

REMEDIATION AND PROFESSIONAL DEVELOPMENT PLANS: YOUR HOW TO GUIDE FROM A LEGAL PERSPECTIVE

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Illinois School Code: Section 24A-5 Content of Evaluation Plans

- Professional Development Plans
- Remediation Plans



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The Performance Evaluation Reform Act

- 4-tier performance rating system
- New rating – Needs Improvement
- Professional Development Plan “PDP”

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Professional Development Plan Requirements

- Within 30 school days after rating a tenured teacher as "Needs Improvement"
- Development by the evaluator, in consultation with the teacher;
- Taking into account the teacher's ongoing professional responsibilities including his or her regular teaching assignments;
- Directed at the areas that need improvement; and
- Any supports the district will provide to address the areas identified as needing improvement.

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Not Required by a Professional Development Plan

- A specific duration
- A summative or formative rating
- Observations or evaluations



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Other significance of a tenured teacher receiving a summative rating of Needs Improvement

- A tenured teacher must be formally evaluated in the year following the receipt of a Needs Improvement on a summative evaluation rating.

OVERALL EVALUATION					
	U	P	CI	E	
Performance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Communication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowledge of Learning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowledge of the Learner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Classroom Management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Value	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

U = Unsatisfactory P = Probationary CI = Needs Improvement E = Excellent
 (Sum of all scores = total score)

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Remediation Plans

- Within 30 school days of a summative evaluation of a tenured teacher as "Unsatisfactory"
- Development and commencement by the District – Note that the consulting teacher shall participate in developing the plan, but the final decision as to the evaluation shall be done solely by the evaluator, unless a CBA provides to the contrary
- Of a remediation plan designed to correct deficiencies cited – provided the deficiencies are deemed remediable
- 90 school days of remediation within the classroom, unless an applicable CBA provides for a shorter duration
- An evaluation must be issued within 10 days after the conclusion of the plan
- No loss of jurisdiction to discharge if evaluation is not issued within 10 days

Remediation Plans - Participants

- The tenured teacher rated unsatisfactory;
- an evaluator;
- a consulting teacher selected by the evaluator
 - an educational employee as defined by the Labor Act;
 - at least 5 years teaching experience;
 - reasonable familiarity with the assignment of the teacher being evaluated; and
 - receipt of an "Excellent" rating on his/her most recent evaluation
- Where no teachers in the District meet this criteria, must submit request for consulting teacher to the ROE.

Remediation Plans - Participants

- In a district with a population of less than 500,000 with an exclusive bargaining representative, the union may:
- supply a roster of qualified teachers from which the consulting teacher is to be selected
 - at least 5 teachers on the list, each of whom meets qualifications with respect to the teacher under remediation; or
 - the names of all the qualified teachers if the number is less than 5
 - an evaluator;
- In the event of a dispute as to qualifications, ISBE determines qualifications

Remediation Plans – Consulting Teacher

- The consulting teacher shall participate in developing the remediation plan
- The consulting teacher shall provide advice to the teacher rated unsatisfactory on how to improve teaching skills and to successfully complete the remediation plan
- Districts and teachers subject to dismissal hearings are precluded from compelling the testimony of consulting teachers either as to the rating process or for opinions of performances by teachers under remediation

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Remediation Plans - Evaluations

- Mid-point and final evaluation by an evaluator during and at the end of remediation period
- Each evaluation shall assess the teacher's performance during the time period since the prior evaluation, provided the last evaluation shall include an overall evaluation of the teacher's performance during the remediation period
- Written copy of the evaluations and ratings, in which any deficiencies in performance and recommendations for correction are identified – provided to and discussed with the teacher within 10 school days after the date of evaluation – unless CBA provides to the contrary
- Evaluations at the conclusion of the remediation period are separate and apart from required annual evaluations and shall not be subject to the guidelines and procedures relating to annual evaluations
- Evaluator may, but is not required to use the forms provided for in the annual evaluation of teachers in the District's evaluation plan

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Remediation Plans - Outcomes

- A successful remediation requires the teacher to receive an overall evaluation of Proficient or Excellent
- A teacher who successfully remediates, must be reinstated to the District's evaluation plan and cycle, provided, that in the year following the receipt of an Unsatisfactory rating, a teacher must be evaluated at least once
- A teacher who fails to receive an overall rating of Proficient or Excellent must be dismissed pursuant to state law and regulation
- Mid-point and final evaluation by an evaluator during and at the end of remediation period

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Practice Tips

- Be direct in describing a teacher's strengths and weaknesses
- Consider the third party who may someday judge whether the teacher was truly deficient in his/her performance
 - Narrative
 - Describe the deficiency
 - Provide specific examples that lead to a conclusion
 - Explain what the teacher should have done differently
 - Explain why it matters
 - Tie the deficiency back to the teaching standard
 - Avoid passive, ambiguous language (e.g., "The room appeared to be disorganized" "Mrs. Wagner failed to organize the room to best facilitate instruction. For example,")

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Practice Tips

- Use more than one evaluator
- Allow plenty of additional time
- Involve legal counsel early
- Avoid the appearance of targeting the teacher



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Board of Education of Valley View Community Unit School District 365-U v. ISBE

- In October 2013, the Third District Appellate Court recently upheld a hearing officer's finding that Valley View school district terminated the employment of a tenured school psychologist, based after a less-than-fair remediation process.
- The district was ordered to reinstate Reid with full back pay.
- Practical Tips:
 - Ensure that you have the correct procedure in place for conducting remediation plans.
 - Consider using multiple evaluators to avoid claims of prejudice.
 - Think carefully before writing a glowing letter of reference for employees who are not performing to your satisfaction, and be mindful that such a letter may be used as evidence of that employee's competence.
 - Make sure to document the consulting teacher's involvement in the process.

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After PERA Implementation

- If a tenured teacher successfully remediates and receives a subsequent rating of Unsatisfactory on any of the annual or biannual overall performance evaluation ratings received during the 36-month period following the teacher's completion of the remediation plan, then the school district may forego remediation and seek dismissal
- Note that, currently, ISBE has the power to initiate licensing action for incompetency if a teacher received two or more Unsatisfactory ratings within a period of 7 school terms of service.

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After PERA Implementation – Optional Alternative Evaluative Dismissal Process

- Use of a second evaluator from a list consisting of administrators and qualified teacher evaluators submitted by the union, if any
 - To be a qualified teacher evaluator, the teacher must have either National Board of Professional Teaching Standards certification, with no Unsatisfactory or Needs Improvement ratings in his or her most recent evaluation ratings; or Excellent ratings in 2 of his or her most 3 evaluations, with no Needs Improvement or Unsatisfactory ratings in his or her last 3 ratings.
- There must be good faith cooperation between the District and the Union, establish a process for selecting the second evaluator from the list

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After PERA Implementation – Optional Alternative Evaluative Dismissal Process

- The second evaluator shall either conduct the mid-point and final evaluation during the remediation; or
- conduct an independent assessment of whether the teacher completed the remediation plan with a Proficient or better, which independent assessment shall include, but is not limited to personal or video-recorded observations of the teacher engaged in the professional practice components of the remediation plan. Nothing precludes the participation of the evaluator who rated the teacher as Unsatisfactory in the remediation plan

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**After PERA Implementation – Optional Alternative
Evaluative Dismissal Process**

- **Benefits**
- If the teacher fails to successfully remediate, the school district is only obligated to demonstrate:
- That the Unsatisfactory performance that preceded remediation applied the teacher practice components and student growth components and determined an Unsatisfactory in accordance with the standards and requirement of the district's plan
- that the remediation plan complied with the requirements of Section 24A-5 of the School Code
- That the teacher failed to complete the remediation plan, with a Proficient or better, based upon the applicable standards and requirements of the district's plan

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**After PERA Implementation – Optional Alternative
Evaluative Dismissal Process**

- **Benefits**
- That, if the second evaluator does not conduct the mid-point and final evaluation and makes an independent assessment that the teacher completed the remediation plan with a Proficient or better, the school district must demonstrate that the final remediation is a more valid assessment of the teacher's performance than the assessment made by the second evaluator
- Then the teacher may only challenge the substantive and procedural aspects of the Unsatisfactory performance evaluation rating that led to the remediation, the remediation plan and the final remediation evaluation. To the extent the teacher challenges procedural aspects, the teacher must demonstrate how an alleged procedural defect materially altered the teacher's ability to demonstrate proficient performance
- Each party is only given 2 days to present evidence and testimony unless a longer period is mutually agreed to by the parties or deemed necessary by the hearing officer.

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THANK YOU!

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