

SENATE NO. 342

AN ACT RELATIVE TO ARBITRATION HEARINGS IN TEACHERS' DISMISSALS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

- 1 SECTION 1. The third paragraph of section 42 of chapter 71 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by striking out lines 6 through 9 inclusive and
3 inserting in place thereof the following sentence:- The procedures for arbitration and the time for
4 the arbitrators to issue a decision shall be the same as that in section forty-two.
- 5 Section 2. Section 42 of said chapter 71, as so appearing, is hereby amended by striking out the
6 fourth, fifth, and sixth paragraphs and inserting in place thereof the following three paragraphs:-
7 A teacher with professional teacher status may seek review of a dismissal decision within thirty
8 days after receiving notice of his dismissal by filing a petition for arbitration with the
9 commissioner. The commissioner shall forward to the parties a list of nine arbitrators provided by
10 the American Arbitration Association. Each person on the list shall be accredited by the national
11 Academy of Arbitrators. The parties shall have the right to strike three of the nine arbitrators if they
12 are unable to agree upon three arbitrators from among the nine.
- 13 The Massachusetts rules of civil procedure shall apply to all arbitration hearings. Notwithstanding
14 any other general or special law, rule or regulation to the contrary, student records of any student

15 who accuses a teacher of inappropriate behavior shall be discoverable if the arbitrator finds that this
16 information contained within said student records is relevant. At the hearing, the teachers and the
17 school district may be represented by an attorney or other representative, present evidence and call
18 and cross examine witnesses. The teacher may have the hearing at a public facility in his district
19 and open to the public if he so desires. The school district shall provide a certified court reporter
20 and shall have the burden of proof in determining whether the district has proven grounds for
21 dismissal consistent with this section. The arbitrators shall consider the best interests of the pupils
22 in the district and the need for evaluation of performance standards. A majority vote of the
23 arbitrators shall be sufficient for a decision.

24 The arbitration decision shall be issued within one month from the completion of the arbitral
25 hearing, unless all parties involved agree otherwise, and shall contain a detailed statement of the
26 reasons for the decision. A copy of the transcript of the hearing and exhibits presented therein shall
27 be made available to the parties without cost. Upon a finding that the dismissal was improper under
28 the standards set forth in this section, the arbitrators may award back pay, benefits, reinstatement
29 and any other non-financial relief or any combination thereof. Under no circumstances shall the
30 arbitrators award punitive, consequential, or nominal damages, or compensatory damages other
31 than back pay, benefits or reinstatement. In the event the teacher is reinstated, the period between
32 the dismissal and the reinstatement shall be considered to be time served for the purposes of
33 employment. The arbitral decision shall be subject to judicial review as provided in chapter one
34 hundred and fifty C.

35 Section 3. Section 11 of chapter 150C of the General Laws, as appearing in the 2002 Official
36 Edition, is hereby amended by inserting after clause (4) the following clause:-

37 (4A) these are legitimate issues of fact and questions of law or if interest of justice would be served;

