

May 15, 2026

ICSA Statement on SB2914

I am writing this statement on behalf of the Illinois Council of School Attorneys (ICSA), an organization of over 200 attorneys who collectively represent hundreds of Illinois public school districts. The purpose of this statement is to share our significant concerns with SB2914, which allows for binding arbitration on a school board upon its issuance of a Notice to Remedy. Teacher discipline requirements under collective bargaining agreements (CBA), the issuance of a Notice to Remedy, and the due process required prior to teacher dismissal are all very important, yet nuanced tools and processes. We understand that these processes can be confusing and hope that this statement serves to address some legal questions that have been raised around SB2914. We also understand that serious policy concerns have been shared by school management groups, which we also share. However, we are reserving our comments to the serious legal issues that must be considered.

1. Binding Arbitration is Unfair and Unprecedented

SB2914 statutorily imposes binding arbitration on school districts. While arbitration provisions are required under the Illinois Education Labor Relations Act (IELRA) for CBAs, the IELRA is clear that the school board and the union have the right to negotiate the terms within that CBA. It is a significant departure from Illinois law to unilaterally impose binding arbitration on a party for an issue to which both parties have not agreed.

Article 10 of the School Code grants specific employment responsibilities to the school board. Even in the most serious instances of teacher misconduct that lead to dismissal, school boards maintain the ultimate decision-making authority over employment decisions. There are currently numerous well-established statutory rights and protections in place for teachers prior to dismissal, including a full hearing before an ISBE-trained hearing officer who makes a recommendation to the school board on the dismissal. However, the board maintains its rights as an employer to ultimately accept or reject the determination of the outside hearing officer. Only upon appeal to a court of law can the board's decision be overturned.

SB2914 strips the locally elected school board's statutory rights to make employment decisions and delegates that employment decision to an outside arbitrator with no expertise in school matters. Furthermore, that decision is binding and cannot be appealed, with no ability to appeal to a court of law. This sets a dangerous precedent, particularly for a matter that does not invoke property interests, as explained below.

2. Due Process Rights are Not Involved

We understand that the intent of SB2914 is to provide due process rights for tenured teachers upon issuance of a notice to remedy. However, due process does not apply to a Notice to Remedy because it is simply that, a notice. A school board is required by law to issue a notice to remedy to a tenured teacher, rather than move to dismiss the teacher, if the misconduct at issue can be corrected.

A recent survey of ICSA's attorneys that was shared with school management groups make it clear that Notices to Remedy are regularly issued for matters that implicate student safety, but are likely considered remedial, and therefore statutorily require a Notice to Remedy prior to dismissal. Of the 225 Notices to Remedy that our attorneys have worked on with a local school districts in the last five years: 1) 66 related to potential student grooming/staff-student boundary violations; 2) 72 related to physical contact/assault; and 3) 85 were for other reasons (refusal or failure to implement an IEP or 504 plan, falsifying records/data, racial slurs, etc.). The Notice to Remedy is a critical tool to notify teachers of serious misconduct and give them an opportunity to remedy that behavior and preserve their job.

Due process is afforded to individuals in cases where there is a property interest at stake such as loss of pay or loss of a job. There is no property interest at stake here. A teacher who has been issued a notice to remedy remains in the classroom as a regular employee and continues to receive all their pay and benefits. SB2914, therefore, allows binding arbitration simply for an employer's ability to notify their employee of its behavior expectations. Binding arbitration is an expensive and lengthy process and inappropriate when there is no property interest at stake.

3. No Standard for Arbitration

There is typically agreed-upon arbitration language in a CBA that confines the determination of the arbitrator to whether a violation of the CBA has occurred. Similarly, when a teacher is dismissed, and the dismissal hearing process is invoked, the hearing officer must decide whether the teacher's misconduct meets the standard set forth in Section 10-22.4 of the School Code, and the behavior rises to the level of "incompetency, cruelty, negligence, immorality or other sufficient cause."

There is no standard in SB2914 for what determination the arbitrator is authorized to make. This unlimited and overly broad scope allows the arbitrator to impose any standard of review on the board's decision and apply any remedy it deems appropriate. It puts an arbitrator, without specialized training in school law and policies, in a position to second-guess the decision of a locally elected school board. Again, there is no opportunity to appeal that decision.

The legislative intent behind the arbitration provision (legislative discussion and debates at committee hearings or on the floor) cannot cure the lack of standards in the bill. Legislative intent is a statutory interpretation rule used by judicial bodies to interpret and

apply statutory language which is deemed unclear by a reviewing judicial court. If statutory language is clear, legislative intent is not supposed to be considered. In the case of the binding arbitration language in SB2914, it is unlikely the language would be deemed unclear as to the right of binding arbitration on the issuance of Notice to Remedy. Moreover, even if a school district argued that the right is unclear, an arbitrator is highly unlikely to engage in an analysis of legislative intent. Many arbitrators are not attorneys and do not have experience in such interpretations. Most importantly, the arbitrator's decision is required to be final and binding, which means that it would be nearly impossible for a school district to ask a judicial court to review the decision and apply legislative intent.

4. The Dismissal Process Will Be Jeopardized

SB2914 creates the potential for two lengthy and expensive parallel proceedings. While many teachers correct their behavior following a Notice to Remedy, others do not, and the district moves to dismissal. If the teacher files for arbitration under SB2914 and then the school district moves to the dismissal process, two expensive and lengthy proceedings could occur with two potentially conflicting decisions. Additionally, a school board is statutorily required to provide a notice to remedy for remediable behavior before moving to dismissal. If the notice to remedy is being arbitrated, it is unclear whether the board may rely upon the notice to remedy that is being arbitrated and proceed immediately to dismissal if the misconduct continues.

5. Student Witnesses Are Unprotected

While not a purely legal matter, for those of us who regularly work on teacher misconduct cases, the vast majority of these involve delicate issues that may require student testimony. Testifying against a teacher is an extremely challenging and potentially traumatic situation in which to put a student, especially when that student is still in a teacher's classroom. The negative impact on students will be one of many considerations for school boards when determining whether to move to dismissal or issue a notice to remedy. There are no protections for students involved in the binding arbitration process set forth in SB2914, and there are legitimate questions as to whether this arbitration process would be open to the public since it falls outside the IERLA.

Whether this provision to invoke arbitration under SB2914 would be used sparingly remains to be seen. However, the possibility that the employee will invoke arbitration must be considered by school boards in every single Notice to Remedy decision, including the impact on students, who will not be afforded any protections under this arbitration process as the provision currently stands. An important distinction between the teacher dismissal process and the proposed SB2914 notice to remedy process is that the teacher has typically been removed from the school and put on leave when the teacher dismissal process is initiated. As noted above, there is no loss of job for a notice to remedy, and students could be subpoenaed to testify in the arbitration against a teacher who they see in the building



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each day. This is an extremely unfair situation to put students in, and this would be done simply to allow a school board to fulfill their statutory duty to notify a tenured teacher of the need to remedy their behavior where no property interest is at stake. Additionally, if the board moves to dismissal, the student may be required to testify twice, at the arbitration proceeding and at the dismissal hearing.

Conclusion

On behalf of the ICSA and the school districts they serve, we have significant concerns with SB2914 in its current form. This bill jeopardizes an important tool upon which our school boards rely. We are always willing to help navigate possible legislative solutions, but we have significant legal concerns with SB2914 in its current form and its potential impact on the students of Illinois.

Sincerely,

Caroline Roselli
Chair, Illinois Council of School Attorneys
