

CHAPTER 429
FORMERLY
HOUSE BILL NO. 399
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATOR EVALUATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1270(a), Title 14 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

(a) An educator holding an initial license pursuant to § 1210 of this title must receive ~~at least 1 a~~ Delaware Performance Appraisal System II (DPAS II) evaluation annually. An educator holding a continuing license pursuant to § 1211 of this title or an advanced license pursuant to § 1213 of this title must receive a Delaware Performance Appraisal System II (DPAS II) evaluation at least every 2 academic years. For purposes of this subchapter only, the term “educator” shall also include specialists who practice in Delaware public schools, whether or not they are licensed and certified by the Department. The evaluation must be consistent with the Delaware Professional Teaching Standards and the Delaware Administrators’ Standards, and must otherwise be in accordance with the criteria and requirements of this section.

Section 2. Amend § 1270(b), Title 14 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to ~~develop and implement a new system of educator evaluation to be known as~~ administer the Delaware Performance Appraisal System II (DPAS II). The DPAS II must include an overall rating and a student-improvement component rating, and must identify what constitutes satisfactory performance and unsatisfactory performance on the overall evaluation and on each component of the evaluation. For the purposes of § 1273 of this title, DPAS II must also include a definition of “pattern of ineffective teaching” and define “pattern of ineffective administration” as it relates to unsatisfactory performance on the overall DPAS II evaluation. ~~Notwithstanding subsection (a) of this section, the minimum annual evaluation requirement for educators may be waived pursuant to rules and regulations adopted under this subchapter for proficient performance on previous evaluations. However, an educator may not receive 2 consecutive evaluation waivers.~~

Section 3. Amend § 1270(c), Title 14 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

(c) (1) DPAS II must have no more than 5 components and must have a strong focus on student improvement, with 1 component dedicated exclusively to student improvement ~~and weighted at least as high as any other component.~~ All components must be weighted equally beginning in the 2017-18 academic year. ~~The measure of student improvement must include an off grade assessment, if available, along with other measures determined by the Department and the State Board.~~

(5) For all Part A and Part B goals, the educator, as well as the administrator, may propose measures to be used to provide data to judge progress towards the goals. The proposed measures must be approved by the administrator, and not result in additional assessments for students. With regard to Part B goals, the measures must be selected from a list of the standardized measures approved by the Department.

(2) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to aide by the Parents’ Declaration of Responsibilities under § 157 of this title, and other factors that may adversely affect the evaluation. If a student has missed more than 15% of the class time, the student’s performance ~~evaluation~~ shall ~~not be used in evaluating a teacher~~ only be used with the agreement of the teacher under this chapter.

Section 4. Amend § 1270(g), Title 14 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

(g) ~~The Department shall promptly establish a pilot evaluation program in not less than 1 or more than 3 school districts. Any such program shall be conducted with the consent of the school district and the organization~~

representing the district's teacher for collective bargaining purposes. The pilot program must be at least as rigorous as the evaluation requirements to be promulgated under the provisions of the subchapter. The Department shall promptly establish a pilot program in not more than 3 local education agencies. The pilot program, which shall be for the 2016-17 and 2017-18 academic years, shall weigh all components equally, shall incorporate a survey provision for parents and students to be included within Component IV of the evaluation, and shall meet the following requirements for each participating local education agency:

(1) Any such program shall be conducted with the consent of the school district and organization representing the district's educators for collective bargaining purposes.

(2) Such program shall, to the fullest extent practicable, use the mathematical algorithm recommended by the DPAS II Subcommittee and contained in its Final Report dated March 31, 2016, as Appendix C to determine final or summative ratings for evaluations.

(3) The component dedicated exclusively to student improvement shall contain 2 parts. The first part, known as Part A, shall contain an individual goal created by the educator and administrator that is based upon the school or district improvement document and demonstrates the educator's contribution to student growth for his or her current cohort of students. The second part, known as Part B, shall contain an individual goal created by the educator and administrator that is based upon an assessment approved by the Department. The administrator shall assess the progress toward goals, regardless of whether the educator has satisfied the requirements of § 1403(a) of this title, is on an improvement plan, has expectations contained in the most recent performance evaluation, or has a satisfactory most recent performance evaluation.

(4) In the event that the educator and administrator cannot agree upon the goals to be included in the component dedicated exclusively to student improvement, the goals shall be determined as follows:

a. For educators who have not satisfied the requirements of § 1403(a) of this title, the administrator shall determine the goals to be included in the component dedicated exclusively to student improvement.

b. For educators who have satisfied the requirements of § 1403(a) of this title but are on an improvement plan or have expectations contained in their most recent performance evaluation, the administrator shall determine the goals to be included in the component dedicated exclusively to student improvement.

c. For educators who have satisfied the requirements of § 1403(a) of this title and whose most recent performance evaluation is satisfactory, the educator and administrator shall each determine a Part A and Part B goal. In such instance, each goal shall be of equal weight.

(5) For all Part A and Part B goals, the administrator shall identify the measures to be used to provide data to judge progress towards the goals. In regards to Part B goals, the measure must be selected from a list of standardized measures approved by the Department.

(6) The administrator shall be solely responsible for assessing progress toward the goals using the data generated by measures identified by the administrator and any other data provided by the educator and accepted by the administrator for this purpose.

Section 5. On or before June 30, 2018, the Department shall provide a report to the General Assembly, State Board of Education, and DPAS Advisory Committee on the effectiveness of the pilot program and the alternative evaluation systems used in school districts and charter schools throughout the State. The report shall be conducted by an independent entity pursuant to a Request for Proposal (RFP) issued by the Department. The RFP shall be developed in consultation with, and its content shall be approved by, the DPAS Advisory Committee. The report shall include, but not be limited to, an assessment of administrator and educator perceptions of the pilot. The DPAS Advisory Committee shall review the report and adopt recommendations pursuant to their analysis of opportunities to improve the statewide system.

Approved September 22, 2016