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TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: June 27, 2014
SUBJECT: COMAR 13A.07.09 Evaluation of Teachers and Principals (Repeal and Replace)
PERMISSION TO PUBLISH

PURPOSE:

To request permission to publish 13A.07.09; Evaluation of Teachers and Principals.

BACKGROUND:

For the past four years, Maryland has been engaged in an integrated set of educational reforms. The initial effort to engage in the reform movement was accelerated by actions that were taken at the State level. The Maryland State Board of Education adopted the Common Core State Standards and the Maryland State Department of Education applied for and was awarded a federal *Race to the Top Grant*. As part of the application, Maryland made a commitment to use State assessment data, in part, to measure student growth in the evaluation process to more consistently identify, and support educators who are effective. The rationale for such a commitment was clear in the application:

If Maryland is going to ensure that all students are college- and career-ready, every school, especially those where students need the most support, must have teachers and principals who are effective at increasing student achievement. ...Maryland is committed to taking bolder, more aggressive steps to evaluate the learning outcomes teachers and principals create and use that information to help develop the strongest educator core in the country.

During that same time period, the Maryland General Assembly enacted legislation, *The Education Reform Act of 2010*, aligning the law with the criteria and commitment Maryland made to improving educator effectiveness based on performance measures set forth in the *Race to the Top* application. Through these actions, the Maryland State Board and the Maryland General Assembly endorsed the concept of using student growth data in educator evaluation. This concentrated effort was based on the fact that virtually every school in the State had an achievement gap for at least one group of students.

In 2012, the State Board adopted the current regulations governing the evaluation of teachers and principals. Additionally in 2012, Maryland strengthened its commitment to equity by submitting an Elementary and Secondary Education Act (ESEA) Flexibility Waiver Request to the United States Department of Education. Maryland's submission further strengthened its commitment to developing the "strongest teacher core in the country" through professional learning and teacher and principal evaluation, based, in part, on a measure of student growth. The waiver request stated that Maryland will:

Reach our student achievement and educator effectiveness goals; all students can and must learn; all schools can and must help students grow and monitor their progress.

In short, Maryland has had a clear direction on reform work. The work that was initiated through the Race to the Top Grant and the ESEA Flexibility Waiver Request was directed at addressing a persistent and real problem of disparity in learning and opportunity for some student populations in the State. These disparities have existed for decades and the work that has and is being done in the area of educator evaluation is one of the major components of this work. Thus, for more than three years, Maryland has been engaged in the work to effectuate the transition from a teacher evaluation model that relied only on observation to a model that uses both observation of professional practice and student growth data derived from local and State assessments.

During the 2014 legislative session, the Maryland General Assembly passed SB676. It amended the Education Reform Act of 2010. The amendments called on the State Board to adopt "DEFAULT model performance evaluation criteria." The statute, however, continued the requirement that the State Board "adopt regulations that established general standards for performance evaluations for certificated teachers and principals that include observations, clear standards, rigor, and claims and evidence of observed instruction." In addition, the statute retained the requirement that, before adopting regulations, the State Board solicit information and recommendations from each school system and "convene a meeting wherein this information and these recommendations are discussed and considered."

EXECUTIVE SUMMARY:

The current teacher and principal evaluation regulations sunset on September 30, 2014. The regulations proposed here reflect the rigorous and complex work done on educator evaluation in Maryland to date. Specifically, thousands of teachers were involved in a pilot evaluation in each school system in the State during the 2012-13 school year. Based on the pilot and extensive feedback, adjustments have been made to the State evaluation model, and the work on the State and local models has informed the thinking of educators about how best to construct these models. In school year 2013-2014, each of the 24 school systems adopted an agreed-upon evaluation system. The data collected from the 2013-2014 school year will allow the State and local school systems to work together to gain greater understanding and use more precision in the evaluation process. Indeed, feedback from all 24 systems has been collected repeatedly, and there has been on-going and productive dialog focused on continuous improvement. Most recently, in compliance with the law governing the development of these proposed regulations, five regional forums were held where local superintendents or designees, local board of education presidents or designees, and local education association presidents or designees were invited to participate. One or more State Board Members attended each of the forums.

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At these regional meetings, the current regulations were presented and attendees were invited to suggest what should be kept in the current regulations as well as the changes that they would like to see made.

Forums were held at the following four community colleges:

- Community College of Baltimore County – Essex
- Chesapeake College – Wye Mills Campus
- Hagerstown Community College - Hagerstown
- Prince George's Community College – Largo

In addition, a fifth meeting was held for Baltimore City at the City's central office.

All 23 counties and Baltimore City participated, with one to four participants per entity. Participants included all of the invited stakeholder groups.

We presented the resulting comments to you for discussion at the May Board meeting. One of the central issues commented on was the use of State assessment data as a measure, in part, of student growth.

Although commenters at the forums speaking on behalf of the local education associations stated that student growth should not be measured by using the data from the State assessments, it is our position that a teacher and principal evaluation system that is not grounded, in part, on the State-wide assessments, comparable across school systems, would lack the necessary rigor to allow Maryland to develop the strongest teacher core in the county dedicated to eliminating the achievement gap and graduating students who are college and career ready. Thus, the proposed regulations include a requirement that the local school systems' agreed-upon evaluation systems include the following:

(6) A local education agency's evaluation system shall include rigor which shall be demonstrated, in part, by:

- (a) The establishment of student growth as a significant component of the evaluation;
- (b) For school years 2014-2015 and 2015-2016, the use of student learning objectives (SLO's) based, in part, on and informed by the data resulting from the State Assessments; such SLO's shall represent 20 percent of a teacher's evaluation.
- (c) Obtainment of the Department's approval of the agreed-on evaluation system.

(7) The Department's approval of the evaluation system after the 2015-2016 school year will be based on the Department's analysis of the evaluation data obtained in the 2014-2015 and 2015-2016 school years, including an analysis of the use of State Assessment data as a direct measure of student growth.

The proposed regulation also states, as required by law:

(8) Until school year 2016-2017, student growth data based on or derived from State Assessments may not be used to make personnel decisions.

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The proposed regulations also include the “default” model required by law. The default model must be adopted in any school system that cannot reach mutual agreement on a local evaluation system with its education association. It is set forth in §.05 of the attached proposed regulations. The default model recognizes the transition to new State assessments during school years 2014-2015 and 2015-2016 by requiring that the SLO’s or other locally determined measures be “informed by” the State assessment data. The default model also includes a provision that State assessment data will be used as a direct measure of student growth only after further analysis and after the 2015-2016 school year.

The proposed regulations also retain significant pieces of the current regulation essentially unchanged including .02 Definitions; .06 Evaluation Cycle; .07 Evaluation Report; and .08 Appeal of an Evaluation. In addition, significant portions of the General Standards contained in the current regulations are also retained unchanged, but reorganized.

These proposed regulations, I believe, offer a measured approach to teacher and principal evaluations during the transition to the new State assessments and thereafter.

ACTION:

I request permission to publish COMAR 13A.07.09 with the following timeline:

Maryland Register Issue Date: August 8, 2014
30-Day Open Comment Period: September 8, 2014
Adoption: September 23, 2014

Attachment

LML:JRS

Title 13A STATE BOARD OF EDUCATION

Subtitle 07 SCHOOL PERSONNEL

Chapter 09 Evaluation of Teachers and Principals

Authority: Education Article. §§2-205(b) and (g); and 6-202, Annotated Code of Maryland

.01 Applicability.

A. *The minimum general standards set forth in Regulation .04 of this chapter shall apply to evaluations of all teachers and principals.*

B. *In addition, all local education agencies (LEAs) that signed on to the Race to the Top (RTTT) application must comply with the evaluation criteria set forth in the RTTT application and amendments approved by the United States Department of Education.*

.02 Definitions.

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *"Evaluation" means an appraisal of professional performance for a school year based on written criteria and procedures that result in a written evaluation report.*

(2) *"State Assessments" means the tests in Mathematics and English/Language Arts developed or adopted by the Department that are aligned with the Maryland College and Career Ready standards and measure a student's skills and knowledge as set forth in the content standards for those subjects.*

(3) *"Principal" means an individual who serves in the position as a principal and who is certificated under COMAR 13A12.04.04 or certificated as a resident principal under COMAR 13A.12.04.05.*

(4) *"Student Growth" means student progress assessed by multiple measures and from a clearly articulated baseline to one or more points in time.*

(5) *Teacher.*

(a) *"Teacher" means any individual certificated under COMAR 13A.12.02 as a teacher and who delivers instruction and is responsible for a student's or group of students' academic progress in a Pre-K-12 public school setting, subject to local school system interpretation.*

(b) *"Teacher" may include an individual certificated by the Maryland State Department of Education (MSDE) under COMAR 13A.12.03 if the individual delivers instruction, and is responsible for a group of students' academic progress in a Pre-K-12 public school setting, subject to local school system interpretation.*

.03 Incorporation by Reference.

In this chapter, the following documents are incorporated by reference:

A. *Maryland Instructional Leadership Framework, February 2005;*

B. *ISLLC Educational Leadership Policy Standards, 2008; and*

C. *InTASC Model Core Teaching Standards: A Resource for State Dialogue, April 2011.*

.04 Local Education Agency Evaluation System.

A. *An evaluation system for teachers and principals developed by a local education agency in mutual agreement with the exclusive employee representatives shall include performance evaluation criteria, at minimum, based on multiple measures, and on the general standards set forth in §§B and C of this regulation.*

B. *General Standards: Teacher Evaluation System.*

(1) *An evaluation system shall be based on standards, such as the INTASC Model Core Teaching Standards or other Department approved or nationally-recognized standards for teaching and those standards shall be explained to teachers and communicated to the school community. The selected standards shall be used to evaluate the teacher's professional practice and student growth.*

(2) *A teacher's evaluation shall include at least five components:*

(a) *Planning and Preparation;*

(b) *Classroom Environment;*

(c) *Instruction;*

(d) *Professional Responsibility; and*

(e) *Student Growth.*

(3) *An evaluation system shall provide, at a minimum, for an overall rating of highly effective, effective, or ineffective.*

(4) *Classroom observations shall play a role in the evaluation system, at minimum, in the following ways:*

(a) Classroom observations of teachers' professional practice shall be conducted by certificated individuals who have completed training that includes identification of teaching behaviors that result in student growth and the use of the selected standards in the observation;

(b) An evaluation of a teacher's professional practice, including planning and preparation, classroom environment, and instruction shall be based on at least two observations during the school year;

(c) An evaluation report that evaluates a teacher as ineffective shall include at least one observation by an individual other than the immediate supervisor;

(d) An observation, announced or unannounced, shall be conducted with full knowledge of the teacher;

(e) A written observation report shall be shared with the teacher and a copy provided to the teacher within a reasonable period of time;

(f) A teacher shall sign the observation report to acknowledge receipt;

(g) An observation shall provide for written comments and reactions by the teacher being observed, which shall be attached to the observation report; and

(h) An observation shall provide specific guidance in areas needing improvement and supports as well a reasonable timeline to demonstrate improvement in areas marked as ineffective.

(5) Claims and evidence of observed instruction that substantiate the observed behavior or behaviors in a classroom observation shall be a part of the teacher's evaluation and may be identified by either the teacher or the evaluator or both which may include:

(a) student work;

(b) teacher-developed initiatives;

(c) portfolios;

(d) projects;

(e) student test data;

(f) artifacts; and

(g) other statements.

(6) A local education agency's evaluation system shall include rigor which shall be demonstrated, in part, by:

(a) The establishment of student growth as a significant component of the evaluation;

(b) For the school years 2014-2015 and 2015-2016, the use of student learning objectives (SLO's) based on and informed by the data resulting from the State Assessments. Such SLO's shall represent at least 20 percent of a teacher's evaluation.

(c) Obtainment of Department approval of the agreed-on evaluation system.

(7) The Department's approval of an agreed-upon evaluation system after the 2015-2016 school year will be based, in part, on the Department's analysis of the evaluation data obtained in the 2014-2015 and 2015-2016 school years, including an analysis of the use of State Assessment data as a direct measure of student growth.

(8) The evaluation system shall provide focused professional development, resources, and a mentoring component for teachers who are evaluated as ineffective and for all non-tenured teachers.

(9) Until school year 2016-2017, student growth data based on or derived from State Assessments may not be used to make personnel decisions.

C. General Standards: Principal Evaluation System.

(1) A principal's evaluation system shall be based on:

(a) The outcomes contained in the Maryland Instructional Leadership Framework, February 2005 and in the Interstate Leadership Licensure Consortium.

(b) The standards set forth in §§B(3), (6)(a)—(b), and (9) of this regulation.

.05 Default Model.

A. If the school system and the exclusive employee representative do not reach agreement on an Evaluation System, the Default Model shall be adopted by the school system.

B. The Default Model shall include:

(1) A student growth component that comprises at least 50 percent of the teacher's and principal's evaluation in the following ways:

(a) For school years 2014-2015 and 2015-2016, for elementary and middle school teachers providing instruction in State-assessed content areas, 20 percent of the evaluation shall be based on SLO's based on and informed by the data obtained from the State Assessments; 30 percent on other SLO's or other locally determined measures;

(b) For school years after 2015-2016, for elementary and middle school teachers providing instruction in State-assessed content areas, based on an analysis conducted by the Department of evaluation data obtained in school years 2014-2015 and 2015-2016, including and analysis of the use of State Assessment data as a direct measure of student growth, aggregate class growth scores for State-assessed content areas being taught may comprise at least 20 percent of the teacher's evaluation; and

(c) For school years 2014-2015 and 2015-2016, elementary and middle school teachers providing instruction in non-State-assessed grades or content areas, SLO's or other locally determined measures in the content areas being taught shall comprise 50% of the evaluation.

(d) For school years after 2015-2016, for elementary and middle school teachers providing instruction in non-State-assessed grades or content areas, based on an analysis conducted by the Department of evaluation data obtained in school years

2014-2015 and 2015-2016, SLO's or other locally determined measures may comprise up to 30% of the evaluation and a school-wide index may comprise up to 20%;

(e) For high school teachers, SLO's informed by the data obtained from the High School Assessments shall comprise 50% of the teacher's evaluation.

(2) A professional practice component that comprises at least 50 percent of the teacher's evaluation in the following ways:

(a) Planning and Preparation – 12.5 percent;

(b) Classroom Environment – 12.5 percent;

(c) Instruction – 12.5 percent; and

(d) Professional Responsibility – 12.5 percent.

(3) For elementary and middle school principals, student growth shall be measured by SLO's, in part, based on and informed by State Assessment data, aggregate school-wide growth scores in State-assessed content areas, and the school-wide index.

(4) For high school principals, student growth shall be measured by SLO's, in part, based on and informed by the High School Assessment data and the school-wide index.

(5) For principals of other types of schools, student growth shall be measured by SLO's and the school-wide index.

(6) For all principals, professional practice:

(a) Shall count for 50 percent of a principal's evaluation; and

(b) Shall include, but not be limited to, the outcomes in the Maryland Instructional Leadership Framework, and other outcomes based on Interstate School Leaders and Licensure Consortium (ISLLC).

(7) Until school year 2016-2017, student growth data based on or derived from State Assessments may not be used to make personnel decisions.

.06 Evaluation Cycle.

A. Tenured Teachers. On the 3-year evaluation cycle, tenured teachers shall be evaluated once annually in the following ways:

(1) In the first year of the evaluation cycle conducted under these regulations, tenured teachers shall be evaluated on both professional practice and student growth;

(2) If in the first year of the evaluation cycle a tenured teacher is determined to be highly effective or effective then in the second year of the evaluation cycle, the tenured teacher shall be evaluated using the professional practice rating from the previous year and the student growth based on the most recent available data;

(3) If in the second year of the evaluation cycle a tenured teacher is determined to be highly effective or effective then in the third year of the evaluation cycle, then tenured teacher shall be evaluated using the professional practice rating from the previous year and student growth based on the most recent available data;

(4) At the beginning of the fourth year, the evaluation cycle shall begin again as described in §A(1)-(3) of this regulation; and

(5) In any year, a principal may determine or a tenured teacher may request that the evaluation be based on a new review of professional practice along with student growth.

B. Nontenured Teachers and Teachers Rated as Ineffective. All nontenured teachers and all teachers rated as ineffective shall be evaluated annually on student growth and professional practice.

C. Principals. Every principal shall be evaluated at least once annually based on all of the components set forth in Regulations .04 and .05 of this chapter.

.07 Evaluation Report.

A. The evaluation report shall be shared with the teacher or principal who is the subject of the evaluation.

B. The teacher or principal shall receive a copy of and sign the evaluation report.

C. The signature of the teacher or principal does not necessarily indicate agreement with the evaluation report.

D. An evaluation report shall provide for written comments and reactions by the individual being evaluated, which shall be attached to the evaluation report.

.08 Appeal of an Evaluation.

A. In the event of an overall rating of ineffective, the local school system shall, at a minimum, provide the teacher or principal with an opportunity to appeal in accordance with Education Article, §4-205(c)(4), Annotated Code of Maryland.

B. If an observation report is a component of an ineffective evaluation, the observation report may be appealed along with the ineffective evaluation.

C. The burden of proof is on the individual appealing an overall rating of ineffective to show that the rating was arbitrary, unreasonable, illegal, or not in compliance with the adopted evaluation system of the local school system.

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