

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 501 Session of
2003

INTRODUCED BY PICCOLA, MOWERY AND MADIGAN, NOVEMBER 24, 2003

REFERRED TO EDUCATION, NOVEMBER 24, 2003

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," further providing for removal of
6 superintendents; providing for performance reviews; further
7 providing for duties of superintendents, for a rating system
8 and performance evaluations, for continuing professional
9 development and for a program of continuing professional
10 education; providing for mentoring and for automatic
11 suspension of certification; and establishing a merit pay
12 grant program.

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

15 Section 1. Section 1080 of the act of March 10, 1949
16 (P.L.30, No.14), known as the Public School Code of 1949, is
17 amended to read:

18 Section 1080. Removal.--(a) District superintendents and
19 assistant district superintendents may be removed from office
20 and have their employment contracts or agreements terminated,
21 after hearing, by a majority vote of the board of school
22 directors of the district, for neglect of duty, incompetency,
23 intemperance, or immorality, of which hearing notice of at least

one week has been sent by mail to the accused, as well as to each member of the board of school directors.

(b) (1) A rebuttable presumption of neglect of duty by a district superintendent or an assistant district superintendent shall exist where a school district has failed, in four (4) consecutive years, to achieve adequate yearly progress student proficiency goals with respect to absolute levels of proficiency, increases in levels of proficiency and closing achievement gaps among subgroups of students at the district level, under the requirements of section 1111(b) of the No Child Left Behind Act of 2001 (Public Law 107-110, 20 U.S.C. § 6311(b)).

(2) The presumption may be rebutted by the introduction of evidence of a good faith attempt to improve student performance as required by section 1111(b) of the No Child Left Behind Act of 2001. Upon failure to rebut the presumption, the board of school directors shall dismiss the district superintendent or assistant district superintendent for neglect of duty.

(c) Proceedings under this section shall be held pursuant to 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies).

Section 2. The act is amended by adding a section to read:

Section 1080.1. Performance Review.--(a) In addition to any other requirements provided for under this act, the board of school directors shall evaluate the performance of the district superintendent or assistant district superintendent based upon the criteria provided for in subsection (b).

(b) Upon the approval, renewal or extension of an employment contract or agreement, the board of school directors shall establish a time frame for periodic performance evaluations of

the district superintendent and assistant district superintendent. An evaluation shall be conducted at least once every two (2) years and shall be based upon the following criteria:

(1) Seventy-five per centum (75%) shall be based upon achieving adequate yearly progress student proficiency goals with respect to absolute levels of proficiency, increases in levels of proficiency and closing achievement gaps among subgroups of students at the district level, under the requirements of section 1111(b) of the No Child Left Behind Act of 2001 (Public Law 107-110, 20 U.S.C. § 6311(b)).

(2) Twenty-five per centum (25%) shall be based upon:

(i) the level of support provided to principals and teachers in achieving adequate yearly progress student proficiency goals with respect to absolute levels of proficiency, increases in levels of proficiency and closing achievement gaps among subgroups of students at the district level, under the requirements of section 1111(b) of the No Child Left Behind Act of 2001;

(ii) financial management;

(iii) operational excellence; and

(iv) such additional criteria deemed relevant by the board of school directors.

(c) Evaluations under subsection (b)(1) may also include, at the discretion of the board of school directors, alternative assessment systems used by the school entity.

Section 3. Section 1081 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 1081. Duties of Superintendents.--(a) The duties of district superintendents shall be to visit personally as often

1 as practicable the several schools under his supervision, to
2 note the courses and methods of instruction and branches taught,
3 to give such directions in the art and methods of teaching in
4 each school as he deems expedient and necessary, and to report
5 to the board of school directors any insufficiency found, so
6 that each school shall be equal to the grade for which it was
7 established and that there may be, as far as practicable,
8 uniformity in the courses of study in the schools of the several
9 grades, and such other duties as may be required by the board of
10 school directors. The district superintendent shall have a seat
11 on the board of school directors of the district, and the right
12 to speak on all matters before the board, but not to vote.

13 (b) District superintendents shall have the duty to support
14 those supervised in achieving adequate yearly progress student
15 proficiency goals with respect to absolute levels of
16 proficiency, increases in levels of proficiency and closing
17 achievement gaps among subgroups of students at the district
18 level, under the requirements of section 1111(b) of the No Child
19 Left Behind Act of 2001 (Public Law 107-110, 20 U.S.C. §
20 6311(b)).

21 Section 4. Section 1123 of the act, amended March 29, 1996
22 (P.L.47, No.16), is amended to read:

23 Section 1123. Rating System and Performance Evaluation.--(a)
24 In determining whether a professional employe shall be dismissed
25 for incompetency or unsatisfactory teaching performance as
26 provided for in section 1122(a) of this act, and in rating the
27 services of a temporary professional employe, the professional
28 employe or temporary professional employe shall be rated by an
29 approved rating system which shall give due consideration to
30 personality, preparation, technique, and pupil reaction, in

1 accordance with standards and regulations for such scoring as
2 defined by rating cards to be prepared by the Department of
3 Education, and to be revised, from time to time, by the
4 Department of Education with the cooperation and advice of a
5 committee appointed by the Secretary of Education, including
6 representation from district superintendents of schools,
7 classroom teachers, school directors, school supervisors,
8 parents of school-age children enrolled in a public school, a
9 representative from a college or department of education within
10 a higher education institution located within this Commonwealth,
11 and such other groups or interests as the Secretary of Education
12 may deem appropriate. Rating shall be done by or under the
13 supervision of the superintendent of schools or, if so directed
14 by him, the same may be done by an assistant superintendent, a
15 supervisor, or a principal, who has supervision over the work of
16 the professional employe or temporary professional employe who
17 is being rated: Provided, That no unsatisfactory rating shall be
18 valid unless approved by the district superintendent.

19 (b) (1) In addition to the rating system set forth under
20 subsection (a), a performance evaluation of all teachers in
21 grades three through twelve who teach core subjects that are
22 used as the basis for determining proficiency standards under
23 section 1111(b) of the No Child Left Behind Act of 2001 (Public
24 Law 107-110, 20 U.S.C. § 6311(b)) shall be conducted by the
25 principal at least once every three (3) years. The evaluation
26 shall be based upon the following criteria:

27 (i) Seventy-five per centum (75%) shall be based upon
28 achieving adequate yearly progress student proficiency goals
29 with respect to absolute levels of proficiency, increases in
30 levels of proficiency and closing achievement gaps among

subgroups of students at the district level, under the requirements of section 1111(b) of the No Child Left Behind Act of 2001.

(ii) Twenty-five per centum (25%) shall be based upon the teacher's demonstration of the use of standards-based instruction and data-driven decision making in the assessment and improvement of student learning, and such additional criteria deemed relevant by the board of school directors.

(2) Teachers not covered by subsection (b)(1) shall be evaluated once every three (3) years. The evaluation shall be based upon the following criteria:

(i) Seventy-five per centum (75%) shall be based upon empirical student achievement goals developed by the district superintendent and approved by the board of school directors.

(ii) Twenty-five per centum (25%) shall be based upon the teacher's demonstration of the use of standards-based instruction and data-driven decision making in the assessment and improvement of student learning and such additional criteria deemed relevant by the board of school directors.

(3) A teacher who receives an unsatisfactory performance evaluation under this subsection shall be reevaluated under this subsection at least once during each of the following two (2) years. In addition, a school entity shall have the authority to take one or more of the following actions:

(i) develop, and require the teacher to participate in, additional professional development designed to improve the subject areas determined to be deficient by the evaluation;

(ii) assign the teacher to a mentoring program as provided for in section 1205.5; or

(iii) transfer the teacher.

1 (4) Notwithstanding any other provision of this act, of any
2 other act including without limitation the act of July 23, 1970
3 (P.L.563, No.195), known as the "Public Employee Relations Act,"
4 of any regulation or of any collective bargaining agreement
5 between an employer and an employe organization as those terms
6 are defined in section 1101-A, any teacher receiving an
7 unsatisfactory performance under this subsection in three (3)
8 consecutive years shall be dismissed by the board of school
9 directors.

10 (c) (1) In addition to the rating system set forth under
11 subsection (a), a performance evaluation of all principals shall
12 be conducted by the district superintendent at least once every
13 three (3) years. The evaluation shall be based upon the
14 following criteria:

15 (i) Seventy-five per centum (75%) shall be based upon
16 achieving adequate yearly progress student proficiency goals
17 with respect to absolute levels of proficiency, increases in
18 levels of proficiency and closing achievement gaps among
19 subgroups of students at the school level, under the
20 requirements of section 1111(b) of the No Child Left Behind Act
21 of 2001.

22 (ii) Twenty-five per centum (25%) shall be based upon the
23 principal's demonstration of the effective stewardship of
24 standards-based instruction and data-driven decision making by
25 teachers with the provision of appropriate professional
26 development for teachers and such additional criteria deemed
27 relevant by the board of school directors.

28 (2) If a principal receives an unsatisfactory performance,
29 the district shall evaluate that principal under this subsection
30 at least once during each of the next two (2) years and shall

1 have the authority to take one or more of the following actions:

2 (i) develop and require the principal to participate in
3 additional professional development designed to improve the
4 subject areas determined to be deficient by the evaluation; or

5 (ii) transfer the principal.

6 (3) Any principal receiving an unsatisfactory performance
7 under this subsection in three (3) consecutive years shall be
8 dismissed by the board of school directors.

9 (d) The Department of Education shall promulgate rules and
10 regulations regarding a rating scale for performance evaluations
11 required by this section, which shall include three (3)
12 categories: unsatisfactory, satisfactory and advanced.

13 Section 5. Section 1205.1 of the act, amended November 23,
14 1999 (P.L.529, No.48), and June 22, 2001 (P.L.530, No.35), is
15 amended and the section is amended by adding a subsection to
16 read:

17 Section 1205.1. Continuing Professional Development.--(a)
18 [Upon] Except as provided in subsection (f), upon the expiration
19 of an existing professional development plan, each school entity
20 shall submit to the secretary for approval a three-year
21 professional education plan.

22 (b) The professional education plan provided for in
23 subsection (a) shall be prepared by a committee consisting of
24 teacher representatives divided equally among elementary, middle
25 and high school teachers chosen by the teachers, educational
26 specialist representatives chosen by educational specialists and
27 administrative representatives chosen by the administrators of
28 the school entity. The committee shall include parents of
29 children attending a school in the district, local business
30 representatives and other individuals representing the community

1 appointed by the board of directors. The plan shall be approved
2 by the board of directors prior to submission to the department
3 for approval. Amendments to the plan may be recommended by the
4 continuing professional education committee, approved by the
5 board of directors of the school entity and submitted to the
6 department for approval. The secretary may specify the time at
7 which and the form in which such plans are to be submitted. The
8 State Board of Education shall promulgate regulations, subject
9 to the act of June 25, 1982 (P.L.633, No.181), known as the
10 "Regulatory Review Act," establishing the minimal content of
11 such plans. The provisions of section 2552 shall apply to any
12 school entity failing to comply with the provisions of this
13 section.

14 (c) The professional education plan of each school entity
15 shall be designed to meet the educational needs of that school
16 entity and its professional employees. The plan shall be
17 developed through the analysis of student performance data
18 including data received by the school entity in complying with
19 the requirements of section 1111(b) of the No Child Left Behind
20 Act of 2001 (Public Law 107-110, 20 U.S.C. § 6311(b)) and may
21 include, at the discretion of the board of school directors,
22 alternative assessment systems used by the district.
23 Additionally, during the months of October through March, the
24 plan shall include two (2) hours per month of continuing
25 professional education programs, activities or learning
26 experiences based upon and using the analysis of student
27 performance data. This continuing professional education shall
28 count towards meeting the requirements of section 1205.2(a)(3).
29 A school entity shall annually review its plan to determine
30 whether or not it continues to reflect the needs of the school

1 entity and its strategic plan and the needs of its professional
2 employes, students and the community. The plan shall be amended
3 as necessary to ensure that the plan meets the requirements of
4 this subsection. The plan shall specify the continuing
5 professional educational courses, programs, activities and other
6 learning experiences approved to meet continuing professional
7 development requirements under section 1205.2(c), including
8 efforts designed to improve teacher knowledge in subject areas
9 covering the academic standards listed in 22 Pa. Code Ch. 4
10 (relating to academic standards and assessment).

11 (c.1) The continuing professional education plan shall
12 specify the professional education needs that will be met by
13 completion of each continuing professional education option and
14 how it relates to instructional deficiencies as indicated by
15 student performance data and to areas of assignment and
16 certification or potential administrative certification. The
17 options may include, but shall not be limited to:

18 (1) Collegiate studies.

19 (2) Continuing professional education courses taken for
20 credit.

21 (3) Other programs, activities or learning experiences taken
22 for credit or hourly, to include:

23 (i) curriculum development and other program design and
24 delivery activities at the school entity or grade level as
25 determined by the school entity and approved by the board of
26 directors;

27 (ii) participation in professional conferences and
28 workshops;

29 (iii) education in the workplace, where the work relates to
30 the professional educator's area of assignment and is approved

1 by the board of directors;

2 (iv) review, redesign and restructuring of school programs,
3 organizations and functions as determined by the school entity
4 and approved by the board of directors;

5 (v) in-service programs that comply with guidelines
6 established by the department;

7 (vi) early childhood and child development activities for
8 professional educators whose area of assignment includes
9 kindergarten through third grade;

10 (vii) special education activities for professional
11 educators whose area of assignment includes students with
12 special needs; or

13 (viii) other continuing professional education courses,
14 programs, activities or learning experiences sponsored by the
15 department.

16 (c.2) A professional education plan may include joint or
17 cooperative professional education activities with another
18 school entity or an institution of higher education.

19 (c.3) A professional education plan shall describe how the
20 plan meets the educational and staff development needs of the
21 school entity, its professional educators, students and the
22 community. The professional education plan shall identify the
23 individuals who developed the plan and the method used to select
24 those individuals.

25 (c.4) A professional education plan shall identify any
26 provider approved by the professional education committee to
27 provide the continuing professional education options listed in
28 the plan. Such providers shall be required to provide the school
29 entity with official notice of the credits or hours of
30 continuing professional education options successfully completed

1 by the school entity's professional educators.

2 (d) All professional educators of a school entity shall meet
3 the professional education requirements of this section and
4 section 1205.2 in order for the professional educator to
5 maintain active certification.

6 (e) The requirements of this section and section 1205.2 do
7 not apply to a professional educator not employed by a school
8 entity who serves as an evaluator of a home education program
9 authorized under section 1327.1(e)(2) or who provides private
10 tutoring services as part of a home education program under
11 section 1327.1.

12 (f) Any school entity that fails to achieve adequate yearly
13 progress student proficiency goals with respect to absolute
14 levels of proficiency, increases in levels of proficiency and
15 closing achievement gaps among subgroups of students at the
16 district level under the requirements of section 1111(b) of the
17 No Child Left Behind Act of 2001 shall within ninety (90) days
18 of the final determination by the Department of Education of
19 such failure, including appeals by the school entity, submit a
20 revised professional education plan to the department for
21 approval. The revised plan shall address how the school entity
22 plans to address deficiencies identified under the requirements
23 of section 1111(b) of the No Child Left Behind Act of 2001.

24 Section 6. Section 1205.2 of the act is amended by adding a
25 subsection to read:

26 Section 1205.2. Program of Continuing Professional
27 Education.--* * *

28 (n.1) Any professional education required under section
29 1123(b) or (c) or 1216 shall not be applied to the requirements
30 of this section.

1 Section 7. The act is amended by adding sections to read:

2 Section 1205.5. Mentoring.--(a) The district superintendent
3 shall develop a teacher mentoring program for the purpose of
4 providing intensive professional development to teachers in
5 accordance with section 1123(b)(3).

6 (b) The district superintendent, in consultation with the
7 principals of the school entity, shall establish a mentoring
8 task force, which shall be comprised of teachers from the school
9 entity who shall act as mentors for teachers in need of
10 intensive professional development. To be selected as a mentor,
11 a teacher shall, at a minimum, have demonstrated excellence in
12 instruction as indicated by their performance evaluation under
13 section 1123(b) and other standardized test scores used by the
14 district, professional strength in standards-based instruction
15 and data-driven decision making and a professional demeanor that
16 is well-suited for providing effective mentoring.

17 (c) Mentoring shall be provided for a period of at least one
18 (1) year and shall consist of an intensive individualized
19 program emphasizing standards-based instruction and data-driven
20 decision making and shall involve regular classroom observation
21 by the mentor.

22 (d) A mentor shall file quarterly reports with the district
23 superintendent as well as a final report, all of which shall be
24 in a format prescribed by the district superintendent.

25 (e) Teachers assigned as mentors shall be released from at
26 least one-half of their teaching duties during any school year
27 in which mentoring services are provided, but such year shall be
28 counted as a year of teaching for purposes of calculating salary
29 under section 1142 and credited service under 24 Pa.C.S. § 8102
30 (relating to definitions).

Section 1216. Automatic Suspension of Certification.--(a)
In addition to any other suspension or revocation provisions
under this act, any teacher who is dismissed under section
1123(b) shall have his certificate suspended by the Department
of Education for a period of at least one (1) year, and it shall
remain suspended until the requirements of subsection (b) are
fulfilled.

(b) A teacher who has had his certificate suspended shall
complete additional credits of professional education as
provided for in this subsection in subject areas approved by the
Department of Education based upon the review of the teacher's
performance evaluation. Qualifying professional education shall,
at a minimum, include the following:

(1) three (3) credits of collegiate study;

(2) three (3) credits of continuing professional education
courses;

(3) ninety (90) hours of continuing professional education
programs, activities or learning experiences; or

(4) any combination of collegiate studies, continuing
professional education courses or other programs, activities or
learning experiences equivalent to ninety (90) hours of study.

Section 2595.1. Merit Pay Grant Program.--(a) There is
hereby established within the department a merit pay grant
program beginning in the 2003-2004 school year. The purpose of
the program is to provide incentive grants to school entities
for teachers and principals who demonstrate professional
excellence as evidenced by student academic performance and
improvement. School entities may submit merit pay grant program
applications to the department requesting consideration for a
grant to their school entity as a whole or for individual

1 schools.

2 (b) Teachers of core subjects in grades three through twelve
3 and principals shall be eligible for an incentive grant where
4 one of the following two criteria are met:

5 (1) over a two-year period, in each individual school year,
6 fifty per centum (50%) or more of the students score at or above
7 the advanced level in the proficiency testing used to comply
8 with section 1111(b) of the No Child Left Behind Act of 2001
9 (Public Law 107-110, 20 U.S.C. § 6311(b)); or

10 (2) over a two-year period, in each individual school year,
11 it can be shown that student achievement in a school has
12 exceeded the annual measurable objectives required to comply
13 with section 1111(b) of the No Child Left Behind Act of 2001.

14 (c) (1) Grants received under this section shall not be
15 counted for purposes of calculating salaries under section
16 1142.2.

17 (2) No individual disbursements of an awarded grant may
18 equal more than five per centum (5%) of the annual salary of the
19 teacher or a maximum amount of five thousand dollars (\$5,000).

20 (d) The department shall promulgate rules and regulations
21 for the merit pay grant program regarding the application
22 process and the calculation and disbursement of grants.

23 Section 30. This act shall take effect in 60 days.