

LAWS OF DELAWARE
VOLUME 83
CHAPTER 116
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 133

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 Chapter 12, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VII. Educator Evaluations

§ 1270 The Delaware Performance Appraisal System II.

(a) An educator holding an initial license pursuant to § 1210 of this title must receive 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.

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to 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.

(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. All components must be weighted equally beginning in the 2017-18 academic year.

(2) 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.

(3) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide 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 shall only be used with the agreement of the teacher under this chapter.

(d) A local school district may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and must be funded with local funds.

(e) Nothing in this section prevents a local school district from administering other evaluations in addition to the Delaware Performance Appraisal System II, provided that administration of additional evaluations is reported to the Department.

(f) A local school district, vocational-technical school district or charter school may make application to the Department for a waiver of the provisions of the DPAS II evaluation system, which shall be granted, subject to the provisions of rules and regulations promulgated pursuant to this subchapter, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to Chapter 40 of this title and community review and is as rigorous and as educationally sound as DPAS II, provides for evaluating educator performance by measuring student growth using multiple measures over the course of a curricular year, and contains a mechanism for certifying evaluators and for quality control.

~~(g) 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.

(g) The Department shall implement the Delaware Teacher Growth and Support System through a pilot program in no less than three local education agencies for the 2021-2022 academic year. The pilot program shall weigh all performance areas equally, shall incorporate professional growth plans for teachers, and shall meet the following requirements for each participating local education agency :

(1) Any such pilot program shall be conducted with the consent of the local education agency and organization representing the local education agency's educators for collective bargaining purposes, if applicable.

(2) The performance area dedicated to student improvement shall contain a Part I and a Part II. Part I shall contain at least one individual professional learning goal created by the teacher and administrator that is focused on the continuous improvement of skills aligned to the Delaware Teacher Growth and Support System teacher observation rubric. Part II shall contain at least two individual student improvement goals selected by the teacher and administrator that demonstrate the teacher's contribution to student growth for his or her current cohort of students. If the teacher and administrator do not agree, the administrator's decision is final. Each "Part II" goal shall be based upon a measure that has been approved by the Department. Measures may be created by a local education agency but must be approved by the Department prior to use. The administrator shall assess the progress toward goals, regardless of whether the teacher has satisfied the requirements of § 1403(a) of this title, is on a directed professional growth plan, or has a satisfactory rating on his or her most recent performance evaluation.

(3) Notwithstanding any other provision of law, rule or regulation to the contrary, grades 3 through 8 and high school state assessments required under § 151 of this title shall not be required as a measure of student growth as part of a teacher's evaluation.

(4) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide 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 shall only be used with the agreement of the teacher under this chapter.

(5) Beginning with the 2022-2023 academic year, the Delaware Teacher Growth and Support System will replace the Delaware Performance Appraisal System II for all licensed and certified teachers.

Section 2. Amend Chapter 12, Title 14 of the Delaware Code by making deletions as shown by strike through and additions as shown by underline as follows:

§ 1270A Delaware Teacher Growth and Support System

(a) Teachers holding an initial license pursuant to § 1210 of this title, a continuing license pursuant to § 1211 of this title, or an advanced license pursuant to § 1213 of this title must receive an annual evaluation through the Delaware Teacher Growth and Support System. The evaluation must be consistent with the Delaware Professional Teaching Standards and must otherwise be in accordance with the criteria and requirements of this section.

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to administer the Delaware Teacher Growth and Support System. The Delaware Teacher Growth and Support System must include an overall rating and a student-improvement rating and must identify what constitutes satisfactory performance and unsatisfactory performance on the overall evaluation and on each performance area of the evaluation. For the purposes of § 1273 of this title, Delaware Teacher Growth and Support System must also include a definition of "pattern of ineffective teaching" as it relates to unsatisfactory performance on the overall Delaware Teacher Growth and Support System evaluation.

(c)(1) The Delaware Teacher Growth and Support System will have no more than 5 performance areas, as determined by the Department, with a required strong focus on student improvement, with one performance area dedicated to student improvement. All performance areas must be weighted equally.

(2) The performance area dedicated to student improvement shall contain a Part I and a Part II. Part I shall contain at least one individual professional learning goal created by the teacher and administrator that is focused on the continuous improvement of skills aligned to the Delaware Teacher Growth and Support System teacher observation rubric. Part II shall contain at least two individual student improvement goals created by the teacher and administrator that demonstrate the teacher's contribution to student growth for his or her current cohort of students. If the teacher and administrator do not agree, the administrator's decision is final. Each "Part II" goal shall be based upon a measure that has been approved by the Department. Measures may be created by a local education agency but must be approved by the Department prior to use. The administrator shall assess

the progress toward goals, regardless of whether the teacher has satisfied the requirements of § 1403(a) of this title, is on a directed growth plan, or has earned a satisfactory rating on his or her most recent performance evaluation.

(3) Notwithstanding any other provision of law, rule or regulation to the contrary, grades 3 through 8 and high school state assessments required under § 151 of this title shall not be required as a measure of student growth as part of a teacher's evaluation.

(4) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide 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 shall only be used with the agreement of the teacher under this chapter.

(d) A local education agency may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and must be funded with local funds.

(e) Nothing in this section prevents a local education agency from administering other evaluations in addition to the Delaware Teacher Growth and Support System, provided that administration of additional evaluations is reported to the Department.

(f) A local education agency may make application to the Department for a waiver of the provisions of the Delaware Teacher Growth and Support System, which shall be granted, subject to the provisions of rules and regulations promulgated pursuant to this subchapter, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to Chapter 40 of this title and community review and is as rigorous and as educationally sound as the Delaware Teacher Growth and Support System, provides for evaluating educator performance by measuring student growth using multiple measures over the course of a curricular year, and contains a mechanism for certifying evaluators and for quality control.

Section 3. Amend Chapter 12, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§1270B Delaware Performance Appraisal System II

(a) For purposes of this subchapter only, Delaware Performance Appraisal System II applies only to specialists and administrators who practice in Delaware public schools. An administrator or specialist holding an initial license pursuant to § 1210 of this title must receive a Delaware Performance Appraisal System II evaluation annually. An administrator or specialist 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 evaluation at least every two academic years. The evaluation must be consistent with the Delaware Framework for Specialists and the Delaware Administrators' Standards and must otherwise be in accordance with the criteria and requirements of this section.

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to administer the Delaware Performance Appraisal System II. The Delaware Performance Appraisal System 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, Delaware Performance Appraisal System II must also include a definition of “pattern of ineffective practice” and define “pattern of ineffective administration” as it relates to unsatisfactory performance on the overall Delaware Performance Appraisal System II evaluation.

(c)(1) Delaware Performance Appraisal System II must have no more than five components and must have a strong focus on student improvement, with one component dedicated to student improvement. All components must be weighted equally.

(2) For all Part I and Part II goals, the specialist, 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 II goals, the measures must be selected from a list of the standardized measures that may be created by a school district or charter school but must be approved by the Department. If the specialist and administrator do not agree, the supervisor’s decision is final.

(3) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide 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 shall only be used with the agreement of the teacher specialist or administrator under this chapter.

(d) A local education agency may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and must be funded with local funds.

(e) Nothing in this section prevents a local education agency from administering other evaluations in addition to the Delaware Performance Appraisal System II, provided that administration of additional evaluations is reported to the Department.

(f) A local education agency may make application to the Department for a waiver of the provisions of the Delaware Performance Appraisal System II evaluation system, which shall be granted, subject to the provisions of rules and regulations promulgated pursuant to this subchapter, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to Chapter 40 of this title and community review and is as rigorous and as educationally sound as the Delaware Performance Appraisal System II, provides for evaluating specialist or administrator performance by measuring student growth using multiple measures over the course of a curricular year, and contains a mechanism for certifying evaluators and for quality control.

Section 4. Section 1 of this Act will expire on June 30,2022, unless terminated sooner or extended by the General Assembly.

Section 5. Sections 2 and 3 of this Act will take effect on July 1 of the first full year following its enactment into law.

Approved August 4, 2021