

**NAVIGATING THE RECENT CHANGES IN THE TEACHER  
REDUCTION-IN-FORCE ("RIF") PROCESS  
UNDER SENATE BILL 7**

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**Three Changes to the SOD List and Group 2  
(in Section 24-12 E)**

1. Teachers in Group 2 on the SOD list now have limited recall rights.
2. The SOD list must now contain teacher' names, categorization by positions and groupings (1 to 4).
3. Only one evaluation rating shall be used each year to determine placement on the SOD list.

## Illinois 5Essentials Survey

- On February 1, 2013 ISBE administered the first “Illinois 5Essentials Survey,” which is the statewide survey of learning conditions for teachers and students in grades 6 through 12.
- The “5Essentials” are:
  - Effective Leaders
  - Collaborative Teachers
  - Involved Families
  - Supportive Environment
  - Ambitious Instruction

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## Illinois 5Essentials Survey

- The process for districts to develop an alternative survey is as follows:
  1. The district may elect to use an Alternative Survey pre-approved by Dr. Koch, at sole cost and expense of the district.
  2. The district must submit a form to notify ISBE of the intent to use an Alternative Survey by August 1 of the school year the survey will be administered.
  3. The district must submit signed certification indicating agreement between the school board and the local teachers union.

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## **Illinois 5 Essentials Survey**

- The process for districts to develop an alternative survey is as follows:
  4. The district must provide ISBE with data and reports from the Alternative Survey suitable to be published on school report cards and the State School Report Card website.
  5. The Alternative Survey must be administered each school year that the "Illinois 5 Essentials Survey" is administered.

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## **In order to conduct a RIF in accordance with Senate Bill 7, a school district must do the following:**

- 1) Finalize job descriptions by May 10 of the year prior to RIF.
- 2) Analyze district finances and staffing needs, and identify bargaining obligations in connection with a proposed RIF.
- 3) Begin bargaining and attempt to conclude prior to final Board action on a RIF.
- 4) RIF Joint Committee must reach agreements by February 1.
- 5) Create a Sequence of Dismissal list categorizing teachers by position(s) for which they are qualified and placing them in Groups One-Four based on performance evaluation ratings (ranking within Group dependent upon specific factors for each grouping).

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**In order to conduct a RIF in accordance with Senate Bill 7, a school district must do the following:**

- 6) Issue Sequence of Dismissal list to union at least 75 days prior to end of school term and finalize list no later than 45 days before end of school term. Also issue the list showing length of continuing service of each teacher to the union.
- 7) Determine ordinary non-renewals of probationary teachers.
- 8) Of teachers remaining after non-renewals of probationary staff, identify number of staff to be reduced.
- 9) Identify teachers subject to RIF, starting with Group One and working up to Group Four.
- 10) Take Board action to approve RIFs and deliver notices to affected teachers no later than 45 days prior to end of school term.

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**Job Descriptions and Qualifications**

- How to determine qualifications for positions:
  - Under SB 7, accurate and up-to-date job descriptions are an essential element.
  - Under SB 7's RIF provisions, school districts must now first consider qualifications and certification areas in order to determine the category of position(s) in which a teacher is placed.

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## Job Descriptions and Qualifications

- The process for determining the order of dismissal involves categorizing employees in one or more position lists by certification and qualifications.
- SB 7 does not require school districts to have job descriptions for every position.

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## Job Descriptions and Qualifications

- ISBE has issued guidance of “other qualifications” that may be included in a District’s job descriptions.
  - To date, ISBE has provided two examples of “other qualifications”:
    - A District may decide that content teachers (e.g., science, math, social studies) need to be CRISS-trained. CRISS is a set of strategies to teach reading and literacy skills through the curriculum; and
    - A District may decide that a middle school math endorsement would be required for anyone teaching math to students in particular grades.
  - ISBE has also stated that years of experience or years of relevant experience may be used as a job qualification if included in a job description and if applied to all teachers in that position.

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## Job Descriptions and Qualifications

- Robbins Schwartz recommendations:
  - School districts should consider adding a requirement in all job descriptions that the teacher have past experience teaching in the substantive area at a minimum.
  - Districts should consider requiring more specific experience requirements such as:
    - (1) the teacher must have past experience teaching the specific class, e.g., experience teaching 7<sup>th</sup> grade math and not just math generally; and/or
    - (2) the teacher must have past experience within a specific time period, e.g. experience teaching math within the past five years.

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## Job Descriptions and Qualifications

- Experience qualifications will allow districts to avoid the potential situation in which a teacher is RIFed, yet is able to “bump” a teacher from another substantive area in which the teacher has never taught or has not taught in a number of years.
- School districts that elect to update their job descriptions or create new descriptions where none existed previously should be aware of bargaining obligations.
- School districts should begin the job description review process early in the school year in order to meet the May 10 deadline.

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## RIF Joint Committee Authority And Procedures

- Each District must use a RIF joint committee comprised of equal representation selected by the school board and the union.
- The joint committee must be established and meet annually with the first meeting to occur by December 1<sup>st</sup> of each year.
- Committee discussions:
  - Discussions should not focus on individual teacher(s), or on problems/concerns with individual teachers.
  - Discussions should be in the abstract and focus on creating standards that will apply to everyone.

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## RIF Joint Committee Authority And Procedures

- Committee voting:
  - Decisions must be reached by a majority vote of all committee members, not just those present at the meeting.
  - If committee member(s) are absent, ensure that at least a majority of members are present before voting on any matter.
- Documenting committee discussions, voting, and agreements:
  - Reduce any and all committee agreements to writing on or before the February 1 deadline to ensure clarity and avoid disputes, challenges, etc.
  - Consider using an informal note/minute taker to create a written record of committee discussions and voting.

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## Creating A Sequence Of Dismissal SOD List

- How to place teachers on the SOD list:
  - Categorize each teacher into the position(s) for which they are qualified and, within each position, place all teachers qualified for the same in one of the four SOD Groups.

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## Methods to Limit Union Grievances and Challenges to Teacher RIF Layoffs, Sequence of RIF, And Teacher RIF “Bumping” Rights

- RIF layoffs:
  - Determine the bargaining obligation in connection with a RIF.
  - Bargain in good faith with the Union over the decision and/or impact.
  - Take timely action on any RIF.

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## Methods to Limit Union Grievances and Challenges to Teacher RIF Layoffs, Sequence of RIF, And Teacher RIF "Bumping" Rights

- Sequence of RIF:
  - Complete all RIF joint committee work with written agreement(s) by February 1.
  - Issue initial SOD and seniority list to the Union at least 75 days prior to the end of the school year.
  - Provide individualized written notice to teachers with their SOD placement information, e.g. "You are in Group Three in the following positions (specify job categories) and are number 10 of 30."

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## Methods to Limit Union Grievances and Challenges to Teacher RIF Layoffs, Sequence of RIF, And Teacher RIF "Bumping" Rights

- Teacher RIF bumping rights:
  - Even though school districts now utilize a SOD list which is tied to teacher performance, bumping rights still exist.
  - 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?
    - Per ISBE, 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.

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## Contract Language Tips Regarding SB 7 RIF Requirements

- Remember that the parties' CBA cannot conflict with SB 7.
- Best practice is to eliminate any old CBA RIF language and simply state that, "RIF and recall will be conducted in accordance with the *School Code*." The more language that is included in the contract, the more exposure the District has to grievances by the union challenging procedural missteps.
- As an alternative to contract language, consider use of memoranda of understanding or side letters to address RIF procedures and/or joint committee functions rather than placing such language in the contract. Avoid attaching such memoranda or side letters to the contract and avoid incorporation by reference of the same in the contract.
- The District and the union can negotiate an alternate sequence of recall, but the default rule is reverse order of RIF.

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## Contract Language Tips Regarding SB 7 RIF Requirements

- Avoid:
  - Putting any RIF joint committee language in the CBA, including any joint committee agreements (district would have to bargain with the union to update/change the language).
  - Expansion of recall rights beyond required categories.
  - Any union proposal(s) to limit the definition of "qualifications" for positions.
  - Efforts by union to expand or limit authority of RIF joint committee – SB 7 expressly defines role and purpose of the committee.

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## SB 7 Implications On Certified Staff Job Descriptions

- Under SB 7's amended RIF provisions, Districts must now first consider qualifications and certification areas prior to considering seniority and tenure status.
- These qualifications include all qualifications imposed as a matter of law, plus additional qualifications set forth in the school district's job descriptions, established on or before May 10 of the previous year.
- Districts therefore have until May 10, 2015 to review and revise their job descriptions in order to be considered for purposes of RIFs during the 2014-2015 school year.

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## SB 7 Implications On Certified Staff Job Descriptions

- Job Descriptions and the RIF Process
  - As a result of SB 7's changes to the RIF process, maintaining accurate and updated job descriptions is now more important than ever.
  - SB 7 expressly affords Districts the right to include additional qualifications beyond certification in their job descriptions.
  - SB 7 does not require Districts to have job descriptions for every position.
  - However, if a District does not have a job description for a position, then certification and legal qualifications will be the only basis for including or excluding a teacher from the position list.
  - Thus, a teacher who is legally qualified for a position would need to be included on a position list, even if the teacher had not taught in that position or substantive area for several years.
  - Accordingly, Districts who create job descriptions will successfully be able to limit the number of qualified employees for a given position.

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## SB 7 Implications On Certified Staff Job Descriptions

- ISBE Guidance on “Other Qualifications”
  - In recently issued guidance, the ISBE provided two examples of “other qualifications.”
    - A District may decide that content teachers (*e.g.*, science, math, social studies) need to be CRISS-trained. CRISS is a set of strategies to teach reading and literacy skills through the curriculum.
    - Similarly, a District may decide that a middle school math endorsement would be required for anyone teaching math to students in particular grades. With the inclusion of these or similar requirements in job descriptions, Districts will thus be able to more narrowly tailor the qualifications for particular positions.
- We recommend that Districts consider adding a requirement in all job descriptions that the teacher have past experience teaching in the substantive area at a minimum.

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## SB 7 Implications On Certified Staff Job Descriptions

- Bargaining Obligations
  - Districts who elect to update their job descriptions or create new descriptions from scratch must first consider bargaining obligations.

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**Questions?**

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