

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 15, 2015

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2015

Section 1, subsections A and B regarding notice to the board and location limitation do not apply.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 13, 2015.

CHAPTER 3

S.P. 250 - L.D. 692

An Act Regarding Educator Effectiveness

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the United States Department of Education requires that revisions be made to the Maine Revised Statutes, Title 20-A, sections 13704 and 13706 and that corresponding amendments to Maine Department of Education Rule Chapter 180 be in effect by March 15, 2015 in order to be in compliance with the federal Elementary and Secondary Education Act of 1965; and

Whereas, because Rule Chapter 180 is a major substantive rule, changes to the rule require legislative review before the changes may be made; and

Whereas, the Legislature has the authority to direct the Department of Education to amend its rule to reflect legislative policy determinations; and

Whereas, the Department of Education, educators and administrators need statutory and rule revisions to be in compliance with the federal Elementary and Secondary Education Act of 1965; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §13704, sub-§3, ¶A, as enacted by PL 2011, c. 635, Pt. A, §3, is amended to read:

A. The rating must be based on standards of professional practice and measures of educator effectiveness. The proportionate weight of the standards and the measures is a local decision, but measurements of student learning and growth must be a significant factor in the determination of the rating of an educator. School administra-

tive units shall use state assessment growth data for English language arts, literacy and mathematics as at least one measure of the performance of English language arts and mathematics teachers in tested grades and as a measure for the performance of principals.

An educator whose summative effectiveness rating indicates ineffectiveness must receive an annual summative effectiveness evaluation and rating until the rating improves.

An individualized education plan may not be used to measure student growth for the purposes of teacher and principal evaluation, but an individualized education plan may be a source of evidence from which learning objectives and learning targets may be developed.

Sec. 2. 20-A MRSA §13706, as enacted by PL 2011, c. 635, Pt. A, §3, is amended to read:

§13706. Rules

The department shall adopt rules to implement this chapter, including but not limited to a rule relating to the method of identifying the educator or educators whose effectiveness ratings are affected by the measurement of learning or growth of a particular student. The department shall also adopt rules pertaining to the approval of performance evaluation and professional growth systems pursuant to section 13702. The department shall also adopt rules pertaining to the ongoing monitoring of the implementation and results of district performance evaluation and professional growth systems. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. Amendment of rule. The Department of Education shall amend portions of Rule Chapter 180: Performance Evaluation and Professional Growth Systems as follows.

1. Throughout the rule the abbreviation PE/PG must be changed to PEPG.

2. In section 2, subsection 10, language must be added to the definition of "principal" to provide that "principal" means a person who supervises teachers in delivering the instructional program of a school. The phrase "serving in a position that requires certification under State Board of Education Rule Chapter 115, Part II, Section 4.5, 4.6 and 4.7" must be moved to the end of subsection 10.

3. In section 2, subsection 12, the definition of school administrative unit must be amended to include charter schools.

4. In section 4, subsection 2, the following changes must be made to the requirements of a performance evaluation and professional growth system plan:

- A. In subsection 2, paragraph C, student learning and growth measures must be removed as a requirement and replaced with a system for the selection, development, review and approval of individual educators' student learning and growth measures, including an explanation of how the student learning and growth measurement is a significant factor in the determination of the summative effectiveness rating of an educator in accordance with the provisions in section 7, subsection 1;
- B. In subsection 2, paragraph F, a description of the 4 rating categories must be changed to the 4 summative effectiveness rating categories; and
- C. A provision must be added providing that department approval is also contingent upon evidence of adoption of the system by the school board.
5. In section 5, the Kim Marshall Teacher Evaluation Rubrics and MSAD 49 Teacher Evaluation Rubric, based on the Kim Marshall Teacher Evaluation Rubrics, must be added as models containing all of the elements necessary to be approved for use as the professional practice element for teachers.
6. In section 6, the Marzano School Leader Evaluation Model and the Kim Marshall Principal Evaluation Rubrics must be added as models containing all of the elements necessary to be approved for use as the professional practice element for principals.
7. Section 7, subsection 2, paragraph A must be clarified so that a teacher is a "teacher of record" for a student only if, for any student growth measure, the student meets the criteria in subsection 2, paragraph A.
8. In section 7, subsection 2, paragraph A, a provision must be added providing that a student's academic performance may be attributed to more than one teacher of record, as long as the criteria in subparagraphs (1) to (3) are met for each teacher. The current language regarding a student's academic performance being attributable to more than one teacher must be deleted.
9. In section 7, subsection 2, paragraph B, a sentence must be added providing that nothing in section 7 prohibits collaboration in establishing and monitoring the list of students for whom the teacher will be the teacher of record.
10. In section 7, subsection 3, paragraph A, the criterion requiring that a student learning and growth measure must measure student growth in achievement, and not solely the level of achievement, must be removed and replaced with a criterion requiring that a student learning and growth measure must measure a change in a student's knowledge or skills between 2 points of time during which an educator has influence.
11. Section 7, subsection 3, paragraph B must provide that multiple measures of student learning and growth must be factored into the summative effectiveness rating of an educator and the sentence regarding reference to large-scale, norm-referenced standardized tests must be replaced with a provision requiring that, at a teacher's discretion, large-scale standardized tests may be the sole type of student learning and growth measures used in a summative effectiveness rating.
12. In section 7, subsection 3, paragraph C, the word "subject" must be changed to "knowledge and skills" and the word "pre-assessment" must be changed to "comparable pre-assessment."
13. Section 7, subsection 3, paragraph F must also provide a provision that an individual education plan may not be used as a measure of student learning and growth in the evaluation of an educator.
14. Section 7, subsection 4 must be deleted and replaced with a provision requiring that school administrative units must use a student learning objective framework or comparable structure to develop and record student learning and growth measures, and the school administrative unit must establish in its PEPG system handbook criteria for:
- A. The identification of content standards;
 - B. The selection of assessments;
 - C. Setting growth targets, if applicable;
 - D. The size of an instructional cohort; and
 - E. The length of the instructional interval of time.
15. In section 7, a new subsection must be added after subsection 5 with a provision regarding the use of state assessment results for tested subjects and grades that provides that the Maine Educational Assessment for Mathematics and English Language Arts/Literacy State Assessment results must be used as one measure of student learning and growth for teachers in the corresponding grades and subjects. These results must:
- A. Be attributed to teachers of record in accordance with the criteria for a teacher of record in section 7, subsection 2; and
 - B. Be used in such a way that they meet the criteria for permissible measures in section 7, subsection 3.
16. In section 11, subsection 3, paragraph A, a requirement that evaluators must complete training in providing meaningful feedback on instructional practice must be added.
17. Section 12, subsection 1, paragraph D must be deleted and replaced with a provision that provides if the stakeholder group fails to reach consensus on the issue of the proportionate weight of student learning and growth measures by July 15, 2015, the proportion-

ate weight of student learning and growth measures in that school administrative unit must be 20%.

18. In section 12, subsection 1, paragraph E, the date established regarding the stakeholder group failure to reach consensus on any issue in addition to the proportionate weight of student learning and growth measures must be changed from June 1, 2015 to July 15, 2015.

19. In section 13, a new subsection must be added regarding professional growth plans and must provide that an educator who receives a summative effectiveness rating higher than ineffective must develop a professional growth plan that is based on clearly articulated goals related to targeted areas of practice and student performance.

20. The text of section 14 must be moved to section 13 and identified as subsection 2.

21. Except for language containing the purpose of the pilot project and the provision providing that data from a pilot project must be used to inform potential refinement and improvement of the system, section 15 must be replaced with the following provisions:

A. Evidence and data collected during the pilot year may be used to inform professional growth plans and differentiated evaluation cycles beginning during the first year of implementation, but performance ratings assigned during the pilot year may not be used in any action related to employment or compensation of an educator; and

B. A school administrative unit shall design a pilot project for the purpose of testing technical aspects of the system, determining the value of its elements and identifying problems. The pilot project must include student growth measures based on state assessments in English language arts and literacy and mathematics and a portion of the district-defined growth measures intended for use in content areas other than English language arts and literacy and mathematics. The school administrative unit shall ensure that the local steering committee is formed before the pilot project begins and must ensure that the steering committee develops a plan for monitoring and evaluating the results of the pilot project.

22. In section 16, a provision must be added providing that the department shall implement a system of monitoring and providing feedback and support based on information gathered through the monitoring system. Ongoing monitoring will include the collection of data including but not limited to:

A. The aggregate summative effectiveness ratings for each school;

B. The process for and frequency of observation and feedback;

C. Opportunities for targeted professional growth and improvement;

D. The types and descriptions of individual assessments used in the evaluation of educators;

E. The process for developing student learning and growth measures;

F. Exemplars of student learning and growth measures;

G. District criteria for the development, review and approval of growth measures;

H. The use of effectiveness ratings for employment decisions;

I. The mechanism for sustaining the PEPG system; and

J. Evaluator and educator training programs.

23. The sections must be renumbered to read consecutively.

Sec. 4. Expedited amendment process.

Notwithstanding the Maine Revised Statutes, Title 5, chapter 375, subchapters 2 and 2-A and any other law, the Department of Education shall adopt the amendments to its Rule Chapter 180: Performance Evaluation and Professional Growth Systems as provided in section 3 of this bill. The department shall file the amended rule with the Secretary of State as a final adopted rule within 7 business days of the effective date of this bill and the rule is effective upon filing. Rules adopted pursuant to this bill are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Beginning July 1, 2015, any changes to Rule Chapter 180 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Submission of pilot project plan.

Each school administrative unit shall submit to the Department of Education by July 15, 2015 a plan describing the intentions of its pilot project designed in accordance with the amended provisions in section 15 of the Department of Education's Rule Chapter 180: Performance Evaluation and Professional Growth Systems as provided in this Act.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 17, 2015.