

Evaluating Your Evaluations

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Senate Bill 5 / House Bill 153 – Overhaul of Ohio Teacher/Principal Evaluation Process

A. General Considerations

- Senate Bill (SB) 5 and House Bill (HB) 153 completely overhaul the teacher and principal performance evaluation system in Ohio.
- With limited exceptions, all Ohio school districts and educational service centers are required to evaluate teachers annually in accordance with an evaluation framework established by the State Board of Education.
- School districts must use the newly developed evaluations to make informed decisions about teacher retention, promotion, compensation, termination, reduction in force and professional development.
- Under prior law, and unless otherwise required by a collective bargaining agreement, teachers were only required to be evaluated if the school district was contemplating not rehiring the teacher in a subsequent school year.
- HB 153 establishes a rating system for Ohio teachers which classifies teacher performance as either “accomplished,” “proficient,” “developing,” or “ineffective.”
- Similar to existing law, the Ohio Department of Education is directed to act as a “clearinghouse” for evaluation procedures and models and to provide assistance to school districts in developing and implementing evaluation policies.
- SB 5 and HB 153 establish performance-based salary schedules for teachers and limit the use of seniority in making personnel decisions.

B. Teacher Evaluation – SB 5

- No later than April 30, 2012, the Superintendent of Public Instruction must develop and submit to the State Board of Education specific recommendations for a systemic framework for evaluating teachers and Principals (*SB 5 / O.R.C. 3319.112(A)*).

- The State Board of Education will vote to adopt the recommendations or request the Superintendent of Public Instruction to reconsider and/or modify the recommendations which will be resubmitted to the State Board for approval no later than July 1, 2012 (*SB 5 / O.R.C. 3319.112(C)*).
- The recommended evaluation framework must include all of the following:
 - (1) At least **50%** of each teacher evaluation must be based on measures of student academic growth specified by the Department of Education which must include student performance on the assessments and value-added progress dimension prescribed under existing law;
 - (2) Each evaluation must consist of the following factors but the recommendations cannot designate the weight of any factor or prescribe a specific method of assessing any one factor:
 - (a) Quality of instructional practice, which can be determined by announced and unannounced classroom observations and examinations of sample work, including lesson plans or student assessments designed by the teacher;
 - (b) Communication and professionalism, including the teacher's interactions with students, parents, other staff and community members, and
 - (c) Parent and student satisfaction which may be measured by surveys, questionnaires, or other forms of feedback.

(SB 5 / O.R.C. 3319.112(A)(1)-(3)).

- Directs the Ohio Department of Education to act as a “clearinghouse” for evaluation procedures and models and provide technical assistance to Ohio school districts in developing and implementing evaluation policies (*SB 5 / O.R.C. 3319.112(D)(1)(2)*).
- Not later than July 1, 2013, each school district, in consultation with its teachers, must adopt a performance evaluation policy that utilizes the adopted evaluation framework that must specify the relative weight of the factors and how each of those factors will be assessed (*SB 5 / O.R.C. 3319.112(A)*).
- School district policy can also require that evaluations include consideration of additional (but yet undefined) aspects of teacher performance specifically designated by the school district (*SB 5 / O.R.C. 3319.112(A)*).
- At a minimum, a school district's teacher performance evaluation instrument must meet the following:

- (1) Is evidence-based and uses multiple measures of a teacher's use of knowledge and skills and of student academic progress;
- (2) Is aligned with the standards for teachers under current law;
- (3) Provides statements of expectation for professional performance and establishes specific criteria of expected job performance in the teacher's assigned areas of responsibility;
- (4) Requires no less than two (2) 30 minute observations of the teacher by the individual conducting the performance evaluation, and
- (5) Requires that each teacher be provided with a written report of the results of the teacher's evaluation which includes specific recommendations for improvement needed in the teacher's performance, suggestions for available professional development which will enhance future performance in areas not meeting expected performance levels and information on how to obtain assistance in making the necessary improvements.

(SB 5 / O.R.C. 3319.111(A)(1)-(5))

- SB 5 requires a school district to conduct an evaluation of each teacher at least once per year *(SB 5 / O.R.C. 3319.111(B)(1))*.
- Teacher evaluations must be completed by April 1st and a written report must be issued to the teacher no later than April 10th *(SB 5 / O.R.C. 3319.111(B)(1))*.
- Teachers employed pursuant to limited or extended limited contracts must be evaluated twice in the year in which their employment contract is up for renewal; the first completed by January 15th with a written report issued by January 25th; the second completed between February 10th and April 1st and a written report issued by April 10th *(SB 5 / O.R.C. 3319.111(B)(2))*.
- These provisions prevail over any conflicting provision in a collective bargaining agreement entered into on or after the effective date of SB 5 *(SB 5 / O.R.C. 3319.111(F))*.
- Consistent with current law, each evaluation must be conducted by any of the following individuals:
 - (1) Superintendent, assistant superintendent or principal;
 - (2) Licensed supervisor or vocational director; or
 - (3) Individual agreed upon by the teachers' union to conduct evaluations under a peer review agreement.

(SB 5 / O.R.C. 3319.111(C)(1)-(3)).

- School boards are required to use performance evaluations to make informed decisions about:
 - (1) Compensation;
 - (2) Contract Non-renewal;
 - (3) Termination of Employment;
 - (4) Reductions in Force;
 - (5) Professional Development.

(SB 5 / O.R.C. 3319.111(D)).

- School boards, their members, and any person conducting performance evaluations in good faith and in accordance with the law are immune from civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of conducting the evaluation *(SB 5 / O.R.C. 3319.111(E)).*

C. Teacher Evaluation – HB 153

- No later than December 31, 2011, HB 153 requires the State Board of Education to develop a “standards-based” evaluation framework for teachers *(HB 153 / O.R.C. 3319.112(A)).*
- The framework developed by the State Board of Education must require that **50%** of each evaluation be based on student academic growth and:
 - Provide for multiple evaluation factors;
 - Is aligned with the standards for teachers established by the Educator Standards Board adopted by the State Board of Education;
 - Require at least two (2) formal observations of the teacher being evaluated for a minimum of thirty (30) minutes each which include classroom walk-throughs;
 - Each teacher must be given a written report detailing the results of the evaluation;
 - Includes and implements a “value-added” classroom level data component developed by a non-profit organization led by the Ohio business community;
 - Offer professional development to accelerate and continue teacher growth and support for poorly performing teachers;

- Provide financial resources to support further professional development opportunities for teachers;

(HB 153 / O.R.C. 3319.112(A)(1)-(9)).

- Enables teachers to be rated any one of the following:

- (1) Accomplished;
- (2) Proficient;
- (3) Developing, or
- (4) Ineffective.

(HB 153 / O.R.C. 3319.112(B)(1)(a)-(d)).

- HB 153 requires the State Board of Education to develop standards and specific criteria that distinguishes between the four different levels of performance (*HB 153 / O.R.C. 3319.112(B)(1)(2)*).
- In developing these standards, the State Board of Education is required to consult with experts, public school teachers, principals and other relevant stakeholder groups (*HB 153 / O.R.C. 3319.112(C)*).
- Value-Added Data – Value-added data is designed to measure the amount of student learning attributable to a particular teacher or school.
 - Currently, value-added data is available for only reading and math in grades 4 through 8, because achievement assessments are annually administered in those subjects.
 - Since the requirements of HB 153 require that 50% of each evaluation be based on student academic growth, the legislation requires that the State Board of Education establish a list of particular assessments to measure student mastery of courses in grades and subjects for which value-added data or achievement assessment data is not currently available. Assessments may include, but need not necessarily be limited to, end-of-course exams, industry certification exams and national standardized tests in specific subjects.

(HB 153 / O.R.C. 3319.111(B)).

- Conduct of Evaluation – pursuant to HB 153, each teacher must be evaluated annually (*HB 153 / O.R.C. 3319.111(C)(1)*).
 - Subject to the two exceptions below, each school district must complete teacher evaluations by April 1st and provide the teacher with a written evaluation report no later than April 10th;

- (1) A school district may by resolution elect to evaluate teachers receiving a rating of “accomplished” on their most recent evaluation every two years, as opposed to the annual evaluation required by HB 153 (*HB 153 / O.R.C. 3319.111(C)(3)*) (the April 1st deadline would likewise apply for the biennial evaluation), and
- (2) Consistent with current law, the school district must evaluate a teacher at least twice during the school year if the teacher is not employed under a continuing contract and the school district is considering not to rehire the teacher for a subsequent school year. In this situation, school district must conduct the first evaluation no later than January 15th and provide written results to the teacher by January 25th, with the second evaluation occurring between February 10th and April 1st, with a written report provided to the teacher no later than April 10th. *Note: These provisions prevail over any conflicting provisions in collective bargaining agreements entered into after the effective date of the legislation.

(*HB 153 / O.R.C. 3319.111(C)(2)*).

- Consistent with current law, each evaluation must be conducted by any of the following individuals:
 - (1) Superintendent, assistant superintendent or principal;
 - (2) Licensed supervisor or vocational director; or
 - (3) Individual agreed upon by the teachers’ union to conduct evaluations under a peer review agreement.

(*HB 153 / O.R.C. 3319.111(D)(1)-(3)*).

o Use of Evaluations

- Each school district evaluation policy must include a procedure for retaining and promoting teachers as well as a procedure for removing poorly performing teachers; instituting a reduction in force or offering additional opportunities for professional development (*HB 153 / O.R.C. 3319.111(E)*).
- HB 153 specifically prohibits a school district from considering seniority when deciding whether or not to retain a teacher except for when deciding between teachers with comparable performance evaluations (*HB 153 / O.R.C. 3319.111(E)*).

D. Principal Evaluation – SB 5 / HB 153

- o Generally follows teacher evaluation standards outlined in SB 5 and HB 153.

- Requires the State Board of Education to develop a “standards-based” evaluation framework for school Principals consistent with a Principal’s duties under O.R.C. 3319.02 which:
 - Is consistent with the Ohio Standards for Principals under O.R.C. 3319.61;
 - Provides for formative assessment of a Principal based on professional growth, self-assessment, goal-setting, observation and evidence;
 - Provides for multiple evaluation factors including student academic growth which comprises 50% of the Principal’s evaluation;
 - Requires a summative evaluation including a performance rating in the following areas: (1) skills and knowledge based on State standards; (2) communication and professionalism, and (3) goal-setting. Assessments in these areas shall account for an additional 50% of the Principal’s performance evaluation.
 - Enables Principals to be rated any one of the following:
 - (1) Accomplished
 - (2) Proficient
 - (3) Developing, or
 - (4) Ineffective
 - Provides appropriate professional development opportunities to accelerate and continue Principal growth.
 - Provides appropriate professional development opportunities to support poorly performing Principals.
 - Performance evaluations must be a factor in deciding whether to renew a Principal’s employment contract.

E. School District Evaluation Policies – SB 5 / HB 153 / O.R.C. 3319.111

- No later than July 1, 2013, each school district must adopt a “standards-based” evaluation policy (*SB 5 / HB 153 / O.R.C. 3319.111(A)*).
- The “standards-based” evaluation policy must comply with the framework developed by the State Board of Education which includes the requirement that 50% of each evaluation be based on student academic growth (*SB 5 / HB 153 / O.R.C. 3319.111(A)*).

- School district evaluation policies required by HB 153 must be adopted in consultation with the affected teachers. Due to the “consultation” language, it does not appear that the evaluation policy would be considered a mandatory subject of bargaining but this remains a potential issue for school districts (*SB 5 / HB 153 / O.R.C. 3319.111(A)*).
- * Collective Bargaining Implication * - HB 153 mandates that a school district evaluation policy become operative upon the expiration of any collective bargaining agreement in effect with the teachers as of September 29, 2011 and requires that the policy be included in any renewal or extension of the collective bargaining agreement in effect on September 29, 2011.
- Participating Race to the Top (RttT) school districts are required to implement standards-based performance evaluation systems that align with the state and federal criteria by the 2013-2014 school year or earlier pursuant to approved RttT scopes of work and timelines (*HB 153 / O.R.C. 3317.141*).

F. Compensation / Performance Based Pay – SB 5 / O.R.C. 3317.13

- SB 5 significantly modifies teacher compensation in Ohio by eliminating the current minimum salary step schedule and instituting a performance based compensation system.
 - When considering compensation based on teacher performance, a school district must consider all of the following the factors:
 - (1) The level of license (resident educator license, professional educator license, senior professional educator license, or lead professional educator license) that the teacher holds;
 - (2) Whether the teacher is a “highly qualified teacher” as defined under the federal No Child Left Behind Act (NCLB);
 - (3) The value-added measures the board of education uses to determine the performance of students assigned to the teacher’s classroom;
 - (4) Results of the teacher’s performance evaluations or any peer review program developed between the board of education and representatives of the teachers’ union, and
 - (5) Any other criteria established by the board of education.
- (*SB 5 / O.R.C. 3317.13*).

- SB 5 authorizes boards of education with broad discretion to develop the criteria upon which teacher compensation decisions will be made.
- The precise salary afforded each teacher will be based on the teacher's performance within an appropriate licensure metric established under the authority of O.R.C. 3317.14.
- Salary schedules in effect when SB 5 becomes effective are not impacted by the legislation.
- Any collective bargaining agreement entered into after the effective date of SB 5 must establish salaries in compliance with the teacher compensation provision of the legislation.

G. Compensation / Performance Based Pay – House Bill 153 / O.R.C. 3317.01(C), 3317.14, 3317.141, 3302.061 and 3319.08.

- Race to the Top School Districts
 - HB 153 requires all school districts receiving federal RttT funds to adopt an annual performance-based salary schedule for teachers (*HB 153 / O.R.C. 3317.141*).
 - The District's timeline to adopt a performance-based salary schedule and begin implementing it are outlined in the scope of work approved by the Superintendent of Public Instruction as a condition to receiving federal grant funds (*HB 153 / O.R.C. 3317.141*).

- Non-Race to the Top School Districts

School districts that are *not* recipients of federal RttT funds must either:

- Adopt a performance-based salary schedule according to HB 153, **or**
- Compensate teacher's based on educational training and years of service in compliance with current law (*O.R.C. 3317.14*)
- School districts that are required – or elect – to implement a performance-based salary schedule under HB 153 shall measure a teacher's performance in accordance with the following:

- (1) The level of educator license the teacher holds consistent with the requirements of SB 5;

- (2) Whether the teacher is highly qualified under the NCLB consistent with the requirement of SB 5; and
- (3) The ratings the teacher receives on evaluations conducted in compliance with HB 153.

(HB 153 / O.R.C. 3317.13).

- The salary schedule must include annual adjustments based on evaluation ratings *(HB 153 / O.R.C. 3317.141(C))*.
- HB 153 does not designate adjustment amounts but does specify that the annual performance-based adjustment for an “accomplished” teacher must be more than the performance-based adjustment for a “proficient” teacher *(HB 153 / O.R.C. 3317.141(C))*.
- o Additional Compensation Considerations
 - Under HB 153, a school district may include additional compensation in a salary schedule for teachers who assume duties the school district determines warrant extra compensation but for which a supplemental contract does not exist *(HB 153 / O.R.C. 3317.141(D))*.
 - Such duties may include, but need not be limited to, the following:
 - (1) Assignment to a school building that is eligible for federal funding under Title I of the “Elementary and Secondary Education Act of 1965,” 20 U.S.C. 6301, et seq.;
 - (2) Assignment to a school building in “school improvement” status under the “No Child Left Behind Act of 2001” as defined in O.R.C. 3302.01;
 - (3) Teaching in a grade or subject area in which the school district has a staff shortage; or
 - (4) Assignment to a hard-to-staff school as determined by the school board.
 - Under current law, teachers are entitled to extra pay for supplemental duties, but pay covered by a supplemental contract is not included in the primary teacher salary schedule.

(HB 153 / O.R.C. 3317.141(D)).

- HB 153 prescribes a minimum salary schedule based on a teacher's years of service and education which includes a base salary of \$20,000 for a teacher with zero years of service and a bachelor's degree (*O.R.C. 3317.13(C)*).
- Under the salary schedule, a school district must also grant credit for a teacher's years of service to not only the school district, but also to another public school, to a chartered non-public school (presuming similar licensure) and to a chartered school operated by the state or a subdivision or other local government of the state (*O.R.C. 3317.13(A)(1)(a)-(c)*).
- A school district must give credit for all of a teacher's years of active military service in the U.S. Armed Forces up to five (5) years (*O.R.C. 3317.13(A)(1)(d)*).
- But the total level of credit a school district grants for service to a school other than one under its control and for military service may not exceed ten (10) years (*O.R.C. 3317.13(B)*).

H. Reduction in Force - SB 5 – O.R.C. 4117.09(F)

- SB 5 prohibits a school district from agreeing to a provision in a collective bargaining agreement that requires the school district to use an employee's length of service as the only factor in determining whether to lay-off an employee pursuant to a reduction in force.

I. Reduction in Force – HB 153 – O.R.C. 3319.17(C) / O.R.C. 3319.18

- Retains the requirement that a school district give preference in retention to teachers on continuing contracts (*SB 5 / HB 153 / O.R.C. 3319.17(C)*).
- Eliminates the requirement that preference be given to teachers with greater seniority and explicitly prohibits a school district from giving layoff preference based on seniority except when deciding between teachers with comparable performance evaluations (*SB 5 / HB 153 / O.R.C. 3319.17(C)*).
- School district may not use seniority as a basis for rehiring teachers when positions again become available unless the teachers under consideration have similar performance evaluations (*SB 5 / HB 153 / O.R.C. 3319.17(C)*).
- The use of seniority provisions of HB 153 prevail over conflicting collective bargaining agreements entered into on or after September 29, 2011 (*SB 5 / HB 153 / O.R.C. 3319.17(D)*).