

SENATE BILL NO. 2357

Introduced by

Senators Flakoll, Freborg, J. Lee

Representatives Clark, R. Kelsch, Thoreson

1 A BILL for an Act to amend and reenact section 15.1-15-08 of the North Dakota Century Code,
2 relating to discharge for cause.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 15.1-15-08 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **15.1-15-08. Discharge for cause - Hearing.**

- 7 1. If the board of a school district contemplates the discharge for cause of an
8 individual employed as a teacher, a principal, or as an assistant or associate
9 superintendent, ~~prior to~~ before the expiration of the individual's contract, the board
10 shall ~~provide written notice to the individual at least ten days prior to the discharge~~
11 ~~date. The notice must:~~
- 12 a. ~~State the date and time at which the board will conduct a special hearing to~~
13 ~~address charges against the individual; and~~
 - 14 b. ~~State that the individual may demand a list of the charges.~~
- 15 2. ~~If the individual demands~~ petition the director of the office of administrative
16 hearings for appointment of an administrative law judge to preside over the
17 hearing. The administrative law judge shall set the time and place of the hearing,
18 direct the board to publish notice of the hearing, and direct the board to provide to
19 the individual a list of charges under subsection 1, the board shall furnish the list to
20 the individual at least five days before the hearing.
- 21 3. ~~If the individual notifies the board in writing at least two days before the hearing~~
22 ~~that the individual intends to contest the charges, the board shall produce evidence~~
23 ~~of the charges at the hearing, together with witnesses who are subject to~~
24 ~~cross examination by the individual or by a representative of the individual.~~

Sixty-first
Legislative Assembly

- 1 4. ~~If a witness is a minor and if it is the wish of the witness or the witness's parent, the~~
2 ~~witness may be accompanied by legal counsel and a parent.~~
- 3 5. ~~At the hearing, the individual may produce evidence and witnesses to refute any~~
4 ~~charges. Any witnesses produced by the individual are subject to~~
5 ~~cross-examination.~~
- 6 6. 2. The Except as otherwise provided in this section, the hearing must be conducted in
7 accordance with chapter 28-32.
- 8 7. 3. Unless otherwise agreed to by At the request of the board and or the individual,
9 the administrative law judge shall close the hearing must be conducted as an
10 ~~executive session of the board, except that:~~
- 11 a. ~~The individual may invite to the hearing any two representatives and the~~
12 ~~individual's spouse or one other family member; and~~
- 13 b. ~~The board may invite to the hearing any two representatives, the school~~
14 ~~business manager, and the school district superintendent, except for the~~
15 ~~parties, their legal representatives, witnesses, two invitees requested by the~~
16 ~~individual, and two invitees requested by the board.~~
- 17 8. 4. The individual subject to the discharge may request one continuance. If a
18 ~~continuance is requested, the board of the school district administrative law judge~~
19 ~~shall grant the continuance not in excess of seven days. Upon a showing of good~~
20 ~~cause by the individual, the board administrative law judge may grant a~~
21 ~~continuance in excess of seven days.~~
- 22 9. 5. No cause of action for libel or slander may be brought regarding any
23 ~~communication made in an executive session of the board held for the purposes~~
24 ~~provided in this section.~~
- 25 6. a. After considering all testimony and other evidence presented at the hearing,
26 the administrative law judge shall determine whether sufficient grounds exist
27 for the board of the school district to discharge an individual for cause.
- 28 b. If sufficient grounds are determined to exist, the administrative law judge shall
29 order the board to dismiss the individual.
- 30 c. If sufficient grounds are determined not to exist, the administrative law judge
31 shall order that the board may not dismiss the individual at this time. A

- 1 determination under this subdivision does not prevent a board from engaging
2 in the nonrenewal procedures set forth in section 15.1-15-06.
3 7. An order of an administrative law judge under this section may be appealed to the
4 district court.