

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 293

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO SCHOOL PERSONNEL; ENACTING THE TEACHER AND SCHOOL
LEADER EFFECTIVENESS ACT; PROVIDING FOR EFFECTIVENESS
EVALUATIONS FOR LICENSED SCHOOL EMPLOYEES; 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.--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
School Leader Effectiveness Act:

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underscored material = new
[bracketed material] = delete

1 A. "formative evaluation" means an evaluation that
2 creates ongoing opportunities for feedback to enable a
3 teacher's instruction to be improved;

4 B. "licensed school employee" is limited to those
5 licensed school employees who provide services at one or more
6 public schools in the school district;

7 C. "school district" includes charter schools;

8 D. "school principal" includes assistant principals
9 and head administrators of charter schools; and

10 E. "teacher" includes instructional support
11 providers who provide services at one or more public schools in
12 the school district."

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

15 "[NEW MATERIAL] RULES IMPLEMENTATION.--

16 A. The department shall promulgate rules to carry
17 out the provisions of the Teacher and School Leader
18 Effectiveness Act, including rules that establish uniform
19 procedures for:

20 (1) the submission, review and approval of
21 district procedures for the annual effectiveness evaluation of
22 licensed school employees;

23 (2) the standards for each effectiveness level
24 required pursuant to Section 4 of the Teacher and School Leader
25 Effectiveness Act;

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1 (3) the measurement of student achievement
2 growth and associated implementation procedures required
3 pursuant to Section 6 of the Teacher and School Leader
4 Effectiveness Act; and

5 (4) a process for monitoring each school
6 district's implementation of its teacher and school leader
7 effectiveness evaluation system in accordance with the Teacher
8 and School Leader Effectiveness Act.

9 B. The department shall adopt:

10 (1) a list of approved assessments to measure
11 student achievement growth; and

12 (2) a list of approved measures of teacher and
13 school leader effectiveness for the multiple measures component
14 of the teacher and school leader effectiveness evaluations.

15 C. During the development of rules to implement the
16 provisions of the Teacher and School Leader Effectiveness Act,
17 the secretary shall convene an advisory committee to provide
18 feedback and suggestions of ways to ensure a fair and objective
19 evaluation system for licensed school employees. The
20 membership of the advisory committee shall be appointed in such
21 a way as to provide for cultural diversity and to give
22 geographic representation to all areas of the state. The
23 advisory committee shall consist of the secretary, who shall be
24 the chairperson, and other members appointed by the secretary
25 as follows:

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- 1 (1) a representative nominated by the
- 2 coalition of school administrators;
- 3 (2) a representative nominated by the New
- 4 Mexico chapter of the national education association;
- 5 (3) a representative nominated by the
- 6 Albuquerque federation of teachers;
- 7 (4) a representative nominated by a public
- 8 school parent association;
- 9 (5) a representative nominated by the New
- 10 Mexico coalition for charter schools;
- 11 (6) two representatives of the business
- 12 community;
- 13 (7) a representative nominated by the New
- 14 Mexico school boards' association;
- 15 (8) a representative nominated by the Hispanic
- 16 education advisory council;
- 17 (9) a representative nominated by the Indian
- 18 education advisory council;
- 19 (10) representatives from public elementary,
- 20 middle and high school principals; and
- 21 (11) a parent of a public school student.

22 D. School districts shall continue to use the

23 highly objective uniform statewide standards of evaluation for

24 evaluating, promoting, terminating and discharging licensed

25 school employees during the 2012-2013 and 2013-2014 school

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1 years. Beginning with the 2014-2015 school year, each school
2 district shall implement its department-approved teacher and
3 school leader effectiveness evaluation system, and employment
4 decisions pertaining to effectiveness evaluations, promotions,
5 terminations and discharges shall be made pursuant to the
6 Teacher and School Leader Effectiveness Act."

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

9 "[NEW MATERIAL] EFFECTIVENESS EVALUATION PROCEDURES AND
10 CRITERIA.--

11 A. For the purpose of increasing student
12 achievement by improving the quality of instruction, school
13 administration and supervision in the public schools of the
14 state, every school district shall establish procedures for
15 evaluating the performance of duties and responsibilities of
16 all licensed school employees in the school district. Each
17 school district shall report annually to the department the
18 results of its effectiveness evaluations of licensed school
19 employees and the alignment of its effectiveness evaluation
20 system with the three-tiered licensure system.

21 B. The department shall approve each school
22 district's teacher and school leader effectiveness evaluation
23 system and shall monitor each school district's implementation
24 of the system.

25 C. By December 1 of each year, the secretary shall

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1 report to the governor and the legislature on the approval and
2 implementation status of each school district's teacher and
3 school leader effectiveness evaluation system, including
4 aggregate performance results and findings from the
5 department's monitoring process.

6 D. A teacher and school leader 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 results used to inform the
14 professional development of licensed school employees;

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 for which
20 special evaluation procedures and criteria may be developed;

21 (5) include measures of student achievement
22 growth worth fifty percent, observations worth twenty-five
23 percent and multiple measures worth twenty-five percent, unless
24 otherwise provided for in Subsections F, H and I of this
25 section;

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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; and

10 (7) establish a peer assistance process to
11 assist in improving the level of instruction and learning in
12 each public school. The peer assistance process may inform
13 formative evaluations as a part of the regular teacher and
14 school leader effectiveness evaluation system and may be used
15 to assist beginning teachers, licensed school employees placed
16 on performance probation and those who request assistance.

17 E. The teacher and school leader effectiveness
18 evaluation procedures for licensed school employees shall be
19 based on the performance of students assigned to their
20 classrooms or public schools as provided in the Teacher and
21 School Leadership Effectiveness Act. The procedures shall
22 comply with the requirements of Subsections F through U of this
23 section.

24 F. A teacher effectiveness evaluation shall be
25 conducted for each teacher at least once a year. Each

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1 evaluation shall be based on sound educational principles and
2 contemporary research in effective educational practices. The
3 student achievement growth component of a teacher's
4 effectiveness evaluation shall be based on valid and reliable
5 data and indicators of student achievement growth assessed
6 annually through a combination of thirty-five percent
7 standards-based assessment and fifteen percent additional
8 department-approved assessments, for a total of fifty percent;
9 provided that for subjects and grade levels not measured by
10 state assessments, a school district shall select assessments
11 from a list of options approved by the department.

12 G. A school district shall use the state-adopted
13 measure of student achievement growth calculated by the
14 department for all courses associated with state assessments
15 and shall select comparable measures of student achievement
16 growth for other grades and subjects as provided in Section 6
17 of the Teacher and School Leader Effectiveness Act.

18 H. For classroom teachers with three years or more
19 of student achievement growth data, the student achievement
20 growth component of the teacher effectiveness evaluation shall
21 include growth data as provided in Section 6 of the Teacher and
22 School Leader Effectiveness Act.

23 I. For teachers who are classroom teachers who do
24 not teach in a grade or subject that has a standards-based
25 assessment for which student achievement growth can be

1 calculated, during the first year of implementation of the
2 teacher and school leader effectiveness evaluation system, the
3 student achievement growth component of the evaluation may be
4 based on the school's A through F letter grade and account for
5 twenty-five percent of the overall evaluation. The multiple
6 measures component shall account for fifty percent of the
7 effectiveness evaluation in such cases.

8 J. For school principals, the student achievement
9 growth component of the school leader effectiveness evaluation
10 shall include student achievement growth data for students
11 assigned to the public school over the course of at least three
12 years. The student achievement growth component of the
13 effectiveness evaluation shall be based on the school's A
14 through F letter grade and shall constitute fifty percent of
15 the school leader effectiveness evaluation.

16 K. Until a school district has had its teacher and
17 school leader effectiveness evaluation system in place for one
18 year, the student achievement growth components of the teacher
19 and school leader effectiveness evaluations may be based on the
20 public school's A through F letter grade for twenty-five
21 percent of the overall evaluation. The multiple measures
22 component shall account for fifty percent in such cases. The
23 school district may choose to continue to use the public
24 school's school grade as its student achievement growth
25 components or may submit another student achievement growth

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1 component for department approval.

2 L. A school district must develop or choose an
3 assessment that measures student achievement growth for
4 classroom teachers who do not teach in a standards-based
5 assessment grade or subject, and the school district shall
6 submit the assessment to the department for approval.

7 M. The teacher effectiveness evaluation shall base
8 at least twenty-five percent of the results on data and
9 indicators of instructional practice for teachers.
10 Instructional practices shall be observed using a common
11 research-based observational protocol approved by the
12 department, with a demonstrated correlation to improved student
13 achievement.

14 N. For classroom teachers, effectiveness evaluation
15 criteria shall include indicators based on research-based
16 instructional practices as determined by the department.

17 O. Classroom teachers who are rated highly
18 effective or exemplary on their most recent annual
19 effectiveness evaluation shall be observed at least once a
20 year. The observation shall be completed by their school
21 principals.

22 P. Classroom teachers who are rated effective,
23 minimally effective or ineffective on their most recent annual
24 effectiveness evaluation shall be observed at least twice a
25 year. One observation shall be completed by their school

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1 principal and one observation may be completed by an external
2 observer.

3 Q. Feedback on classroom observations shall be
4 given to classroom teachers within ten days after the
5 observation is completed.

6 R. For licensed school employees who are not
7 classroom teachers, performance criteria shall be based on
8 research-based indicators and may include specific job-
9 effectiveness expectations related to student support.

10 S. For school principals, effectiveness evaluation
11 criteria shall include indicators based on each of the
12 leadership standards adopted by the department. The school
13 leader effectiveness evaluation shall include a means to give
14 other licensed school employees and parents an opportunity to
15 provide input into the school principal's effectiveness
16 evaluation, when appropriate.

17 T. Multiple measures approved by the department
18 shall be twenty-five percent of the school district's teacher
19 and school leader effectiveness evaluation system, except as
20 otherwise provided in the Teacher and School Leader
21 Effectiveness Act. The multiple measures shall be aligned with
22 improved student achievement. Each school district shall adopt
23 at least two multiple measures, and each individual multiple
24 measure may equal no more than ten percent of the twenty-five
25 percent.

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1 U. The school administrator responsible for
2 supervising a licensed school employee shall evaluate the
3 licensed school employee's performance. The school district's
4 teacher and school leader effectiveness evaluation system may
5 provide for the supervisor to consider input from other trained
6 evaluators and observers."

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

9 "[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-
10 EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR
11 INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE
12 ACTION.--

13 A. Every evaluator shall submit a written report on
14 the effectiveness evaluation of each licensed school employee
15 to the licensed school employee and to the local
16 superintendent. Once each component of an effectiveness
17 evaluation is completed, the evaluator shall not change that
18 component. A licensed school employee who is rated minimally
19 effective or ineffective may provide a written response to the
20 effectiveness evaluation, and the response shall become a
21 permanent attachment to the licensed school employee's
22 personnel file.

23 B. For licensed school employees evaluated as
24 minimally effective or ineffective, the written report shall
25 describe the minimally effective or ineffective performance and

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1 include notice of the procedural requirements of this section.
2 The notice shall constitute notice of uncorrected
3 unsatisfactory work performance pursuant to Section 22-10A-30
4 NMSA 1978.

5 C. The evaluator shall arrange a post-evaluation
6 conference with each licensed school employee no later than ten
7 days after the licensed school employee's effectiveness
8 evaluation is completed.

9 D. At the post-evaluation conference with a
10 licensed school employee evaluated as minimally effective or
11 ineffective, the evaluator shall make recommendations with
12 respect to specific areas of unsatisfactory performance and
13 provide other useful feedback that provides the initial
14 framework for an individual professional growth plan.

15 E. School principals and other supervisors shall
16 use the results of the teacher and school leader effectiveness
17 evaluations to develop strategic support for licensed school
18 employees who are rated minimally effective or ineffective,
19 which support shall align with best practices identified by the
20 department. The evaluator shall provide assistance in helping
21 to correct unsatisfactory performance.

22 F. If the licensed school employee has an
23 employment contract, the licensed school employee shall be
24 placed on a performance growth plan and be governed by the
25 provisions of this section pertaining to the demonstration of

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1 corrective action for ninety school days following the receipt
2 of the notice of minimally effective or ineffective
3 performance; provided that weekends, school holidays and school
4 vacation periods are not counted when calculating the ninety-
5 day period. During the ninety-day period, the licensed school
6 employee shall be observed and evaluated periodically and shall
7 be apprised of progress. The evaluator shall provide
8 assistance and notification of in-service training
9 opportunities to help correct the performance deficiencies
10 noted.

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

25 H. An exemption to the provisions of this section

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1 may be provided for upon appeal for extraordinary circumstances
2 as determined by the department.

3 I. The local superintendent shall notify the
4 department of a licensed school employee who receives two
5 consecutive minimally effective or ineffective evaluations and
6 who has been given written notice by the school district that
7 the licensed school employee is being discharged or terminated
8 or that the local school board intends to discharge or
9 terminate the licensed school employee.

10 J. This section does not grant a probationary
11 employee a right to continued employment beyond the term of the
12 probationary employee's contract."

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

15 "[NEW MATERIAL] MEASUREMENT OF STUDENT ACHIEVEMENT GROWTH
16 IN LEARNING.--

17 A. By October 1, 2012 the department shall propose
18 a formula to measure individual student achievement growth on
19 the state standardized assessments used for school
20 accountability. The formula shall take into account each
21 student's prior performance, grade level and subject. In
22 developing the formula, the department shall consider other
23 factors, including student attendance, student disciplinary
24 records, student disabilities and student English language
25 proficiency. The formula shall not set different expectations

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1 for student achievement growth based on gender, race, ethnicity
2 or socioeconomic status. The department shall adopt the
3 formula by rule by December 1, 2012.

4 B. Beginning with the 2013-2014 school year, each
5 school district shall use the department-adopted student
6 achievement growth measure to measure the growth in achievement
7 of each student.

8 C. A school district may request through the
9 effectiveness evaluation system approval process to use an
10 alternative student achievement measure rather than an
11 achievement growth measure for courses for which the
12 alternative measure is a more appropriate measure of teacher
13 effectiveness. A school district may request to use a
14 combination of achievement growth and the alternative
15 achievement measure.

16 D. For classroom teachers who are assigned to
17 courses not associated with state assessments, a school
18 district may request through the effectiveness evaluation
19 system approval process to include achievement growth
20 demonstrated on state assessments as a percentage of the
21 overall effectiveness evaluation. Achievement growth of the
22 state assessment shall be based on the students assigned to the
23 teacher. The achievement growth of the teacher's assigned
24 content area, as measured by the district-selected assessment,
25 shall be the greater percentage.

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1 E. Until July 1, 2015, for classroom teachers of
2 courses for which the district has not implemented appropriate
3 assessments or for which the school district has not adopted a
4 comparable measure of student achievement growth, student
5 achievement growth shall be measured by the growth in
6 achievement of the classroom teacher's students on state
7 assessments or, for courses in which enrolled students do not
8 take the state assessment, achievement growth based on the
9 school's A through F letter grade. A local superintendent may
10 assign instructional team student achievement growth to
11 classroom teachers in lieu of using the school grade growth
12 calculation."

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

15 "[NEW MATERIAL] STUDENT ASSESSMENT PROGRAMS FOR PUBLIC
16 SCHOOLS.--

17 A. A school district is responsible for the
18 measurement of the achievement gains of students in all
19 subjects and grade levels other than subjects and grade levels
20 required for the state student achievement testing program.

21 B. Beginning with the 2014-2015 school year, each
22 school district shall administer, for each course offered in
23 the school district, a student assessment that measures mastery
24 of the content, as described in the state-adopted course
25 description, at the necessary level of rigor for the course.

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1 The assessments may include:

2 (1) statewide assessments pursuant to this
3 section;

4 (2) other standardized assessments approved by
5 the department, including nationally recognized standardized
6 assessments;

7 (3) industry certification examinations; and

8 (4) department-approved school district-
9 developed or -selected end-of-course assessments.

10 C. Subsection B of this section shall be
11 implemented as the department identifies methods to assist and
12 support school districts in the development and acquisition of
13 assessments."

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

16 "[NEW MATERIAL] PUBLIC SCHOOL PERSONNEL--SALARY
17 SCHEDULE.--The school district shall designate positions to be
18 filled, prescribe qualifications for those positions and
19 provide for the appointment, compensation, promotion,
20 suspension, discharge or termination of licensed school
21 employees, subject to the requirements of the Teacher and
22 School Leader Effectiveness Act."

23 SECTION 9. SEVERABILITY.--If any part or application of
24 the Teacher and School Leader Effectiveness Act is held
25 invalid, the remainder or its application to other situations

1 or persons shall not be affected.

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