

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 144

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO SCHOOL PERSONNEL; ENACTING THE TEACHER AND SCHOOL
LEADER EFFECTIVENESS ACT; PROVIDING FOR EFFECTIVENESS
EVALUATIONS FOR TEACHERS AND SCHOOL LEADERS; PROVIDING FOR
SYSTEMS, PROCEDURES, CRITERIA AND MONITORING; PROVIDING
ASSESSMENT COMPONENTS; REQUIRING POST-EVALUATION ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this
act may be cited as the "Teacher and School Leader
Effectiveness Act"."

SECTION 2. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Teacher and
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underscored material = new
[bracketed material] = delete

1 School Leader Effectiveness Act:

2 A. "certified observer" means an individual who:

3 (1) is assigned by the local superintendent to
4 conduct an observation;

5 (2) holds an active level three-B license or
6 an active teaching license;

7 (3) is employed by a school district or
8 charter school as an administrator or a teacher;

9 (4) completes the department's teacher
10 observation training and passes the department's assessment of
11 the adopted observation protocol; and

12 (5) following satisfaction of the requirement
13 in Paragraph (4) of this subsection, each year before August 1,
14 completes follow-up training and passes the department's
15 assessment of the adopted observation protocol in any location
16 in the state;

17 B. "evaluation" means a final summative rating that
18 is composed of measures that include growth in student
19 achievement, observations and locally selected multiple
20 measures;

21 C. "local superintendent" includes a head
22 administrator of a charter school;

23 D. "post-evaluation conference" means the final
24 review of all components of the teacher evaluation at the end
25 of the school year;

1 E. "school district" includes a charter school;

2 F. "school principal" includes an assistant
3 principal and a head administrator of a charter school; and

4 G. "teacher" includes instructional support
5 providers who provide services at one or more public schools in
6 the school district."

7 SECTION 3. A new section of the Public School Code is
8 enacted to read:

9 "[NEW MATERIAL] RULES IMPLEMENTATION.--

10 A. The department shall promulgate rules to carry
11 out the provisions of the Teacher and School Leader
12 Effectiveness Act, including rules that establish uniform
13 procedures for:

14 (1) the submission, review and approval of
15 school district procedures for the annual effectiveness
16 evaluation of teachers and school principals;

17 (2) the standards for each effectiveness level
18 required pursuant to Section 4 of the Teacher and School Leader
19 Effectiveness Act; and

20 (3) the measurement of student achievement
21 growth and associated implementation procedures required
22 pursuant to Section 6 of the Teacher and School Leader
23 Effectiveness Act.

24 B. The department shall adopt:

25 (1) a list of approved assessments to measure

1 student achievement growth; and

2 (2) a list of approved measures of teacher and
3 school principal effectiveness for the multiple measures
4 component of the teacher and school principal effectiveness
5 evaluations.

6 C. In the 2015-2016 school year and in subsequent
7 school years, each school district shall continue to implement
8 its department-approved teacher and school principal
9 effectiveness evaluation system, and employment decisions
10 pertaining to effectiveness evaluations, promotions,
11 terminations and discharges shall be made pursuant to the
12 Teacher and School Leader Effectiveness Act and as otherwise
13 provided by law."

14 SECTION 4. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] EFFECTIVENESS EVALUATION PROCEDURES AND
17 CRITERIA.--

18 A. For the purpose of increasing student
19 achievement by improving the quality of instruction, school
20 administration and supervision in the public schools of the
21 state, every school district shall establish procedures for
22 evaluating the performance of duties and responsibilities of
23 all teachers and school principals in the school district.
24 Each school district shall report annually to the department
25 the results of its effectiveness evaluations of those

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1 employees.

2 B. The department shall approve each school
3 district's teacher and school principal effectiveness
4 evaluation system and shall monitor each school district's
5 implementation of the system.

6 C. A teacher and school principal effectiveness
7 evaluation system shall:

8 (1) be designed to support effective
9 instruction and student achievement, with the results used to
10 inform school district- and school-level improvement plans;

11 (2) provide appropriate instruments,
12 procedures and criteria and continuous quality improvement of
13 professional skills, with the results used to inform the
14 professional development of teachers and school principals;

15 (3) include a mechanism to examine
16 effectiveness data from multiple sources, which may include
17 giving parents and students opportunities to provide input into
18 effectiveness evaluations when appropriate;

19 (4) identify those teaching fields, including
20 special education and English as a second language, for which
21 special evaluation procedures and criteria may be developed;

22 (5) include measures of student achievement
23 growth, except as otherwise provided in the Teacher and School
24 Leader Effectiveness Act, observations and multiple measures;
25 and

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1 (6) differentiate among at least five levels
2 of performance, which include the following:

- 3 (a) exemplary, meets competency;
- 4 (b) highly effective, meets competency;
- 5 (c) effective, meets competency;
- 6 (d) minimally effective, does not meet
7 competency; and
- 8 (e) ineffective, does not meet
9 competency.

10 D. The effectiveness evaluation procedures for
11 teachers and school principals shall be based on the
12 performance of students assigned to their classrooms or
13 enrolled in their public schools as provided in the Teacher and
14 School Leader Effectiveness Act. The procedures shall comply
15 with the requirements of Subsections E through N of this
16 section.

17 E. A teacher effectiveness evaluation shall be
18 conducted for each teacher at least once a year. Each
19 evaluation shall be based on sound educational principles and
20 contemporary research in effective educational practices. The
21 student achievement growth component of a teacher's
22 effectiveness evaluation shall be based on valid and reliable
23 data and indicators of student achievement growth assessed
24 annually. Student achievement growth shall be based on a
25 department-approved, standards-based assessment. For subjects

1 and grade levels not measured by state assessments, a school
2 district shall develop assessments pursuant to the provisions
3 of Subsection I of this section or select assessments from a
4 list of options approved by the department.

5 F. A school district shall use the department-
6 adopted measures of student achievement growth calculated by
7 the department for all courses associated with state
8 assessments or district-created, department-approved
9 assessments and shall select comparable measures of student
10 achievement growth for other grades and subjects as provided in
11 Section 6 of the Teacher and School Leader Effectiveness Act.

12 G. The student achievement growth component of the
13 teacher effectiveness evaluation shall constitute, for
14 classroom teachers with:

15 (1) no student achievement growth data, no
16 part of the evaluation;

17 (2) one or two years of student achievement
18 growth data, twenty-five percent of the evaluation; and

19 (3) three or more years of student achievement
20 growth data, forty percent of the evaluation.

21 H. For school principals, the student achievement
22 growth component of the effectiveness evaluation shall include
23 student achievement growth data for students enrolled in the
24 public school for no fewer than the three most recent years.
25 The student achievement growth component of the effectiveness

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1 evaluation shall be based on the student growth components of
2 the school's A through F letter grade and shall constitute
3 forty percent of the school principal effectiveness evaluation.

4 I. If a school district develops an assessment that
5 measures student achievement growth for classroom teachers who
6 do not teach in a standards-based assessment grade or subject,
7 the school district shall submit the assessment to the
8 department for approval.

9 J. Forty percent of the teacher effectiveness
10 evaluation shall be based on data and indicators of
11 instructional practice for teachers, except as otherwise
12 provided in the Teacher and School Leader Effectiveness Act. A
13 certified observer shall observe those practices using a common
14 research-based observational protocol approved by the
15 department, with a demonstrated correlation to improved student
16 achievement.

17 K. Regardless of that teacher's ratings on other
18 components of the effectiveness evaluation, a teacher whose
19 students' average growth per year for all years measured and
20 factored into the student achievement growth component of the
21 evaluation is one grade level or more shall be deemed as
22 meeting competency in that component of the evaluation and
23 shall not, based on all evaluation components, be rated
24 minimally effective or ineffective.

25 L. A teacher whose students' average growth per

1 year for all years measured and factored into the student
2 achievement growth component of the evaluation is less than one
3 grade level but who has demonstrated competency in the
4 observation and multiple measures components of the
5 effectiveness evaluation shall:

6 (1) not be rated minimally effective or
7 ineffective for the purposes of license renewal, revocation,
8 suspension, denial or advancement pursuant to the School
9 Personnel Act; and

10 (2) be rated minimally effective or
11 ineffective, based on all evaluation components, for purposes
12 of an improvement plan pursuant to Section 5 of the Teacher and
13 School Leader Effectiveness Act.

14 M. Feedback on classroom observations shall be
15 given to classroom teachers within ten school days after each
16 formal observation is completed.

17 N. For school principals, effectiveness evaluation
18 criteria shall include indicators based on each of the
19 leadership standards adopted by the department. Forty percent
20 of the school principal effectiveness evaluation shall be based
21 on observations conducted by the superintendent and using a
22 highly objective uniform statewide standard evaluation.

23 O. Multiple measures approved by the department
24 shall be twenty percent of the school district's teacher and
25 school principal effectiveness evaluation system, except as

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1 otherwise provided in the Teacher and School Leader
2 Effectiveness Act. The multiple measures shall be aligned with
3 improved student achievement. Each school district shall adopt
4 at least one multiple measure.

5 P. The school administrator responsible for
6 supervising a teacher or school principal shall evaluate the
7 teacher's or school principal's performance. The school
8 district's teacher and school principal effectiveness
9 evaluation system may provide for the supervisor to consider
10 input from other trained evaluators and observers."

11 SECTION 5. A new section of the Public School Code is
12 enacted to read:

13 "[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-
14 EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR
15 INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE
16 ACTION--LICENSE REVOCATION.--

17 A. At the request of a school district, the
18 department or an external evaluator selected by the department
19 may conduct a review of:

20 (1) a teacher who is rated exemplary or highly
21 effective on components other than the student achievement
22 growth component and who is rated minimally effective or
23 ineffective on the student achievement growth component of the
24 teacher effectiveness evaluation; and

25 (2) a teacher who is rated minimally effective

1 or ineffective on components other than the student achievement
2 growth component and who is rated exemplary or highly effective
3 on the student achievement growth component of the teacher
4 effectiveness evaluation.

5 B. Every evaluator shall submit a written report on
6 the effectiveness evaluation of each teacher or school
7 principal to that teacher or school principal and to the local
8 superintendent. Once each component of an effectiveness
9 evaluation is completed, the evaluator shall not change that
10 component. A teacher or school principal who is rated, based
11 on all evaluation components, minimally effective or
12 ineffective may provide a written response to the effectiveness
13 evaluation, and the response shall become a permanent
14 attachment to the teacher's or school principal's personnel
15 file.

16 C. For a teacher or school principal evaluated as
17 minimally effective or ineffective, the written report shall
18 describe the minimally effective or ineffective performance and
19 include notice of the procedural requirements of this section.
20 The notice shall constitute notice of uncorrected
21 unsatisfactory work performance pursuant to Section 22-10A-30
22 NMSA 1978.

23 D. After all components of the evaluation are
24 complete, the evaluator shall arrange a post-evaluation
25 conference with each teacher or school principal who, based on

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1 all evaluation components, is evaluated as minimally effective
2 or ineffective. At the conference, the evaluator shall make
3 recommendations with respect to specific areas of
4 unsatisfactory performance and provide other useful feedback
5 that provides the initial framework for an individual
6 performance growth plan.

7 E. School principals and other supervisors shall
8 use the results of the teacher and school principal
9 effectiveness evaluations to develop strategic support for
10 teachers and school principals who are rated minimally
11 effective or ineffective, which support shall align with best
12 practices identified by the department. The evaluator shall
13 provide assistance in helping to correct unsatisfactory
14 performance.

15 F. If the teacher or school principal has an
16 employment contract, the teacher or school principal shall be
17 placed on a performance growth plan and be governed by the
18 provisions of this section pertaining to the demonstration of
19 corrective action for ninety school days following the receipt
20 of the notice of minimally effective or ineffective
21 performance; provided that weekends, school holidays and school
22 vacation periods are not counted when calculating the ninety-
23 day period. During the ninety-day period, the teacher or
24 school principal shall be observed and evaluated periodically
25 and shall be apprised of progress. The evaluator shall provide

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1 assistance and notification of in-service training
2 opportunities to help correct the performance deficiencies
3 noted.

4 G. Within five school days after the allowed
5 ninety-day period, the evaluator shall evaluate whether the
6 performance deficiencies have been corrected and forward a
7 recommendation to the local superintendent. Within ten school
8 days after receiving the evaluator's recommendation, the local
9 superintendent shall notify in writing the teacher or school
10 principal who has an employment contract whether the
11 performance deficiencies have been satisfactorily corrected.
12 If satisfactory progress has not been made, the local
13 superintendent shall determine whether to discharge the
14 employee in compliance with Section 22-10A-27 NMSA 1978 or, if
15 at the end of a school year, to terminate the employment of the
16 employee in compliance with Section 22-10A-24 NMSA 1978.

17 H. An exemption to the provisions of this section
18 may be provided for upon appeal for extraordinary circumstances
19 as determined by the department.

20 I. The local superintendent shall notify the
21 department of a teacher or school principal who receives two
22 consecutive minimally effective or ineffective evaluations and
23 who has been given written notice by the school district that
24 the employee is being discharged or terminated.

25 J. Without the agreement of the local

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1 superintendent, the department shall not, as provided in
2 Section 22-2-2 NMSA 1978, revoke the license of a teacher who
3 holds a level one, two or three license for incompetency based
4 on a teacher effectiveness evaluation rating of minimally
5 effective or ineffective.

6 K. This section does not grant a probationary
7 employee a right to continued employment beyond the term of the
8 probationary employee's contract."

9 SECTION 6. A new section of the Public School Code is
10 enacted to read:

11 "[NEW MATERIAL] MEASUREMENT OF STUDENT ACHIEVEMENT GROWTH
12 IN LEARNING.--

13 A. By July 15, 2015, the department shall propose a
14 formula to measure individual student achievement growth on the
15 state standardized assessments used for school accountability.
16 The formula shall take into account each student's prior
17 performance, grade level and subject. The formula shall not
18 set different expectations for student achievement growth based
19 on gender, race, ethnicity or socioeconomic status. The
20 department shall adopt the formula by rule by September 1,
21 2015.

22 B. Beginning with the 2015-2016 school year, each
23 school district shall use the department-adopted instrument to
24 measure the growth in achievement of each student.

25 C. For classroom teachers who are assigned to

1 courses not associated with state assessments, a school
 2 district may request, through the effectiveness evaluation
 3 system approval process, to include achievement growth
 4 demonstrated on state assessments as a percentage of the
 5 overall effectiveness evaluation. Achievement growth of the
 6 state assessment shall be based on the students assigned to the
 7 teacher. The achievement growth of the teacher's assigned
 8 content area, as measured by the district-selected, department-
 9 approved assessment, shall be the greater percentage."

10 SECTION 7. Section 22-2-2 NMSA 1978 (being Laws 1967,
 11 Chapter 16, Section 5, as amended) is amended to read:

12 "22-2-2. DEPARTMENT--GENERAL DUTIES.--The department
 13 shall:

14 A. properly and uniformly enforce the provisions of
 15 the Public School Code;

16 B. determine policy for the operation of all public
 17 schools and vocational education programs in the state,
 18 including vocational programs that are part of a juvenile
 19 construction industries initiative for juveniles who are
 20 committed to the custody of the children, youth and families
 21 department;

22 C. supervise all schools and school officials
 23 coming under its jurisdiction, including taking over the
 24 control and management of a public school or school district
 25 that has failed to meet requirements of law or department rules

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1 or standards, and, until such time as requirements of law,
2 standards or rules have been met and compliance is ensured, the
3 powers and duties of the local school board and local
4 superintendent shall be suspended;

5 D. prescribe courses of instruction to be taught in
6 all public schools in the state, requirements for graduation
7 and standards for all public schools, for private schools
8 seeking state accreditation and for the educational programs
9 conducted in state institutions other than the New Mexico
10 military institute;

11 E. provide technical assistance to local school
12 boards and school districts;

13 F. assess and evaluate public schools for
14 accreditation purposes to determine the adequacy of student
15 gain in standards-required subject matter, adequacy of student
16 activities, functional feasibility of public school and school
17 district organization, adequacy of staff preparation and other
18 matters bearing upon the education of the students;

19 G. assess and evaluate all state institutions and
20 those private schools that desire state accreditation;

21 H. enforce requirements for home schools. Upon
22 finding that a home school is not in compliance with law, the
23 department may order that a student attend a public school or a
24 private school;

25 I. require periodic reports on forms prescribed by

1 it from all public schools and attendance reports from private
2 schools;

3 J. determine the qualifications for and issue
4 licenses to teachers, instructional support providers and
5 school administrators according to law and according to a
6 system of classification adopted and promulgated by rules of
7 the department;

8 K. notwithstanding the provisions of Section 5 of
9 the Teacher and School Leader Effectiveness Act, deny, suspend
10 or revoke a license according to law for incompetency, moral
11 turpitude or any other good and just cause;

12 L. approve or disapprove all rules promulgated by
13 an association or organization attempting to regulate a public
14 school activity and invalidate any rule in conflict with any
15 rule promulgated by the department. The department shall
16 require an association or organization attempting to regulate a
17 public school activity to comply with the provisions of the
18 Open Meetings Act and be subject to the inspection provisions
19 of the Public Records Act. The department may require
20 performance and financial audits of an association or
21 organization attempting to regulate a public school activity.
22 The department shall have no power or control over the rules or
23 the bylaws governing the administration of the internal
24 organization of the association or organization;

25 M. review decisions made by the governing board or

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1 officials of an organization or association regulating a public
2 school activity, and any decision of the department shall be
3 final in respect thereto;

4 N. require a public school under its jurisdiction
5 that sponsors athletic programs involving sports to mandate
6 that the participating student obtain catastrophic health and
7 accident insurance coverage, such coverage to be offered
8 through the school and issued by an insurance company duly
9 licensed pursuant to the laws of New Mexico;

10 O. establish and maintain regional centers, at its
11 discretion, for conducting cooperative services between public
12 schools and school districts within and among those regions and
13 for facilitating regulation and evaluation of school programs;

14 P. approve education curricula and programs offered
15 in all two-year public post-secondary educational institutions,
16 except those in Chapter 21, Article 12 NMSA 1978, that lead to
17 alternative licenses for degreed persons pursuant to Section
18 22-10A-8 NMSA 1978 or licensure for educational assistants;

19 Q. withhold program approval from a college of
20 education or teacher preparation program that fails to offer a
21 course on teaching reading that:

22 (1) is based upon current scientifically based
23 reading research;

24 (2) aligns with department-adopted reading
25 standards;

1 (3) includes strategies and assessment
 2 measures to ensure that beginning teachers are proficient in
 3 teaching reading; and

4 (4) was designed after seeking input from
 5 experts in the education field;

6 R. annually, prior to December 1, prepare and
 7 publish a report on public and private education in the state
 8 and distribute the report to the governor and the legislature;

9 S. solicit input from local school boards and
 10 school districts in the formulation and implementation of
 11 department rules; and

12 T. report to the legislature or any of its
 13 committees as requested and report findings of any educational
 14 research study made with public money to the legislature
 15 through its appropriate interim or standing committees."

16 SECTION 8. Section 22-10A-19 NMSA 1978 (being Laws 2003,
 17 Chapter 153, Section 50, as amended) is amended to read:

18 "22-10A-19. TEACHERS AND SCHOOL PRINCIPALS--

19 [~~ACCOUNTABILITY~~] OTHER LICENSED SCHOOL EMPLOYEES--EVALUATIONS--

20 [~~PROFESSIONAL DEVELOPMENT--PEER INTERVENTION--MENTORING~~]

21 TRAINING.--

22 A. [~~The department shall adopt criteria and minimum~~
 23 ~~highly objective uniform statewide standards of evaluation for~~
 24 ~~the annual performance evaluation of licensed school employees.~~
 25 ~~The professional development plan for teachers shall include~~

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1 ~~documentation on how a teacher who receives professional~~
2 ~~development that has been required or offered by the state or a~~
3 ~~school district or charter school incorporates the results of~~
4 ~~that professional development in the classroom.] Teachers and~~
5 ~~school principals shall be evaluated in accordance with the~~
6 ~~Teacher and School Leader Effectiveness Act.~~

7 B. The local superintendent shall adopt policies,
8 guidelines and procedures for the performance evaluation
9 ~~[process. Evaluation by other school employees shall be one~~
10 ~~component of the evaluation tool for school administrators] of~~
11 ~~licensed school employees who are not teachers or school~~
12 ~~principals.~~

13 ~~[C. As part of the highly objective uniform~~
14 ~~statewide standard of evaluation for teachers, the school~~
15 ~~principal shall observe each teacher's classroom practice to~~
16 ~~determine the teacher's ability to demonstrate state-adopted~~
17 ~~competencies.~~

18 ~~D. At the beginning of each school year, teachers~~
19 ~~and school principals shall devise professional development~~
20 ~~plans for the coming year, and performance evaluations shall be~~
21 ~~based in part on how well the professional development plan was~~
22 ~~carried out.~~

23 ~~E. If a level two or three-A teacher's performance~~
24 ~~evaluation indicates less than satisfactory performance and~~
25 ~~competency, the school principal may require the teacher to~~

1 ~~undergo peer intervention, including mentoring, for a period~~
2 ~~the school principal deems necessary. If the teacher is unable~~
3 ~~to demonstrate satisfactory performance and competency by the~~
4 ~~end of the period, the peer interveners may recommend~~
5 ~~termination of the teacher.~~

6 F.] C. At least every two years, school principals
7 shall attend a training program approved by the department to
8 improve their evaluation, administrative and instructional
9 leadership skills."

10 SECTION 9. SEVERABILITY.--If any part or application of
11 the Teacher and School Leader Effectiveness Act is held
12 invalid, the remainder or its application to other situations
13 or persons shall not be affected.

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underscoring material = new
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