STATE OF NEW YORK

S. 1262 A. 783

2019-2020 Regular Sessions

SENATE - ASSEMBLY

January 11, 2019

IN SENATE -- Introduced by Sens. MAYER, LIU, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, MARTINEZ, MAY, METZGER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Education

IN ASSEMBLY -- Introduced by M. of A. BENEDETTO, HEASTIE, NOLAN, PEOPLES-STOKES, JAFFEE, WEINSTEIN, ABBATE, ABINANTI, ARROYO, AUBRY, BARNWELL, BARRETT, BARRON, BICHOTTE, BLAKE, BRAUNSTEIN, BRONSON, BURKE, CAHILL, CARROLL, COLTON, COOK, CRUZ, CUSICK, CYMBROWITZ, D'URSO, DE LA ROSA, DenDEKKER, DICKENS, DILAN, DINOWITZ, ENGLEBRIGHT, EPSTEIN, FAHY, FALL, FERNANDEZ, FRONTUS, GALEF, GLICK, GOTTFRIED, GRIFFIN, GUNTHER, HEVESI, HUNTER, HYNDMAN, JACOBSON, JEAN-PIERRE, JONES, JOYNER, KIM, LAVINE, LENTOL, LIFTON, LUPARDO, MAGNARELLI, McDONALD, McMAHON, M. G. MILLER, MOSLEY, NIOU, O'DONNELL, ORTIZ, OTIS, PERRY, PHEFFER AMATO, PICHARDO, PRETLOW, RAMOS, REYES, RICHARDSON, RIVERA, ROMEO, D. ROSENTHAL, L. ROSENTHAL, RYAN, SANTABARBARA, SAYEGH, SCHIMMINGER, SEAWRIGHT, SIMON, SIMOTAS, SOLAGES, STECK, STERN, STIRPE, TAYLOR, THIELE, TITUS, WALKER, WALLACE, WEPRIN, WOERNER, ZEBROWSKI, DiPIETRO, NORRIS, MORINELLO -- Multi-Sponsored by -- M. of A. PALMESANO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to state assessments and teacher evaluations; and to amend chapter 56 of the laws of 2014, amending the education law relating to providing that standardized test scores shall not be included on a student's permanent record, in relation to making certain provisions permanent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05312-01-9

Section 1. Section 3012-d of the education law is amended by adding a new subdivision 16 to read as follows:

16. a. Notwithstanding any other provision of law, rule or regulation to the contrary, the grades three through eight English language arts and mathematics state assessments and all other state-created or administered tests shall not be required to be utilized in any manner to determine a teacher or principal evaluation required by this section.

b. The commissioner shall promulgate rules and regulations providing alternative assessments that may be used in grades three through eight instead of all other state-created or administered tests, which shall include all of the assessments that have been approved by the commissioner for use in determining transition scores and ratings.

c. The selection and use of an assessment in a teacher or principal's evaluation pursuant to paragraphs a and b of this subdivision and subdivision four of this section shall be subject to collective bargaining pursuant to article fourteen of the civil service law.

d. Notwithstanding any provision of subdivision twelve of this section to the contrary, nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on the date this subdivision takes effect and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this subdivision shall apply; and, provided further, however, that any assessments used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to this section instead of the grades three through eight English language arts and mathematics state assessments until the entry into a successor collective bargaining agreement.

§ 2. Subparagraphs 1 and 2 of paragraph a of subdivision 4 of section 3012-d of the education law, subparagraph 1 as amended by section 3 of subpart C of part B of chapter 20 of the laws of 2015 and subparagraph 2 as added by section 2 of subpart E of part EE of chapter 56 of the laws of 2015, are amended to read as follows:

(1) For the first subcomponent, [~~(A) for a teacher whose course ends in a state-created or administered test for which there is a state-provided growth model, such teacher shall have a state-provided growth score based on such model, which shall take into consideration certain student characteristics, as determined by the commissioner, including but not limited to students with disabilities, poverty, English language learner status and prior academic history and which shall identify educators whose students' growth is well above or well below average compared to similar students for a teacher's or principal's students after the certain student characteristics above are taken into account; and (B) for a teacher whose course does not end in a state-created or administered test such teacher~~] a teacher shall have a student learning objective (SLO) consistent with a goal-setting process determined or developed by the commissioner, that results in a student growth score; provided that, for any teacher whose course ends in a state-created or administered assessment [~~for which there is no state-provided growth model~~], such assessment [~~must~~] may be used as the underlying assessment for such SLO;

(2) For the optional second subcomponent, a district may locally select a second measure in accordance with this subparagraph. Such second measure shall apply in a consistent manner, to the extent practicable, across the district and be either: (A) [~~a second state-provided~~

~~growth score~~] **based** on a state-created or administered test [~~under clause (A) of subparagraph one of this paragraph~~], or (B) [~~a growth score~~] based on a state-designed supplemental assessment[~~, calculated using a state-provided or approved growth model~~]. The optional second subcomponent shall provide options for multiple assessment measures that are aligned to existing classroom and school best practices and take into consideration the recommendations in the testing reduction report as required by section one of subpart F of [~~the chapter~~] **part EE of chapter fifty-six** of the laws of two thousand fifteen which added this section regarding the reduction of unnecessary additional testing.

§ 3. Subdivision 5 of section 3012-d of the education law, as added by section 2 of subpart E of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

5. Rating determination. The overall rating determination shall be determined [~~according to a methodology~~] as follows:

a. [~~The following rules shall apply: a teacher or principal who is (1) rated using two subcomponents in the student performance category and receives a rating of ineffective in such category shall be rated ineffective overall; provided, however, that if the measure used in the second subcomponent is a state-provided growth score on a state-created or administered test pursuant to clause (A) of subparagraph one of paragraph a of subdivision four of this section, a teacher or principal who receives a rating of ineffective in such category shall not be eligible to receive a rating of effective or highly effective overall; (2) rated using only the state measure subcomponent in the student performance category and receives a rating of ineffective in such category shall not be eligible to receive a rating of effective or highly effective overall; and (3) rated ineffective in the teacher observations category shall not be eligible to receive a rating of effective or highly effective overall.~~

~~b. Except as otherwise provided in paragraph a of this subdivision, a teacher's composite score shall be determined as follows:~~

~~(1)~~] If a teacher receives an H in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be H;

[~~(2)~~] **b.** If a teacher receives an H in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be H;

[~~(3)~~] **c.** If a teacher receives an H in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be E;

[~~(4)~~] **d.** If a teacher receives an H in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be D;

[~~(5)~~] **e.** If a teacher receives an E in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be H;

[~~(6)~~] **f.** If a teacher receives an E in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be E;

[~~(7)~~] **g.** If a teacher receives an E in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be E;

[~~(8)~~] **h.** If a teacher receives an E in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be D;

[~~(9)~~] i. If a teacher receives a D in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be E;

[~~(10)~~] j. If a teacher receives a D in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be E;

[~~(11)~~] k. If a teacher receives a D in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be D;

[~~(12)~~] l. If a teacher receives a D in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be I;

[~~(13)~~] m. If a teacher receives an I in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be D;

[~~(14)~~] n. If a teacher receives an I in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be D;

[~~(15)~~] o. If a teacher receives an I in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be I;

[~~(16)~~] p. If a teacher receives an I in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be I.

§ 4. Subdivision 7 of section 3012-d of the education law, as added by section 2 of subpart E of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

7. The commissioner shall ensure that the process by which weights and scoring ranges are assigned to subcomponents and categories is transparent and available to those being rated before the beginning of each school year. Such process must ensure that it is possible for a teacher or principal to obtain any number of points in the applicable scoring ranges, including zero, in each subcomponent. The superintendent, district superintendent or chancellor and the representative of the collective bargaining unit (where one exists) shall certify in the district's plan that the evaluation process shall use the standards for the scoring ranges provided by the commissioner. [~~Provided, however, that in any event, the following rules shall apply: a teacher or principal who is:~~

~~a. rated using two subcomponents in the student performance category and receives a rating of ineffective in such category shall be rated ineffective overall, except that if the measure used in the second subcomponent is a second state-provided growth score on a state-administered or sponsored test pursuant to clause (A) of subparagraph one of paragraph a of subdivision four of this section, a teacher or principal that receives a rating of ineffective in such category shall not be eligible to receive a rating of effective or highly effective overall;~~

~~b. rated using only the state measure subcomponent in the student performance category and receives a rating of ineffective in such category shall not be eligible to receive a rating of effective or highly effective overall; and~~

~~c. rated ineffective in the observations category shall not be eligible to receive a rating of effective or highly effective overall.~~]

§ 5. Subdivision 10 of section 3012-d of the education law, as added by section 2 of subpart E of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

10. The local collective bargaining representative shall negotiate with the district:

a. whether to use a second measure, and, in the event that a second measure is used, which measure to use, pursuant to subparagraph two of paragraph a of subdivision four of this section [~~and~~];

b. how to implement the provisions of paragraph b of subdivision four of this section, and associated regulations as established by the commissioner, in accordance with article fourteen of the civil service law; and

c. the selection and use of an assessment in a teacher or principal's evaluation pursuant to subdivision four of this section and paragraphs a and b of subdivision sixteen of this section.

§ 6. Section 2 of subpart B of part AA of chapter 56 of the laws of 2014 amending the education law relating to providing that standardized test scores shall not be included on a student's permanent record, as amended by section 35 of part CCC of chapter 59 of the laws of 2018, is amended to read as follows:

§ 2. This act shall take effect immediately [~~and shall expire and be deemed repealed on December 31, 2019~~].

§ 7. This act shall take effect immediately.