



MILLER, TRACY, BRAUN, FUNK & MILLER, LTD.

# 12 MONTHS OF EMPLOYMENT LAW MONTH-BY-MONTH ADVICE

2013

David J. Braun, Luke M. Feeney, & Brandon K. Wright

# Outline

2013

- **August** – Evaluation Notices, Criminal Background Checks, Annual Notices
- **September** – Informal Observations
- **October** – Formal Observations
- **November** – FLSA/Coaches, RIF Joint Committees
- **December** – RIFs and Open Meetings Act, RIF Bargaining
- **January** – SHD List, Non-certified Seniority Lists
- **February** – Principal Evaluation, Teacher Evaluation, Documentation
- **March** – RIF Action, Reclassification
- **April** – RIF of Non-Certified Staff, Notices to Remedy
- **May** – May 10, Job Descriptions
- **June** – EEOC, IDES
- **July** – Recall, New/Vacant Positions



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# AUGUST

2013

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# Evaluation Notices

2013

- 23 Ill. Adm. Code § 50.100
- Evaluation notices are required *at implementation date*, but advisable (to the extent possible) now (get in the habit):
  - At the start of the school term (i.e., the first day students are required to be in attendance), the school district shall provide a written notice (either electronic or paper) that a performance evaluation will be conducted in that school term to each teacher affected or, if the affected teacher is hired after the start of the school term, then no later than 30 days after the contract is executed. The written notice shall include:

# Evaluation Notices

2013

- 23 Ill. Adm. Code § 50.100
  - a copy of the rubric to be used to rate the teacher against identified standards and goals and other tools to be used to determine a performance evaluation rating;
  - a summary of the manner in which measures of student growth and professional practice to be used in the evaluation relate to the performance evaluation ratings of "excellent", "proficient", "needs improvement", and "unsatisfactory" as set forth in Sections 24A-5(e) and 34-85c of the School Code; and
  - a summary of the district's procedures related to the provision of professional development in the event a teacher receives a "needs improvement" or remediation in the event a teacher receives an "unsatisfactory" rating, to include evaluation tools to be used during the remediation period.

# Evaluation Notices

2013

- That does not *necessarily* mean that the notice needs to be in your contract
- Remember – in contract bargaining, less is generally more;
  - The law requires compliance – comply with the law, regardless of whether your contract is less restrictive (as many are).

# Evaluation Notices

2013

- Principal Evaluation Notices are *already in effect*:
  - At the start of the school term (i.e., the first day students are required to be in attendance), the school district shall provide a written notice (either electronic or paper) to each principal and, as applicable, assistant principal that a performance evaluation will be conducted, or, if the principal or assistant principal is hired or assigned to the position after the start of the school term, then no later than 30 days after the contract is signed or the assignment is made. The written notice shall include:

# Evaluation Notices

2013

- 23 Ill. Adm. Code § 50.300 (d)
  - a copy of the rubric to be used to rate student growth and professional practice of the principal or assistant principal; and
  - a summary of the manner in which student growth and professional practice measures to be used in the evaluation relate to the performance evaluation ratings of "excellent", "proficient", "needs improvement", and "unsatisfactory".



# Evaluation Notices

2013

- Principal Notice:
  - On or before October 1 of each year, the qualified evaluator and principal or assistant principal **shall meet to set the student growth measurement models and targets to be used**. If the qualified evaluator and principal or assistant principal fail to agree on the student growth measures and targets to be included, then the qualified evaluator shall determine the goals to be considered.
  - On or before October 1 of each year, the qualified evaluator and principal or assistant principal **shall establish professional growth goals**, which shall be based on the results of the performance evaluation conducted in the previous school year, if any. If the qualified evaluator and principal or assistant principal fail to agree on the professional growth goals to be included, then the qualified evaluator shall determine the goals to be considered.

# Evaluation Notices

2013

- Principal Notice:
  - When the performance evaluation is completed, **the qualified evaluator shall meet with the principal or assistant principal to inform the principal or assistant principal of the rating given for the student growth and professional practice components** of the evaluation and of the final performance evaluation rating received, and **discuss the evidence used** in making these determinations. The qualified evaluator shall discuss the strengths demonstrated by the principal or assistant principal and identify specific areas of growth.

# Criminal Background Checks

2013

- **Checks Required by Statute**

- Sec. 10-21.9. Criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database.

- \* \* \*

- (d) No school board shall knowingly employ a person for whom a criminal history records check and a Statewide Sex Offender Database check has not been initiated.

# Criminal Background Checks

2013

## ■ Checks Required by Statute

■ (a) Certified and noncertified applicants for employment with a school district... are required as a condition of employment to authorize a **fingerprint-based criminal history records check** to determine if such applicants have been convicted of any of the **enumerated criminal or drug offenses** in subsection (c) of this Section or have been convicted, **within 7 years** of the application for employment with the school district, of **any other felony** under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State...

# Criminal Background Checks

2013

## ■ Checks Required by Statute

- (c) No school board shall knowingly employ a person who has been convicted of any offense that would subject him or her to license suspension or revocation pursuant to Section 21B-80 of this Code. Further, no school board shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

# Criminal Background Checks

2013

- **“Pre-Employment” – Issues with Delayed Results**

- What happens when the individual has been hired, but the results show a finding...

- 1. ...that would prohibit employment?

- 2. ...that would not automatically prohibit employment, but the District finds problematic?

# Criminal Background Checks

2013

## C. Volunteers and Contractors

1. Student Teachers
2. Contractors

“all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district.”

3. Volunteers

Insurance requirements?

Direct, daily contact with students?

# Notices of Employment

2013

- The employment of certified staff is governed by a district's CBA, however, it is common for districts to issue annual "Notices of Employment" stating a teacher's:
  - Teaching assignment (subject, grade level, building, etc)
  - Extra-duty Assignments (if any)
  - Salary
  - Available sick leave
- \*\*\* District's should take care to specify that any such forms are for informational purposes only, that they are *NOT* an individual contract, and that they *DO NOT* modify the CBA.





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# SEPTEMBER

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# Informal Observations

2013

**“Informal observation” means observations of a teacher, principal, or assistant principal by a qualified evaluator that are not announced in advance of the observation and not subject to a minimum time requirement.**

# Informal Observations

2013

- ☐ Following an informal observation, the qualified evaluator shall provide feedback to the teacher either orally or in writing (electronic or paper) and if the feedback is in a written format, also provide the teacher with an opportunity to have an in-person discussion with the evaluator.
- ☐ Evidence gathered during the informal observations may be considered in determining the performance evaluation rating, provided it is documented in writing.



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# OCTOBER

2013

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# Formal Observations

2013

- 23 Ill. Adm. Code § 50.120(c)
  - a formal observation shall allow the qualified evaluator to acquire evidence of the teacher's planning, instructional delivery, and classroom management skills and shall involve one of the following activities:
    - an observation of the teacher in his or her classroom for a **minimum of 45 minutes** at a time; or
    - an observation during **a complete lesson**; or
    - an observation during **an entire class period**.
- Remember – failing to complete one of the foregoing (44 minutes? Failing to catch the final moment?) jeopardizes the “completeness” of the lesson plan.

# Formal Observations

2013

- Required observations
  - Tenured, previous proficient or excellent
    - 2 observations, at least 1 formal
  - Tenured, previous needs improvement or unsatisfactory
    - 3 observations, at least 2 formal
  - Nontenured
    - 3 observations, at least 2 formal
- *These are minimum requirements – always err on the side of more process and attempts to assist in educating a struggling teacher how to succeed*

# Formal Observations

2013

- Formal observations must be preceded by conference with the teacher
  - In advance of this conference, the teacher shall submit to the qualified evaluator a written lesson or unit plan and/or other evidence of planning for the instruction that will be conducted during the window of time when the formal observation may occur and make recommendations for areas **on which the qualified evaluator should focus** during the observation
  - There must be a discussion on the lesson plan in advance of observation

# Formal Observations

2013

- Formal observations must be followed by a conference to discuss evidence
  - Provide feedback
  - Seek reflection, allow (encourage) written response
  - Identify specific areas needing improvement
  - Evidence shall be “consistent with the rubric.”





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# NOVEMBER

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# Fair Labor Standards Act

2013

- Assuming coaches are not also employed by the school district in a different, non-exempt capacity, the Department of Labor has advised that coaches qualify for exemption as “teachers” under the FLSA, regardless of whether they hold a teaching certificate or an academic degree. This Opinion specifically makes clear that it does not apply to individuals who are otherwise employed in a non-exempt capacity. Letter to Anonymous, U.S. Department of Labor, FLSA-2009-10 (1/15/2009).

# Fair Labor Standards Act

2013

- ❑ if a non-exempt employee—such as a custodian or secretary—were to perform an extra-duty assignment, that employee would be entitled to be paid hourly, to be paid at least minimum wage, and to be paid at an overtime rate for any hours worked in excess of forty (40), including their normal duties combined with any extra duties – unless that extra-duty assignment was a bona fide volunteer activity.

# Fair Labor Standards Act

2013

- ❑ **Example:** A teacher assistant works forty (40) hours in a single workweek in her position as teacher assistant and two (2) hours in the same week taking tickets at a volleyball game. The assistant earns \$10.00/hour as a teacher assistant, and is paid minimum wage (\$8.25/hour) for taking tickets. This employee should be paid two (2) hours of overtime at either an agreed rate or a blended rate of pay.

# Fair Labor Standards Act

2013

- However, in certain limited circumstances, a non-exempt employee may serve in a “**volunteer**” capacity and receive a “**nominal fee**.” This same analysis would apply to individuals who are otherwise employed in a non-exempt position by the district as well as to individuals who are not otherwise employed by the district (unless they are coaches exempted as noted above). The FLSA “recognizes the generosity and public benefits of volunteering, and does not seek to pose unnecessary obstacles to bona fide volunteer efforts for charitable and public purposes.” *Letter to Anonymous*, U.S. Department of Labor, FLSA-2005-51 (11/10/2005).

# Fair Labor Standards Act

2013

- ❑ The regulations promulgated by the Department of Labor make clear that a “nominal fee is not a substitute for compensation and must not be tied to productivity.” 29 C.F.R. §553.106(e). The Department of Labor has opined in Letter to Anonymous, FLSA-2005-51, that a key factor is whether the amount of the fee varies as the particular individual spends more or less time engaged in the volunteer activities, or varies depending upon the success or failure of a particular team or school activity.

# Fair Labor Standards Act

2013

- ❑ Also, in determining whether a stipend paid for a volunteer is a permissible “nominal fee,” the Department of Labor looks to the “**economic realities**” of the situation and must compare the volunteer stipend to what it would otherwise cost to compensate someone to perform those services.
- ❑ The Department of Labor has determined that in the context of a volunteer acting in a capacity such as a coach or other extra-duty position, a fee paid is nominal as long as the fee does not exceed twenty percent (20%) of what the public agency would otherwise pay to hire a full-time coach or advisor for the same services. *Letter to Anonymous, FLSA-2005-51.*

# Fair Labor Standards Act

2013

- ❑ For example, in *Purdham v. Fairfax County School Board*, 637 F.3d 421 (4<sup>th</sup> Cir. 2011), discussed the “economic realities” test in broader terms ...
- ❑ In *Purdham*, the plaintiff was a non-exempt employee who received a stipend of approximately \$2,100 to serve as a golf coach. The Fourth Circuit looked to “all the circumstances” surrounding the stipend and determined that it was a “nominal fee” permitted for volunteers because the amount was not tied to the amount of time spent coaching, not tied to the team’s success, and was “considerably less” than what he is paid in his regular employment. *Id.* at 434.



# Fair Labor Standards Act

2013

**Ultimately, in order for a non-exempt employee to serve as a bona fide volunteer coach or sponsor, the following must apply:**

1. The service must be for a public agency for “**civic, charitable or humanitarian**” reasons, without promise, expectation or receipt of compensation for services rendered.
2. Although a volunteer can receive no compensation, he or she can be reimbursed for expenses and can be paid a “**nominal fee**” to perform the services.
3. The volunteer must offer the services freely and without pressure or coercion, direct or implied, from an employer.
4. The volunteer must not be employed by the same public agency to perform the “**same type of services**” as those for which he or she is volunteering.

# Joint Committees: Reductions in Force

2013

- Reductions in force

- SB7 created a joint committee whose sole job is to manage RIF rules
    - the committee was given explicit (limited) authority for change of the rules.

- Mandatory discussions:

- Moving Grouping 2 (NI and U teachers) to Grouping 3 (P teachers)
    - Alternate definition for Grouping 4 (E teachers)

- Permissive discussions:

- Alternate system for placement into groupings if 4 categories do not exist
    - Inclusion of outside evaluation



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# DECEMBER

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# Joint Committees: Reductions in Force

2013

## ■ Reductions in force

- Distinguishing RIF committee from Bargaining committee is important
- Ultimately RIF committee has limited authority over the 5 subjects above
- The BARGAINING committee has broad authority over wages, hours, and terms and conditions of employment
- Therefore, PRIOR to beginning RIFs, the Union must be given notice and an opportunity to bargain or waive their right to do so
  - Remember – bargaining is merely meeting a reasonable times, meeting and conferring in good faith, and reducing agreements to writing

# Reduction in Force:

## Discussion of potential RIFs - OMA

2013

- Open Meetings Act (5 ILCS 120/1, *et seq*)
  - OMA permits meetings, or portions of meetings to be closed to the public only when expressly permitted by one of the exceptions set forth in Section 2 of the Act.
  - Exceptions are to be strictly construed in favor of openness, and closed meetings or sessions are only allowed when the subject matter clearly falls within the scope of an exception.

# Reduction in Force:

## Discussion of potential RIFs - OMA

2013

- Section 2(c)(1) of the Act allows closed session to consider:
  - “The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body...”
- A RIF is not, and should not be treated as, an action regarding a specific employee.
- A RIF is a decision regarding a position, not a specific person, and therefore does not fall within the scope of Section 2(c)(1).
  - While a RIF does result in the honorable dismissal of a specific employee, that employee is selected solely by application of the statutory framework

# Reduction in Force:

## Discussion of potential RIFs - OMA

2013

- Discussion of potential RIFs must take place in public and should be limited to employee-neutral factors:
  - District economics
  - Programming needs / course offerings
  - Student participation
  - Other factors not specifically related to the person holding the position that the district is considering eliminating or reducing
- Public discussion of potential RIFs is not only required, but helps to insulate a school district from potential problems such as claims of improper termination, retaliation and/or discrimination.



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# JANUARY

2013

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# The “Sequence of Honorable Dismissal” List...

2013

**A few changes in the law and a few practical considerations...**

# The “Sequence of Honorable Dismissal” List...

2013

- Reductions in force (RIFs) must now be tied to teacher performance
  - Overall ratings will now be assigned a value.
    - Excellent = 4
    - Proficient/Satisfactory = 3
    - Needs Improvement = 2
    - Unsatisfactory = 1
  - The values will result in teachers being categorized into one of four groupings
  - Depending on how the district agrees with its teachers to implement the provisions, the groupings may result in teachers (even tenured teachers) with inferior ratings becoming susceptible to RIF.

# The “Sequence of Honorable Dismissal” List...

2013

- The practical consequence of these evaluations is that a teacher who is in the process of being dismissed may be “caught” by a **Reduction in Force**
- If you don’t have sufficient documentation leading up to the rating, the reduction may be challenged not only upon **procedural** grounds, but on **substantive** grounds.
  - How do you defend a substantive challenge if there is no substance in your evaluation?

# The “Sequence of Honorable Dismissal” List...

2013

## ■ Grouping 1

- Consists of ...

- 1) each teacher not in contractual continued service who has not received a performance evaluation rating;
- 2) each teacher not in contractual continued service employed for one school term or less to replace a teacher on leave; or
- 3) each teacher not in contractual continued service employed on a part-time basis

- **Board retains discretion** for dismissal

## ■ Grouping 2

- Consists of each teacher with a **Needs Improvement** or **Unsatisfactory** performance evaluation rating on either of the teacher's last 2 performance evaluation ratings.

- Reduced in **performance order** (lesser performing dismissed first)

# The “Sequence of Honorable Dismissal” List...

2013

## ■ Grouping 3

- consist of each teacher with a performance evaluation rating of at least **Satisfactory or Proficient** on both of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or on the teacher's last performance evaluation rating, if only one rating is available, unless the teacher qualifies for placement into grouping 4.

- Dismissed in reverse **seniority order**

## ■ Grouping 4

- Grouping 4 shall consist of each teacher whose last **2 performance evaluation ratings are Excellent** and each teacher with 2 Excellent performance evaluation ratings out of the teacher's last 3 performance evaluation ratings with a third rating of Satisfactory or Proficient.

- Dismissed in reverse **seniority order**

# The “Sequence of Honorable Dismissal” List...

2013

- SB7 Trailer Bill now also requires a separate seniority list:
- Each year, each board shall also establish, in consultation with any exclusive employee representatives, a list showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list must be made in accordance with the alternative method. Copies of the list must be distributed to the exclusive employee representative at least 75 days before the end of the school term.

# Non-certified Seniority List

2013

- 105 ILCS 5/10-23.5
  - Requires single list;
  - Organized by categories of employment;
  - Arranged by seniority within categories;
  - Distributed to exclusive bargaining representative by February 1
    - Nothing excludes from inclusion non-unit positions
    - Nothing excludes from inclusion *non-certified* employees under some sort of contract

# Non-certified Seniority List

2013

- 105 ILCS 5/10-23.5
  - Categories are mandatory subjects of bargaining
  - When no unit, it's a management right
    - But it must be determined – management must distinguish categories on the list
  - More categories = greater flexibility
  - But employees *recall* into positions for which they are qualified (broader)





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# FEBRUARY

2013

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# Principal Evaluations

2013

- **Be mindful of timelines**
  - Process complete before March 1st
- **Be alert to the student growth data cycle**
  - When you select the assessments, when will you have the results?
- **Be careful to comply with other contractual requirements**
  - Earlier dates? More steps?
- **Be ready for inclusion on the Sequence of Honorable Dismissal List**
  - Only in the categories of their non-administrative teaching certification

# Teacher Evaluation

2013

- By now, administrators should have all evaluations complete or wrapping up
- Issues should be identified – it's getting very late to resolve any problems
  - Look for the following in every evaluation:
    - **Facts** – What happened?
    - **Rules** – What does a great teacher do?
    - **Directives** – What **MUST** (not *should*) the teacher do to succeed?
      - **& HOW** – How does the teacher do that?

# Teacher Evaluations: Documentation: avoiding litigation

2013

- In addition to statutory requirements for teacher evaluations and/or RIFs, districts should take care to compile additional documentation.
- While an evaluation or RIF may be difficult for an employee or association to challenge directly, either can be effectively challenged through other methods:
  - Contract grievances
  - Discrimination claims
    - Age, race, sex, retaliation, etc
  - Unfair Labor Practices
    - Claiming retaliation for a protected union activity

# Teacher Evaluations: Documentation – avoiding litigation

2013

- DOCUMENT...
- DOCUMENT...
- DOCUMENT...
- When conducting evaluations and/or preparing for a RIF districts should operate under the assumption that the action will be challenged.
- Detailed evaluations and sufficient documentation / discussion are valuable evidence if an employee raises a claim of discrimination.



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# MARCH

2013

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# Reduction in Force: Action on RIFs

2013

- A RIF need not be listed on an Agenda to be discussed (although it is helpful in creating a record of the process),
  - However,
- A RIF must be specifically included on an Agenda before action may be taken
- Effective January 1, 2013 the Open Meetings Act requires that the Agenda of any meeting:
  - “set forth the general subject matter of any Resolution... that will be the subject of final action at the meeting.”

# Reduction in Force: Action on RIFs

2013

- Negative consequences of taking improper action on a RIF:
  - Attorney General's Office (Public Access Counselor) investigation and/or litigation
  - Potential invalidation of the RIF – if action is deemed improper, and therefore invalid, it could negate a district's ability to correct the same within the statutory RIF timeline
- \*\*\* Do not wait until the “11<sup>th</sup> hour” to consider or take action on RIFs \*\*\*



# Reclassification of Principals

2013

■ **Sec. 10-23.8b. Reclassification of principals and assistant principals. Upon non-renewal of a principal's or assistant principal's administrative contract, the principal or assistant principal shall be reclassified pursuant to this Section. No principal or assistant principal may be reclassified by demotion or reduction in rank from one position within a school district to another for which a lower salary is paid without written notice from the board of the proposed reclassification by April 1 of the year in which the contract expires.**

# Reclassification of Principals

2013

Within 10 days of the principal's or assistant principal's receipt of this notice, the school board shall provide the principal or assistant principal with **a written statement of the facts** regarding reclassification, and the principal or assistant principal may request and receive a private hearing with the board to discuss the reasons for the reclassification. If the principal or assistant principal is not satisfied with the results of the **private hearing**, he or she may, within 5 days thereafter, request and receive a **public hearing** on the reclassification. Any principal or assistant principal may be represented by counsel at a private or public hearing conducted under this Section.



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# APRIL

2013

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# Reduction in Force: Non-certified employees

2013

- 105 ILCS 5/10-23.5
  - If an ESP is removed or dismissed, or the hours he or she works are reduced as a result of a decision of the Board to:
    - Decrease the number of ESPs employed by the District
    - Discontinue some particular type of ESP service
  - Written notice or personal delivery at least 30 days before the employee is removed or dismissed or the hours her or she works are reduced together with a statement of honorable dismissal and the reasons therefore.
  - Different requirements if reduction is due to unforeseen reduction in the student population

# Notice to Remedy

2013

(1) If a dismissal of a teacher in contractual continued service is sought for any reason or cause other than an honorable dismissal ..., the board must first approve a motion containing specific charges by a majority vote of all its members. ...

Before setting a hearing on charges stemming from causes that are considered remediable, a board must give the teacher reasonable warning in writing, stating specifically the causes that, if not removed, may result in charges; however, no such written warning is required if the causes have been the subject of a remediation plan pursuant to Article 24A of this Code.

105 ILCS 24-12(d)(1).



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MAY

2013

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# Job Qualifications

2013

- The law says:
  - 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, on or before the May 10 prior to the school year during which the sequence of dismissal is determined. **105 ILCS 5/24-12 (b)**
  - It is not clear whether a “list” is required, but the categorization must occur.

# Job Qualifications

2013

- May 10
  - The new “magic date” for changing qualifications for jobs
  - Jobs should be viewed broadly and narrowly:
    - Blind P.E. teacher – can he teach Driver Ed?
    - 20 year old math certification – can she teach Math?
  - Qualifications changed before that date are effective for the *following year's* RIFs.



# Job Qualifications

2013

- Job Descriptions
  - With the new licensure system, be wary of adding or removing qualifications – qualifications that remove someone from a position will be met with scrutiny
  - Each job (endorsement) should have its own job description. The more narrow, the better:
    - Is a pre-k teacher qualified to teach 3<sup>rd</sup> grade?
    - Is a 3<sup>rd</sup> grade teacher qualified to teach pre-k?



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# JUNE

2013

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# EEOC Charges

2013

- EEOC Charges may be filed in 3 ways:
  - In person (at an EEOC office)
  - By telephone
  - By mail
- Written filings require very minimal information:
  - Name, address and phone number
  - Name, address and phone of employer
  - Number of employees employed (if known)
  - A short description of the discriminatory event (fired, demoted, harassed, etc)
  - When the events took place
  - Why the discrimination took place (because of race, sex, age, etc)
  - Signature

# EEOC: Charge Processing

2013

- Filing of a Charge
- Investigation
  - Position Statement
  - Requests for additional information
  - Site visits
  - Witness interviews
- Mediation (optional)
- “Right to Sue” letter or EEOC initiates action (conciliation or litigation)
- The average time it takes EEOC to process an investigation is 182 days (per EEOC)

# IDES

2013

- Employment Security
  - Employees out of work are generally entitled.
    - Leaving voluntarily without good cause prevents access; and
    - Dismissal for cause prevents access.

# IDES

2013

- Employment Security

- An individual shall be ineligible for benefits, on the basis of wages for service in employment in any capacity... performed for an educational institution, ... during a period between two successive academic years or terms, if the individual performed such service in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such service in the second of such academic years or terms.



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# JULY

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# Reduction in Force: Recall – Certified Employees

2013

- 105 ILCS 2/24-12(b)
  - Vacancies within the following school term, or within 1 calendar year from the beginning of the following school term:
    - Vacancies tendered to:
      - Teachers who were in groupings 3 or 4
      - Teachers who are qualified to hold the position (legal qualifications and other qualifications established by the District)
      - Recall in inverse order of dismissal, unless an alternative order of recall is established in the CBA.



# Reduction in Force: Recall – Certified Employees

2013

- 105 ILCS 5/24-12.2
  - Any teacher recalled within one calendar year from the beginning of the following school term pursuant to Section 24-12 shall lose no rights which accrued while in contractual continued service

# Reduction in Force: Recall – Non-Certified Employees

2013

- 105 ILCS 5/24-12.2
  - If the District has any vacancies for the following school term or within one calendar year from the beginning of the following school term:
    - The position within a specific category shall be tendered to the employee so removed from that category
    - OR
    - Any other category of position, so far as they are qualified to hold such position.

# New and Vacant Positions

2013

## 105 ILCS 5/24-1.5:

Filling a new or vacant teaching position, which is not otherwise required to be filled pursuant to Section 24-12 (recall of tenured teachers), requires consideration of factors that include without limitation, certifications, qualifications, merit and ability (including performance evaluations, if available) and relevant experience.

Length of continuing service with a school district must not be considered unless all other factors are determined by the district to be equal.

# Thank you

2013

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