

In Brief

January 2010

SENATE BILL 315: STUDENT GROWTH MANDATED TO BE KEY FACTOR IN TEACHER AND PRINCIPAL EVALUATIONS

As part of the Illinois State Board of Education's ("ISBE") "Race to the Top Initiative", a major amendment to *The School Code* was introduced by the House of Representatives on January 11, 2010, titled "Performance Evaluation Reform Act of 2010". Just four days later, amended Senate Bill 315 was signed into law by Governor Quinn as Public Act 96-0861.

The purpose of the Performance Evaluation Reform Act of 2010 (the "Reform Act") is to ensure that teacher and principal performance evaluation systems adequately distinguish between effective and ineffective teachers and principals. The Reform Act significantly changes the method and criteria by which school districts evaluate principals and teachers. As a result of this legislation, school districts will be required to significantly modify their performance evaluation process and standards. This publication provides school districts with a summary of key provisions of the Reform Act.

The Reform Act changes can be separated into the following main categories: Evaluators; Teacher Evaluation Plans; Principal Evaluation Plans; and Reporting Requirements.

EVALUATORS

Section 24A of *The Illinois School Code* now includes a "definitions" section. The new Section 24A-2.5 defines an "evaluator" as a qualified administrator, or other qualified individual (such as a department head or chair), provided that if the "other qualified individual" is in the teacher bargaining unit, the school district and union must agree to those qualified individuals evaluating teachers.

Prior to the Reform Act, administrators who evaluated certified personnel were required to participate in an in-service workshop on school improvement or the evaluation of certified personnel at least once every two years. **Effective immediately**, all evaluators must receive training provided or approved by ISBE on the evaluation of certified personnel prior to undertaking any evaluation and at least once during each certificate renewal cycle.

In addition, after September 1, 2012, all evaluators must successfully complete a pre-qualification program provided or approved by ISBE.

TEACHER EVALUATION PLANS

Use of Data and Indicators on Student Growth

Prior to the Reform Act, school districts were simply required to develop an evaluation plan for all teachers in cooperation with its teachers or their exclusive bargaining representative. Now, in addition to developing an evaluation plan, a school district must, in "good faith cooperation"¹ with its teachers or their exclusive bargaining representative, incorporate into its teacher evaluation plans the use of data and indicators on student growth as a significant factor in rating teaching performance. The Reform Act requires ISBE to implement rules defining, and the methodology for measuring student growth, and to create a model evaluation plan. ISBE has not yet published these rules or the model evaluation plan.

¹ The Reform Act does not define the phrase "good faith cooperation".

For school districts *other* than the Chicago Public School system, the new data and indicators on student growth are scheduled to be phased into teacher evaluation plans as follows:

- for all schools that receive a “Race to the Top” grant or that receive a federal School Improvement Grant, by the date specified in the grant;
- for the lowest performing 20% of the remaining school districts (identified by ISBE), by September 1, 2015; or
- for all other school districts by September 1, 2016.

The Reform Act also requires school districts to use a joint committee, comprised of an equal number of District and teacher representatives, to incorporate the use of data and indicators of student growth in teacher evaluation plans. If no agreement is reached after 180 days from the first committee meeting, the school district must then implement the model evaluation plan established by ISBE.

Evaluation Ratings

With respect to tenured teachers, the Reform Act changes teacher evaluation performance ratings from “excellent”, “satisfactory”, and “unsatisfactory” to “**excellent**”, “**proficient**”, “**needs improvement**”, and “**unsatisfactory**”. The new performance ratings must be implemented by school districts on or after September 1, 2012, but may be implemented sooner.

Creation of a Professional Development Plan

If a tenured teacher is rated “needs improvement”, the evaluator, in consultation with the teacher, must develop a professional development plan addressing the areas which need improvement within 30 school days following the evaluation rating. If the tenured teacher achieves a rating equal to or better than “satisfactory” or “proficient”, he/she will be reinstated to the regular evaluation schedule for tenured teachers.

Remediation Plan Modifications

The Reform Act modifies the existing tenured teacher remediation plan provisions, following an

“unsatisfactory” rating of a tenured teacher, as follows:

- **Duration:** Allows for a shorter remediation period if provided by a collective bargaining agreement (otherwise 90 school days of remediation within the classroom);
- **Participants:** tenured teacher (who was rated unsatisfactory), evaluator, and a consulting teacher selected by the evaluator (who must also meet other requirements);
- **Evaluations:** evaluator must conduct a mid-point and final evaluation of the tenured teacher during the remediation period, and meet with the teacher within 10 school days after the evaluation to provide a copy of the evaluation and discuss the written evaluation and ratings; and
- **Reinstatement/Dismissal:** If the tenured teacher achieves a rating equal to or better than “satisfactory” or “proficient”, he/she will be reinstated to the regular evaluation schedule for tenured teachers. If not, the tenured teacher is subject to dismissal in accordance with Section 24-12 of the *Illinois School Code*.

Evaluation Plan Components

Based upon the above Reform Act mandates, a school district’s evaluation plan must ensure that:

- during an evaluation year, personal observation of the teacher’s classroom is conducted by the evaluator;
- non-tenured teachers are evaluated once every school year;
- tenured teachers rated “excellent” or “proficient” are evaluated at least once every two (2) school years;
- tenured teachers rated “needs improvement” or “unsatisfactory” are evaluated at least once in the school year following either of these ratings;

- there is a process for creating a Professional Development Plan following a rating of “needs improvement” for tenured teachers;
- a principal is not prohibited from evaluating any tenured or non-tenured teachers during the principal’s first year as principal of a school;
- the remediation plan is updated accordingly; and
- student growth is a significant factor in the rating of a teacher’s performance by the implementation date required by the date.

PRINCIPAL EVALUATION PLANS

Although the evaluation requirements and criteria for principals were recently changed by amendatory legislation in 2006, the Reform Act contains additional changes to principal evaluations.

Effective immediately, principals on single-year contracts must be evaluated by March 1 of each year (previously February 1)². Principals on multi-year contracts must be evaluated by March 1 of the final year of the contract (previously February 1)³.

Prior to September 1, 2012, the evaluation must (1) consider a principal’s specific duties; (2) specify the principal’s strengths and weaknesses, with supporting reasons; and (3) align with research-based standards developed by ISBE (previously, principal evaluations were required to align with the Illinois Professional Standards for School Leaders)⁴.

In addition, similar to teacher evaluations after September 1, 2012, the principal’s evaluation must

2 If a school district’s single-year principal contract provides that the principal will be evaluated by February 1, we recommend that the principal be evaluated on or before February 1, 2010. This will prevent any potential breach of employment contract claims.

3 Similarly, if a school district’s multi-year principal contract provides that the principal will be evaluated by February 1 of the final year of the contract, we recommend that the school district continue to comply with the contract.

4 The research-based standards have not yet been developed by ISBE. Accordingly, we recommend that school districts continue to evaluate principals pursuant to the Illinois Professional Standards for School Leaders for at least the 2009-2010 school year, and until new standards are adopted and issued by ISBE.

provide for the use of data and indicators for student growth as a significant factor in rating a principal’s performance.

Also, the performance evaluation ratings for a principal must be: “**excellent**”, “**proficient**”, “**needs improvement**”, and “**unsatisfactory**”. In addition, regardless of whether the principal is on a single or multi-year contract, he/she must be evaluated at least once every school year.

REPORTING REQUIREMENTS

The Reform Act requires school districts to submit teacher and principal performance evaluation data and information to ISBE, including data related to: (1) the performance ratings given to all tenured teachers and all principals; and (2) the district’s recommendations to renew or not renew tenured teachers, in accordance with the procedures established by ISBE. ISBE has not yet established these procedures.

OTHER CHANGES

Waiver of Evaluation Plan Requirements Prohibited

The Reform Act provides that after the applicable implementation date (as specified in the Race to the Top or School Improvement grant, September 1, 2015, or September 1, 2016), a school district may not seek a waiver or modification for the requirement that (1) student growth be a significant factor in teacher or principal evaluations; or (2) principals and teachers be rated using the four categories of “**excellent**”, “**proficient**”, “**needs improvement**”, and “**unsatisfactory**”.

Alternative ISBE Evaluations Repealed

In addition, the Reform Act repealed Section 24A-6 of the *Illinois School Code*, thereby removing the provision addressing alternative evaluations of teachers by ISBE.

Superintendent, Principal, and Teacher Evaluations Prohibited from FOIA Disclosure

Finally, as reported in our recent *Law Alert*, the Reform Act prohibits the disclosure of teacher, principal and superintendent performance evaluations. Accordingly, a school district must deny any request under the Freedom of Information Act to inspect or copy the performance evaluations of a teacher, principal, or superintendent.

THE CAVEAT ON FUNDING

SB 315 provides that ISBE is required to develop implementing rules, student growth indicators, processes, and model forms. Specifically, under the Reform Act, ISBE is required to develop and implement a data collection and evaluation assessment and support system by September 30, 2011, if Illinois receives a “Race to the Top” grant, or September 1, 2012, if Illinois does not receive the grant. There is no guidance yet as to when the data collection, evaluation assessment and support system will be developed by ISBE and available for reference and use by school districts.

Interestingly, the Reform Act includes a funding-based exception, and provides that if ISBE does not have the assessment and support systems in place in a timely manner, and if sustainable federal or state funding is not provided, **all implementation dates are postponed.**

You can view the Reform Act (Public Act 96-0861) via the Internet at www.ilga.gov. We recognize the breadth and impact of the Reform Act and are available to assist school districts with every step of implementation required by the Reform Act. In a future publication, we will analyze how the Reform Act impacts school districts’ administration of teacher evaluation plans, collective bargaining agreements, and successor and mid-term bargaining obligations.

In addition, in March 2010, RSNLT will present a conference to address key issues related to the many significant changes implemented by the Reform Act and its obligations and implications for school districts. If you have any questions, please do not hesitate to contact any RSNLT labor and employment attorney.

This *In Brief* was prepared by Catherine R. Locallo and Amanda G. Tiebert of the firm’s Chicago office.

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