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HOUSE BILL 212

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Sheryl Williams Stapleton

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE TEACHER AND
PRINCIPAL EVALUATION ACT; PROVIDING FOR A NEW EVALUATION
SYSTEM; PROVIDING POWERS AND DUTIES; REQUIRING FORMATIVE AND
SUMMATIVE EVALUATIONS; DECLARING AN EMERGENCY.

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 10 of
this act may be cited as the "Teacher and Principal Evaluation
Act"."

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

"[NEW MATERIAL] PURPOSE.--The purpose of the Teacher and
Principal Evaluation Act is to:

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1 A. promote student learning, growth and achievement
2 by providing educators with feedback for improvement, enhanced
3 opportunities for professional growth and clear structures for
4 accountability;

5 B. ensure the professionalism and accountability of
6 teachers and principals that will enable them to assist all
7 students to perform at high levels;

8 C. establish a rigorous and comprehensive
9 evaluation process for teachers and principals;

10 D. measure and support professional practice
11 consistently and fairly;

12 E. ensure proficient teaching and administrative
13 leadership competency in New Mexico's public schools;

14 F. make personnel decisions consistent with the
15 School Personnel Act, including advancement within the three-
16 tier licensure system; and

17 G. provide a record of facts and assessments for
18 personnel decisions."

19 **SECTION 3.** A new section of the Public School Code is
20 enacted to read:

21 "[NEW MATERIAL] DEFINITIONS.--As used in the Teacher and
22 Principal Evaluation Act:

23 A. "evaluation" means the ongoing process of
24 defining goals and identifying, gathering and using information
25 to improve professional performance and to assess total job

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1 competence and make personnel decisions;

2 B. "evaluator" means a designated level three-B
3 licensee who has been trained to be an evaluator and has the
4 responsibility for observation and evaluation of teachers or
5 school principals;

6 C. "experienced teacher" means a level two or level
7 three-A teacher;

8 D. "experienced school principal" means a level
9 three-B administrator who has more than two years' experience
10 as a school principal;

11 E. "formative evaluation" means the self-directed
12 process used annually to assess progress toward attaining goals
13 set forth in the teacher's professional development plan or the
14 self-assessment for a school principal;

15 F. "improvement plan" means the growth or
16 improvement actions identified by the evaluator as needed to
17 improve a level two or level three-A teacher's or school
18 principal's performance when the teacher has been rated as
19 unsatisfactory or basic or the school principal has been rated
20 as not demonstrated or developing;

21 G. "intensive improvement plan" means a plan of at
22 least thirty school days and no more than one school year
23 developed by the evaluator for a teacher who has been rated as
24 unsatisfactory or basic or a school principal who has been
25 rated as not demonstrated or developing;

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1 H. "measurable" means that which can be classified
2 or estimated, in relation to a scale, rubric or standard;

3 I. "observation" means a data-gathering process
4 that includes the use of a rubric or judgments made during one
5 or more classroom or work site visits of forty-five to sixty
6 minutes by the evaluator and may include examination of
7 artifacts of practice;

8 J. "peer observation" means teachers observing
9 teachers or school principals observing school principals as a
10 form of collaborative professional development and is non-
11 evaluative and excludes a rating or score;

12 K. "professional development dossier" means the
13 compiled evidence of performance along three dimensions, which
14 are instruction, student learning and professional development,
15 created to advance from one licensure level to the next;

16 L. "professional development plan" means an
17 individualized plan that is intended to improve teaching or
18 administering that is unique to the goals and growth areas
19 identified by a teacher or school principal and the teacher's
20 or school principal's supervisor;

21 M. "rubric" means a research-based psychometrically
22 sound scoring tool that describes characteristics or artifacts
23 of practice at different levels of performance;

24 N. "student learning growth" means learning
25 measured using multiple measures that may include student

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1 learning objectives, achievement of individualized education
2 program goals, nationally normed or locally developed
3 assessments that are aligned to state standards, research-based
4 growth measures or alternative assessments;

5 O. "student learning objectives" means assessments
6 of student learning that may include commercial assessments or
7 district-developed assessments and may include portfolios, pre-
8 and post-tests, unit and course assessments, performance
9 assessments and capstone projects; and

10 P. "summative evaluation" includes a trained
11 evaluator's judgments of the teacher's or school principal's
12 performance against performance standards and an overall rating
13 based on multiple measures; provided that for teachers, a
14 summative evaluation includes two classroom observations in the
15 school year that the summative evaluation is required. The
16 summative evaluation shall be used as a basis to make personnel
17 decisions."

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

20 "[NEW MATERIAL] TEACHER AND PRINCIPAL PERFORMANCE
21 RATINGS.--

22 A. The following performance ratings shall be used
23 to describe a teacher's performance:

24 (1) "distinguished" means the teacher's
25 performance consistently and significantly exceeds the

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1 requirements of a performance standard or overall summative
2 evaluation;

3 (2) "proficient" means the teacher's
4 performance fully and consistently meets the requirements of a
5 performance standard or overall summative evaluation;

6 (3) "basic" means the teacher's performance on
7 a performance standard or overall summative evaluation is at
8 the novice level or, for experienced teachers, means the
9 teacher's performance is below the requirements of a
10 performance standard or overall summative evaluation but, while
11 not considered to be unsatisfactory at the time of the
12 evaluation, does indicate that improvement is necessary and
13 expected to occur; and

14 (4) "unsatisfactory" means the teacher's
15 performance on an evaluation standard or overall has not
16 significantly improved following a rating of basic or
17 unsatisfactory or the teacher's performance is consistently
18 below the requirements of a performance standard or overall
19 summative evaluation and is considered inadequate, or both.

20 B. The following performance ratings shall be used
21 to describe a school principal's performance:

22 (1) "distinguished" means the school principal
23 consistently and significantly exceeds proficient on
24 performance standards or overall;

25 (2) "accomplished" means the school principal

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1 exceeds proficient on a performance standard or overall
2 summative evaluation most of the time;

3 (3) "proficient" means the school principal
4 demonstrates basic competence on a performance standard or
5 overall;

6 (4) "developing" means the school principal's
7 performance on a performance standard or overall summative
8 evaluation is at a novice level or, for an experienced
9 principal, means the principal's performance is below the
10 requirement of a performance standard or overall summative
11 evaluation but, while not considered to be not demonstrated at
12 the time of the evaluation, indicates that improvement is
13 necessary and expected to occur; and

14 (5) "not demonstrated" means the school
15 principal demonstrates unsatisfactory performance on a
16 performance standard or overall summative evaluation and is
17 considered inadequate, or both."

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

20 "[NEW MATERIAL] TEACHER AND SCHOOL PRINCIPAL EVALUATIONS--
21 MULTIPLE MEASURES.--

22 A. Teachers shall be evaluated by the following
23 measures at the following percentages:

24 (1) instructional quality, which counts for
25 fifty percent of the teacher's evaluation rating;

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1 (2) student feedback, which counts for fifteen
2 percent of the teacher's evaluation rating;

3 (3) student learning growth, which counts for
4 fifteen percent of the teacher's evaluation rating; and

5 (4) professional responsibility and
6 development, which counts for twenty percent of the teacher's
7 evaluation rating.

8 B. School principals shall be evaluated by the
9 following measures at the following percentages:

10 (1) management quality, which counts for
11 twenty-five percent of the school principal's evaluation
12 rating;

13 (2) leadership quality, which counts for
14 twenty-five percent of the school principal's evaluation;

15 (3) teacher and staff feedback, which counts
16 for twenty percent of the school principal's evaluation rating;

17 (4) family and community feedback compiled
18 from research-based surveys, which counts for fifteen percent
19 of the school principal's evaluation rating; and

20 (5) school progress on the educational plan
21 for student success, which counts for fifteen percent of the
22 school principal's evaluation rating.

23 C. The department shall appoint a committee made up
24 of appropriate staff of the department, the legislative
25 education study committee, school districts, charter schools

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1 and representatives of teachers, school principals and the
2 public to adopt or create a uniform, highly objective,
3 research-based, easily measurable evaluation system that
4 includes frameworks, standards, rubrics and evaluation
5 instruments for teacher and principal evaluations. The
6 committee shall consider existing evaluation systems of
7 frameworks, standards, rubrics and evaluation instruments and
8 attendant professional development for teachers and school
9 principals before considering creating a new evaluation system.
10 The committee shall cease to exist after the evaluation system
11 has been adopted by rule of the department; provided that the
12 secretary may reconstitute the committee to clarify or amend
13 provisions of the evaluation system as needed."

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

16 "[NEW MATERIAL] TEACHER AND PRINCIPAL EVALUATION CYCLES.--

17 A. Each teacher and each school principal shall
18 execute a formative evaluation each year.

19 B. Summative evaluations are required as follows:

20 (1) annually for all level one teachers and
21 for school principals serving their first two years in a school
22 district;

23 (2) annually for all teachers rated as
24 unsatisfactory or basic and for all school principals rated as
25 not demonstrated or developing; and

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1 (3) every three years for level two or level
2 three-A teachers rated as proficient or distinguished and for
3 level three-B school principals rated as proficient,
4 accomplished or distinguished."

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

7 "[NEW MATERIAL] PROFESSIONAL DEVELOPMENT PLANS--
8 EXPERIENCED EDUCATORS.--

9 A. Every teacher and every school principal shall
10 write a professional development plan each year; provided that
11 the professional development plan of an experienced teacher or
12 an experienced school principal may be written to extend over
13 three years but shall be initialed and updated as needed
14 annually during the three-year period. A teacher who has
15 developed a professional development dossier may use the
16 successful dossier in lieu of the evaluation in the year in
17 which the dossier is developed.

18 B. Information regarding the professional
19 development plan shall be shared across each school district
20 with teachers and school principals no later than forty
21 workdays after the beginning of the school year."

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

24 "[NEW MATERIAL] PERFORMANCE EVALUATIONS--LESS THAN
25 PROFICIENT.--

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1 A. As part of the improvement plan for a teacher
2 who has been rated as basic or unsatisfactory on the summative
3 evaluation, the school principal may require the teacher to
4 undergo peer intervention, including peer observation and
5 mentoring, for a period of at least thirty school days and no
6 more than ninety school days. If the teacher is still unable
7 to demonstrate proficient performance and competency by the end
8 of the period, an intensive improvement plan shall be
9 initiated.

10 B. As part of the improvement plan for a school
11 principal who has been rated as developing, the school
12 principal's supervisor shall specify specific actions,
13 including peer intervention, which may include peer observation
14 and mentoring, that are targeted to the school principal's
15 weaknesses on the performance evaluation. If the school
16 principal has been rated as not demonstrated, the school
17 principal's supervisor and the school principal shall develop
18 an intensive improvement plan that is intended to bring the
19 school principal's rating up to at least proficient.

20 C. An improvement plan or intensive improvement
21 plan shall include an action plan with benchmarks for goals
22 established in the improvement plan or intensive improvement
23 plan, and the evaluator's final assessment of the teacher's or
24 school principal's attainment of the established goals. If the
25 teacher or school principal is unable to demonstrate proficient

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1 performance and competency by the end of the assigned period,
2 termination of the teacher or school principal may be
3 recommended by the evaluator."

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

6 "[NEW MATERIAL] PEER ASSISTANCE AND REVIEW.--School
7 districts may develop and implement peer assistance and review
8 programs through the collective bargaining process."

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

11 "[NEW MATERIAL] TEACHERS AND SCHOOL PRINCIPALS--
12 ACCOUNTABILITY--EVALUATIONS--PROFESSIONAL DEVELOPMENT--PEER
13 INTERVENTION--MENTORING--IMPLEMENTATION AND REPORTING.--

- 14 A. By June 1, 2019, the department shall:
- 15 (1) promulgate rules regarding the teacher and
16 principal evaluation system in accordance with the provisions
17 of the Teacher and Principal Evaluation Act, including adopting
18 criteria and standards and the alignment of professional
19 development plans with a teacher's instructional duties and a
20 school principal's leadership and administrative duties; and
 - 21 (2) provide appropriate training and related
22 materials from evidence-based sources for the implementation of
23 the teacher and principal evaluation system.
- 24 B. The local superintendent shall adopt policies,
25 guidelines and procedures for the performance evaluation

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1 process. Evaluation by other school employees shall be one
2 component of the evaluation tool for school principals.

3 C. As part of the evaluation process for teachers,
4 the school principal shall observe each teacher's classroom
5 practice to determine the teacher's ability to demonstrate
6 state-adopted competencies.

7 D. At the beginning of each school year, teachers
8 and school principals shall devise professional development
9 plans for the coming year, and performance evaluations shall be
10 based in part on how well the professional development plans
11 have been carried out.

12 E. At least every two years, school principals
13 shall attend a training program approved by the department to
14 improve their evaluation, administrative and instructional
15 leadership skills.

16 F. By September 1, 2019, the department shall
17 require the implementation of the teacher and principal
18 evaluation system:

19 (1) so teachers and school principals can
20 develop additional skills and competencies;

21 (2) so teachers and school principals can
22 receive professional development, technical assistance and
23 training;

24 (3) so teachers may assume additional duties
25 and responsibilities with additional salary;

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1 (4) so teachers may advance within the
2 three-tiered licensure system;

3 (5) to continuously update the instruments and
4 processes for performing teacher and principal evaluations as
5 research evolves on practices leading to optimal student
6 outcomes;

7 (6) to delineate the process by which a
8 teacher or school principal may appeal a performance rating;
9 and

10 (7) to provide the necessary support for
11 school districts and charter schools to implement the state
12 teacher and principal evaluation system, including ongoing
13 training in the implementation and use of the state teacher and
14 principal evaluation system for teachers, principals and
15 supervisors.

16 G. Any data or information that the department,
17 school districts or charter schools create, send or receive in
18 connection with teacher and principal evaluations that is
19 evaluative in nature and may be linked to an individual teacher
20 or school principal, including information concerning a
21 teacher's or school principal's formative evaluation or
22 summative evaluation or performance rating, shall be considered
23 personnel information and matters of opinion and shall not be
24 subject to disclosure under the Inspection of Public Records
25 Act.

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1 H. The local superintendent is responsible for
2 ensuring that all evaluators have training in the principles of
3 supervision and evaluation. All evaluations shall be free of
4 racial, sexual, religious and other illegal discrimination and
5 biases as defined in state and federal laws."

6 SECTION 11. Section 22-10A-19 NMSA 1978 (being Laws 2003,
7 Chapter 153, Section 50, as amended) is amended to read:

8 "22-10A-19. [~~TEACHERS AND SCHOOL PRINCIPALS~~] LICENSED
9 SCHOOL EMPLOYEES--ACCOUNTABILITY--EVALUATIONS--PROFESSIONAL
10 DEVELOPMENT--PEER INTERVENTION--MENTORING.--

11 A. As used in this section, "licensed school
12 employee" means any licensed school employee other than
13 teachers or school principals.

14 [~~A.~~] B. The department shall adopt criteria and
15 minimum highly objective uniform statewide standards of
16 evaluation for the annual performance evaluation of licensed
17 school employees. The professional development plan for
18 [~~teachers~~] licensed school employees shall include
19 documentation on how [~~a teacher~~] the licensed school employee
20 who receives professional development that has been required or
21 offered by the state or a school district or charter school
22 incorporates the results of that professional development in
23 [~~the classroom~~] their professional duties.

24 [~~B.~~] C. The local superintendent shall adopt
25 policies, guidelines and procedures for the performance

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1 evaluation process. Evaluation by other school employees shall
2 be one component of the evaluation tool for licensed school
3 ~~[administrators]~~ employees.

4 ~~[G.]~~ D. As part of the highly objective uniform
5 statewide standard of evaluation for ~~[teachers]~~ licensed school
6 employees, the school principal shall observe each ~~[teacher's~~
7 ~~classroom]~~ licensed school employee's practice to determine the
8 ~~[teacher's]~~ licensed school employee's ability to demonstrate
9 state-adopted competencies.

10 ~~[D.]~~ E. At the beginning of each school year,
11 ~~[teachers and school principals]~~ licensed school employees
12 shall devise professional development plans for the coming
13 year, and performance evaluations shall be based in part on how
14 well the professional development plan was carried out.

15 ~~[E. If a level two or three-A teacher's performance~~
16 ~~evaluation indicates less than satisfactory performance and~~
17 ~~competency, the school principal may require the teacher to~~
18 ~~undergo peer intervention, including mentoring, for a period~~
19 ~~the school principal deems necessary. If the teacher is unable~~
20 ~~to demonstrate satisfactory performance and competency by the~~
21 ~~end of the period, the peer interveners may recommend~~
22 ~~termination of the teacher.]~~

23 F. At least every two years, school principals
24 shall attend a training program approved by the department to
25 improve their skills pertaining to employee evaluation,

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1 [administrative] administration and instructional leadership
2 [skills]."

3 SECTION 12. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

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