

# State of South Dakota

## EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

695T0019

### HOUSE BILL NO. 1145

Introduced by: Representatives Olson (Betty), Hansen (Jon), Jensen, Kirkeby, and Venner  
and Senators Brown, Begalka, Lederman, Maher, and Peters

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the nonrenewal of  
2 a teacher's contract.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-43-6.1 be amended to read as follows:

5 13-43-6.1. A teacher may be terminated, by the school board, at any time for just cause,  
6 including breach of contract, poor performance, incompetency, gross immorality, unprofessional  
7 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the  
8 school district. ~~A school district may nonrenew a teacher who is in or beyond the fourth~~  
9 ~~consecutive term of employment as a teacher with the school district pursuant to § 13-43-6.3~~  
10 ~~for just cause, including breach of contract, poor performance, incompetency, gross immorality,~~  
11 ~~unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or~~  
12 ~~regulation of the school district.~~

13 Section 2. That § 13-43-6.2 be repealed.

14 ~~—13-43-6.2. If nonrenewal of a teacher is contemplated under § 13-43-6.1, the superintendent~~  
15 ~~or chief executive officer shall give written notice of an intention to recommend nonrenewal~~



1 ~~to the teacher and the school board; a written statement of the reasons for the recommendation;~~  
2 ~~access to the employment records of the teacher; the opportunity to the teacher for a hearing~~  
3 ~~before the school board to present reasons in person or in writing why the nonrenewal should~~  
4 ~~not occur; and the opportunity to be represented. The teacher shall request the hearing as~~  
5 ~~provided in § 13-43-6.9. The school board shall conduct the hearing not sooner than fourteen~~  
6 ~~days, nor later than forty-five days, after receipt of the teacher's request for hearing. The parties~~  
7 ~~may waive the time limitations provided for in this section.~~

8 Section 3. That § 13-43-6.3 be amended to read as follows:

9 13-43-6.3. ~~Until a teacher is in or beyond the fourth consecutive term of employment as a~~  
10 ~~teacher with the school district, a~~ A school board may or may not renew the any teacher's  
11 contract. The superintendent or chief executive officer shall give written notice of nonrenewal  
12 to the teacher and to the school board by April fifteenth, but is not required to give further  
13 process or a any reason for nonrenewal.

14 ~~—After a teacher is in or beyond the fourth consecutive term of employment as a teacher with~~  
15 ~~the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract.~~  
16 ~~On or before April fifteenth, the superintendent or chief executive officer shall notify the teacher~~  
17 ~~and the school board in writing of the recommendation to not renew the teacher's contract.~~

18 Acceptance by the teacher of an offer from the district to enter into a new contract with the  
19 teacher shall be in the manner specified in the offer. Failure of the teacher to accept the offer in  
20 the manner specified constitutes the termination of the existing contract between the teacher and  
21 the district at the end of its the term of the contract.

22 Section 4. That § 13-43-6.4 be repealed.

23 ~~—13-43-6.4. Notwithstanding §§ 13-43-6.1 to 13-43-6.3, inclusive, if a teacher's contract is~~  
24 ~~not renewed due to a reduction in staff, only written notice is required, which shall be provided~~

1 ~~by the school board to the teacher by April fifteenth.~~

2 Section 5. That § 13-43-6.6 be amended to read as follows:

3 13-43-6.6. Although a collective bargaining agreement between a district and its teachers  
4 may set forth specific additional grounds for termination or set forth provisions as to the  
5 procedure or notice, no agreement may limit the district's right to terminate a teacher for the  
6 grounds set forth in §§ ~~13-43-6.1 to 13-43-6.3, inclusive.~~ No agreement may limit the protection  
7 ~~afforded to a teacher under § 13-43-6.5~~ § 13-43-6.1.

8 Section 6. That § 13-43-6.8 be amended to read as follows:

9 13-43-6.8. Delivery of any notification to the teacher pursuant to § ~~13-43-6.2 or 13-43-6.7~~  
10 § 13-43-6.7 shall be established by certified mail with return receipt signed by the teacher,  
11 personal delivery evidenced by a receipt signed by the teacher, or affidavit of personal service  
12 made by a person authorized to effect personal service.

13 Section 7. That § 13-43-6.9 be amended to read as follows:

14 13-43-6.9. Delivery of a written request for a hearing provided by § ~~13-43-6.2 or 13-43-6.7~~  
15 § 13-43-6.7 shall be established by certified mail with return receipt signed by the  
16 superintendent, chief executive officer, or board member, or a person authorized to accept  
17 certified mail for the district, or personal delivery evidenced by a receipt signed by the  
18 superintendent, chief executive officer, or board member, or an affidavit of personal service  
19 upon the district made by a person authorized to effect personal service no later than fifteen days  
20 after receipt of the notice by the teacher.