

## ACT 174

H. B. 232.

A Bill for an Act Relating to Demotion of Teachers or Termination of Their Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 38-5.3, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**“Section 38-5.3. Demotion or termination of contract by department.** In case of demotion or termination of any contract, the department shall furnish the teacher a written notice signed by the superintendent of its intention to consider the demotion or termination of his contract with full specification of the grounds for such consideration. Unless the teacher so notified, within ten days subsequent to the receipt of the notice, demands in writing an opportunity to appear before the department and offer reasons against such demotion or termination, the department may proceed with formal action for demotion or termination of the contract. If the teacher, within ten days after receipt of notice from the superintendent, demands in writing a hearing before the department, the department shall set a time for the hearing within thirty days from the date of the written demand and the superintendent shall give the teacher at least fifteen days’ notice in writing of the time and place of such hearing. Chapter 6C shall apply to the notice and to all other aspects of the hearing. No hearing shall be held during the summer vacation without the teacher’s consent. The hearing shall be private unless the teacher requests a public hearing. The hearing shall be conducted by a majority of the board of education and be confined to the grounds given for the termination. In lieu of a hearing by the board, the board may appoint a hearing officer to conduct hearings in any case regarding teacher demotion or termination of contract. The hearing officer

shall hear the case in the same manner as if it were before the board and upon conclusion of the hearing, shall report his findings of fact and his conclusions and recommendations based thereon to the board and to the teacher. The board shall render the final decision in accordance with section 6C-11. The department may suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrant such action.

Both parties may be present at the hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the superintendent. In case of the failure of any person to comply with a subpoena, a circuit court judge of the judicial circuit in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. The hearing officer or any member of the board of education may administer oaths to witnesses. The board by the vote of a majority of its membership may enter upon its minutes an order of demotion or termination as the case may be. If the decision of the board is against demotion or termination of the contract, the charges and the record of the hearing shall be physically expunged and, if the teacher has been suspended, he shall be paid his full salary for the period of such suspension.

The findings and decisions of the board shall be subject to review as provided in chapter 6C.

In any hearing or court action the board shall be advised and represented by the attorney general, or may employ other legal counsel if so authorized by the attorney general.”

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 30, 1967.)