

HOUSE BILL 212

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

INTRODUCED BY

Sheryl Williams Stapleton

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

HEC → ~~FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE~~ ← HEC

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

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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:

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

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

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

D. measure and support professional practice consistently and fairly;

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

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

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

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

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

A. "evaluation" means the ongoing process of defining goals and identifying, gathering and using information to improve professional performance and to assess total job competence and make personnel decisions;

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

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

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

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

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

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

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

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

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

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

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

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

N. "student learning growth" means learning measured using multiple measures that may include student learning objectives, achievement of individualized education program goals, nationally normed or locally developed assessments that are aligned to state standards, research-based growth measures or alternative assessments;

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

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

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

"[NEW MATERIAL] TEACHER AND PRINCIPAL PERFORMANCE

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RATINGS.--

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

(1) "distinguished" means the teacher's performance consistently and significantly exceeds the requirements of a performance standard or overall summative evaluation;

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

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

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

B. The following performance ratings shall be used

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to describe a school principal's performance:

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

(2) "accomplished" means the school principal exceeds proficient on a performance standard or overall summative evaluation most of the time;

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

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

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

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

"[NEW MATERIAL] TEACHER AND SCHOOL PRINCIPAL EVALUATIONS--

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MULTIPLE MEASURES.--

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

- (1) instructional quality, which counts for fifty percent of the teacher's evaluation rating;
- (2) student feedback, which counts for fifteen percent of the teacher's evaluation rating;
- (3) student learning growth, which counts for fifteen percent of the teacher's evaluation rating; and
- (4) professional responsibility and development, which counts for twenty percent of the teacher's evaluation rating.

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

- (1) management quality, which counts for twenty-five percent of the school principal's evaluation rating;
- (2) leadership quality, which counts for twenty-five percent of the school principal's evaluation;
- (3) teacher and staff feedback, which counts for twenty percent of the school principal's evaluation rating;
- (4) family and community feedback compiled from research-based surveys, which counts for fifteen percent of the school principal's evaluation rating; and
- (5) school progress on the educational plan

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for student success, which counts for fifteen percent of the school principal's evaluation rating.

C. The department shall appoint a committee made up of appropriate staff of the department, the legislative education study committee, school districts, charter schools and representatives of teachers, school principals and the public to adopt or create a uniform, highly objective, research-based, easily measurable evaluation system that includes frameworks, standards, rubrics and evaluation instruments for teacher and principal evaluations. The committee shall consider existing evaluation systems of frameworks, standards, rubrics and evaluation instruments and attendant professional development for teachers and school principals before considering creating a new evaluation system. The committee shall cease to exist after the evaluation system has been adopted by rule of the department; provided that the secretary may reconstitute the committee to clarify or amend provisions of the evaluation system as needed."

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

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

- A. Each teacher and each school principal shall execute a formative evaluation each year.
- B. Summative evaluations are required as follows:
  - (1) annually for all level one teachers and

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for school principals serving their first two years in a school district;

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

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

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

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

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

B. Information regarding the professional development plan shall be shared across each school district with teachers and school principals no later than forty

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workdays after the beginning of the school year."

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

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

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

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

C. An improvement plan or intensive improvement

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plan shall include an action plan with benchmarks for goals established in the improvement plan or intensive improvement plan, and the evaluator's final assessment of the teacher's or school principal's attainment of the established goals. If the teacher or school principal is unable to demonstrate proficient performance and competency by the end of the assigned period, termination of the teacher or school principal may be recommended by the evaluator."

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

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

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

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

A. By June 1, 2019, the department shall:

(1) promulgate rules regarding the teacher and principal evaluation system in accordance with the provisions of the Teacher and Principal Evaluation Act, including adopting criteria and standards and the alignment of professional development plans with a teacher's instructional duties and a school principal's leadership and administrative duties; and

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(2) provide appropriate training and related materials from evidence-based sources for the implementation of the teacher and principal evaluation system.

B. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school principals.

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

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

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

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

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

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

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

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

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

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

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

G. Any data or information that the department, school districts or charter schools create, send or receive in connection with teacher and principal evaluations that is evaluative in nature and may be linked to an individual teacher or school principal, including information concerning a

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teacher's or school principal's formative evaluation or summative evaluation or performance rating, shall be considered personnel information and matters of opinion and shall not be subject to disclosure under the Inspection of Public Records Act.

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

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

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

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

[~~A.~~] B. The department shall adopt criteria and minimum highly objective uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees. The professional development plan for [~~teachers~~] licensed school employees shall include documentation on how [~~a teacher~~] the licensed school employee who receives professional development that has been required or

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offered by the state or a school district or charter school incorporates the results of that professional development in ~~[the classroom]~~ their professional duties.

~~[B.]~~ C. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for licensed school ~~[administrators]~~ employees.

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

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

~~[E.]~~ ~~If a level two or three-A teacher's performance evaluation indicates less than satisfactory performance and competency, the school principal may require the teacher to undergo peer intervention, including mentoring, for a period the school principal deems necessary. If the teacher is unable to demonstrate satisfactory performance and competency by the~~

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~~end of the period, the peer interveners may recommend  
termination of the teacher.]~~

F. At least every two years, school principals shall attend a training program approved by the department to improve their skills pertaining to employee evaluation, [administrative] administration and instructional leadership [skills]."

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