

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
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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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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;

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

2 F. "school principal" includes an assistant
3 principal; 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

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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. A teacher effectiveness evaluation shall be
11 conducted for each teacher at least once a year. Each
12 evaluation shall be based on sound educational principles and
13 contemporary research in effective educational practices. The
14 student achievement growth component of a teacher's
15 effectiveness evaluation shall be based on valid and reliable
16 data and indicators of student achievement growth assessed
17 annually for the students assigned to the teacher for each
18 year, as certified by the school district. Student achievement
19 growth shall be based on a department-approved, standards-based
20 assessment. For subjects and grade levels not measured by
21 state assessments, a school district shall develop assessments
22 pursuant to the provisions of Subsection I of this section or
23 select assessments from a list of options approved by the
24 department.

25 E. A school district shall use the department-

1 adopted measures of student achievement growth calculated by
2 the department for all courses associated with state
3 assessments or district-created, department-approved
4 assessments and shall select comparable measures of student
5 achievement growth for other grades and subjects as provided in
6 Section 6 of the Teacher and School Leader Effectiveness Act.

7 F. The student achievement growth component of the
8 teacher effectiveness evaluation shall constitute, for
9 classroom teachers with:

10 (1) no student achievement growth data, no
11 part of the evaluation;

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

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

16 G. For school principals, the student achievement
17 growth component of the effectiveness evaluation shall include
18 student achievement growth data for students enrolled in the
19 public school for no fewer than the three most recent years.
20 The student achievement growth component of the effectiveness
21 evaluation shall be based on the student growth components of
22 the school's A through F letter grade and shall constitute
23 forty percent of the school principal effectiveness evaluation.

24 H. If a school district develops an assessment that
25 measures student achievement growth for classroom teachers who

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1 do not teach in a standards-based assessment grade or subject,
2 the school district shall submit the assessment to the
3 department for approval.

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

12 J. Regardless of that teacher's ratings on other
13 components of the effectiveness evaluation, a teacher whose
14 students' average growth per year for all years measured and
15 factored into the student achievement growth component of the
16 evaluation is one year of expected growth or more shall be
17 deemed as meeting competency in that component of the
18 evaluation and shall not, based on all evaluation components,
19 be rated minimally effective or ineffective.

20 K. Feedback on classroom observations shall be
21 given to classroom teachers within ten school days after each
22 formal observation is completed.

23 L. For school principals, effectiveness evaluation
24 criteria shall include indicators based on each of the
25 leadership standards adopted by the department. Forty percent

1 of the school principal effectiveness evaluation shall be based
 2 on observations conducted by the superintendent and using a
 3 highly objective uniform statewide standard evaluation.

4 M. Multiple measures approved by the department
 5 shall be twenty percent of the school district's teacher and
 6 school principal effectiveness evaluation system, except as
 7 otherwise provided in the Teacher and School Leader
 8 Effectiveness Act. The multiple measures shall be aligned with
 9 improved student achievement. Each school district shall adopt
 10 at least one multiple measure.

11 N. The school administrator responsible for
 12 supervising a teacher or school principal shall evaluate the
 13 teacher's or school principal's performance. The school
 14 district's teacher and school principal effectiveness
 15 evaluation system may provide for the supervisor to consider
 16 input from other trained evaluators and observers."

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

19 "[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-
 20 EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR
 21 INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE
 22 ACTION--LICENSE REVOCATION.--

23 A. At the request of a school principal, the
 24 department or an independent evaluator selected by the
 25 department may conduct a review of the results of the overall

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1 effectiveness evaluation, the multiple measures component or
2 the student achievement growth data component of:

3 (1) a teacher who is rated exemplary or highly
4 effective on components other than the student achievement
5 growth component and who is rated minimally effective or
6 ineffective on the student achievement growth component of the
7 evaluation; and

8 (2) a teacher who is rated minimally effective
9 or ineffective on components other than the student achievement
10 growth component and who is rated exemplary or highly effective
11 on the student achievement growth component of the evaluation.

12 B. A local superintendent may appeal to the
13 department concerning the advancement or license revocation or
14 renewal of a teacher whose effectiveness evaluation ratings are
15 as described in Paragraph (1) or (2) of Subsection A of this
16 section.

17 C. Every evaluator shall submit a written report on
18 the effectiveness evaluation of each teacher or school
19 principal to that teacher or school principal and to the local
20 superintendent. Once each component of an effectiveness
21 evaluation is completed, the evaluator shall not change that
22 component. A teacher or school principal who is rated, based
23 on all evaluation components, minimally effective or
24 ineffective may provide a written response to the effectiveness
25 evaluation, and the response shall become a permanent

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1 attachment to the teacher's or school principal's personnel
2 file.

3 D. For a teacher evaluated as minimally effective
4 or ineffective, the written report shall describe the minimally
5 effective or ineffective performance and include notice of the
6 procedural requirements of this section. The notice shall
7 constitute notice of uncorrected unsatisfactory work
8 performance pursuant to Section 22-10A-30 NMSA 1978.

9 E. After all components of the evaluation are
10 complete, the evaluator shall arrange a post-evaluation
11 conference with each teacher or school principal who, based on
12 all evaluation components, is evaluated as minimally effective
13 or ineffective. At the conference, the evaluator shall make
14 recommendations with respect to specific areas of
15 unsatisfactory performance and provide other useful feedback
16 that provides the initial framework for an individual
17 performance growth plan.

18 F. School principals and other supervisors shall
19 use the results of the teacher and school principal
20 effectiveness evaluations to develop strategic support for
21 teachers and school principals who are rated minimally
22 effective or ineffective, which support shall align with best
23 practices identified by the department. The evaluator shall
24 provide assistance in helping to correct unsatisfactory
25 performance.

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1 G. If the teacher has an employment contract, the
2 teacher shall be placed on a performance growth plan and be
3 governed by the provisions of this section pertaining to the
4 demonstration of corrective action for ninety school days
5 following the receipt of the notice of minimally effective or
6 ineffective performance; provided that weekends, school
7 holidays and school vacation periods are not counted when
8 calculating the ninety-day period. During the ninety-day
9 period, the teacher shall be observed and evaluated
10 periodically and shall be apprised of progress. The evaluator
11 shall provide assistance and notification of in-service
12 training opportunities to help correct the performance
13 deficiencies noted.

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

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1 employee in compliance with Section 22-10A-24 NMSA 1978.

2 I. An exemption to the provisions of this section
3 may be provided for upon appeal for extraordinary circumstances
4 as determined by the department.

5 J. The local superintendent shall notify the
6 department of a teacher who receives two consecutive minimally
7 effective or ineffective evaluations and who has been given
8 written notice by the school district that the employee is
9 being discharged or terminated.

10 K. For a teacher whose license is expiring in the
11 year in which the teacher is rated, based on all evaluation
12 components, minimally effective or ineffective, the local
13 superintendent may appeal to the department for an extension of
14 the teacher's license.

15 L. This section does not grant a probationary
16 employee a right to continued employment beyond the term of the
17 probationary employee's contract."

18 **SECTION 6.** A new section of the Public School Code is
19 enacted to read:

20 "[NEW MATERIAL] MEASUREMENT OF STUDENT ACHIEVEMENT GROWTH
21 IN LEARNING.--

22 A. By July 15, 2015, the department shall propose a
23 formula to measure individual student achievement growth on the
24 state standardized assessments used for school accountability.
25 The formula shall take into account each student's prior

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1 performance, grade level and subject. The formula shall not
2 set different expectations for student achievement growth based
3 on gender, race, ethnicity or socioeconomic status. The
4 department shall adopt the formula by rule by September 1,
5 2015.

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

9 C. For classroom teachers who are assigned to
10 courses not associated with state assessments, a school
11 district may request, through the effectiveness evaluation
12 system approval process, to include achievement growth
13 demonstrated on state assessments as a percentage of the
14 overall effectiveness evaluation. Achievement growth of the
15 state assessment shall be based on the students assigned to the
16 teacher. The achievement growth of the teacher's assigned
17 content area, as measured by the district-selected, department-
18 approved assessment, shall be the greater percentage."

19 SECTION 7. Section 22-10A-19 NMSA 1978 (being Laws 2003,
20 Chapter 153, Section 50, as amended) is amended to read:

21 "22-10A-19. TEACHERS AND SCHOOL PRINCIPALS--
22 [ACCOUNTABILITY] OTHER LICENSED SCHOOL EMPLOYEES--EVALUATIONS--
23 [PROFESSIONAL DEVELOPMENT--PEER INTERVENTION--MENTORING]
24 TRAINING.--

25 A. [~~The department shall adopt criteria and minimum~~

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1 ~~highly objective uniform statewide standards of evaluation for~~
2 ~~the annual performance evaluation of licensed school employees.~~
3 ~~The professional development plan for teachers shall include~~
4 ~~documentation on how a teacher who receives professional~~
5 ~~development that has been required or offered by the state or a~~
6 ~~school district or charter school incorporates the results of~~
7 ~~that professional development in the classroom.] Teachers and~~
8 ~~school principals shall be evaluated in accordance with the~~
9 ~~Teacher and School Leader Effectiveness Act.~~

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

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

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

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