisfactory" and subsequently failing to complete a remediation plan with a rating of "proficient" or higher. During the remediation period, the district must select a second evaluator

from a list jointly compiled by the district and the union. The second evaluator is used during the remediation process to either conduct the mid-point and final remediation evaluation or conduct an independent assessment of whether the teacher completed the remediation plan with a “proficient” or higher rating. The second evaluator cannot be someone who reports to the evaluator who gave the initial “unsatisfactory” summative rating. For a district to initiate this type of dismissal, it must provide written notice to the teacher within 30 days after the final remediation evaluation is completed along with a copy of the teacher’s evaluation.

In addition to the hearing officer selection process and pre-hearing procedures listed above, the hearing officer must also have completed an ISBE pre-qualification program regarding PERA performance evaluations. The issues considered at the hearing are limited to whether the teacher’s summative “unsatisfactory” performance evaluation rating that led to the remediation, the remediation plan itself, and the final remediation evaluation each met the PERA guidelines. The hearing officer will only give weight to the teacher’s PERA performance evaluations relevant to the scope of the hearing. Each party will be given two days (instead of three) to present their case. The district has the burden to prove, by a preponderance of the evidence, why the teacher should be dismissed. In instances where the second evaluator conducts an independent assessment and finds the teacher “proficient,” contrary to the first evaluator finding the teacher “unsatisfactory,” the district can still dismiss the teacher but must show the hearing officer why the first evaluator’s assessment of the teacher was more valid than the second evaluator’s.

After the hearing is concluded, the hearing officer has 30 days to report his or her findings of fact and a recommendation as to whether the teacher should be dismissed for cause to the district. Only PERA-trained board members may vote on whether to retain or dismiss the teacher. The district must issue a written order, stating whether to retain or dismiss the teacher, within 45 days of receipt of the hearing officer’s findings of fact and recommendation. If the board dismisses the teacher contrary to the hearing officer’s recommendation, then the board’s written order must contain its reason for that conclusion. If the board retains the teacher, the board must issue a written order stating the amount of back pay, minus any mitigation costs, to be paid to the teacher within 45 days.

A teacher may appeal a district’s dismissal decision directly to the appellate court. If the hearing officer recommended the dismissal, the district’s decision may only be overturned if it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. However, if the district made the dismissal decision contrary to the hearing officer’s retention decision, then the appellate court can only reverse the decision if it’s against the manifest weight of the evidence. If a teacher successfully appeals the decision for dismissal by the district, then the appellate court will order reinstatement, ordering the district to determine the appropriate amount of back pay, minus mitigation costs. The teacher may challenge the district’s determination of damages through an expedited arbitration procedure paid for by the district.

### c. Conduct Dismissal

Causes for dismissal are classified as either remediable or irreparable. If a charge is remediable, the teacher must be given notice in writing stating specifically what conduct, if not corrected, may result in dismissal. The teacher must be given an opportunity to correct the deficiencies. If the conduct is considered irreparable by the district, no prior warning must be given. Conduct is deemed to be irreparable if it causes damage to the students, faculty, or school which could not be corrected if prior notice and an opportunity to correct were given.

The issues before a hearing officer in cases where a teacher is being dismissed for conduct (such as inappropriate or illegal behavior) are whether the misconduct occurred and whether it was remediable or irreparable. The hearing officer must report to the district his or her findings of fact and a recommendation as to whether the teacher should be dismissed for cause within 30 days after the hearing is concluded,.

If the hearing officer recommends that the teacher be dismissed, then the district must issue a written order stating whether the teacher will be retained or dismissed for cause within 45 days of the hearing officer's recommendation. The district's written order must contain the hearing officer's findings of fact unless the district finds those facts are against the manifest weight of the evidence in which case it may modify or supplement the findings of fact. If the district decides to dismiss the teacher for cause contrary to the hearing officer's findings and recommendation, the district's written order must specify the reasons for that conclusion. The teacher has a right to appeal the district's written order to the circuit court. As an added protection to the teacher, the court review must consider both the district's decision and its supplemental findings of fact (if applicable) and the hearing officer's findings of fact and recommendation in making its decision.

If the district retains the teacher, the district must issue a written order stating the amount of back pay, minus any mitigation costs, to be paid to the teacher within 45 days. If the teacher objects to the amount of back pay, and if no resolution is achieved, then the hearing officer will determine the amount the board must pay. Similarly, if a decision for dismissal by the district is appealed and reversed, then the court will order reinstatement, ordering the district to determine the appropriate amount of back pay, minus mitigation costs. The teacher may challenge the district's determination of damages through an expedited arbitration procedure paid for by the district.

## **B. Higher Education**

### **1. Non-tenured Faculty Members-Community Colleges**

Non-tenured community college faculty members must be evaluated pursuant to college rules or by a collective bargaining agreement with the exclusive bargaining representative. Such evaluations are not governed by the evaluation procedures for elementary and secondary education teachers. If the board decides to dismiss the non-tenured faculty member based upon

such an evaluation, written notice must be given at least 60 days prior to the end of the school term or follow other procedures which may be required in the collective bargaining agreement. Specific reasons must be given to the dismissed faculty member upon request.

Non-tenured faculty members have preferential recall rights over new faculty members if they are competent to render the services required by the position. The recall rights exist for a period of 24 calendar months from the beginning of the school term for which the faculty member was dismissed.

## **2. Tenured Faculty Members-Community Colleges**

A tenured faculty member may be dismissed for cause upon a majority vote of the board. Upon request of the faculty member, he or she must be given the specific charges upon which the dismissal is based. The dismissal is final unless a request for a hearing is made in writing within 10 calendar days of the dismissal.

If the dismissed faculty member requests a hearing, a hearing officer is selected from a list of five arbitrators supplied by a nationally recognized arbitration organization. The board and the faculty member alternately strike the names to select the arbitrator who will hear the dismissal proceedings.

At the hearing, the board must prove by a preponderance of the evidence that cause for dismissal exists. Both parties have the right to call witnesses and introduce documentary evidence. The parties may be represented by counsel and may cross-examine each other's witnesses. All testimony is taken under oath and transcribed.

Following the hearing, the arbitrator must issue a written decision. This decision may then be appealed by the losing party to the courts. No new evidence is introduced on appeal. The courts may only reverse a decision of the arbitrator if the decision was against the manifest weight of the evidence or if there were procedural errors.

A tenured faculty member also has certain rights in the event of a reduction in force. Notice must be given at least 60 days prior to the end of the school year together with a statement of honorable dismissal. A tenured faculty member has the right to "bump" any probationary employee or less-senior faculty member who is employed in a position he or she is competent to teach. Bumping rights do not include the right to bump part-time faculty members.

The honorably dismissed tenured faculty member also has recall rights for 24 months from the beginning of the school term for which he or she was dismissed. Recall is in the order of seniority with the most senior person being recalled first. The recalled faculty member must be competent to render the services required by the position. A collective bargaining agreement may provide greater notice and recall rights.

A video by IEA Associate General Counsel Rachel Clark about college faculty RIFs can be found at the IEA Learning Portal: [Community College RIFs](#), see Chapter 2 and more information can be found in the training handouts.

### **3. Colleges and Universities**

There are no state statutes governing the tenure rights of faculty members at colleges and universities. A faculty member who has attained tenure at a public college or university has constitutional rights of due process before being discharged for cause. In addition, most if not all of public and private universities or governing boards have policies concerning the discharge of tenured faculty. A collective bargaining agreement, if one exists, may also be a source of rights.

### **4. College and University Civil Service Employees**

Employees at public colleges and universities, other than principal administrative employees and teaching, research and extension facilities, are protected by the State University Civil Service System. This protection is found in 110 ILCS 70, *et seq.* and should be consulted for the particular institutions covered. A collective bargaining agreement may be a source of additional rights and protections.

A non-faculty employee when newly hired must serve a probationary period from six months to one year. During that time, the employee may be discharged without a hearing. After serving the probationary period, the employee may only be terminated for just cause. The employee must be served with written charges. He or she then has 15 days to request a dismissal hearing. If no hearing is requested, the discharge becomes final.

A hearing is scheduled before a hearing board appointed by the University Civil Service Merit Board. The hearing board makes findings of fact and transmits this together with the transcript of the hearing to the Merit Board. The hearing board makes findings of fact and transmits this together with the transcript of the hearing to the Merit Board. The Merit Board then makes a final decision based upon these recommendations. The decision is subject to review by the courts. However, no new evidence is taken and the decision of the Merit Board may only be overturned if the factual findings are against the manifest weight of the evidence or there are procedural errors.

Non-faculty employees also have certain protections when there is a reduction in force. These protections only apply to those employees who have completed the probationary period. The least-senior employee must be laid off first. Those who are laid off are placed on a re-employment register and are recalled in the order of seniority.

## **C. Educational Support Professionals (K-12 and Community Colleges)**

Educational support professionals (ESP) do not have the statutory protection of dismissal only for cause. However, many collective bargaining agreements do have such protections. If a person covered by such a provision is dismissed in violation of a contract provision, a grievance must be filed within the applicable grievance time lines. The final step of the grievance procedure is binding arbitration.

Protections exist in the case of reductions in force for K-12 ESPs. If the employer decides to reduce the number of educational support professionals employed or discontinue a particular type of service (e.g., cafeteria work), written notice must be given to the affected employees by certified mail at least 30 days prior to the effective date of the RIF. The notice must contain a statement of honorable dismissal and the reason(s) for it. Unless an alternative method is provided by a collective bargaining agreement, reductions must proceed in the inverse order of seniority within the respective “category of position,” with the least-senior employee reduced first. No distinction is made by the statute with regard to probationary or permanent status; thus, all are included in the protection.

If any vacancies occur within one calendar year from the beginning of the following school term, the position becoming available must be offered to the most senior person who was honorably dismissed within that category of position.

A video by IEA Associate General Counsel Rachel Clark about ESP RIFs can be found at the IEA Learning Portal: [ESP RIFs](#), see Chapter 1. As part of the course, there is more information and support found in the handouts.