

Regular Session, 2014

SENATE BILL NO. 365

BY SENATOR APPEL

TEACHERS. Provides relative to tenure and the removal of teachers. (gov sig)

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AN ACT

To amend and reenact R.S. 17:442(C)(1) and 443(B), relative to teachers and administrators;  
to provide relative to tenure; to provide relative to removal of a teacher or  
administrator; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17: 442(C)(1) and 443(B) are hereby amended and reenacted to read  
as follows:

§442. Tenure

\* \* \*

C.(1) ~~Beginning with the 2013-2014 school year, a~~ A tenured teacher who  
receives a performance rating of "ineffective" pursuant to the performance evaluation  
program as provided in R.S. 17:3881 through 3905 shall immediately lose his tenure  
and all **related** rights ~~related thereto~~. If a A teacher **who** is rated "highly effective"  
based on the evidence of the growth portion of the evaluation but is rated  
"ineffective" according to the observation portion, within thirty days after such  
finding, ~~the teacher~~ shall be entitled to a second observation by members of a team  
of three designees, chosen by the local superintendent, which shall not include the

1 principal.

2 \* \* \*

3 §443. Removal of teachers; procedure; right to appeal

4 \* \* \*

5 B.(1) A teacher with tenure shall not be removed from office except upon  
6 written and signed charges of poor performance, willful neglect of duty,  
7 incompetency, dishonesty, immorality, or of being a member of or contributing to  
8 any group, organization, movement, or corporation that is by law or injunction  
9 prohibited from operating in the state of Louisiana, and then only if furnished with  
10 a copy of such written charges and given the opportunity to respond. The teacher  
11 shall have seven days to respond, and such response shall be included in the teacher's  
12 personnel file. At the end of this seven-day time period, the superintendent may  
13 terminate the teacher's employment. A teacher shall not be terminated for an  
14 "ineffective" performance rating until completion of the grievance procedure  
15 established pursuant to R.S. 17:3883(A)(5) if a grievance was timely filed. Within  
16 seven days after dismissal, a teacher may request and upon request shall be granted  
17 a hearing by a ~~panel~~ **committee** composed of a designee of the superintendent, a  
18 designee of the principal or the administrative head of the state special school in  
19 which the teacher was employed, and a designee of the teacher. In no case shall the  
20 superintendent, the principal or state special school administrative head, or teacher  
21 designate an immediate family member or any full-time employee of the school  
22 system by which the teacher was employed who is under the supervision of the  
23 person making the designation. Such hearing may be private or public, at the option  
24 of the teacher, and shall begin within seven business days after receipt of the  
25 teacher's request for such hearing. The teacher shall have the right to appear before  
26 the tenure hearing ~~panel~~ **committee** with witnesses on his behalf and with counsel  
27 of his selection, all of whom shall be heard by the ~~panel~~ **committee** at the hearing.  
28 For the purpose of conducting hearings hereunder, the ~~panel~~ **committee** shall have  
29 the power to issue subpoenas to compel the attendance of all witnesses. Nothing

1           herein contained shall impair the right to seek supervisory review from a court of  
2           competent jurisdiction.

3                       (2) The tenure hearing ~~panel~~ **committee** shall submit its recommendation to  
4           the superintendent, and the superintendent may choose to reinstate the teacher. If the  
5           superintendent does not reinstate the teacher, the superintendent shall notify the  
6           teacher of his final determination, in writing, and such teacher may, not more than  
7           sixty days from the postmarked date of such written notification, petition a court of  
8           competent jurisdiction to review whether the action of the superintendent was  
9           arbitrary or capricious. The court shall have jurisdiction to affirm or reverse the  
10          action of the superintendent in the matter. The record on review shall be limited to  
11          evidence presented to the tenure hearing ~~panel~~ **committee**, and the court shall review  
12          the matter not later than ten days after the petition has been filed. If the action of the  
13          superintendent is reversed by the court and the teacher is ordered reinstated and  
14          restored to duty, the teacher shall be entitled to full pay for any loss of time or salary  
15          he may have sustained by reason of the action of the superintendent.

16   \*       \*       \*

17          Section 2. This Act shall become effective upon signature by the governor or, if not  
18          signed by the governor, upon expiration of the time for bills to become law without signature  
19          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
20          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
21          effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Jeanne C. Johnston.

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#### DIGEST

Appel (SB 365)

Present law provides for the requirements and procedures for awarding tenure to a teacher and provides that the term "teacher" includes any school employee who holds a teaching certificate and whose legal employment requires a teaching certificate.

Present law provides that beginning with the 2013-2014 school year, a tenured teacher who receives an "ineffective" performance rating shall immediately lose tenure and all rights related thereto. Further provides that if a teacher is rated "highly effective" on the growth portion of the evaluation but is rated "ineffective" on the observation portion, within thirty days after such finding, the teacher shall be entitled to a second observation by members of

a team of three designees, chosen by the local superintendent, which shall not include the principal.

Present law provides for the grounds for termination of a teacher and the procedures to be followed when terminating the employment of a teacher.

Proposed law deletes obsolete provisions and clarifies present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17: 442(C)(1) and 443(B))