

RÉSUMÉ DIGEST

ACT 238 (SB 267)

2018 Regular Session

Appel

Prior law provided for the removal of a permanent school bus operator by the local school board if the bus operator is found guilty on written and signed charges of willful neglect of duty, incompetence, immorality, or drunkenness while on duty; failure to comply with prior law reporting requirements relative to being arrested for one or more of the specified offenses; physical disability to perform his duties; failure to keep his transfer equipment in a safe, comfortable, and practical operating condition; or of being a member of or contributing to any group, organization, movement, or corporation that is prohibited by law or injunction from operating in the state.

Prior law provided procedures and time lines for the removal, including that the bus operator may request a hearing on the matter before the school board. Provided that within one year from the finding of guilt by the school board, the bus operator may petition a court to affirm or reverse the action of the school board.

New law revises prior law procedures and time lines and provides that a permanent school bus operator has 10 calendar days from receipt of the written notice of charges to respond either in person or in writing. Authorizes the superintendent to take interim disciplinary action including placing the bus operator on administrative leave without pay.

Further provides that a permanent bus operator shall not be placed on administrative leave without pay unless the bus operator has been arrested for certain violations including any sexual offense affecting minors or any justified complaint of child abuse or neglect on file in the central registry. Provides that if the bus operator fails to timely request a hearing, the interim disciplinary action becomes final.

Prior law provided additional grounds for the removal of a permanent school bus operator including:

- (1) The abolition, discontinuance, or consolidation of routes if the local board finds that it is in the best interest of the school system to do so.
- (2) A conviction of or plea of nolo contendere to a violation of a local ordinance for specific crimes related to operating a vehicle while intoxicated regardless of whether the violation occurred while the bus operator was performing an official duty or responsibility as a school bus operator at the time of the offense.

New law retains prior law, but designates the superintendent to determine the need to consolidate routes.

New law additionally provides that upon notification that the bus operator has a conviction or plea of nolo contendere to any violation in prior law, the superintendent shall immediately remove the bus operator from his position and notify the bus operator of such and that the termination is not subject to review.

New law provides that upon the bus operator's request for a review hearing, the superintendent shall randomly appoint a hearing officer from a list of persons previously approved by the school board as "disciplinary hearing officers". Further provides how the list of hearing officers is to be maintained.

New law provides that such hearing may be private or public, at the option of the bus operator, and shall commence no sooner than 10 calendar days and no later than 30 calendar days after receipt of the bus operator's request for such hearing.

New law provides that the disciplinary hearing officer shall have the power to issue subpoenas. Further provides that the school board shall adopt and maintain procedures to govern the conduct of the hearing including providing that the bus operator shall have the right to appear before the disciplinary hearing officer with witnesses on his behalf and with counsel of his selection.

New law provides that the disciplinary hearing officer shall review whether the interim decision of the superintendent was arbitrary or capricious and shall either affirm or reverse the action of the superintendent. Further provides that the disciplinary hearing officer shall

notify the superintendent and the bus operator of his final determination, with written reasons, within 10 days from the date of the hearing and if the superintendent's disciplinary action is affirmed, it shall become effective upon the bus operator's receipt of the decision of the disciplinary hearing officer. If the superintendent's disciplinary action is reversed, the bus operator shall be restored to duty.

New law provides that the school board or the bus operator may petition a court to review the matter as a summary proceeding pursuant to prior law. Provides that the court shall determine whether the disciplinary hearing officer abused his discretion in deciding whether the action of the superintendent was arbitrary or capricious. If the action of the superintendent is reversed by the court and the bus operator is ordered reinstated and restored to duty, the bus operator shall be entitled to full pay for any loss of time or salary he may have sustained by reason of the action of the superintendent.

New law provides that the time periods prescribed in new law may be extended by mutual agreement of the parties. Additionally provides that paid administrative leave shall not exceed 50 days from notice of the superintendent's interim decision.

Effective upon signature of the governor May 15, 2018).

(Amends R.S. 17:493)