

**GUIDELINES GOVERNING**  
**PRE-SUSPENSION HEARINGS**  
**FOR TENURED TEACHERS**  
**AND CONTRACT PRINCIPALS**

**FOR HEARINGS TO SUSPEND TENURED TEACHERS AND CONTRACT  
PRINCIPALS PENDING DISMISSAL HEARINGS GOVERNED BY 105 ILCS 5/34-85  
OF THE ILLINOIS SCHOOL CODE**

**Issued by**

**Dr. Janice K. Jackson, Chief Executive Officer**

**Updated - June 8, 2020**

## **GUIDELINES GOVERNING SECTION 34-85 PRE-SUSPENSION HEARINGS**

The Illinois School Code provides that, pending a hearing on dismissal charges filed by the Chief Executive Officer (CEO) of the Board of Education of the City of Chicago (Board), the CEO, or his or her designee, may suspend a teacher or contract principal without pay in accordance with rules prescribed by the Board. See 105 ILCS 5/34-85(a)(2); 23 Ill. Adm. Code 51.35(b). This pre-suspension process is part of the broader dismissal proceedings for tenured teachers and contract principals. *Id.* The Board adopted Board Rule 4-7(c) to authorize the CEO, or his or her designee, to establish protocols to suspend a teacher or contract principal without pay pending a Section 34-85 dismissal hearing. Pursuant to that authority, the CEO establishes the following guidelines, which were originally effective January 23, 2019, and updated June 8, 2020.

### **I. Notification**

- A. Within 10 business days of the CEO's approval of written charges and specifications requesting the dismissal of a tenured teacher or contract principal, the Office of Employee Engagement (OEE) shall serve those charges and notice of a pre-suspension hearing on the teacher or contract principal in accordance with Section 34-85 of the Illinois School Code. 105 ILCS 5/34-85.
- B. If, after an employee is suspended without pay, the dismissal charges are amended, the employee shall be entitled to a second pre-suspension hearing on the amended dismissal charges.
- C. The pre-suspension hearing notice shall provide the time, date and location of the pre-suspension hearing.

### **II. Pre-Suspension Hearing**

- A. The OEE Executive Director shall designate an OEE hearing officer to conduct the pre-suspension hearing in a fair and efficient manner.
- B. The OEE hearing officer shall ensure that the pre-suspension hearing is recorded.
- C. The pre-suspension hearing is not an evidentiary hearing. An Illinois State Board of Education (ISBE) hearing officer will conduct an evidentiary hearing on the dismissal charges, if the employee makes a timely request for such a hearing in accordance with 105 ILCS 5/34-85.

- D. At the pre-suspension hearing, the employee may be represented by one person of his or her choice. The CEO shall be represented by a Board attorney or another designated attorney.
- E. The CEO's attorney shall present the dismissal charges and outline the evidence that supports them.
- F. After the CEO attorney's presentation, the employee or his or her representative may make an oral or written presentation and offer documents, including affidavits, in response to the dismissal charges and CEO's presentation.
- G. The pre-suspension hearing shall be closed to the public unless both parties agree it should be open.
- H. Neither party is entitled to discovery, such as interrogatories, document requests or depositions. Nor may either party compel the other party to present evidence or witnesses.
- I. The OEE hearing officer does not have the authority to issue subpoenas and may not compel either party to present documents or witnesses.
- J. The OEE hearing officer has sole discretion to limit the amount of time for each party's presentation, determine which documents or statements he or she considers to be relevant, and conclude the hearing. The OEE hearing officer shall have the authority to rule on all pre-suspension hearing matters presented by the parties before, during and after the pre-suspension hearing.
- K. The teacher or contract principal may waive his or her right to a pre-suspension hearing.

### **III. The Hearing Officer's Written Recommendation and the CEO's Final Decision**

- A. After the OEE hearing officer closes the pre-suspension hearing record, he or she shall determine in writing whether: (1) a material mistake was made in the filing of the dismissal charges; (2) there are reasonable grounds to believe that the dismissal charges are true; and (3) the dismissal charges provide cause to suspend the employee without pay pending the outcome of a Section 34-85 discharge hearing.
- B. Based on the determinations set forth in Section III.A above, the OEE hearing officer will recommend that the CEO: (1) withdraw the charges; (2) suspend the employee without pay; or (3) allow the employee to continue working pending the outcome of the Section 34-85 discharge hearing.

- C. The CEO or his or her designee shall consider the OEE hearing officer's recommendation when issuing a final decision.
- D. The OEE Executive Director shall serve notice of the final decision on the employee or the employee's representative.
- E. If the CEO or his or her designee determines that an employee's suspension without pay is warranted, such suspension without pay becomes final only after the Board makes a decision regarding a hearing officer's recommendation, as issued following a dismissal hearing before an ISBE hearing officer. 105 ILCS 5/34-85(a)(2),(7-8). Prior to the Board making a final decision regarding dismissal, the CEO's decision relating to suspension without pay may not be appealed to the Board or any other court. If and when the Board renders a final decision, it may only be appealed to the Illinois Appellate Court as specified by the School Code. 105 ILCS 5/34-85(a)(8).
- F. In the event of amended dismissal charges, if the CEO or his or her designee determines that the employee should continue to be suspended without pay based on the amended charges, the employee shall not be entitled to interim back pay between the original pre-suspension hearing and the second pre-suspension hearing. Paragraph III.E. is applicable to all pre-suspension hearings.