

Guidelines for Implementing Students First Act

AASB is currently drafting a Boardsmanship Booklet on the Students First Act. These materials are being provided as a preliminary guide to assist boards and their attorneys regarding Act 2011-270 pending completion of the booklet. These materials will undergo revision before publication and are not to be used in lieu of consultation with your local attorney.

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NONRENEWALS, TERMINATIONS, LAYOFFS & SUSPENSIONS

Action	Employee	Reason	Timing	Advance Notice to Employee	Rights before Board	Review/ Appeal	SFA	Notes
Nonrenewal	Probationary Teacher	Any or none [†]	End of Year	No	None	No	5(c)	Notice by June 15 (or 30) in year 1 or 2; Notice by last day of school in year 3
Nonrenewal	Probationary Classified	Any or none [†]	End of Year	No	None	No	5(a)	Notice by June 15 (or 30); Pay continues for 15 days
Termination	Probationary Teacher	Any or none [†]	Mid-Year	Yes	Written statement	No	5(c)	30 days' notice before board vote
Termination	Probationary Classified	Any or none [†]	Mid-Year	No	None	No	5(a)	Pay continues for 15 days
Termination	Tenured Teacher	Statutory grounds ^{††}	Any time	Yes	Full hearing	Yes	6	Pay cutoff 75 days after board vote or upon hearing officer decision, whichever first ^{††††}
Termination	Nonprobationary Classified	Statutory grounds ^{††}	Any time	Yes	Full hearing	Yes	6	Pay cutoff 75 days after board vote or upon hearing officer decision, whichever first ^{††††}
Termination	Tenured Teacher	Criminal conviction	Any time	No	None	No	10(a)	If conviction overturned, teacher must be reinstated or placed on leave with back pay
Termination	Tenured Teacher	Loss of certificate	Any time	No	None	No	10(d)	
Pay/Term Reduction	All Employees	Any	Prospective	No	None	No	6(h)(2)	Must apply to category, class, division, etc. of employees
Layoff (RIF)	Tenured Teacher/ Nonprobationary Classified	Statutory grounds ^{†††}	Any time	No	None	No	6(h)(3)	Be sure to comply with local RIF policy
Suspension 20 Days or less	All Employees	Any	Anytime	Yes	Written statement or conference	No	6(i)	
Suspension More than 20 Days	All Employees	Any	Anytime	Yes	Full hearing	Yes	6(i)	

[†] Boards are not required to disclose a reason to the employee, but if the employee alleges that the termination/nonrenewal is illegal, the board should have a reason. For instance, if the employee files an EEOC charge claiming he was nonrenewed because of his race or sex, the board must be prepared to provide a reason to the EEOC.

^{††} Grounds for termination are justifiable decrease in the number of positions, incompetency, insubordination, neglect of duty, immorality, failure to perform duties in a satisfactory manner, or other good and just cause.

^{†††} Grounds for declaring a reduction in force are a shortage of revenues or decreased student enrollment.

^{††††} If the termination is based on moral turpitude, immorality, incarceration, neglect of duty or loss of certificate, pay is cut off immediately upon board approval.

REASSIGNMENTS & TRANSFERS[†]

Action	Employee	Pay	Location	Advance Notice to Employee	Rights before Board	Review w/ Appeal	SFA	Notes
Reassignment	Probationary Teacher/ Probationary Classified [†]	Same	Within location	No	None	No	7(a)	Any grade, position or work location within school, campus or facility; no later than 20 th day of class; once a year; must be certificated; no loss of pay
Reassignment	Tenured Teacher	Same	Within location	No	None	No	7(b)	Board approval not required; any grade, position or work location within school, campus or facility; no later than 20 th day of class; once a year; must be certificated; no loss of pay
Reassignment	Nonprobationary Classified [†]	Same	Within location	No	None	No	7(a)	Any position or work location within school, campus or facility; no later than 20 th day of class; once a year; must be qualified; no loss of pay
Transfer	Tenured Teacher	Same	Different location	Yes	Conference	No	7(c)	Any grade, position or work location within school, campus or facility; no later than 20 th day of class; once a year; must be certificated; no loss of pay
Transfer	Tenured Teacher	Same	Outside feeder pattern	Yes	Conference	No	7(c)	Any grade, position or work location within school, campus or facility; no later than 20 th day of class; once a year; must be certificated; no loss of pay
Transfer	Nonprobationary Classified	Same	Different location	Yes	None	No	7(d)	Effective 15 days after board decision
Transfer	Nonprobationary Classified	Same	Outside feeder pattern	Yes	Full hearing	Yes	7(d)	
Transfer	Probationary Teachers	Reduced	Any position	Yes	Written statement	No	7(e)	Initial notice must state impact on pay; effective 15 days after board decision
Transfer	Probationary Classified	Reduced	Any position	Yes	Written statement	No	7(e)	Initial notice must state impact on pay; effective 15 days after board decision
Transfer	Tenured Teacher/ Nonprobationary Classified	Reduced	Any position	Yes	Full hearing	Yes	7(f)	
Transfer (RIF)	Tenured Teacher/ Nonprobationary Classified	Reduced	Any position	No	None	No	6(h)(3)	Be sure to comply with local RIF policy

[†] Any reassignment or transfer not specified in Section 7 of the Students First Act can be accomplished by superintendent's recommendation and board approval.

MID-YEAR AND END OF YEAR TERMINATIONS

**PROCEDURE FOR MID-YEAR TERMINATION
OF A PROBATIONARY TEACHER**

(ACT 2011-270, SECTION 5(C))

Note: The teacher must receive notice of the superintendent's recommendation at least 30 days before the board is scheduled to vote.

1. The superintendent issues written notice to the teacher that he will recommend his termination to the board. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

*This letter is to notify you that I will recommend your termination to the board at its meeting on _____, 20__ at ___ am/pm at _____ in _____, Alabama. You have the right to submit a written statement to the superintendent and the board explaining why you should not be terminated. If you choose to submit that statement, it must be received in my office no later than 4:00 PM on _____, 20__. **[Note: 1-2 days before the scheduled board meeting is suggested.]** Whether or not you choose to submit a statement, you will receive written notification of the board's decision after the meeting.*

*Dr. Jane Smith
Superintendent
City School System*

2. The teacher may submit a written statement to the superintendent and board explaining why he should not be terminated. If the teacher submits a written statement, it should be given to the board prior to the vote.
3. Whether or not the teacher submits a written statement, the board votes on the superintendent's recommendation no fewer than 30 days after the teacher is issued notice of the recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the employment of Mr. John Doe, teacher at ABC Elementary School, be terminated effective immediately.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe effective immediately.

4. The superintendent issues written notice of the board's decision. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board accepted my recommendation to terminate your employment effective immediately.

*Dr. Jane Smith
Superintendent
City School System*

5. The decision is final and effective immediately. The teacher has no further right to challenge, review or appeal.

**PROCEDURE FOR END OF YEAR TERMINATION (NONRENEWAL)
OF A PROBATIONARY TEACHER**

(ACT 2011-270, SECTION 5(C))

Note: If the teacher is in his first or second year of employment, he must be issued notice of the board's vote on or before June 15 (or June 30 during the first year of the legislative quadrennium). If the teacher is in his third year of employment, he must be issued notice of the board's vote by the last day of the school year. Therefore, this procedure should begin in enough time for the board to hold a meeting and vote and the superintendent to have the letters prepared; perhaps a week before the above dates.

1. The superintendent recommends in writing that the board terminate the teacher.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the employment of Mr. John Doe, teacher at ABC Elementary School, be terminated effective at the end of the current school year.

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe, teacher at ABC Elementary School, effective at the end of the current school year.

3. The superintendent issues written notice of the board's decision to the teacher. If the teacher is in his first or second year of employment, the notice must be issued to him before June 15 (or June 30 during the first year of the legislative quadrennium). If the teacher is in his third year of employment, the notice must be issued to him before the last working day of the school year. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board accepted my recommendation to terminate your employment effective at the end of the current school year.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and effective immediately. The teacher has no further right to challenge, review or appeal.

**PROCEDURE FOR
MID-YEAR TERMINATION
OF A PROBATIONARY CLASSIFIED EMPLOYEE**

(ACT 2011-270, SECTION 5(A))

1. The superintendent recommends in writing that the board terminate the employee.

Sample Recommendation
(*Recommendation should be included in the board's minutes*)

I hereby recommend that the employment of Mr. John Doe, custodian at ABC Elementary School, be terminated effective 15 days from the board's approval.

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe, custodian at ABC Elementary School, effective 15 days from board approval.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board accepted my recommendation to terminate your employment effective 15 days from the date of this letter.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and effective immediately. However, pay and benefits must continue for 15 days from the date notice of the board's decision is issued. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR
END OF YEAR TERMINATION (NONRENEWAL)
OF A PROBATIONARY CLASSIFIED EMPLOYEE**

(ACT 2011-270, SECTION 5(A))

Note: The employee must be issued notice of the board's vote on or before June 15 (or June 30 during the first year of the legislative quadrennium). Therefore, this procedure should begin in enough time for the board to hold a meeting and vote and the superintendent to have the letters prepared; perhaps a week before the above dates.

1. The superintendent recommends in writing that the board terminate the employee.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the employment of Mr. John Doe, custodian at ABC Elementary School, be terminated effective at the end of the current school year.

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe, custodian at ABC Elementary School, effective at the end of the current school year.

3. The superintendent issues written notice of the board's decision to the employee. The notice must be issued to the employee before June 15 (or June 30 during the first year of the legislative quadrennium). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board accepted my recommendation to terminate your employment effective at the end of the current school year.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and effective at the end of the school year. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR TERMINATION
OF TENURED TEACHERS AND
NONPROBATIONARY CLASSIFIED EMPLOYEES**

(ACT 2011-270, SECTION 6)

1. The superintendent issues written notice to the employee that he will recommend her termination to the board. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

The grounds for which the recommendation can be made are as follows:

- justifiable decrease in the number of positions,
- incompetency,
- insubordination,
- neglect of duty,
- immorality,
- failure to perform duties in a satisfactory manner, or
- other good and just cause. (Act 2011-270, Section 6(a)).

The notice must provide the following information:

- the ground(s) for the termination;
- a short and plain statement of the facts underlying those grounds; and
- a statement that the employee has the right to request a hearing with the board by filing a written request with the superintendent within 15 days after issuance of the notice. (Act 2011-270, Section 6(b)).

Sample Letter

Mr. John Doe

This letter is to notify you that I am recommending your termination as a tenured teacher at ABC Elementary School on the grounds of failure to perform duties in a satisfactory manner, insubordination and/or other good and just cause. The facts supporting the proposed termination are as follows:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

*You have the right to request a hearing before the board acts on my recommendation. In order to do so, you must submit a written request to me within 15 calendar days of the date of this notice. That notice must be received in my office no later than 4:00 PM on _____. **[Note: 1-2 days before the scheduled board meeting is suggested.]***

If you do not request a hearing by ____ __, 20__, the board will vote on my recommendation and you will receive written notification of its decision.

If you request a hearing, you will receive written notification of the date of that hearing from my office.

Whether or not you request a hearing, should the board ultimately accept my recommendation, you will receive full pay and benefits for 75 days from the date of the board's vote or issuance of a hearing officer's decision upholding the termination, whichever comes first.

*Dr. Jane Smith
Superintendent
City School System*

2. **No Hearing Requested:** If the employee does not request a hearing in the time allowed, the board may vote on the superintendent's recommendation after the 15-day time period has expired. (Act 2011-270, Section 6(b)).

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the employment of Mr. John Doe, tenured teacher at ABC Elementary School, be terminated on the grounds of failure to perform duties in a satisfactory manner, insubordination and/or other good and just cause. The facts supporting the proposed termination are as follows:

- 1. Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
- 2. On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
- 3. After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
- 4. After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe, tenured teacher at ABC Elementary School, effective immediately for the grounds and reasons stated in the recommendation, and pay to continue for 75 days.

The superintendent should then issue the employee written notice of the board's decision within ten days. (Act 2011-270, Section 6(d)). The decision is final and pay is cut off 75 days after the board votes. (Act 2011-270, Section 6(m)). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to terminate you at its meeting on _____, 20___. This decision is effective immediately. You will continue to receive full pay and benefits for 75 calendar days from the date of the board's vote.

*Dr. Jane Smith
Superintendent
City School System*

3. **Hearing Requested:** If the employee timely requests a hearing, the superintendent must set a time, date and place for a board hearing and issue written notice to the employee. The date must be between 30 and 60 days from the date of the hearing notice. That date may be extended by agreement or for good cause. (Act 2011-270, Section 6(b)). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

You have timely requested a hearing on my recommendation to terminate your employment.

The board has set a hearing to consider my recommendation for _____, 20__, at ___ am/pm in the _____ in _____, Alabama.

The hearing shall be public or private at your discretion and shall be conducted in accordance with Section 6(c) of the Students First Act and shall be conducted in accordance with Section 6(c) of the Students First Act. You have the right to have an attorney represent you at your expense. You also have the right to be heard, to examine and cross-examine witnesses and present other evidence and argument on your behalf. You also have the right to request that the superintendent subpoena witnesses to testify on your behalf. Any such request should be provided in writing to the superintendent at least two weeks before the hearing date. A court reporter will be provided.

*Dr. Jane Smith
Superintendent
City School System*

4. The board holds a full hearing. The board may then deliberate in executive session.

Note: The board has the right to impose a lesser punishment than termination. (Act 2011-270, Section 6(h)(1)).

5. The board should return to open session to vote on the superintendent's recommendation.

Note: The Open Meetings Act does not require the board return to open session to vote on the recommendation as long as the board “issues a written decision which may be appealed to a hearing officer...which has the authority to conduct” a public hearing or appeal.” Ala. Code §36-25A-7(a)(9). Nevertheless, AASB believes voting in public is the best practice.

Sample Board Motion

I move that the board approve the superintendent’s recommendation to terminate the employment of Mr. John Doe.

6. The board should consider issuing written findings of fact. A sample is below:

Sample Findings of Fact

The superintendent recommended that the board terminate John Doe, tenured teacher at ABC Elementary School, for the following reasons:

- 1. Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
- 2. On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, “You’re not the boss of me! I hate you!”*
- 3. After yelling at his boss, Mr. Doe ran from the principal’s office and drove away from school at a high rate of speed.*
- 4. After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

Mr. Doe timely requested a hearing before this board and a hearing was held on _____, 20___. Mr. Doe appeared at the hearing with his attorney _____. The board has considered the evidence presented to it and finds that the superintendent presented sufficient evidence of allegations 1, 3 and 4. Those allegations establish the grounds of failure to perform duties in a satisfactory manner, insubordination and other good and just cause. For this reason, the board finds that the superintendent’s recommendation should be APPROVED by a vote of 4 to 1.

Done this ___ day of _____, 20__.

Board President

7. The superintendent issues written notice of the board's decision to the employee within ten days. That notice should also contain the board's findings of fact. (Act 2011-270, Section 6(d)). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Note: If the allegations leading to the termination are based on an act of moral turpitude, immorality, abandonment of job, incarceration or neglect of duty, pay may be cut off immediately upon the board's vote. (Act 2011-270, Section 6(m)).

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to terminate you at its meeting on _____, 20___. The board's findings of fact are enclosed.

You have the right to contest this decision by filing an appeal pursuant to Section 6(e) of the Students First Act.

If you wish to do so, you must file a written "Notice of Appeal" addressed to:

*State Superintendent of Education
Alabama Department of Education
501 North Ripley Street
P.O. Box 302101
Montgomery, AL 36104*

That notice of appeal must be filed within 15 days of your receipt of this letter and must state the grounds upon which your appeal is based. A copy of that notice must be simultaneously provided to my office as well.

If you do not wish to appeal, you will receive severance pay for 75 days from the date of the board's decision to terminate you. If you do wish to appeal, you will receive severance pay for 75 days from the date of the board's decision or from the date of the decision on appeal, whichever comes first.

*Dr. Jane Smith
Superintendent
City School System*

8. If the employee does not file Notice of Appeal with the State Superintendent, the employee's pay and benefits must continue for 75 days from the date the board voted to terminate.
9. If the employee does file Notice of Appeal with the State Superintendent, the State Superintendent will contact the Executive Director of the Alabama State Bar and obtain a panel of retired Alabama judges from which the parties can select a hearing officer. (Act 2011-270, Section 6(e)).
10. The panel of five potential hearing officers will be provided to the parties. The parties may agree on a hearing officer from the panel or any other source.
11. If the parties cannot agree on a hearing officer, the parties must use alternating strikes to select the hearing officer. The employee gets the first strike. The process must be completed within 10 days of the parties receiving the panel.
12. After receiving the Notice of Appeal, the superintendent must compile the hearing record, including the court reporter's transcript, documentary evidence and any notices. The record must be provided to the hearing officer within 20 days of receiving the Notice of Appeal.

Note: It is possible that the process of selecting the hearing officer may not be complete within 20 days through no fault of the board. If this occurs, once the superintendent receives the Notice of Appeal, the board attorney should go ahead and compile the record, and be prepared to immediately provide the record to the hearing officer once he is appointed. The hearing officer can extend the time for providing the record for good cause shown.

Sample Letter

*The Honorable Judge Jim Law
123 Main Street
City, Alabama*

*RE: The Termination of John Doe
from the City Board of Education*

Dear Judge Law:

I represent the City Board of Education in the above-referenced matter. The Notice of Appeal in this matter was received on October 1, 2011. Pursuant to Act 2011-270, Sec. 6(e), I am obligated to provide a record of the proceedings before the board to you within 20 days of the Notice of Appeal. I received notification of your appointment as hearing officer yesterday on October 31, 2011. Because more than 20 days has elapsed

between the Notice of Appeal and your appointment, I was unable to comply with that provision. For that reason, I request an additional 5 days from today's date in which to provide the record to you. If this is acceptable, please contact me at (334) 555-1212 or joe.jones@citylawfirm.com.

*Joe Jones, Esquire
Counsel for City Board of Education*

Sample Notice

*In re the Termination of
John Doe, Tenured Teacher,
from the City School System*

Notice of Record

The City Board of Education hereby provides a record of the termination proceedings involving Mr. John Doe. The record contains the following documents:

- 1. Required Notices*
- 2. Transcript of Termination Hearing*
- 3. Exhibits Introduced During Termination Hearing*

Done this __ day of _____, 20__.

Counsel for City Board of Education

13. The hearing officer holds a hearing.

Note: AASB's position is that the statute does not contemplate a full hearing, but rather arguments of counsel based on the record before the board. This is evidenced by the fact that the statute refers to the action as a "review", the hearing officer is provided a transcript of the testimony taken by the board, that the hearing officer is required to give the board's decision deference and that the hearing officer is only permitted to affirm or reverse the board's decision. (Act 2011-270, Section 6(e)).

14. Remember that the employee must continue to receive pay and benefits for 75 days after the board votes to terminate or when the hearing officer upholds the termination, whichever is first.

15. The hearing officer issues a written decision either affirming or reversing the board's decision within five days of the hearing.
16. If the hearing officer reverses the board's decision, the board has the right to appeal that decision to the Alabama Court of Civil Appeals by filing a "Notice of Appeal" with that court. Otherwise, the employee must be reinstated and provided back pay and benefits.
17. If the hearing officer upholds the board's decision, the employee has the right to appeal the decision to the Alabama Court of Civil Appeals.

**PROCEDURE FOR TERMINATION
OF TENURED TEACHERS AND
NONPROBATIONARY CLASSIFIED EMPLOYEES**

IMMEDIATE CUTOFF OF PAY

(ACT 2011-270, SECTION 6(M))

<p><i>Note: If the allegations leading to the termination are based on an act of moral turpitude, immorality, abandonment of job, incarceration or neglect of duty, pay may be cut off immediately upon the board's vote. (Act 2011-270, Section 6(m)).</i></p>

1. The superintendent issues written notice to the employee that he will recommend her termination to the board. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

The grounds for which the recommendation can be made are as follows:

- justifiable decrease in the number of positions,
- incompetency,
- insubordination,
- neglect of duty,
- immorality,
- failure to perform duties in a satisfactory manner, or
- other good and just cause. (Act 2011-270, Section 6(a)).

The notice must provide the following information:

- the ground(s) for the termination;
- a short and plain statement of the facts underlying those grounds; and
- a statement that the employee has the right to request a hearing with the board by filing a written request with the superintendent within 15 days after issuance of the notice. (Act 2011-270, Section 6(b)).

Sample Letter

Mr. John Doe

This letter is to notify you that I am recommending your termination as a tenured teacher at ABC Elementary School on the grounds of failure to perform duties in a satisfactory manner, insubordination and/or other good and just cause. The facts supporting the proposed termination are as follows:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*
5. *Despite repeated attempts to reach him by phone, Mr. Doe has not reported to work for the past 17 days.*

*You have the right to request a hearing before the board acts on my recommendation. In order to do so, you must submit a written request to me within 15 calendar days of the date of this notice. That notice must be received in my office no later than 4:00 PM on _____. **[Note: 1-2 days before the scheduled board meeting is suggested.]***

If you do not request a hearing by ____ __, 20__, the board will vote on my recommendation and you will receive written notification of its decision.

If you request a hearing, you will receive written notification of the date of that hearing from my office.

Should the board approve my recommendation to terminate you, you are not entitled to 75 days' severance pay because the allegations involvement abandonment of your job. Your pay will be stopped immediately upon board approval; however, you will retain the right to appeal the board's decision.

*Dr. Jane Smith
Superintendent
City School System*

2. If the employee does not request a hearing in the time allowed, the board may vote on the superintendent's recommendation after the 15-day time period has expired. (Act 2011-270, Section 6(b)).

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

I hereby recommend that the employment of Mr. John Doe, tenured teacher at ABC Elementary School, be terminated on the grounds of failure to perform duties in a satisfactory manner,

insubordination and/or other good and just cause. The facts supporting the proposed termination are as follows:

- 1. Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
- 2. On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
- 3. After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
- 4. After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*
- 5. Despite repeated attempts to reach him by phone, Mr. Doe has not reported to work for the past 17 days.*

Further, because the allegations involve abandonment of job, Mr. Doe's pay will be stopped immediately.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe, tenured teacher at ABC Elementary School, effective immediately for the grounds and reasons stated in the recommendation. Further, because the allegations involve abandonment of job, Mr. Doe's pay will be stopped immediately.

The superintendent should then issue the employee written notice of the board's decision within ten days. (Act 2011-270, Section 6(d)). The decision is final and pay is cut off immediately after the board votes. (Act 2011-270, Section 6(m)). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to terminate you at its meeting on _____, 20___. Further, because the allegations involve abandonment of your job, your pay shall be stopped immediately.

*Dr. Jane Smith
Superintendent
City School System*

3. If the employee timely requests a hearing, the superintendent must set a time, date and place for a board hearing and issue written notice to the employee. The date must be between 30 and 60 days from the date of the hearing notice. That date may be extended by agreement or for good cause. (Act 2011-270, Section 6(b)). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

You have timely requested a hearing on my recommendation to terminate your employment.

The board has set a hearing to consider my recommendation for _____, 20__, at ___ am/pm in the _____ in _____, Alabama.

The hearing shall be public or private at your discretion and shall be conducted in accordance with Section 6(c) of the Students First Act and shall be conducted in accordance with Section 6(c) of the Students First Act. You have the right to have an attorney represent you at your expense. You also have the right to be heard, to examine and cross-examine witnesses and present other evidence and argument on your behalf. You also have the right to request that the superintendent subpoena witnesses to testify on your behalf. Any such request should be provided in writing to the superintendent at least two weeks before the hearing date. A court reporter will be provided.

*Dr. Jane Smith
Superintendent
City School System*

4. The board holds a full hearing. The board may then deliberate in executive session.

<p><i>Note: The board has the right to impose a lesser punishment than termination. (Act 2011-270, Section 6(h)(1)).</i></p>
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5. The board should return to open session to vote on the superintendent's recommendation.

Note: The Open Meetings Act does not require the board return to open session to vote on the recommendation as long as the board “issues a written decision which may be appealed to a hearing officer...which has the authority to conduct” a public hearing or appeal.” Ala. Code §36-25A-7(a)(9). Nevertheless, AASB believes voting in public is the best practice.

Sample Board Motion

I move that the board approve the superintendent’s recommendation to terminate the employment of Mr. John Doe.

6. The board should consider issuing written findings of fact. A sample is below:

Sample Findings of Fact

The superintendent recommended that the board terminate John Doe, tenured teacher at ABC Elementary School, for the following reasons:

- 1. Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
- 2. On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, “You’re not the boss of me! I hate you!”*
- 3. After yelling at his boss, Mr. Doe ran from the principal’s office and drove away from school at a high rate of speed.*
- 4. After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*
- 5. Despite repeated attempts to reach him by phone, Mr. Doe has not reported to work for the past 17 days.*

Mr. Doe timely requested a hearing before this board and a hearing was held on _____, 20___. Mr. Doe appeared at the hearing with his attorney _____. The board has considered the evidence presented to it and finds that the superintendent presented sufficient evidence of allegations 1, 3, 4 and 5. Those allegations establish the grounds of failure to perform duties in a satisfactory manner, insubordination and other good and just cause. For this reason, the board finds that the superintendent’s recommendation should be APPROVED by a vote of 4 to 1. Additionally, because the allegations involve abandonment of his job, Mr. Doe’s pay shall be cutoff immediately.

Done this ___ day of _____, 20__.

Board President

7. The superintendent issues written notice of the board's decision to the employee within ten days. That notice should also contain the board's findings of fact. (Act 2011-270, Section 6(d)). The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to terminate you at its meeting on _____, 20__. The board's findings of fact are enclosed. Additionally, because the allegations involve abandonment of job, your pay shall be cutoff immediately.

You have the right to contest this decision by filing an appeal pursuant to Section 6(e) of the Students First Act.

If you wish to do so, you must file a written "Notice of Appeal" addressed to:

*State Superintendent of Education
Alabama Department of Education
501 North Ripley Street
P.O. Box 302101
Montgomery, AL 36104*

That notice of appeal must be filed within 15 days of your receipt of this letter and must state the grounds upon which your appeal is based. A copy of that notice must be simultaneously provided to my office as well.

*Dr. Jane Smith
Superintendent
City School System*

8. If the employee does not file Notice of Appeal with the State Superintendent, the decision is final after the expiration of 15 days.
9. If the employee does file Notice of Appeal with the State Superintendent, the State Superintendent will contact the Executive Director of the Alabama State Bar and obtain a

panel of retired Alabama judges from which the parties can select a hearing officer. (Act 2011-270, Section 6(e)).

10. The panel of five potential hearing officers will be provided to the parties. The parties may agree on a hearing officer from the panel or any other source.
11. If the parties cannot agree on a hearing officer, the parties must use alternating strikes to select the hearing officer. The employee gets the first strike. The process must be completed within 10 days of the parties receiving the panel.
12. After receiving the Notice of Appeal, the superintendent must compile the hearing record, including the court reporter's transcript, documentary evidence and any notices. The record must be provided to the hearing officer within 20 days of receiving the Notice of Appeal.

Note: It is possible that the process of selecting the hearing officer may not be complete within 20 days through no fault of the board. If this occurs, once the superintendent receives the Notice of Appeal, the board attorney should go ahead and compile the record, and be prepared to immediately provide the record to the hearing officer once he is appointed. The hearing officer can extend the time for providing the record for good cause shown.

Sample Letter

*The Honorable Judge Jim Law
123 Main Street
City, Alabama*

*RE: The Termination of John Doe
from the City Board of Education*

Dear Judge Law:

I represent the City Board of Education in the above-referenced matter. The Notice of Appeal in this matter was received on October 1, 2011. Pursuant to Act 2011-270, Sec. 6(e), I am obligated to provide a record of the proceedings before the board to you within 20 days of the Notice of Appeal. I received notification of your appointment as hearing officer yesterday on October 31, 2011. Because more than 20 days has elapsed between the Notice of Appeal and your appointment, I was unable to comply with that provision. For that reason, I request an additional 5 days from today's date in which to provide the record to you. If this is acceptable, please contact me at (334) 555-1212 or joe.jones@citylawfirm.com.

*Joe Jones, Esquire
Counsel for City Board of Education*

Sample Notice

*In re the Termination of
John Doe, Tenured Teacher,
from the City School System*

Notice of Record

The City Board of Education hereby provides a record of the termination proceedings involving Mr. John Doe. The record contains the following documents:

- 1. Required Notices*
- 2. Transcript of Termination Hearing*
- 3. Exhibits Introduced During Termination Hearing*

Done this __ day of _____, 20__.

Counsel for City Board of Education

13. The hearing officer holds a hearing.

Note: The type of hearing is at the discretion of the hearing officer, but AASB's position is that the statute does not contemplate a full hearing, but rather arguments of counsel based on the record before the board. This is evidenced by the fact that the statute refers to the action as a "review", the hearing officer is provided a transcript of the testimony taken by the board, that the hearing officer is required to give the board's decision deference and that the hearing officer is only permitted to affirm or reverse the board's decision. (Act 2011-270, Section 6(e)).

14. The hearing officer issues a written decision either affirming or reversing the board's decision within five days of the hearing.
15. If the hearing officer reverses the board's decision, the board has the right to appeal that decision to the Alabama Court of Civil Appeals by filing a "Notice of Appeal" with that court. Otherwise, the employee must be reinstated and provided back pay and benefits.
16. If the hearing officer upholds the board's decision, the employee has the right to appeal the decision to the Alabama Court of Civil Appeals.

REASSIGNMENTS & TRANSFERS

(ACT 2011-270, SECTION 7)

Note: Any reassignment or transfer action not specifically described by the Act can be pursued based on the superintendent's recommendation and the board's approval as long as the employee is qualified for the position.

**PROCEDURE FOR REASSIGNMENT
OF PROBATIONARY TEACHER
WITHIN SAME LOCATION**

(ACT 2011-270, SECTION 7(B))

1. The superintendent issues written notice of her decision to reassign the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that you will be reassigned from a 10th grade teacher at GHI High School to a 12th grade teacher at GHI High School effective _____, 20___. You shall not suffer any loss of pay as a result of this reassignment.

*Dr. Jane Smith
Superintendent
City School System*

2. Board approval is not required and there is no further right to review, challenge or appeal.

**PROCEDURE FOR REASSIGNMENT
OF TENURED TEACHER
WITHIN SAME LOCATION**

(ACT 2011-270, SECTION 7(B))

3. The superintendent issues written notice of her decision to reassign the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

The reassignment must meet the following criteria:

- It can be to any grade, position or work location within the school, campus or facility;
- The teacher must be properly certificated for the position;
- There can be no loss of pay;
- The teacher must receive notice no later than the 20th calendar day after classes start (unless caused by an Act of God or disaster and a hearing is provided); and
- Only one involuntary reassignment per year.

Sample Letter

Mr. John Doe

This letter is to notify you that you will be reassigned from a 10th grade teacher at GHI High School to a 12th grade teacher at GHI High School effective _____, 20___. You shall not suffer any loss of pay as a result of this reassignment.

*Dr. Jane Smith
Superintendent
City School System*

4. Board approval is not required and there is no further right to review, challenge or appeal.

**PROCEDURE FOR REASSIGNMENT
PROBATIONARY CLASSIFIED EMPLOYEE
WITHIN SAME LOCATION**

(ACT 2011-270, SECTION 7(A))

Note: The Act does not specifically address reassignment of probationary employees. Any reassignment or transfer action not specifically described by the Act can be pursued based on the superintendent's recommendation and the board's approval as long as the employee is qualified for the position.

1. The superintendent recommends in writing that the board reassign the employee.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend the reassignment of Mr. John Doe, custodian at GHI High School to CNP worker at GHI High School, effective _____, 20__.

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to reassign Mr. John Doe, custodian at GHI High School to CNP worker at GHI High School, effective _____, 20__.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board approved my recommendation to reassign you from a custodian at GHI High School to a CNP worker at GHI High School effective _____, 20___. You shall not suffer any loss of pay as a result of this reassignment.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and effective immediately. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR REASSIGNMENT
OF NONPROBATIONARY CLASSIFIED EMPLOYEE
WITHIN SAME LOCATION**

(ACT 2011-270, SECTION 7(A))

Note: The Act does not specifically address reassignment of nonprobationary classified employees. Any reassignment or transfer action not specifically described by the Act can be pursued based on the superintendent's recommendation and the board's approval as long as the employee is qualified for the position.

1. The superintendent recommends in writing that the board reassign the employee.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend the reassignment of Mr. John Doe, Custodian at GHI High School to CNP Worker at GHI High School, effective _____, 20__.

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to reassign Mr. John Doe, Custodian at GHI High School to CNP Worker at GHI High School, effective _____, 20__.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board approved my recommendation to reassign you from a Custodian at GHI High School to a CNP Worker at GHI High School effective _____, 20___. You shall not suffer any loss of pay as a result of this reassignment.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and effective immediately. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR TRANSFER
OF TENURED TEACHER
DIFFERENT SCHOOL/ INSIDE FEEDER PATTERN**

SECTION 7(C)

Note: This section addresses transfers outside the school, campus or facility but within the high school feeder pattern. Under AASB's interpretation, any transfer that does not implicate a feeder pattern, e.g., Central Office to the Elementary School, is not "outside the feeder pattern" since Central Office has no feeder pattern. Rather, it is merely a transfer to a different facility and is controlled by this section.

1. The superintendent issues written notice of her recommendation to transfer the teacher to another school. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

The transfer must meet the following criteria:

- It can be to any grade or position outside the school, campus or facility;
- The teacher must be properly certificated for the position;
- There can be no loss of pay;
- The teacher must receive notice no later than the 20th calendar day after classes start (unless caused by an Act of God or disaster); and
- The transfer can only occur once a year.

Sample Letter

Mr. John Doe

This letter is to notify you that you I am recommending that you be transferred from a 10th grade teacher at GHI High School to a 8th grade teacher at DEF Middle School effective _____, 20___. You shall not suffer any loss of pay as a result of this transfer. The reason for this recommendation is that the number of students at GHI High School has decreased while the number of students at DEF Middle School has increased.

The board will consider my recommendation on _____, 20__, at ___ am/pm at _____ in _____, Alabama. You have

the right to meet with the board and explain the reasons you should not be transferred.

If you wish to meet with the board, you must submit a written request to me which must be received in my office no later than 4:00 PM on _____, 20__. **[Note: 1-2 days before the scheduled board meeting is suggested.]**

If you do not submit a request to meet with the board by _____, 20__, the board will vote on my recommendation and you will receive written notification of its decision.

*Dr. Jane Smith
Superintendent
City School System*

2. If the teacher does not request a meeting with the board, the superintendent should recommend the transfer and the board should vote on the recommendation.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 10th grade teacher at GHI High School be transferred to an 8th grade teacher at DEF Middle School effective _____, 20__. The reason for this recommendation is that the number of students at GHI High School has declined while the number of students at DEF Middle School has increased.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 10th grade teacher at GHI High School to an 8th grade teacher at DEF Middle School for the reason(s) provided in the superintendent's recommendation effective _____, 20__.

3. The superintendent issues written notice of the board's decision to the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board voted to approve my recommendation to transfer you from a 10th grade teacher at GHI High School to an 8th grade teacher at DEF Middle School at its meeting on _____, 20___. This transfer is effective _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

4. If the teacher does request a meeting, the board must give the teacher the opportunity to address the board at the scheduled meeting.
5. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 10th grade teacher at GHI High School, be transferred to an 8th grade teacher at DEF Middle School, effective _____, 20___. The reason for this recommendation is that the number of students at GHI High School has declined while the number of students at DEF Middle School has increased.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 10th grade teacher at GHI High School to an 8th grade teacher at DEF Middle School for the reason(s) provided in the superintendent's recommendation, effective _____, 20__.

6. The superintendent issues written notice of the board's decision to the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 10th grade teacher at GHI High School to an 8th grade teacher at DEF Middle School. This transfer is effective _____, 20__.

7. The teacher has no further right to challenge, review or appeal.

**PROCEDURE FOR TRANSFER
OF TENURED TEACHER
DIFFERENT SCHOOL/OUTSIDE FEEDER PATTERN
(ACT 2011-270, SECTION 7(C))**

Note: This section addresses transfers outside the school, campus or facility that are also outside the high school feeder pattern. Under AASB's interpretation, any transfer that does not implicate a feeder pattern, e.g., Central Office to the Elementary School, is not "outside the feeder pattern" since Central Office has no feeder pattern. Rather, it is merely a transfer to a different facility and is controlled by the preceding section.

1. The superintendent issues a written notice of her recommendation to transfer the teacher to another school. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

The transfer must meet the following criteria:

- It can be to any grade or position outside the school, campus or facility;
- The teacher must be properly certificated for the position;
- There can be no loss of pay;
- The teacher must receive notice no later than the 20th calendar day after classes start (unless caused by an Act of God or disaster); and
- The transfer can only occur once a year.

Note: The Students First Act refers to the teacher's right to a "hearing" before the board. Section 7(c) does not provide the type of hearing as specified for termination actions. AASB's position is that the type of hearing conducted is at the board's discretion. Because no court reporter is required and there is no right to further review or appeal, AASB believes that a full hearing is not required.

Sample Letter

Mr. John Doe

This letter is to notify you that you I am recommending that you be transferred from a 10th grade teacher at GHI High School to a 10th grade teacher at JKL High School effective _____, 20___. The reason for this recommendation is that the number of students at GHI High School has decreased while the number of students at JKL High School has increased. You shall not suffer any loss of pay as a result of this transfer.

The board will consider my recommendation at its meeting on _____, 20__ at ___ am/pm at _____ in _____, Alabama. You have the right to a conference with the board to explain the reasons you should not be transferred.

*If you wish to have a conference with the board, you must submit a written request to me which must be received in my office no later than 4:00 PM on _____, 20___. **[Note: 1-2 days before the scheduled board meeting is suggested.]***

If you do not submit a request to hearing before the board by _____, 20__, the board will vote on my recommendation and you will receive written notification of its decision.

*Dr. Jane Smith
Superintendent
City School System*

2. If the teacher does not request a hearing with the board, the superintendent should recommend the transfer and the board should vote on the recommendation.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 10th grade teacher at GHI High School, be transferred to a 10th grade teacher at JKL High School effective _____, 20___. The reason for this recommendation is that the number of students at GHI High School has declined while the number of students at JKL High School has increased.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 10th grade teacher at GHI High School to a 10th grade teacher at JKL High School for the reason(s) provided in the superintendent's recommendation effective _____, 20__.

3. The superintendent issues written notice of the board's decision to the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 10th grade teacher at GHI High School to a 10th grade teacher at JKL High School. This transfer is effective _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

4. If the teacher does request a conference, the board must give the teacher the opportunity to address the board at the scheduled meeting.
5. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 10th grade teacher at GHI High School, be transferred to a 10th grade teacher at JKL High School effective _____, 20__. The reason for this recommendation is that the number of students at GHI High School has declined while the number of students at JKL High School has increased.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 10th grade teacher at GHI High School to 10th grade teacher at JKL High School for the reason(s) provided in the superintendent's recommendation effective _____, 20__.

6. The superintendent issues written notice of the board's decision to the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 10th grade teacher at GHI High School to 10th grade teacher at JKL High School. This transfer is effective _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

7. The decision is final and the teacher has no further right to challenge, review or appeal.

**PROCEDURE FOR TRANSFER
OF NONPROBATIONARY CLASSIFIED EMPLOYEE
INSIDE FEEDER PATTERN**

Section 7(d)

Note: This section addresses transfers outside the school, campus or facility but within the high school feeder pattern. Under AASB's interpretation, any transfer that does not implicate a feeder pattern, e.g., Central Office to the Elementary School, is not "outside the feeder pattern" since Central Office has no feeder pattern. Rather, it is merely a transfer to a different facility and is controlled by this section.

1. The superintendent issues written notice of her recommendation to transfer the employee to any position within the system. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

The transfer must meet the following criteria:

- The employee must be qualified for the position;
- There can be no loss of pay;
- If the board approves the transfer, the transfer can become effective 15 days later.

Sample Letter

Mr. John Doe

This letter is to notify you that you that I intend to recommend to the board that you be transferred from a 9-month Custodian at GHI High School to a 9-month Custodian at DEF Middle School.

The board will consider my recommendation at its meeting on _____, 20___. Should the board approve my recommendation, the transfer will become effective no less than 15 days thereafter and you will suffer no loss in pay. You will be notified of the board's decision.

*Dr. Jane Smith
Superintendent
City School System*

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Recommendation
(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 9-month Custodian at GHI High School, be transferred to a 9-month Custodian at DEF Middle School, effective no less than 15 days after the board's approval.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 9-month Custodian at GHI High School to a 9-month Custodian at DEF Middle School, such transfer to become effective no fewer than 15 days from our approval.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 9-month Custodian at GHI High School to a 9-month Custodian at DEF Middle School. The transfer shall be effective _____, 20___. [The effective date must be at least 15 days from the date the board approves the transfer.]

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and effective 15 days after the board's approval. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR TRANSFER
OF NONPROBATIONARY CLASSIFIED EMPLOYEE
OUTSIDE FEEDER PATTERN**

SECTION 7(D)

Note: The procedure for transfer of nonprobationary classified employees outside the feeder pattern is the same as for termination of tenured teachers/nonprobationary employees.

Note: This section does not apply to employees whose regular duties require regular or periodic travel throughout the system or between work sites.

Note: This section addresses transfers outside the school, campus or facility that are also outside the high school feeder pattern. Under AASB's interpretation, any transfer that does not implicate a feeder pattern, e.g., Central Office to the Elementary School, is not "outside the feeder pattern" since Central Office has no feeder pattern. Rather, it is merely a transfer to a different facility and is controlled by the preceding section.

1. The superintendent issues written notice of her recommendation to transfer the employee to any position within the system that is outside the feeder pattern of his current work site. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

The transfer must meet the following criteria:

- The employee must be qualified for the position;
- There can be no loss of pay; and
- The transfer can only occur one time a year (unless caused by an Act of God or disaster).

Sample Letter

Mr. John Doe

This letter is to notify you that I am recommending that you be transferred from a 9-month Custodian position at GHI High School to a 9-month Custodian position at JKL High School

effective _____, 20__. The facts supporting the proposed transfer are as follows:

1. The student enrollment at GHI High School has decreased significantly.
2. There is no longer a need for 8 custodians at GHI High School.
3. The student enrollment at JKL High School has increased significantly.
4. JKL High School is in need of additional custodial staff.

You have the right to request a hearing before the board votes on my recommendation. In order to do so, you must submit a written request to me within 15 calendar days of the date of this notice. That notice must be received in my office no later than 4:00 PM on _____. **[Note: 1-2 days before the scheduled board meeting is suggested.]** If you do not request a hearing by _____, 20__, the board will vote on my recommendation and you will receive written notification of its decision. If you request a hearing, you will receive written notification of the date of that hearing from my office.

Dr. Jane Smith
Superintendent
City School System

2. If the employee does not request a hearing in the time allowed, the board may vote on the superintendent's recommendation after the 15-day time period has expired.

Sample Recommendation
(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 9-month Custodian at GHI High School, be transferred to a 9-month Custodian at JKL High School, effective _____, 20__.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School, effective _____, 20__.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School. The transfer shall be effective _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

4. If the employee timely requests a hearing, the superintendent must set a time, date and place for a board hearing and issue written notice to the employee. The date must be between 30 and 60 days from the date of the hearing notice. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

You have timely requested a hearing on my recommendation to transfer you from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School.

The board has set a hearing for _____, 20__, at ___ am/pm in the _____ in _____, Alabama.

The hearing shall be public or private at your discretion and shall be conducted in accordance with Section 6(c) of the Students First Act. You have the right to have an attorney represent you at your expense. You also have the right to be heard, to examine and cross-examine witnesses and present other evidence and argument on your behalf. You also have the right to request that the superintendent subpoena witnesses to testify on your behalf. Any such request should be provided in writing to the superintendent at least two weeks before the hearing date. A court reporter will be provided.

You will receive written notification of the board's decision.

*Dr. Jane Smith
Superintendent
City School System*

5. The board holds a full hearing. The board may then deliberate in executive session.

Note: Neither the superintendent nor attorney(s) should be present during deliberation.

6. The board should return to open session to vote on the superintendent's recommendation.

Note: The Open Meetings Act does not require the board return to open session to vote on the recommendation as long as the board "issues a written decision which may be appealed to a hearing officer...which has the authority to conduct" a public hearing or appeal." Ala. Code §36-25A-7(a)(9). Nevertheless, AASB believes voting in public is the best practice.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer you from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School effective _____, 20__.

5. The board should consider issuing written findings of fact. A sample is below:

Sample Findings of Fact

The superintendent recommended that the board transfer Mr. John Doe from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School for the following reasons:

- 1. The student enrollment at GHI High School has decreased significantly.*
- 2. There is no longer a need for 8 custodians at GHI High School.*
- 3. The student enrollment at JKL High School has increased significantly.*
- 4. JKL High School is in need of additional custodial staff.*

Mr. Doe timely requested a hearing before this board and a hearing was held on _____, 20__. Mr. Doe appeared at the hearing with his attorney _____. The board has considered the evidence presented to it and finds that the superintendent presented sufficient evidence of the reasons asserted for his recommendation. For this reason, the board finds that the superintendent's recommendation should be APPROVED by a vote of 5 to 0.

Done this ___ day of _____, 20__.

Board President

6. The superintendent issues written notice of the board's decision to the employee within ten days. That notice should also contain the board's findings of fact. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board voted to approve my recommendation to transfer you from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School. The board's findings of fact are enclosed.

You have the right to contest this decision by filing an appeal.

If you wish to do so, you must file a written "Notice of Appeal" addressed to:

*State Superintendent of Education
Alabama Department of Education
501 North Ripley Street
P.O. Box 302101
Montgomery, AL 36104*

That notice of appeal must be filed within 15 days of your receipt of this letter and must state the grounds upon which your appeal is based. A copy of that notice must be simultaneously provided to my office as well.

If you do not wish to appeal, your transfer will be effective on _____, 20__. [NOTE: Set the start date approximately 17 days out to allow for notice to be received and the appeal time to expire.] If you do wish to appeal, your transfer will not be effective unless and until the hearing officer upholds the board's decision.

*Dr. Jane Smith
Superintendent
City School System*

7. If the employee does not file Notice of Appeal with the State Superintendent, the employee can be transferred immediately. If the employee does file Notice of Appeal with the State Superintendent, the State Superintendent will contact the Executive Director of the Alabama State Bar and obtain a panel of retired Alabama judges from which the parties can select a hearing officer.
8. The panel of five potential hearing officers will be provided to the parties. The parties may agree on a hearing officer from the panel or any other source.
9. If the parties cannot agree on a hearing officer, the parties must use alternating strikes to select the hearing officer. The employee gets the first strike. The process must be completed within 10 days of the parties receiving the panel.
10. After receiving the Notice of Appeal, the superintendent must compile the hearing record, including the court reporter's transcript, documentary evidence and any notices. The record must be provided to the hearing officer within 20 days of receiving the Notice of Appeal.

Note: It is possible that the process of selecting the hearing officer may not be complete within 20 days through no fault of the board. If this occurs, once the superintendent receives the Notice of Appeal, the board attorney should go ahead and compile the record, and be prepared to immediately provide the record to the hearing officer once he is appointed. The hearing officer can extend the time for providing the record for good cause shown.

Sample Letter

*The Honorable Judge Jim Law
123 Main Street
City, Alabama*

*RE: The Termination of John Doe
from the City Board of Education*

Dear Judge Law:

I represent the City Board of Education in the above-referenced matter. The Notice of Appeal in this matter was received on October 1, 2011. Pursuant to Act 2011-270, Sec. 6(e), I am obligated to provide a record of the proceedings before the board to you within 20 days of the Notice of Appeal. I received notification of your appointment as hearing officer yesterday on October 31, 2011. Because more than 20 days has elapsed between the Notice of Appeal and your appointment, I was unable to comply with that provision. For that reason, I request an additional 5 days from today's date in which to provide the record

to you. If this is acceptable, please contact me at (334) 555-1212 or joe.jones@citylawfirm.com.

*Joe Jones, Esquire
Counsel for City Board of Education*

Sample Notice

*In re the Transfer of
John Doe, Nonprobationary Classified Employee,
within the City School System*

Notice of Record

The City Board of Education hereby provides a record of the transfer proceedings involving Mr. John Doe. The record contains the following documents:

- 1. Required Notices*
- 2. Transcript of Transfer Hearing*
- 3. Exhibits Introduced During Transfer Hearing*

Done this __ day of _____, 20__.

Counsel for City Board of Education

11. The hearing officer holds a hearing.

Note: The type of hearing is at the discretion of the hearing officer, but AASB's position is that the statute does not contemplate a full hearing, but rather arguments of counsel based on the record before the board. This is evidenced by the fact that the statute refers to the action as a "review", the hearing officer is provided a transcript of the testimony taken by the board, that the hearing officer is required to give the board's decision deference and that the hearing officer is only permitted to affirm or reverse the board's decision. (Act 2011-270, Section 6(e)).

12. The hearing officer issues a written decision either affirming or reversing the board's decision within five days of the hearing.
13. If the hearing officer reverses the board's decision, the board has the right to appeal that decision to the Alabama Court of Civil Appeals by filing a "Notice of Appeal" with that court.

14. If the hearing officer upholds the board's decision, the employee has the right to appeal the decision to the Alabama Court of Civil Appeals. However, the superintendent should issue written notice to the employee that the transfer is effective immediately, irrespective of his decision to further appeal. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

The board has received the hearing officer's order upholding its decision to transfer you from a 9-month Custodian at GHI High School to a 9-month Custodian at JKL High School. In light of this decision, you must report to JKL High School beginning _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

**PROCEDURE FOR TRANSFER
OF PROBATIONARY TEACHERS AND
PROBATIONARY CLASSIFIED EMPLOYEES
REDUCED PAY**

SECTION 7(E)

1. The superintendent issues written notice of her recommendation to transfer the employee to any position within the system that causes a lower rate of compensation or shorter term of employment. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

The transfer must meet the following criteria:

- The employee must be qualified for the position;
- The employee must be notified of the impact on his pay;
- If the board approves the recommendation, the transfer can be effective 15 days later.

Sample Letter

Mr. John Doe

This letter is to notify you that I intend to recommend to the board you be transferred from a 10-month Custodian at GHI High School to a 9-month Custodian at DEF Middle School.

If approved, your pay would be impacted as follows:

*Annual pay would be reduced from
\$24,000 to \$20,000*

You have the right to submit a written statement to the superintendent and the board explaining why you should not be transferred. If you choose to submit that statement, it must be received in my office no later than 4:00 PM on _____, 20__. **[Note: 1-2 days before the scheduled board meeting is suggested.]**

The board will consider my recommendation at its meeting on _____, 20___. Should the board approve my recommendation, the transfer will become effective no less than 15 days thereafter. Whether or not you choose to submit a statement, you will receive written notification of the board's decision after the meeting.

*Dr. Jane Smith
Superintendent
City School System*

2. The employee may submit a written statement to the superintendent and board explaining why he should not be transferred. If the employee submits a written statement, the board must be provided that prior to the vote.
3. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 10-month Custodian at GHI High School, be transferred to a 9-month Custodian at DEF Middle School, effective no less than 15 days from the board's approval.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 10-month Custodian at GHI High School to a 9-month Custodian at DEF Middle School, such transfer to become effective no fewer than 15 days from our approval.

4. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 10-month Custodian at GHI High School to a 9-month Custodian at DEF Middle School. The transfer shall be effective _____, 20___. [The effective date must be at least 15 days from the date the board approves the transfer.]

5. The decision is final and the transfer becomes effective 15 days after the board's approval. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR TRANSFER
OF TENURED TEACHERS AND
NONPROBATIONARY CLASSIFIED EMPLOYEES
REDUCED PAY**

SECTION 7(F)

Note: The procedure for transfer of tenured teachers/nonprobationary classified employees that cause a reduction in pay is the same as for termination of tenured teachers/nonprobationary employees.

Note: This section does not apply if Section 6(H)(2) governs the action. (See page 76)

1. The superintendent issues written notice of her recommendation to transfer the employee to any position within the system for which he is qualified that causes a lower rate of compensation or shorter term of employment. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that I am recommending that you be transferred from a 12-month Curriculum Specialist position at Central Office to a 9-month Teacher position at JKL High School effective _____, 20__ with a commensurate reduction in pay. The facts supporting the proposed transfer are as follows:

1. *On July 23, 2011, the board approved the superintendent's recommendation to phase out all Curriculum Specialist positions effective _____, 20__ due to budgetary considerations.*
2. *JKL High School is in need of additional teachers due to an increased number of retirements at the end of the last school year.*

*You have the right to request a hearing before the board acts on my recommendation. In order to do so, you must submit a written request to me within 15 calendar days of the date of this notice. That notice must be received in my office no later than 4:00 PM on _____. **[Note: 1-2 days before the scheduled board meeting is suggested.]** If you do not request a hearing by _____, 20__, the board will vote on my recommendation and you will receive*

written notification of its decision. If you request a hearing, you will receive written notification of the date of that hearing from my office.

*Dr. Jane Smith
Superintendent
City School System*

2. If the employee does not request a hearing in the time allowed, the board may vote on the superintendent's recommendation after the 15-day time period has expired.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I recommend that Mr. John Doe, a 12-month Curriculum Specialist at Central Office, be transferred to a 9-month Teacher at JKL High School with a commensurate reduction in pay, effective _____, 20___. The facts supporting the proposed transfer are as follows:

1. *On July 23, 2011, the board approved the superintendent's recommendation to phase out all Curriculum Specialist positions effective immediately due to budgetary considerations.*
2. *JKL High School is in need of due to an increased number of retirements at the end of the last school year.*

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer Mr. John Doe from a 12-month Curriculum Specialist at Central Office to a 9-month Teacher with a commensurate reduction in pay for the reasons stated in the superintendent's recommendation effective _____, 20__.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 12-month Curriculum Specialist at Central Office be transferred to a 9-month Teacher at

JKL High School with a commensurate reduction in pay. The transfer shall be effective _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

4. If the employee timely requests a hearing, the superintendent must set a time, date and place for a board hearing and issue written notice to the employee. The date must be between 30 and 60 days from the date of the hearing notice. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

You have timely requested a hearing on my recommendation to transfer you from a 12-month Curriculum Specialist at Central Office to a 9-month Teacher at JKL High School.

The board has set a hearing for _____, 20__, at ___ am/pm in the _____ in _____, Alabama.

The hearing shall be public or private at your discretion and shall be conducted in accordance with Section 6(c) of the Students First Act. You have the right to have an attorney represent you at your expense. You also have the right to be heard, to examine and cross-examine witnesses and present other evidence and argument on your behalf. You also have the right to request that the superintendent subpoena witnesses to testify on your behalf. Any such request should be provided in writing to the superintendent at least two weeks before the hearing date. A court reporter will be provided.

*Dr. Jane Smith
Superintendent
City School System*

6. The board holds a full hearing. The board may then deliberate in executive session.

Note: Neither the superintendent nor attorney(s) should be present during deliberation.

7. The board should return to open session to vote on the superintendent's recommendation.

Note: The Open Meetings Act does not require the board return to open session to vote on the recommendation as long as the board “issues a written decision which may be appealed to a hearing officer...which has the authority to conduct” a public hearing or appeal.” Ala. Code §36-25A-7(a)(9). Nevertheless, AASB believes voting in public is the best practice.

Sample Board Motion

I move that the board approve the superintendent’s recommendation to transfer you from a 12-month Curriculum Specialist at Central Office to a 9-month Teacher at JKL High School with a commensurate reduction in pay effective _____, 20__.

5. The board should consider issuing written findings of fact. A sample is below:

Sample Findings of Fact

The superintendent recommended that the board transfer Mr. John Doe from a 12-month Curriculum Specialist at Central Office to a 9-month Teacher at JKL High School with a commensurate reduction in pay for the following reasons:

- 1. On July 23, 2011, the Board approved the Superintendent’s recommendation to phase out all Curriculum Specialist positions effective immediately due to budgetary considerations.*
- 2. JKL High School is in need of due to an increased number of retirements at the end of the last school year.*

Mr. Doe timely requested a hearing before this board and a hearing was held on _____, 20__. Mr. Doe appeared at the hearing with his attorney _____. The board has considered the evidence presented to it and finds that the superintendent presented sufficient evidence of the reasons asserted for his recommendation. For this reason, the board finds that the superintendent’s recommendation should be APPROVED by a vote of 5 to 0.

Done this ____ day of _____, 20__.

Board President

6. The superintendent issues written notice of the board’s decision to the employee within ten days. That notice should also contain the board’s findings of fact. The methods for

issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to transfer you from a 12-month Curriculum Specialist at Central Office to a 9-month Teacher at JKL High School with a commensurate reduction in pay effective _____, 20___. The board's findings of fact are enclosed.

You have the right to contest this decision by filing an appeal.

If you wish to do so, you must file a written "Notice of Appeal" addressed to:

*State Superintendent of Education
Alabama Department of Education
501 North Ripley Street
P.O. Box 302101
Montgomery, AL 36104*

That notice of appeal must be filed within 15 days of your receipt of this letter and must state the grounds upon which your appeal is based. A copy of that notice must be simultaneously provided to my office as well.

*If you do not wish to appeal, your transfer will be effective on _____, 20___. **[NOTE: Set the start date approximately 17 days out to allow for notice to be received and the appeal time to expire.]** If you do wish to appeal, your transfer will not be effective unless and until the hearing officer upholds the board's decision.*

*Dr. Jane Smith
Superintendent
City School System*

7. If the employee does not file Notice of Appeal with the State Superintendent, the employee can be transferred immediately. If the employee does file Notice of Appeal with the State Superintendent, the State Superintendent will contact the Executive Director of the Alabama State Bar and obtain a panel of retired Alabama judges from which the parties can select a hearing officer.
8. The panel of five potential hearing officers will be provided to the parties. The parties may agree on a hearing officer from the panel or any other source.

9. If the parties cannot agree on a hearing officer, the parties must use alternating strikes to select the hearing officer. The employee gets the first strike. The process must be completed within 10 days of the parties receiving the panel.
10. After receiving the Notice of Appeal, the superintendent must compile the hearing record, including the court reporter's transcript, documentary evidence and any notices. The record must be provided to the hearing officer within 20 days of receiving the Notice of Appeal.

Note: It is possible that the process of selecting the hearing officer may not be complete within 20 days through no fault of the board. If this occurs, once the superintendent receives the Notice of Appeal, the board attorney should go ahead and compile the record, and be prepared to immediately provide the record to the hearing officer once he is appointed. The hearing officer can extend the time for providing the record for good cause shown.

Sample Letter

*The Honorable Judge Jim Law
123 Main Street
City, Alabama*

*RE: The Termination of John Doe
from the City Board of Education*

Dear Judge Law:

I represent the City Board of Education in the above-referenced matter. The Notice of Appeal in this matter was received on October 1, 2011. Pursuant to Act 2011-270, Sec. 6(e), I am obligated to provide a record of the proceedings before the board to you within 20 days of the Notice of Appeal. I received notification of your appointment as hearing officer yesterday on October 31, 2011. Because more than 20 days has elapsed between the Notice of Appeal and your appointment, I was unable to comply with that provision. For that reason, I request an additional 5 days from today's date in which to provide the record to you. If this is acceptable, please contact me at (334) 555-1212 or joe.jones@citylawfirm.com.

*Joe Jones, Esquire
Counsel for City Board of Education*

Sample Notice

*In re the Transfer of
John Doe, Tenured Teacher,
within the City School System*

Notice of Record

The City Board of Education hereby provides a record of the transfer proceedings involving Mr. John Doe. The record contains the following documents:

- 1. Required Notices*
- 2. Transcript of Transfer Hearing*
- 3. Exhibits Introduced During Transfer Hearing*

Done this __ day of _____, 20__.

Counsel for the Board of Education

11. The hearing officer holds a hearing.

Note: The type of hearing is at the discretion of the hearing officer, but AASB's position is that the statute does not contemplate a full hearing, but rather arguments of counsel based on the record before the board. This is evidenced by the fact that the statute refers to the action as a "review", the hearing officer is provided a transcript of the testimony taken by the board, that the hearing officer is required to give the board's decision deference and that the hearing officer is only permitted to affirm or reverse the board's decision. (Act 2011-270, Section 6(e)).

12. The hearing officer issues a written decision either affirming or reversing the board's decision within five days of the hearing.
13. If the hearing officer reverses the board's decision, the board has the right to appeal that decision to the Alabama Court of Civil Appeals by filing a "Notice of Appeal" with that court.
14. If the hearing officer upholds the board's decision, the employee has the right to appeal the decision to the Alabama Court of Civil Appeals. However, the superintendent should issue written notice to the employee that the transfer is effective immediately, irrespective of his decision to further appeal. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

The board has received the hearing officer's order upholding its decision to transfer you from a 12-month Curriculum Specialist at Central Office to a 9-month Teacher at JKL High School with a commensurate reduction in pay. In light of this decision, you must report to JKL High School beginning _____, 20__.

*Dr. Jane Smith
Superintendent
City School System*

SUSPENSIONS

**PROCEDURE FOR SUSPENSION
OF EMPLOYEES
20 DAYS OR LESS
SECTION 6(I)**

1. The superintendent issues a written notice to the employee of her recommendation to suspend the employee for 20 work days or less. The notice must contain the reasons for the suspension. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that I am recommending that you be suspended for 10 work days without pay. The facts supporting the proposed suspension are as follows:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

The board will consider my recommendation at its meeting on _____, 20__ at ___ am/pm at _____ in _____, Alabama. You have the right to present the board with the reasons you should not be suspended. You can present a statement, evidence or argument in writing or in person.

*If you wish to submit a written statement, evidence or argument to the board, it must be received in my office no later than 4:00 pm on _____, 20__. **[Note: 1-2 days before the scheduled board meeting is suggested.]** If you wish to meet with the board in person, you must submit a written request to me which must be received in my office no later than 4:00 PM on _____, 20__. **[Note: 1-2 days before the scheduled board meeting is suggested.]***

If you do not submit any information or request a conference by _____, 20__, the board will vote on my recommendation and you will receive written notification of its decision.

*Dr. Jane Smith
Superintendent
City School System*

2. If the employee does not submit any evidence or request a meeting with the board by the time provided, the superintendent should recommend the suspension and the board should vote on the recommendation.

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

I recommend that Mr. John Doe, teacher at ABC Elementary School, be suspended for 10 work days without pay for the following reasons:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

Sample Board Motion

I move that the board approve the superintendent's recommendation to suspend Mr. John Doe for 10 work days without pay for the reasons provided in the superintendent's recommendation.

3. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to suspend you for 10 work days without pay at its meeting on _____, 20___. Your suspension shall begin on _____, 20___. You shall return to work on _____, 20___.

Dr. Jane Smith

*Superintendent
City School System*

4. If the employee does submit a statement or requests a meeting, the board must either review the written evidence or give the employee the opportunity to address the board at the scheduled meeting.
5. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

I recommend that Mr. John Doe, teacher at ABC Elementary School, be suspended for 10 work days without pay for the following reasons:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

Sample Board Motion

I move that the board approve the superintendent's recommendation to suspend Mr. John Doe for 10 work days without pay for the reasons provided in the superintendent's recommendation.

6. The superintendent issues written notice of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to suspend you for 10 work days without pay at its meeting on _____, 20___. Your suspension shall begin on _____, 20___. You shall return to work on _____, 20___.

*Dr. Jane Smith
Superintendent
City School System*

7. The decision is final and effective immediately. The employee has no further right to challenge, review or appeal.

**PROCEDURE FOR EMPLOYEES
SUSPENSIONS FOR MORE THAN 20 DAYS**

SECTION 6(I)

Note: The procedure for suspensions of more than 20 days is the same as for termination of tenured teachers/nonprobationary employees.

1. The superintendent issues a written notice to the employee of her recommendation to suspend the employee for more than 20 work days. The notice must contain the reasons for the suspension. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that I am recommending that you be suspended for 30 work days without pay. The facts supporting the proposed suspension are as follows:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

*You have the right to request a hearing before the board acts on my recommendation. In order to do so, you must submit a written request to me within 15 calendar days of the date of this notice. That notice must be received in my office no later than 4:00 PM on _____. **[Note: 1-2 days before the scheduled board meeting is suggested.]** If you do not request a hearing by _____, 20___, the board will vote on my recommendation and you will receive written notification of its decision. If you request a hearing, you will receive written notification of the date of that hearing from my office.*

*Dr. Jane Smith
Superintendent
City School System*

2. If the employee does not request a hearing in the time allowed, the board may vote on the superintendent's recommendation after the 15-day time period has expired.

Sample Recommendation
(*Recommendation should be included in the board's minutes*)

I recommend that Mr. John Doe, teacher at ABC Elementary School, be suspended for 30 work days without pay for the following reasons:

1. *Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
2. *On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
3. *After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
4. *After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

Sample Board Motion

I move that the board approve the superintendent's recommendation to suspend Mr. John Doe for 30 work days without pay for the reasons provided in the superintendent's recommendation.

3. The superintendent issues written notice of the board's decision to the employee.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to suspend you for 30 work days without pay at its meeting on _____, 20___. Your suspension shall begin on _____, 20___. You shall return to work on _____, 20___.

*Dr. Jane Smith
Superintendent
City Board of Education*

4. If the employee timely requests a hearing, the superintendent must set a time, date and place for a board hearing and issue written notice to the employee. The date must be between 30 and 60 days from the date of the hearing notice. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business

day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

You have timely requested a hearing on my recommendation to suspend you for 30 work days without pay.

The board has set a hearing for _____, 20__, at ___ am/pm in the _____ in _____, Alabama.

The hearing shall be public or private at your discretion and shall be conducted in accordance with Section 6(c) of the Students First Act. You have the right to have an attorney represent you at your expense. You also have the right to be heard, to examine and cross-examine witnesses and present other evidence and argument on your behalf. You also have the right to request that the superintendent subpoena witnesses to testify on your behalf. Any such request should be provided in writing to the superintendent at least two weeks before the hearing date. A court reporter will be provided.

You will receive written notification of the board's decision.

*Dr. Jane Smith
Superintendent
City School System*

7. The board holds a full hearing. The board may then deliberate in executive session.

Note: Neither the superintendent nor attorney(s) should be present during deliberation.

8. The board should return to open session to vote on the superintendent's recommendation.

Note: The Open Meetings Act does not require the board return to open session to vote on the recommendation as long as the board "issues a written decision which may be appealed to a hearing officer...which has the authority to conduct" a public hearing or appeal." Ala. Code §36-25A-7(a)(9). Nevertheless, AASB believes voting in public is the best practice.

Sample Board Motion

I move that the board approve the superintendent's recommendation to suspend Mr. John Doe for 30 work days without pay for the reasons set out in the superintendent's written notice.

5. The board should consider issuing written findings of fact. A sample is below:

Sample Findings of Fact

The superintendent recommended that the board suspend John Doe for 30 work days without pay for the following reasons:

- 1. Mr. Doe failed to submit timely lesson plans as required from August 2011 to February 2012.*
- 2. On February 5, 2012, when confronted about his repeated failure to submit timely lesson plans, Mr. Doe yelled at his principal, "You're not the boss of me! I hate you!"*
- 3. After yelling at his boss, Mr. Doe ran from the principal's office and drove away from school at a high rate of speed.*
- 4. After leaving the school without permission, Mr. Doe failed to teach his remaining classes on February 5, 2012.*

Mr. Doe timely requested a hearing before this board and a hearing was held on _____, 20___. Mr. Doe appeared at the hearing with his attorney _____. The board has considered the evidence presented to it and finds that the superintendent presented sufficient evidence of allegations 1, 3 and 4. For this reason, the board finds that the superintendent's recommendation should be APPROVED by a vote of 4 to 1.

Board President

7. The superintendent issues written notice of the board's decision to the employee within ten days. That notice should also contain the board's findings of fact. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to suspend you for 30 work days without pay at its meeting on _____, 20___. The board's findings of fact are enclosed.

You have the right to contest this decision by filing an appeal.

If you wish to do so, you must file a written "Notice of Appeal" addressed to:

*State Superintendent of Education
Alabama Department of Education
501 North Ripley Street
P.O. Box 302101
Montgomery, AL 36104*

That notice of appeal must be filed within 15 days of your receipt of this letter and must state the grounds upon which your appeal is based. A copy of that notice must be simultaneously provided to my office as well.

If you do not wish to appeal, you will serve your suspension beginning _____, 20__ and return to work _____, 20___. [NOTE: Set the start date approximately 17 days out to allow for notice to be received and the appeal time to expire.] If you do wish to appeal, you will not serve your suspension unless and until the hearing officer upholds the board's decision.

*Dr. Jane Smith
Superintendent
City School System*

8. If the employee does not file Notice of Appeal with the State Superintendent, the employee must begin serving his suspension immediately. If the employee does file Notice of Appeal with the State Superintendent, the State Superintendent will contact the Executive Director of the Alabama State Bar and obtain a panel of retired Alabama judges from which the parties can select a hearing officer.
9. The panel of five potential hearing officers will be provided to the parties. The parties may agree on a hearing officer from the panel or any other source.
10. If the parties cannot agree on a hearing officer, the parties must use alternating strikes to select the hearing officer. The employee gets the first strike. The process must be completed within 10 days of the parties receiving the panel.

11. After receiving the Notice of Appeal, the superintendent must compile the hearing record, including the court reporter's transcript, documentary evidence and any notices. The record must be provided to the hearing officer within 20 days of receiving the Notice of Appeal.

Note: It is possible that the process of selecting the hearing officer may not be complete within 20 days through no fault of the board. If this occurs, once the superintendent receives the Notice of Appeal, the board attorney should go ahead and compile the record, and be prepared to immediately provide the record to the hearing officer once he is appointed. The hearing officer can extend the time for providing the record for good cause shown.

Sample Letter

*The Honorable Judge Jim Law
123 Main Street
City, Alabama*

*RE: The Termination of John Doe
from the City Board of Education*

Dear Judge Law:

I represent the City Board of Education in the above-referenced matter. The Notice of Appeal in this matter was received on October 1, 2011. Pursuant to Act 2011-270, Sec. 6(e), I am obligated to provide a record of the proceedings before the board to you within 20 days of the Notice of Appeal. I received notification of your appointment as hearing officer yesterday on October 31, 2011. Because more than 20 days has elapsed between the Notice of Appeal and your appointment, I was unable to comply with that provision. For that reason, I request an additional 5 days from today's date in which to provide the record to you. If this is acceptable, please contact me at (334) 555-1212 or joe.jones@citylawfirm.com.

*Joe Jones, Esquire
Counsel for City Board of Education*

Sample Notice

*In re the Suspension of
John Doe, Tenured Teacher,
from the City School System*

Notice of Record

The City Board of Education hereby provides a record of the suspension proceedings involving Mr. John Doe. The record contains the following documents:

- 1. Required Notices*
- 2. Transcript of Suspension Hearing*
- 3. Exhibits Introduced During Suspension Hearing*

Done this ___ day of _____, 20__.

Counsel for the City Board of Education

11. The hearing officer holds a hearing.

Note: The type of hearing is at the discretion of the hearing officer, but AASB's position is that the statute does not contemplate a full hearing, but rather arguments of counsel based on the record before the board. This is evidenced by the fact that the statute refers to the action as a "review", the hearing officer is provided a transcript of the testimony taken by the board, that the hearing officer is required to give the board's decision deference and that the hearing officer is only permitted to affirm or reverse the board's decision. (Act 2011-270, Section 6(e)).

12. The hearing officer issues a written decision either affirming or reversing the board's decision within five days of the hearing.
13. If the hearing officer reverses the board's decision, the board has the right to appeal that decision to the Alabama Court of Civil Appeals by filing a "Notice of Appeal" with that court.
14. If the hearing officer upholds the board's decision, the employee has the right to appeal the decision to the Alabama Court of Civil Appeals. However, the superintendent should issue written notice to the employee of the dates his suspension will be served, irrespective of his decision to further appeal. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

The board has received the hearing officer's order upholding its decision to suspend you for 30 work days without pay. In light of this decision, you must begin serving your suspension on _____, 20___. You may return to work on _____, 20___.

*Dr. Jane Smith
Superintendent
City School System*

**CLASSWIDE REDUCTION
OF COMPENSATION OR LENGTH OF EMPLOYMENT**

PROCEDURE FOR CLASSWIDE REDUCTION OF COMPENSATION OR LENGTH OF EMPLOYMENT FOR ALL EMPLOYEES

SECTION 6(H)(2)

Reductions in pay based on the length of the work day or school year that affect a class or group of employees are not considered terminations, partial terminations or transfers under the Students First Act as long as:

- The action is prospective in effect (in the future);
 - Is recommended by the superintendent and approved by the board; and
 - Is applied to similarly situated employees within the system, departments, categories or divisions
1. The superintendent recommends in writing that the work term or work hours of a class of employees be reduced.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the work term of all assistant principals be reduced system wide from ten months to nine months effective the 2011/2012 school year. This recommendation shall impact the following employees:

1. *John Doe, Assistant Principal, ABC Elementary School*
2. *Joe Doe, Assistant Principal, DEF Middle School*
3. *Jim Doe, Assistant Principal, GHI High School*

2. The board moves to accept the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to reduce the work term of all assistant principals system wide from ten months to nine months effective the 2011/2012 school year. This action shall apply to the employees listed in the superintendent's recommendation.

3. The superintendent issues written notification of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to reduce your work term from ten months to nine months effective the 2011/2012 school year. This action applies to all assistant principals system wide.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and the employee has no further right to contest, review or appeal.

REDUCTIONS IN FORCE

**PROCEDURE FOR NOTIFYING EMPLOYEES
OF LAYOFF
CAUSED BY REDUCTION IN FORCE
SECTION 6(H)(3)**

1. The superintendent recommends in writing that the board declare a reduction in force pursuant to its local policy.

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

On February 28, 2012, Governor Robert Bentley declared 3% proration in the Education Trust Fund for FY 2012. As a result, the City School System will lose \$3.5 million in funding and our reserves will be totally depleted. Accordingly, I hereby advise that the City School System is in a state of financial emergency. For this reason, I recommend that the Board implement a reduction in force.

2. The board declares a reduction in force.

Sample Motion

I move that we accept the superintendent's recommendation that this board implement a reduction in force.

3. In compliance with the board's local reduction in force policy, the superintendent then determines which class of employees are impacted.
4. The superintendent recommends the required employee actions.

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

I hereby recommend that the board layoff three custodians. Pursuant to the board's reduction in force policy, this recommendation shall impact the following employees:

1. *John Doe, Custodian, ABC Elementary School*
2. *Joe Doe, Custodian, DEF Middle School*
3. *Jim Doe, Custodian, GHI High School*

5. The board moves to accept the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to layoff 3 custodians. This action shall apply to the employees listed in the superintendent's recommendation.

6. The superintendent issues written notification of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to implement a reduction in force. Unfortunately, as a result of this reduction in force, the board must eliminate your position. Your last day of employment will be _____, 20__.

In the event the board is able to recall employees within one calendar year, you shall receive written notice of the recall pursuant to the reduction in force policy. Please make sure you update your address with the Personnel Department. Thank you for your service to the City School System.

*Dr. Jane Smith
Superintendent
City School System*

7. The decision is final and there is no further right to contest, review or appeal.

**PROCEDURE FOR TRANSFER
OF TENURED TEACHERS OR
NONPROBATIONARY CLASSIFIED EMPLOYEES
CAUSED BY REDUCTION IN FORCE**

SECTION 6(H)(3)

1. The superintendent recommends in writing that the board declare a reduction in force pursuant to its local policy.

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

On February 28, 2012, Governor Robert Bentley declared 3% proration in the Education Trust Fund for FY 2012. As a result, the City School System will lose \$3.5 million in funding and our reserves will be totally depleted. Accordingly, I hereby advise that the City School System is in a state of financial emergency. For this reason, I recommend that the Board implement a reduction in force.

2. The board declares a reduction in force.

Sample Motion

I move that we accept the superintendent's recommendation that this board implement a reduction in force.

3. In compliance with the board's local reduction in force policy, the superintendent then determines which class of employees are impacted.
4. The superintendent recommends the required employee actions.

*Sample Recommendation
(Recommendation should be included in the board's minutes)*

I hereby recommend that the board transfer all 12-month Curriculum Specialists at Central Office to 9-month Teachers at locations to be determined. Pursuant to the board's reduction in force policy, this recommendation shall impact the following employees:

1. *John Doe, 12-Month Curriculum Specialist, Central Office*
2. *Joe Doe, 12-Month Curriculum Specialist, Central Office*
3. *Jim Doe, 12-Month Curriculum Specialist, Central Office*

5. The board moves to accept the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to transfer all 12-month Curriculum Specialists at Central Office to 9-month Teachers at locations to be determined. This action shall apply to the employees listed in the superintendent's recommendation.

6. The superintendent issues written notification of the board's decision to the employee. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you the board voted to approve my recommendation to implement a reduction in force. As a result of this reduction in force, the board has further approved my recommendation to transfer all 12-month Curriculum Specialists in Central Office to 9-month Teachers at a location to be determined, effective August 8, 2011. You are impacted by this decision and will be transferred accordingly.

In the event the board is able to recall its Curriculum Specialists within one calendar year, you shall receive written notice of the recall pursuant to the reduction in force policy.

*Dr. Jane Smith
Superintendent
City School System*

7. The decision is final and there is no further right to contest, review or appeal.

**PROCEDURE FOR TERMINATION
OF TEACHER WHOSE CERTIFICATE IS REVOKED
BY CRIMINAL CONVICTION**

SECTION 10(A)-(C)

1. The superintendent recommends in writing that the board terminate the teacher.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the employment of Mr. John Doe, teacher at ABC Elementary School, be terminated effective immediately as a result of his certificate revocation.

2. The board votes on the superintendent's recommendation. A majority of the whole board must approve the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe effective immediately as a result of his certificate revocation.

3. The superintendent issues written notice of the board's decision to the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board accepted my recommendation to terminate your employment effective immediately as a result of your certificate being revoked by the State Superintendent of Education.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and the teacher has no further right to challenge, review or appeal.
5. If the conviction that precipitated the revocation is overturned on appeal, the State Superintendent of Education must immediately reinstate his certificate.

6. If the certificate is reinstated, the board must reinstate the teacher to a position for which he holds certification or place him on administrative leave. The teacher must also receive all back pay and benefits.

Note: Even if the conviction is reversed, the State Superintendent and board can still pursue disciplinary action against the teacher for the facts underlying the original conviction.

**PROCEDURE FOR TERMINATION
OF TEACHER WHOSE CERTIFICATE IS
REVOKED, DENIED, SUSPENDED, FORFEITED
OR TEACHER IS DECLARED INELIGIBLE FOR CERTIFICATE**

SECTION 10(D)

1. The superintendent recommends in writing that the board terminate the teacher.

Sample Recommendation

(Recommendation should be included in the board's minutes)

I hereby recommend that the employment of Mr. John Doe, teacher at ABC Elementary School, be terminated effective immediately as a result of his certificate revocation.

2. The board votes on the superintendent's recommendation. A majority of the whole board must accept the superintendent's recommendation.

Sample Board Motion

I move that the board approve the superintendent's recommendation to terminate the employment of Mr. John Doe effective immediately as a result of his certificate revocation.

3. The superintendent issues written notice of the board's decision to the teacher. The methods for issuing written notice are as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the teacher or (d) hand delivery to the teacher's last known address.

Sample Letter

Mr. John Doe

This letter is to notify you that the board accepted my recommendation to terminate your employment effective immediately as a result of your certificate being revoked by the State Superintendent of Education.

*Dr. Jane Smith
Superintendent
City School System*

4. The decision is final and the teacher has no further right to challenge, review or appeal.

<i>Note: The teacher may have the right to challenge the State Superintendent's revocation action in a separate remedy.</i>

MISCELLANEOUS: DEFINITIONS AND CONSIDERATIONS

WHO'S COVERED?

Teacher

When the term “teacher” is used in the Students First Act, it refers to any employee who is required by law or board policy to maintain a professional educator’s certificate issued by the State Department of Education. This includes instructors, employees who were previously tenured as “supervisors” under the Teacher Tenure Act and tenured principals who did not become contract principals under the Teacher Accountability Act. Act 2011-270, Section 3(8).

A “professional educator’s certificate” includes regularly issued certificates, provisional certificates and alternative certificates, but does not include emergency certificates. Therefore, any time in service spent under an emergency certificate does not count towards the attainment of tenure. Any time in service spent under other types of certificates counts towards the attainment of tenure. Section 3(6).

Note: The Students First Act suggests that teachers employed under provisional and alternative certificates do not earn credit towards tenure. However, this provision must be read in conjunction with Ala. Code §16-23-3, which specifically permits tenure to be earned under provisional and alternative certificates. Only emergency certificates are ineligible for tenure credit.

Classified Employee

When the term “classified employee” is used in the Students First Act, it refers to the following employees:

- all bus drivers
- full time cafeteria workers
- full time janitors and custodians
- full time maintenance personnel
- full time secretaries and clerical assistants
- full time instructional aides or assistants (whether or not they hold a certificate)
- non-certificated supervisors
- any other employee who is not a teacher, but is employed full-time by a board of education.

An employee is “full time” if he works 20 or more hours in a normal work week. Act 2011-270, Section 3(2).

WHO'S NOT COVERED?

Superintendents and Chief School Financial Officers are not protected by the Students First Act. They are considered neither a “teacher” nor a “classified employee” for purposes of the Act.

Also, persons employed as temporary, part-time, substitute, summer school, occasional, seasonal, supplemental, irregular, etc., or in positions that are experimental, pilot, temporary, or like special programs, projects or purposes, the funding and duration of which are finite, are not covered by the Students First Act. Act 2011-270, Section 4(3)(b).

HOW IS PROTECTED STATUS EARNED?

Teachers

A teacher gains tenure after completing three complete, consecutive school years of full-time employment as a teacher with the same employer. A probationary teacher does not gain tenure if he is given notice of termination before the last day of his third consecutive, complete school year of employment. Act 2011-270, Section 4(1).

Complete School Year

The term “school year” is defined as the period beginning with the first day of the annual school term and ending with the last day of that term on which teachers are required to report for duty as dictated by the local board. Act 2011-270, Section 3(7).

A school year is deemed “complete” if the teacher is hired or rehired before October 1 of that school year. Act 2011-270, Section 4(3)(a).

Classified Employees

A classified employee gains nonprobationary status after completing three complete, consecutive school years of full-time employment as a teacher with the same employer. A probationary classified employee does not gain tenure if he is given notice of termination before June 15 of his third year of employment (or June 30 during the first year of the legislative quadrennium). Act 2011-270, Section 4(2).

Complete School Year

The term “school year” is defined as the period beginning with the first day of the annual school term and ending with the last day of that term on which teachers are required to report for duty as dictated by the local board. Act 2011-270, Section 3(7).

A school year is deemed “complete” if the employee is hired or rehired before October 1 of that school year. Act 2011-270, Section 4(3)(a).

Leaves of Absence

Boards may grant employees leave of absence for one year without losing their tenured or nonprobationary status or credit for time in service. The board may extend the leave for one additional year. Act 2011-270, Section 13(a).

Military leaves of absence are controlled by *Ala. Code* §31-2-13.

WHAT IS PROTECTED?

An employee gains protection in his status as a tenured teacher or nonprobationary classified employee. This provides for certain due process rights in the event he is proposed for transfer, suspension, termination or other actions. However, he does not gain protection in a specific position, rank, work site or location, assignment, title or rate of compensation. Act 2011-270, Section 4(3)(c).

SHOULD WE STILL USE CONTRACTS?

No. The Students First Act provides employees with certain rights. If you use contracts, that may provide the employee with specific due process rights separate and apart from those provided by the Act. Therefore, AASB recommends the use of letters of appointment with the following language included: "This letter of appointment does not constitute a contract of employment. The employment relationship is governed by the provisions of the Students First Act."

HOW IS THE EMPLOYEE NOTIFIED?

Any time the superintendent must issue written notice under the Students First Act, it must be done as follows: (a) certified mail, (b) private mail carrier for next business day delivery, (c) hand delivery to the employee or (d) hand delivery to the employee's last known address. Act 2011-270, Section 6(k).

If the employer issues notice by certified mail or private mail carrier, the notice is deemed received and complete after two business days. The employer has the burden to show that it properly issued notice (e.g., certified mail receipt to employee's address, etc.). The employee has the burden to prove that the service was improper.

WHO PAYS FOR THE COURT REPORTERS?

Any time an employee can appeal the board's decision to a hearing officer, the employer is required to hire a court reporter to record the board hearing. The board will be reimbursed for the court reporter's services by the State Department of Education. Act 2011-270, Section 6(e).

ARE PERSONAL & POLITICAL REASONS STILL PROHIBITED?

Yes. The statute specifies that no recommendation or decision by a superintendent or board can be based on personal or political reasons. Act 2011-270, Section 4.

HOW MUCH CAN BE DISCLOSED TO BOARD MEMBERS BEFORE THE HEARING?

The board will sit as a quasi-judicial body when considering these matters. Therefore, the board members do not need to come to any conclusions nor engage in extensive discussions with either party, including the superintendent, prior to considering the matter during the board hearing. Act 2011-270, Section 8.

That said, it is appropriate for the superintendent to keep board members informed about matters involving employees. However, if the superintendent or board anticipate the board will have to sit in judgment of the employee at some point, those discussions should be limited in nature.

ARE CRIMINAL STAYS REQUIRED?

Employees are no longer permitted to delay disciplinary proceedings based on threatened or pending criminal charges arising out of the same facts. Rather, the fact that an employee testifies on his own behalf during a disciplinary proceeding does not waive his right against self-incrimination and any testimony elicited during the disciplinary proceeding cannot be used against him in criminal court at his option. Act 2011-270, Section 6(j).

WHEN CAN PAY BE CUT OFF IMMEDIATELY?

If a tenured teacher or nonprobationary employee is terminated for allegations involving the following reasons, the employee's pay can be cut off immediately upon the board's approval of the superintendent's recommendation:

- Moral Turpitude
- Immorality
- Abandonment of Job
- Neglect of Duty
- Incarceration

Act 2011-270, Section 6(m).

WHEN CAN A TEACHER RESIGN?

No teacher can resign his employment during the 30 day window before the first day of classes without the board's consent. Thereafter, the teacher may resign with five days' notice. Any teacher violating this provision may be subject to certificate suspension or revocation for unprofessional conduct. Act 2011-270, Section 11.

WHAT IF A BOARD DENIES AN EMPLOYEE A HEARING?

Any tenured teacher or nonprobationary classified employee who is denied a hearing by the board can file a direct appeal to the Chief Administrative Law Judge. The board must file an answer in writing. The administrative law judge will then review the written filings and render a decision, with or without a hearing. Act 2011-270, Section 12.