

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 756 Session of 2017

INTRODUCED BY DINNIMAN, EICHELBERGER, GORDNER, DiSANTO, WHITE, YUDICHAK, RAFFERTY, MARTIN, BROOKS, FONTANA, HUTCHINSON, SABATINA, RESCHENTHALER, McGARRIGLE, BLAKE, KILLION, MENSCH, BOSCOLA, VOGEL, WAGNER, BAKER, BREWSTER, GREENLEAF, VULAKOVICH, FARNESE, STREET, LEACH, SCHWANK, FOLMER, COSTA, HUGHES, HAYWOOD, TARTAGLIONE, McILHINNEY, BARTOLOTTA, SCAVELLO, LANGERHOLC, TOMLINSON, WARD, LAUGHLIN, ALLOWAY, REGAN, YAW, STEFANO, WILLIAMS AND BROWNE, JUNE 13, 2017

REFERRED TO EDUCATION, JUNE 13, 2017

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
 2 act relating to the public school system, including certain
 3 provisions applicable as well to private and parochial
 4 schools; amending, revising, consolidating and changing the
 5 laws relating thereto," in preliminary provisions, providing
 6 for assessments for Federal accountability; in duties and
 7 powers of boards of school directors, further providing for
 8 publication of rules, regulations and policies; in
 9 professional employees, further providing for rating system;
 10 and, in high schools, further providing for high school
 11 certificates.

12 The General Assembly of the Commonwealth of Pennsylvania
 13 hereby enacts as follows:

14 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
 15 as the Public School Code of 1949, is amended by adding a
 16 section to read:

17 Section 121.1. Assessments for Federal Accountability.--(a)
 18 Beginning with the 2017-2018 school year, the department shall
 19 no longer:

1 (1) Develop, implement, maintain or provide to any school
2 entity the Keystone Exams.

3 (2) Maintain contracts with any vendor for any services
4 related to the Keystone Exams.

5 (3) Advise any school entity to offer the Keystone Exams to
6 any student for any purpose whatsoever.

7 (4) Require the Keystone Exams as a Statewide assessment for
8 reporting purposes or any other purpose whatsoever.

9 (b) During the 2017-2018 school year, the department shall
10 identify for inclusion in the State plan and reporting Federal
11 accountability, and to use as the baseline measure for student
12 growth, the following assessments to be administered as
13 appropriate:

14 (1) The Preliminary Scholastic Aptitude Test, which shall be
15 administered in the fall of grade ten. Data obtained from the
16 test shall be used for measurements that require data from
17 academic assessments required under section 1111(b) (2) (B) (v) (I)
18 (bb) and (II) (cc) of ESSA (20 U.S.C. § 6311(b) (2) (B) (v) (I) (bb)
19 and (II) (cc)) and, as appropriate, in other areas of
20 measurement.

21 (2) The Pennsylvania System of School Assessment test. Data
22 obtained from the test shall be used for measurements that
23 require data from academic assessments required for grades three
24 through eight and, as appropriate, in other areas of
25 measurement.

26 (3) The Pennsylvania Alternate System of Assessment,
27 provided that those students with individualized education plans
28 may attain the academic standards by completion of their
29 individualized education programs under the Individuals with
30 Disabilities Education Act. Data obtained from the test shall be

1 used for measurements that require data from academic
2 assessments required under section 1111(b)(2)(D) of ESSA (20
3 U.S.C. § 6311(b)(2)(D)) and, as appropriate, in other areas of
4 measurement.

5 (c) (1) A task force is established to review and evaluate
6 the Pennsylvania System of School Assessment test to determine
7 whether or not its continued use in testing and measuring grades
8 three through eight for the purposes of Federal accountability
9 is appropriate, and:

10 (i) if the task force determines that continued use is
11 appropriate, determine a course to reduce the testing time
12 currently required for the Pennsylvania System of School
13 Assessment test; or

14 (ii) if the task force determines that continued use is not
15 appropriate, determine an alternative test to administer for
16 grades three through eight.

17 (2) The task force shall be composed of the following:

18 (i) The Secretary of Education or a designee.

19 (ii) Members representative of educators, parents and
20 community leaders as follows:

21 (A) Four members appointed by the chair and minority chair
22 of the Education Committee of the Senate.

23 (B) Four members appointed by the chair and minority chair
24 of the Education Committee of the House of Representatives.

25 (3) The task force shall submit a report of its findings and
26 recommendations no later than six months after the effective
27 date of this section to the following:

28 (i) The Governor.

29 (ii) The Secretary of Education.

30 (iii) The State board.

- 1 (iv) The President pro tempore of the Senate.
- 2 (v) The Majority Leader of the Senate.
- 3 (vi) The Minority Leader of the Senate.
- 4 (vii) The Education Committee of the Senate.
- 5 (viii) The Speaker of the House of Representatives.
- 6 (ix) The Majority Leader of the House of Representatives.
- 7 (x) The Minority Leader of the House of Representatives.
- 8 (xi) The Education Committee of the House of
- 9 Representatives.

10 (d) (1) For an assessment listed in subsection (b) that the
11 department has not established a score that a student must
12 attain to demonstrate federally established accountability
13 levels or for inclusion in the State plan, the department shall
14 establish and submit the same to the State board for action by
15 the State board. The department shall establish, at the time it
16 establishes scores for the PSAT, separate scores for separate
17 uses of the PSAT, which shall be used in comparison data
18 measurements from the baseline. The scores shall be developed
19 for comparison with federally required academic assessments
20 under section 1111(b) (2) (B) (v) (I) (bb) and (II) (cc) of ESSA and,
21 as appropriate, for inclusion in other areas of measurement. The
22 score established for the PSAT for comparison measurements with
23 federally required academic assessments in section 1111(b) (2) (B)
24 (v) (II) (cc) of ESSA shall be based on the questions within the
25 verbal and math PSAT that focus on the science.

26 (2) The State board must approve or disapprove within sixty
27 (60) days of submission by the department to the office of the
28 State board or at its next regular scheduled meeting, whichever
29 is sooner, the score for each federally established
30 accountability level that a student must attain on each approved

1 assessment. Failure of the State board to approve or disapprove
2 the submission within the time established under this section
3 shall be deemed an approval.

4 (e) (1) Beginning with the 2018-2019 school year, to comply
5 with ESSA or its regulations, or any subsequent waiver or
6 subsequent act of Congress related thereto that requires
7 assessment for the purpose of Federal accountability, the
8 department shall identify the following assessments as a set of
9 high-quality student academic assessments to be used, as
10 appropriate, for inclusion in the State plan and reporting
11 Federal accountability as required under ESSA:

12 (i) The Pennsylvania System of School Assessment test or an
13 alternative test prescribed by the task force under subsection
14 (c) to meet Federal accountability requirements for grades three
15 through eight.

16 (ii) The PSAT, which shall be administered in the fall of
17 grade ten.

18 (iii) The Scholastic Aptitude Test for verbal and math
19 skills. Although a student may take the written part of the SAT
20 for verbal skills at the student's expense, no written part of
21 the SAT shall be required under this subclause.

22 (iv) The armed forces qualification test.

23 (v) A competency assessment or certification for a student
24 who, by the end of a reporting year, is reported as successfully
25 completing at least fifty per centum (50%) of the minimum
26 technical instructional hours required under 22 Pa. Code Ch. 339
27 (relating to vocational education), related to the student's
28 program of study. The assessment may include a National
29 Occupational Competency Testing Institute exam, an assessment
30 based on the National Institute for Metalworking Skills

1 standards or any other industry-based competency assessment
2 identified by the Secretary of Education and approved by the
3 State board as demonstrating a high likelihood of readiness for
4 continued meaningful engagement in the student's program of
5 study.

6 (vi) The Pennsylvania Alternate System of Assessment to meet
7 Federal accountability requirements of an assessment designed
8 for students with the most significant cognitive disabilities.
9 However, students with individualized education plans may attain
10 the academic standards by completion of their individualized
11 education programs under the Individuals with Disabilities
12 Education Act.

13 (2) (i) For an assessment listed in clause (1) for which
14 the department has not established a score that a student must
15 attain to demonstrate federally established accountability
16 levels or for inclusion in the State plan, the department shall
17 establish and submit the same to the State board for action by
18 the State board. The department shall establish, at the time it
19 establishes scores for the PSAT, if it has not already done so,
20 separate scores for separate uses of the PSAT, which shall be
21 used in comparison data measurements from the baseline. The
22 scores shall be developed for comparison with federally required
23 academic assessments under section 1111(b)(2)(B)(v)(I)(bb) and
24 (II)(cc) of ESSA and, as appropriate, for inclusion in other
25 areas of measurement. The score established for the PSAT for
26 comparison measurements with federally required academic
27 assessments under section 1111(b)(2)(B)(v)(II)(cc)) of ESSA,
28 shall be based on the questions within the verbal and math PSAT
29 that focus on the science.

30 (ii) The State board must approve or disapprove within sixty

1 (60) days of submission by the department to the office of the
2 State board or at its next regular scheduled meeting, whichever
3 is sooner, the score for each federally established
4 accountability level that a student must attain on each approved
5 assessment. Failure of the State board to approve or disapprove
6 the submission within the time established under this section
7 shall be deemed an approval.

8 (3) Every five years the department shall request
9 competitive bids and shall contract for the assessments required
10 in this subsection.

11 (f) An assessment used for the purposes of Federal
12 accountability under subsection (e) or any score of a student on
13 the assessment:

14 (1) Shall not be used as a requirement for high school
15 graduation.

16 (2) Shall be administered one time per school year for the
17 purpose of meeting the Federal accountability requirements with
18 one make-up date provided for a student unable to participate on
19 the originally scheduled date. A school entity may select a date
20 to make up an assessment under this clause that is a Saturday or
21 during a school year vacation period.

22 (3) Shall not be retaken by any student.

23 (4) Shall not be required to be taken by a student, if the
24 student has met the Federal accountability requirements by
25 taking another approved assessment under subsection (b) in the
26 same content area for the respective grade.

27 (5) Shall not exceed two instructional days to administer
28 when administered to meet the Federal accountability requirement
29 for grades nine through twelve. However, when administered for
30 students with the most significant cognitive disabilities,

1 administration shall not exceed three instructional days.

2 (6) Shall not exceed sixty per centum (60%) of the testing
3 time currently required for the Pennsylvania System of School
4 Assessment test when administered to meet the Federal
5 accountability requirements for grades three through eight.

6 (7) Shall be scored and returned to the school entity within
7 thirty (30) days when administered to meet the Federal
8 accountability requirement for grades nine through twelve.

9 (8) Shall be part of an assessment system that does the
10 following:

11 (i) Provides practice for all students.

12 (ii) Provides scholarship opportunities.

13 (iii) Provides actionable score reports.

14 (iv) Is useful for instructional support and identifying
15 learning needs.

16 (v) Provides information on readiness for advanced
17 coursework, including STEM courses when administered to measure
18 verbal or math skills for grades nine through twelve.

19 (9) May be used for diagnostic purposes to assess student
20 improvement and growth.

21 (10) Shall be used as part of a rigorous system of teacher
22 evaluation and school performance, in accordance with section
23 1123.

24 (g) Each school entity shall determine the assessment from
25 subsection (e)(1)(ii), (iii), (iv), (v) or (vi) to submit to the
26 department for the purpose of Federal accountability for any
27 student who, by the end of a reporting year, is reported as
28 successfully completing at least fifty per centum (50%) of the
29 minimum technical instructional hours required under 22 Pa. Code
30 Ch. 339 related to the student's program of study.

1 (h) A school entity's governing board shall adopt a policy
2 that provides that the parent or guardian of a student may
3 request that the student be exempt from taking an assessment
4 that is required for the purpose of Federal accountability as
5 permitted under ESSA. The policy shall provide that parents and
6 guardians of students receive written notice of the option for a
7 student to be exempt from taking the assessment and that the
8 exemption shall be permitted upon the school entity's receipt of
9 a written request from the parent or guardian of the student. A
10 substitute assessment or an alternative assessment, course or
11 program may not be required of a student exempted under this
12 section. Grounds for exemption in the school entity's policy
13 shall include, but not be limited to:

14 (1) Religious grounds.

15 (2) The basis of a strong moral or ethical conviction
16 similar to a religious belief.

17 (3) Philosophical grounds.

18 (4) Privacy concerns.

19 (5) Health concerns for the child, which may include stress
20 and anxiety in preparation for the assessment.

21 (i) Scores achieved on an assessment used for the purposes
22 of Federal accountability under subsection (e) shall not be
23 included on student transcripts unless inclusion of the score on
24 the student's transcript is requested by the parent or guardian
25 of the student. A school entity's governing board shall adopt a
26 policy that provides that the parent or guardian of a student
27 has the option of including the student's score on an assessment
28 required for the purposes of Federal accountability for grades
29 nine through twelve on the transcript of the student. The policy
30 shall provide that parents and guardians of students receive

1 written notice of the option to include the student's assessment
2 score on the student's transcript and that inclusion of the
3 assessment score on the transcript shall be permitted upon the
4 school entity's receipt of a written request from the parent or
5 guardian of the student.

6 (j) All regulations and parts of regulations are abrogated
7 insofar as they are inconsistent with this section.

8 (k) As used in this section, the following words and phrases
9 shall have the meanings given to them in this subsection unless
10 the context clearly indicates otherwise:

11 "Department" shall mean the Department of Education of the
12 Commonwealth.

13 "ESSA" shall mean the reauthorization of the Elementary and
14 Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. §
15 6301 et seq.), known as the Every Student Succeeds Act (Public
16 Law 114-95, 129 Stat. 1802).

17 "Individuals with Disabilities Education Act" shall mean the
18 Individuals with Disabilities Education Act (Public Law 91-230,
19 20 U.S.C. § 1400 et seq.)

20 "Preliminary Scholastic Aptitude Test" or "PSAT" shall mean
21 the nationally recognized preliminary SAT developed by the
22 college board and cosponsored by the national merit scholarship
23 corporation.

24 "Scholastic Aptitude Test" or "SAT" shall mean the nationally
25 recognized college and career readiness assessment developed by
26 the college board.

27 "School entity" shall include a school district, intermediate
28 unit, joint school, area vocational-technical school, charter
29 school or cyber charter school.

30 "State board" shall mean the State Board of Education.

1 "State plan" shall mean the State plan prepared by the
2 department for the Commonwealth to implement the ESSA and
3 submitted to the United States Secretary of Education for
4 approval, as provided in section 1005 of the ESSA.

5 "Task force" shall mean the task force established under
6 subsection (c).

7 Section 2. Section 510.2(5) of the act, added July 13, 2016
8 (P.L.716, No.86), is amended to read:

9 Section 510.2. Publication of Rules, Regulations and
10 Policies.--The board of school directors of a school district
11 shall post on its publicly accessible Internet website the
12 following rules, regulations and policies to the extent that
13 they are required to be adopted by the school district under
14 Federal or State law:

15 * * *

16 (5) The following relating to community:

17 (i) Public participation in school board meetings.

18 (ii) Public attendance at school events.

19 (iii) Parental involvement policy for parents and guardians
20 of students participating pursuant to section 1118 of the
21 Elementary and Secondary Education Act of 1965 (Public Law 89-
22 10, 20 U.S.C § 6318).

23 (iv) Public access to and use of school district buildings,
24 facilities and grounds.

25 (v) Public complaint process.

26 (vi) Parent and student review policies related to teacher
27 evaluations under section 1123(b)(1)(iii)(B)(I)(aa).

28 Section 3. Section 1123 of the act is amended to read:

29 Section 1123. Rating System.--(a) In determining whether a
30 professional employe shall be dismissed for incompetency or

1 unsatisfactory teaching performance as provided for in section
2 1122(a) of this act, and in rating professional employes and
3 temporary professional employes, all professional employes and
4 temporary professional employes shall be rated through the use
5 of an approved rating tool developed by the Secretary of
6 Education in consultation with education experts, parents of
7 school-age children enrolled in a public school, teachers and
8 administrators, including research and collaboration conducted
9 by the department.

10 (b) For professional employes and temporary professional
11 employes who serve as classroom teachers, the following shall
12 apply:

13 (1) [Beginning in the 2013-2014 school year, the] The
14 evaluation of the effectiveness of professional employes and
15 temporary professional employes serving as classroom teachers
16 shall give due consideration to the following:

17 [(i) Classroom observation and practice models that are
18 related to student achievement in each of the following areas:

19 (A) Planning and preparation.

20 (B) Classroom environment.

21 (C) Instruction.

22 (D) Professional responsibilities.

23 (ii) Student performance, which shall comprise fifty per
24 centum (50%) of the overall rating of the professional employe
25 or temporary professional employe serving as a classroom teacher
26 and shall be based upon multiple measures of student
27 achievement. The fifty per centum (50%) shall be comprised of
28 the following:

29 (A) Fifteen per centum (15%) building-level data, including,
30 but not limited to, all of the following:

- 1 (I) Student performance on assessments.
- 2 (II) Value-added assessment system data made available by
3 the department under section 221.
- 4 (III) Graduation rate as reported to the department under
5 section 222.
- 6 (IV) Promotion rate.
- 7 (V) Attendance rate as reported to the department under
8 section 2512.
- 9 (VI) Advanced placement course participation.
- 10 (VII) Scholastic aptitude test and preliminary scholastic
11 aptitude test data.

12 (B) Fifteen per centum (15%) teacher-specific data,
13 including, but not limited to, student achievement attributable
14 to a specific teacher as measured by all of the following:

- 15 (I) Student performance on assessments.
- 16 (II) Value-added assessment system data made available by
17 the department under section 221.
- 18 (III) Progress in meeting the goals of student
19 individualized education plans required under the Individuals
20 With Disabilities Education Act (Public Law 91-230, 20 U.S.C. §
21 1400 et seq.).

22 (IV) Locally developed school district rubrics.

23 (C) Twenty per centum (20%) elective data, including
24 measures of student achievement that are locally developed and
25 selected by the school district from a list approved by the
26 department and published in the Pennsylvania Bulletin by June 30
27 of each year, including, but not limited to, the following:

- 28 (I) District-designed measures and examinations.
- 29 (II) Nationally recognized standardized tests.
- 30 (III) Industry certification examinations.

1 (IV) Student projects pursuant to local requirements.

2 (V) Student portfolios pursuant to local requirements.

3 (2) (i) No later than June 30, 2013, the department shall
4 develop, issue and publish in the Pennsylvania Bulletin a rating
5 tool for professional employes and temporary professional
6 employes serving as classroom teachers that is consistent with
7 this subsection and includes the weights given to the multiple
8 measures of student performance contained in clause (1)(ii).

9 (ii) Following publication, the rating tool developed under
10 this subsection shall be used in the rating of all professional
11 employes and temporary professional employes serving as
12 classroom teachers.

13 (iii) After June 30, 2013, any changes to the rating tool
14 developed under this subsection shall be made by the State Board
15 of Education through regulations promulgated under the act of
16 June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review
17 Act."]

18 (i) (A) Thirty per centum (30%) of the overall rating of
19 the professional employe or temporary professional employe
20 serving as a classroom teacher shall include classroom
21 observations and practice models that are related to student
22 achievement in each of the following areas:

23 (I) Planning and preparation.

24 (II) Classroom environment.

25 (III) Instruction.

26 (IV) Professional responsibilities.

27 (B) Classroom observations of teachers under this subclause
28 shall be performed:

29 (I) Once annually by the principal in conjunction with the
30 school district superintendent or, if so directed by the school

1 district superintendent, an assistant administrator, provided
2 that no unsatisfactory rating shall be valid unless approved by
3 the school district superintendent.

4 (II) Once annually by a third party evaluator, who shall be
5 contracted with by the intermediate unit in which the school
6 district is located.

7 (C) A classroom observation used for teacher evaluation
8 shall be conducted no earlier in the school year than January 1.

9 (D) Classroom observations in paragraph (B) (I) and (II)
10 shall be equally weighted in determining the total classroom
11 observation rating under paragraph (A).

12 (ii) Student growth and performance shall comprise fifty per
13 centum (50%) of the overall rating of the professional employe
14 or temporary professional employe serving as a classroom teacher
15 and shall be based upon multiple measures of student
16 achievement. The fifty per centum (50%) shall be comprised of
17 measures of student achievement that are attributable to a
18 specific teacher as follows:

19 (A) For a teacher providing instruction in a core subject
20 measurable by an assessment in section 121.1, thirty per centum
21 (30%) of the overall rating shall be based on teacher-specific
22 data on student achievement on assessment. The remaining twenty
23 per centum (20%) shall be based on the factors in paragraph (C).

24 (B) For a teacher not providing instruction in a core
25 subject measurable by an assessment in section 121.1, fifty per
26 centum (50%) of the overall rating shall be based upon the
27 factors in paragraph (C).

28 (C) The factors locally developed and designed by a school
29 district shall include:

30 (I) Student growth, as measured by either value-added

1 assessment system data made available by the department under
2 section 221 or value-added measures made available by the school
3 district under local requirements.

4 (II) Progress in meeting the goals of student individualized
5 education plans required under the Individuals with Disabilities
6 Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) and
7 Statewide alternate assessments designed for students with
8 significant cognitive disabilities.

9 (III) Locally developed school district rubrics related to
10 developing students' critical thinking, creativity and
11 collaboration skills.

12 (IV) Student portfolios pursuant to local requirements.

13 (iii) Ten per centum (10%) of the overall rating of the
14 professional employe or temporary professional employe serving
15 as a classroom teacher shall be comprised of parental and
16 student reviews. The ten per centum (10%) shall be comprised of
17 the following:

18 (A) In kindergarten through fifth grade, five per centum
19 (5%) of the overall rating shall be based upon a survey
20 instrument to be completed by parents and designed under
21 paragraph (C), and five per centum (5%) of the overall rating
22 shall be based upon a rubric developed by the school district
23 that is related to parent and teacher communication, engagement
24 and performance. During the 2017-2018 school year, the school
25 district superintendent shall develop and submit the proposed
26 rubric to the board of school directors for approval at a public
27 meeting held within sixty (60) days after the school district
28 superintendent submits the proposed rubric to the board.

29 (B) In sixth through twelfth grades, five per centum (5%) of
30 the overall rating shall be based on a survey instrument to be

1 completed by parents and designed under paragraph (C), and five
2 per centum (5%) of the overall rating shall be based on a survey
3 instrument to be developed by the local school district and to
4 be completed by the students who are provided instruction by the
5 teacher. The survey instrument to be completed by a student
6 shall be developed as follows:

7 (I) During the 2017-2018 school year, the school district
8 superintendent shall develop and submit the proposed survey
9 instrument to the board of school directors for approval at a
10 public meeting held within sixty (60) days after the school
11 district superintendent submits the proposed survey instrument
12 to the board.

13 (II) The survey instrument shall include a comment section
14 for additional written response.

15 (C) The survey instrument shall be developed by the
16 department to score teacher performance. The survey instrument
17 shall include a comment section for additional written response.
18 The score shall be on a one hundred (100) point scale derived
19 from the following equally weighted questions:

20 (I) The overall parental satisfaction with the performance
21 of the teacher.

22 (II) Whether the teacher engages in frequent and informative
23 communications with the parent about student progress,
24 attendance, behavior, curriculum topics and objectives.

25 (III) Whether the teacher is approachable and open to
26 parental input.

27 (IV) Whether the teacher maintains a classroom environment
28 in which the student feels safe.

29 (V) Whether the teacher administers discipline appropriately
30 and consistently.

1 (VI) Whether the teacher provides the student and the parent
2 or guardian with information about classroom expectations and
3 support for learning at home.

4 (VII) Whether the teacher knows the content area and how to
5 teach it.

6 (VIII) Whether the teacher treats the student and parent or
7 guardian with respect and care.

8 (IX) Whether the teacher acknowledges individual needs and
9 provides appropriate individual assistance to engage the student
10 in learning.

11 (X) Whether the teacher has knowledge of and serves the
12 needs of the communities located within the school district.

13 (iv) Ten per centum (10%) of the overall rating of a
14 classroom teacher shall be comprised of a survey instrument to
15 be completed by peer teachers. The survey shall be developed and
16 designed by the department. The score shall be on a one hundred
17 (100) point scale derived from the following equally weighted
18 factors:

19 (A) Whether a classroom teacher collaborates with the
20 teacher's peers to improve instructional pedagogy, strengthen
21 understanding of curriculum content and work together to improve
22 student learning.

23 (B) Whether a classroom teacher utilizes additional
24 classroom resources such as online learning materials that are
25 aligned to assessments in section 121.1.

26 (C) Whether a classroom teacher is open and responsive to
27 the needs of other classroom teachers at the school and works
28 together with other classroom teachers to create an educational
29 environment in which all students can learn.

30 (D) The performance of a classroom teacher related to

1 planning and preparation, classroom environment, instruction and
2 professional responsibilities.

3 (E) The overall performance of the classroom teacher.

4 (2) (i) Prior to the 2018-2019 school year, the department
5 shall develop, issue and publish in the Pennsylvania Bulletin a
6 rating tool for professional employes and temporary professional
7 employes serving as classroom teachers for purposes of this
8 subsection and section 121.1, which includes the weights given
9 to the multiple measures of student performance contained in
10 clause (1)(ii).

11 (ii) Following publication, the rating tool developed under
12 this subsection shall be used in the rating of all professional
13 employes and temporary professional employes serving as
14 classroom teachers.

15 (c) For professional employes and temporary professional
16 employes serving as principals, the following shall apply:

17 (1) Beginning in the [2014-2015] 2018-2019 school year,
18 principal effectiveness shall be measured using a rating tool
19 designed specifically for professional employes and temporary
20 professional employes serving as principals [which shall give
21 due consideration to the following:

22 (i) Planning and preparation.

23 (ii) School environment.

24 (iii) Delivery of service.

25 (iv) Professional development.

26 (v) Student performance, pursuant to clause (2).

27 (2) Student performance shall be measured as provided in
28 subsection (b)(1)(ii) for professional employes and temporary
29 professional employes supervised by the principal and shall
30 comprise fifty per centum (50%) of the principal's overall

1 rating. The fifty per centum (50%) shall be comprised of the
2 following:

3 (A) Fifteen per centum (15%) building-level data, including,
4 but not limited to, all of the following:

5 (I) Student performance on assessments.

6 (II) Value-added assessment system data made available by
7 the department under section 221.

8 (III) Graduation rate as reported to the department under
9 section 222.

10 (IV) Promotion rate.

11 (V) Attendance rate as reported to the department under
12 section 2512.

13 (VI) Advanced placement course participation.

14 (VII) Scholastic aptitude test and preliminary scholastic
15 aptitude test data.

16 (B) Fifteen per centum (15%) correlation data based on
17 teacher-level measures.

18 (C) Twenty per centum (20%) elective data, including
19 measures of student achievement that are locally developed and
20 selected by the school district from a list approved by the
21 department and published in the Pennsylvania Bulletin by June 30
22 each year, which shall include, but not be limited to, the
23 following:

24 (I) District-designed measures and examinations.

25 (II) Nationally recognized standardized tests.

26 (III) Industry certification examinations.

27 (IV) Student projects pursuant to local requirements.

28 (V) Student portfolios pursuant to local requirements.

29 (3) (i) No later than June 30, 2014, the department shall
30 develop, issue and publish in the Pennsylvania Bulletin a rating

1 tool for professional employes and temporary professional
2 employes serving as principals that is consistent with this
3 subsection and includes the weights given to the multiple
4 measures of student performance contained in clause (2).

5 (ii) Following publication, the rating tool developed under
6 this subsection shall be used in the rating of all principals
7 superseding all other rating cards and forms used previously.

8 (iii) After June 30, 2014, any changes to the rating tool
9 developed under this subsection shall be made by the State Board
10 of Education through regulations promulgated under the
11 "Regulatory Review Act."]

12 as follows:

13 (i) Fifty per centum (50%) of the principal's overall rating
14 shall give due consideration to the following:

15 (A) Planning and preparation.

16 (B) School environment.

17 (C) Delivery of service.

18 (D) Professional development.

19 (ii) Fifty per centum of the principal's overall rating
20 shall be comprised of teacher ratings and student growth and
21 performance as provided in subsection (b)(1) for professional
22 employes and temporary professional employes supervised by the
23 principal. The fifty per centum (50%) shall be comprised of the
24 following:

25 (A) Twenty per centum (20%) building-level data, which shall
26 include all of the following:

27 (I) Student performance on assessments under section 121.1.

28 (II) Graduation rate as reported to the department under
29 section 222.

30 (III) Promotion rate.

1 (IV) Attendance rate as reported to the department under
2 section 2512.

3 (V) Advanced placement course participation.

4 (B) Ten per centum (10%), which shall be comprised of all
5 overall teacher ratings under the supervision of the principal
6 under subsection (b) (1).

7 (C) Five per centum (5%) shall be comprised of parental
8 review through a survey instrument to be completed by parents of
9 students within the school. The survey instrument shall be
10 developed by the department to score principal performance. The
11 survey instrument shall include a comment section for additional
12 written response. The score shall be on a one hundred (100)
13 point scale derived from the following equally-weighted
14 questions:

15 (I) The overall parental satisfaction with the performance
16 of the principal.

17 (II) Whether the principal engages in frequent and
18 informative communications with the parent about the school
19 vision and the implementation of a plan to achieve the school
20 vision.

21 (III) Whether the principal is approachable and open to
22 parental input.

23 (IV) Whether the principal maintains a school environment in
24 which students feel safe.

25 (V) Whether the principal administers discipline
26 appropriately and consistently.

27 (VI) Whether the principal provides students and parents
28 with information about school expectations and support for
29 learning at home.

30 (VII) Whether the principal treats students and parents with

1 respect and care.

2 (VIII) Whether the principal acknowledges individual needs
3 and provides appropriate individual assistance to engage
4 students within the school.

5 (IX) Whether the principal has knowledge of and serves the
6 needs of the communities located within the school district.

7 (X) Whether the principal supports all professional and
8 nonprofessional employes with respect and opportunities for
9 professional development.

10 (D) Fifteen per centum (15%) of the principal's overall
11 rating shall be comprised of elective data, including measures
12 of student growth and achievement that are locally developed and
13 selected by the school district from a list approved by the
14 board of school directors at a public meeting, five per centum
15 (5%) of which shall be comprised of a locally developed measure
16 of whether the principal has knowledge of and serves the needs
17 of the communities located within the school district, and ten
18 per centum (10%) of which shall include:

19 (I) Student growth, as measured by either value-added
20 assessment system data made available by the department under
21 section 221 or value-added measures made available by the school
22 district under local requirements.

23 (II) District-designed measures and examinations.

24 (III) Student projects pursuant to local requirements.

25 (IV) Progress in meeting the goals of student individualized
26 education plans required under the Individuals with Disabilities
27 Education Act and Statewide alternate assessments designed for
28 students with significant cognitive disabilities.

29 (3) (i) Prior to the 2018-2019 school year, the department
30 shall develop, issue and publish in the Pennsylvania Bulletin a

1 rating tool for professional employes and temporary professional
2 employes serving as principals for purposes of this subsection
3 and section 121.1, which includes the weights given to the
4 multiple measures of student performance contained in clause (1)
5 (ii).

6 (ii) Following publication, the rating tool developed under
7 this subsection shall be used in the rating of all principals,
8 superseding all other rating cards and forms used previously.

9 (d) For nonteaching professional employes, the following
10 shall apply:

11 (1) Beginning in the [2014-2015] 2018-2019 school year,
12 nonteaching professional employes shall be evaluated using a
13 rating tool designed specifically for nonteaching professional
14 employes [which shall give due consideration to the following:

15 (i) Planning and preparation.

16 (ii) Educational environment.

17 (iii) Delivery of service.

18 (iv) Professional development.

19 (v) Student performance of all students in the school
20 building in which the nonteaching professional employe is
21 employed which shall comprise twenty per centum (20%) of the
22 overall rating of nonteaching professional employes and
23 temporary professional employes.

24 (2) (i) No later than June 30, 2014, the department shall
25 develop, issue and publish in the Pennsylvania Bulletin a rating
26 tool for nonteaching professional employes that is consistent
27 with this subsection and includes the weights given to the
28 multiple measures of student performance contained in clause
29 (1) (v).

30 (ii) Following publication, the rating tool developed under

1 this subsection shall be used in the rating of all nonteaching
2 professional employes.

3 (iii) After June 30, 2014, any subsequent changes to the
4 rating tool developed under this paragraph shall be made by the
5 State Board of Education through regulations promulgated under
6 the "Regulatory Review Act."]

7 as follows:

8 (i) Eighty per centum (80%) of the nonteaching professional
9 employe's overall rating shall give due consideration to the
10 following:

11 (A) Planning and preparation.

12 (B) Educational environment.

13 (C) Delivery of service.

14 (D) Professional development.

15 (ii) Student performance on assessments in section 121.1 of
16 all students in the school building in which the nonteaching
17 professional employe is employed shall comprise five per centum
18 (5%) of the overall rating of nonteaching professional employes
19 and temporary professional employes.

20 (iii) The factors locally developed and designed by the
21 school district shall include:

22 (A) Student growth, as measured by either value-added
23 assessment system data made available by the department under
24 section 221 or value-added measures made available by the school
25 district under local requirements.

26 (B) Progress in meeting the goals of student individualized
27 education plans required under the Individuals with Disabilities
28 Education Act and Statewide alternate assessments designed for
29 students with significant cognitive disabilities.

30 (C) Locally developed school district rubrics related to

1 developing critical thinking, creativity and collaboration
2 skills.

3 (D) Student portfolios pursuant to local requirements.

4 (2) (i) Prior to the 2018-2019 school year, the department
5 shall develop, issue and publish in the Pennsylvania Bulletin a
6 rating tool for nonteaching professional employes that is
7 consistent with this subsection and includes the weights given
8 to the multiple measures of student performance contained in
9 clause (1)(ii).

10 (ii) Following publication, the rating tool developed under
11 this subsection shall be used in the rating of all nonteaching
12 professional employes.

13 (e) Notwithstanding subsections (b), (c) and (d),
14 professional employes and temporary professional employes
15 serving as classroom teachers, principals and nonteaching
16 professional employes may be evaluated through the use of a
17 rating tool developed by an individual school district,
18 intermediate unit or area vocational-technical school that the
19 department has approved as meeting or exceeding the measures of
20 effectiveness established under this section.

21 (f) (1) Each rating tool developed or approved under this
22 section shall identify the overall performance rating of the
23 professional employes and temporary professional employes
24 serving as classroom teachers, principals and nonteaching
25 professional employes as one of the following:

26 (i) Distinguished.

27 (ii) Proficient.

28 (iii) Needs improvement.

29 (iv) Failing.

30 (2) An overall performance rating of either "distinguished"

1 or "proficient" shall be considered satisfactory.

2 (3) An overall performance rating of "needs improvement"
3 shall be considered satisfactory, except that any subsequent
4 overall rating of "needs improvement" issued by the same
5 employer within ten (10) years of the first overall performance
6 rating of "needs improvement" where the employe is in the same
7 certification shall be considered unsatisfactory.

8 (4) An overall performance rating of "failing" shall be
9 considered unsatisfactory.

10 (5) An overall performance rating of "needs improvement" or
11 "failing" shall require the employe to participate in a
12 performance improvement plan. No employe shall be rated "needs
13 improvement" or "failing" based solely upon student test scores.

14 Prior to the beginning of the school year after an employe is
15 rated "needs improvement" or "failing" and is required to
16 participate in a performance improvement plan, the school
17 district shall develop the performance improvement plan in
18 consultation with the employe. The performance improvement plan
19 shall be implemented at the beginning of the school year after
20 an employe is rated "needs improvement" or "failing." The
21 employe shall be deemed "unsatisfactory" if the employe does not
22 receive a "distinguished" or "proficient" rating by the end of
23 the school year in which the performance improvement plan is
24 implemented.

25 (6) The department shall develop a rating scale to reflect
26 student performance measures and employe observation results and
27 establish overall score ranges for each of the four rating
28 categories contained in clause (1).

29 (g) Upon publication in the Pennsylvania Bulletin of a
30 rating tool developed under this section, the rating cards set

1 forth in 22 Pa. Code § 351.21 (relating to rating form) and any
2 alternative rating forms approved pursuant to 22 Pa. Code Ch.
3 351 (relating to teacher tenure hearings) prior to the
4 implementation of this section shall be discontinued for use in
5 the evaluation of professional and temporary professional
6 employes.

7 (h) The following shall apply to the ratings of all
8 professional employes and temporary professional employes:

9 (1) All ratings shall be completed using the rating tools
10 developed or approved under this section.

11 (2) Professional employes shall be rated at least annually
12 and temporary professional employes shall be rated at least
13 twice annually.

14 (3) [Ratings] Overall ratings shall be performed by or under
15 the supervision of the chief school administrator or, if so
16 directed by the chief school administrator, by an assistant
17 administrator, a supervisor or a principal who has supervision
18 over the work of the professional employe or temporary
19 professional employe being rated, provided that no
20 unsatisfactory rating shall be valid unless approved by the
21 chief school administrator.

22 (4) No employe shall be dismissed under section 1122 unless
23 the employe has been provided a completed rating tool provided
24 for under this section, which includes a description based upon
25 classroom observations of deficiencies in practice supported by
26 detailed anecdotal records that justify the unsatisfactory
27 rating.

28 (i) All school districts, intermediate units and area
29 vocational-technical schools shall provide to the department the
30 aggregate results of all professional employe and temporary

1 professional employe, principal and nonteaching professional
2 employe evaluations.

3 (j) [(1)] Any rating tool developed by the Department of
4 Education under this section shall be exempt from:

5 (i) Sections 201, 202, 203, 204 and 205 of the act of July
6 31, 1968 (P.L.769, No.240), referred to as the "Commonwealth
7 Documents Law."

8 (ii) Section 204(b) of the act of October 15, 1980 (P.L.950,
9 No.164), known as the "Commonwealth Attorneys Act."

10 (iii) The act of June 25, 1982 (P.L.633, No.181), known as
11 the "Regulatory Review Act."

12 [(2) This subsection shall not apply to any changes made to
13 a rating tool or new rating tool developed by the State Board of
14 Education pursuant to subsections (b)(2)(iii), (c)(3)(iii) and
15 (d)(2)(iii).]

16 (k) The State Board of Education [may] shall develop
17 standards or regulations consistent with this section.

18 [(1) (1) The department's duty to develop a rating tool
19 under subsection (b)(2) shall expire on June 30, 2013.

20 (2) The department's duty to develop rating tools under
21 subsections (c)(3) and (d)(2) shall expire on June 30, 2014.]

22 (m) No collective bargaining agreement negotiated by a
23 school district and an exclusive representative of the employes
24 in accordance with the act of July 23, 1970 (P.L.563, No.195),
25 known as the "Public Employe Relations Act," after the effective
26 date of this subsection shall provide for a rating system other
27 than as provided for in this section. A provision in any
28 agreement or contract in effect on the effective date of this
29 subsection that provides for a rating system in conflict with
30 this section shall be discontinued in any new or renewed

1 agreement or contract or during the period of status quo
2 following an expired contract.

3 (n) The requirements of this section shall apply to all
4 school districts, intermediate units and area vocational-
5 technical schools.

6 (o) For purposes of this section:

7 (1) The term "assessment" shall mean the Pennsylvania System
8 of School Assessment test, [the Keystone Exam] all other
9 assessments listed under section 121.1, an equivalent local
10 assessment or another test established by the State Board of
11 Education to [meet the requirements of section
12 2603-B(d)(10)(i) and required under the No Child Left Behind Act
13 of 2001 (Public Law 107-110, 115 Stat. 1425) or its successor
14 statute] comply with the Every Student Succeeds Act (Public Law
15 114-95, 129 Stat. 1802) and its regulations, or any subsequent
16 waiver or subsequent act of Congress related thereto, that
17 requires assessment for the purpose of Federal accountability or
18 required to achieve other standards established by the
19 department for the school or school district under 22 Pa. Code §
20 403.3 (relating to single accountability system).

21 (2) The term "chief school administrator" shall include
22 individuals who are employed as a school district
23 superintendent, an executive director of an intermediate unit or
24 a chief school administrator of an area vocational-technical
25 school.

26 (3) The term "classroom teacher" shall mean a professional
27 employe or temporary professional employe who provides direct
28 instruction to students related to a specific subject or grade
29 level.

30 (4) The term "department" shall mean the Department of

1 Education of the Commonwealth.

2 (5) The term "education specialist" shall have the meaning
3 given to it under the act of December 12, 1973 (P.L.397,
4 No.141), known as the "Professional Educator Discipline Act."

5 (6) The term "nonteaching professional employe" shall mean
6 an education specialist or a professional employe or temporary
7 professional employe who provides services other than classroom
8 instruction.

9 (6.1) The term "parent" shall mean an individual who is a
10 birth parent whose rights have not been terminated, custodial
11 parent, designated guardian, guardian ad litem of the child,
12 foster parent, legal custodian, legal guardian, noncustodial
13 parent, adoptive parent, preadoptive parent or relative
14 providing care for the child if the relative is registered with
15 the school as a contact, subject to any laws pertaining to
16 minors, emancipation or termination of parental rights, court
17 orders or any other laws designed for the protection of a child.

18 (7) The term "performance improvement plan" shall mean a
19 plan, designed by a district with input of the employe, that may
20 include mentoring, coaching, recommendations for professional
21 development and intensive supervision based on the contents of
22 the rating tool provided for under this section.

23 (8) The term "principal" shall include a building principal,
24 an assistant principal, a vice principal or a director of
25 vocational education.

26 (9) The term "third-party evaluator" shall mean a retired
27 teacher, principal or any other school administrator who has
28 extensive experience in the classroom or in school
29 administration and has been approved by the department as
30 qualified to conduct classroom observations. The department

1 shall determine the qualifications of the evaluator, which shall
2 include, but not be limited to, the following:

3 (i) A letter of eligibility or certification obtained prior
4 to retirement in the grade levels or subject area of the
5 classroom to be evaluated.

6 (ii) Never having been employed by the school district where
7 classroom observation will occur.

8 (iii) Factors evidencing reputation such as high
9 recommendations and distinguished ratings under subsection (f)
10 (1)(i), if applicable.

11 (iv) Other relevant qualifications as determined by the
12 department.

13 (p) An employe's individual rating form shall not be subject
14 to disclosure under the act of February 14, 2008 (P.L.6, No.3),
15 known as the "Right-to-Know Law."

16 Section 4. Section 1613 of the act is amended by adding a
17 subsection to read:

18 Section 1613. High School Certificates.--* * *

19 (a.1) The board of school directors, joint board or joint
20 school committee operating any high school shall not at any time
21 approve or permit the use of, any assessment that is used for
22 the purpose of Federal accountability, as a requirement for high
23 school graduation or for any other purpose prohibited in section
24 121.1.

25 * * *

26 Section 5. This act shall take effect immediately.