



Senate Education Committee

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The Honorable Betsy DeVos
Secretary of Education
United States Department of Education
Lyndon Baines Johnson Bldg.
400 Maryland Avenue Southwest
Washington, D.C. 20202

October 4, 2017

Dear Secretary DeVos:

The federal Every Student Succeeds Act (ESSA) requires legislative engagement in the development of the state plan. On August 30th 2017, House Education Chairman David Hickernell and I submitted a joint letter to the Pennsylvania Department of Education (PDE) requesting changes to the state plan prior to its submission to the United States Department of Education (USDE) on September 18th, 2017. These comments and requests were submitted using the publically available email address provided by the PDE for public comment, as well as by hard copy. In addition, Senate Education Minority Chairman Andrew Dinniman submitted comments and requests for changes recognizing the ongoing legislative effort to eliminate the Keystone Exams and replace them with an alternative assessment such as the Scholastic Aptitude Test (SAT). Unfortunately, we received what appeared to be only a form letter in response.

Consultation with Legislature

For these reasons, we are extremely disappointed that the PDE chose to ignore the legislature's role in developing the plan and our comments regarding features we believe need to be in the state plan. Article III, Section 14 of the Pennsylvania Constitution places the ultimate responsibility for the state educational system on the General Assembly, by stating: "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth". Despite this, and over the course of the last several years, legislative enactments signed by the Governor have been ignored. One example of this is Act 138 of 2016 which was a revision of Pennsylvania's truancy laws. Although the law clearly stated that charter schools were included in the Act, the PDE has still refused to provide the assistance necessary to implement the law. This remains true, even in the face of an impartial legal opinion stating the law clearly applies to charter schools. It is not beyond reason to infer that this is an attempt to impede charter schools, in light of the proposed attendance indicator in the draft plan.

Another example concerns the Keystone Exams, which the PDE proposes as an indicator in the plan. Act 1 of 2016, placed a moratorium on the use of the exams as a graduation requirement. Despite the

legislature's desire to develop alternatives and the law, these exams are still being used as a graduation requirement.

In the spring, the Senate Education Committee passed Senate Bill 756. The bill garnered 46 co-sponsors (out of 50 possible), and proposed to eliminate the Keystone exams and replace them with alternatives designed to provide accountability and better career outcomes. One of the alternatives was to utilize the Scholastic Aptitude Test (SAT). Attached a copy of Senate Bill 756. None of its content was addressed by the proposal.

As the PDE submitted a proposed state plan to the USDE on September 18, 2017 for your review, we write to open a dialogue between the Pennsylvania General Assembly and USDE to recommend and requests changes to the state plan prior to your approval.

To summarize, three of the four Education Chairmen in the General Assembly have expressed their belief that the proposed state plan is a step backwards for our schools, our parents and most importantly, our students. We still believe the proposal dilutes accountability and transparency, is unnecessarily expensive, and squanders the significant opportunity presented by the ESSA to provide our children with an education that prepares them for success.

Accountability system

First, the plan creates an additional measure to meet federal accountability requirements, in addition to the School Performance Profile, which is required under state law and already being used, and in addition to another index that the PDE is developing--the Future Ready PA Index, which does not comply with the requirements of the ESSA as proposed. Not only does the creation of additional measures seem unnecessarily duplicative, but multiple forward-facing accountability systems will confuse the public and relevant stakeholders attempting to glean information about the performance of schools.

Multiple systems are unnecessary and will have additional costs to maintain. Further, the proposed Future Ready Index (FRI) is vague and discourages users from making overarching comparisons between schools, by eliminating the summative score currently provided. While it is clear that the education establishment commented in favor of eliminating a summative score, parents and others concerned about the performance of schools will find that good information will be difficult to obtain and understand.

Indicators

The indicators to determine the performance of schools are either undeveloped or have questionable validity as presented. The plan contains five proposed indicators: Academic Achievement, Average Growth Index, Graduation Rate, Chronic Absenteeism, and College and Career Readiness. There are no clear benchmarks under the proposed indicators to enable parents and others to adequately judge the quality of the education received by students.

With regard to tests under the indicators, the proposed plan does not properly account for the 95% participation requirement for students to take the state assessment. This needs to be revised to use the

actual number of students tested or the number equal to 95% of students that should have been tested, whichever is greater. Similarly, the Average Growth Index needs adjusted. The proposal only compares student growth to the performance of other students across the state (i.e. norm-referenced growth model) rather than measuring how well an individual student progressed towards meeting a predetermined standard (i.e. criterion-referenced growth model). The plan should use both measures.

While the Graduation Rate indicator has validity, utilizing the higher of the 4-year or 5-year graduation rate for accountability provides little incentive for schools to prepare students for graduation in four years rather than five and instead will “lower the bar” for what is expected of schools. Reporting both is fine, but the 4-year rate should exclusively be used as the accountability measure. Using exclusively the five-year rate lowers the expectation for schools to graduate students on time.

As to the final indicator, there is no statewide definition of what constitutes “college and career readiness” which creates significant deviation across the postsecondary spectrum when determining whether or not a student has met this undefined standard. Currently, the PDE’s regulations (Chapter 339) place a general overall obligation on school districts to develop a plan to expose students to the world of work through guidance counselors(at present, there seems to be insufficient data regarding the implementation of Chapter 339 plans). However those plans contain no benchmarks or assessments of whether students are acquiring the necessary knowledge to attain their career goals. Furthermore, by noting the need to provide more technical assistance to support local education agencies (LEAs), the plan implies that schools are currently not prepared to meet the goals of this indicator. Finally, across the indicator itself, there appears to be little room for differentiation (for example, simply reporting the percentage of 5th grade students “engaging” in career exploration does not seem to be a rigorous enough measure in order to lead to differentiation).

We should do more than help children explore, we need to help them achieve. Therefore, the plan should include one or more of the following for college and career readiness: 1) percent of enrolled career and technical education (CTE) students earning nationally recognized industry certifications; 2) achievement of students taking a nationally recognized industry assessment such as the National Occupational Competency Testing Institute (NOCTI) test; 3) access to advanced placement (AP) and dual enrollment coursework; and/or 4) percent of students passing an AP exam.

Finally, the plan should also include an indicator of teacher quality from teacher evaluations and other measures such as educator advanced degree completion as well as an indicator measuring criterion- and norm-referenced growth of the lowest-performing students in the school. The plan discusses teacher shortages (in the context of graduating students, not unfilled vacancies), while providing for no rigorous measurement of performance in the classroom.

Senate Bill 756 discussed above, and attached also contained a rigorous proposal to evaluate teachers, unlike the PDE proposal.

Interventions

The plan purposely avoids explaining what rigorous interventions would be implemented in low-achieving schools, preferring instead to open new options for unidentified “consultants” to receive contracts to fix our schools. The entire discussion pertains to distribution and re-distribution of “school

improvement resources.” i.e., money. No specific technical assistance or interventions are described or prescribed. On the other hand, legislation has been proposed to provide for specific rigorous interventions to address failing schools. One example of pending legislation is House Bill 995. That bill provides a detailed list of things we could support. The interventions include 1) reassignment, suspension or dismissal of professional employees; 2) authority to appoint managers, administrators or education management service providers to oversee the operations of the school; authority to convert the school to a charter school; and authority to employ professional and senior management employees who do not hold State certification, among other things. The PDE proposal provides no such detail.

The PDE spends approximately 3.5 times more (adjusted for inflation) than in 1995. Although spending continues to grow on our education bureaucracy, this plan proposes to spend more without showing evidence of doing more, forcing student success to rely on contract consultants to develop unspecified school improvement plans. The PDE’s decision to take away federal funds that schools currently receive and to set-aside those funds for more bureaucracy is simply unfathomable.

No specific detail is provided as to how the PDE will provide guidance regarding changes in school instruction, personnel, leaders or support services, including the use of feedback from educator evaluations? Nor are there any specified intended outcomes of that technical assistance. The plan does state that Pennsylvania will use the already existing Multi-Tiered Systems of Support (MTSS) and Positive Behavioral Interventions and Support (PBIS) frameworks in Pennsylvania—but these have yet to demonstrate desired improvements to academic outcomes. Additional, academic-focused assistance must be provided. The plan also discusses using a network that includes Pennsylvania Training and Technical Assistance Network (PaTTAN) and regional Intermediate Units (IU’s), and independent consultants, however, there is no evidence-based corroboration for the PDE’s belief this infrastructure is the most appropriate.

There is no proposal in the plan to establish a meaningful level of performance (or improvement) for schools to exit Comprehensive or Targeted School Improvement (CSI and TSI) designation. In fact, the plan notes that uniform exit criteria have yet to be finalized, pending additional data analyses. The plan provides that schools must at a minimum show “measurable progress” on at least one accountability indicator. No performance baseline for “measurable progress” is provided for any of the indicators. Furthermore, the lack of details implies that a CSI school would be able to demonstrate “measurable progress” on the indicators for chronic absenteeism and career readiness, though the impact of these indicators on an initial school’s designation as CSI is, as the PDE admits, is minimal. Why should a school be able to show progress on these nonacademic indicators to leave CSI, when they weren’t a considerable factor in the initial designation? Progress should be shown on the “substantially weighted” indicators instead.

The plan lacks any assurance that every Pennsylvania child will get a high quality education, particularly poor and minority children, and those in low performing schools. The ESSA provides the best opportunity in a generation to free these children from failing schools, and this proposal squanders it. These children are more than Congressionally-created “subgroups” that the bureaucracy is forced to address in a federal plan. How long are these children to stay in low-performing schools? Five years? Ten years? How much improvement on important academic indicators must a school show each year to demonstrate improvement and give hope to the parents of these children? What happens if a school never improves, which is clearly acceptable and contemplated under this proposal? There are no

incentives to improve. It is time to provide an exit strategy for the children who are not getting the opportunities they deserve.

We suggest that after five years, if a school remains poor performing on academic indicators, the children of that school be given a choice to attend another school, be it through a scholarship, savings account, or otherwise. An additional option available for consistently low-performing schools should also include the establishment of charter schools.

As noted above, the plan proposes to continue to give the Keystone Exam to all high school students in Algebra, Language Arts, and Biology. Although the current statute will implement these exams as a graduation requirement in the upcoming school year, earlier this year, the PDE proposed that students who fail the exam can continue to graduate by showing demonstration of passing scores on coursework. This falls in the face of accountability, the Keystones are a graduation exam that you don't have to pass to graduate.

Not only do 70 percent of high school students already take the SAT, but it is also aligned with our curriculum. Access to the SAT would be of benefit to poor and minority children who desire to go to college. Many other states have proposed using the SAT for federal accountability and initial responses to those states from the USDE has been positive. In addition, using the SAT in place of the Keystones will open up college scholarship and post-secondary opportunities to thousands of low-income students who lack the funds to pay for the test and the opportunities it offers.

Conclusion

We are extremely disappointed that the PDE failed to take the legislature's required role seriously, particularly the Senate and House Education Committees, in development of the state plan. Unfortunately, this isn't the first time the PDE has ignored the General Assembly as well as its enacted laws. The Chairmen in the House and Senate continue to work together and are considering potential legislative changes that offer Pennsylvania students a better education than the one offered in the submitted state plan. I have included House Bill 995 as one example of possible legislation in which we may begin.

In the proposed state plan, there are no benchmarks for improvement on any of the indicators. There are no timelines for intervention. There needs to be a final remedy when all else fails, such as conversion of buildings into charters or school choice for parents if goals are not met. We cannot allow our children to linger in low performing schools, and this plan would do just that.

Sincerely,



John H. Eichelberger, Jr.
Chairman

JHE/kld

Enclosure

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

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

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

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

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

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

(i) The Secretary of Education or a designee.

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

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

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

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

(i) The Governor.

(ii) The Secretary of Education.

(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

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

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

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

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

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

(iv) The armed forces qualification test.

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

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

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

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

(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

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

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

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

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

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

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

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

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

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

"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 employees and
3 temporary professional employees, all professional employees and
4 temporary professional employees 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 employees and temporary professional
11 employees 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 employees and
15 temporary professional employees 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 employees and temporary professional
6 employees 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 employees and temporary professional employees 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 employee or temporary professional employee
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

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

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

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

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

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

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

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

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

(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 employees and temporary professional
7 employees 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 employees and temporary professional employees serving as
14 classroom teachers.

15 (c) For professional employees and temporary professional
16 employees 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 employees and temporary
20 professional employees 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 employees and temporary
29 professional employees 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) (1) No later than June 30, 2014, the department shall
30 develop, issue and publish in the Pennsylvania Bulletin a rating

1 tool for professional employees and temporary professional
2 employees 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 employees and temporary professional employees 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 employees 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 employees and temporary professional
2 employees 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 employees, the following
10 shall apply:

11 (1) Beginning in the [2014-2015] 2018-2019 school year,
12 nonteaching professional employees shall be evaluated using a
13 rating tool designed specifically for nonteaching professional
14 employees [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 employee is
21 employed which shall comprise twenty per centum (20%) of the
22 overall rating of nonteaching professional employees and
23 temporary professional employees.

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 employees 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 employees.

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 employee'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 employee is employed shall comprise five per centum
18 (5%) of the overall rating of nonteaching professional employees
19 and temporary professional employees.

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 employees 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 employees.

13 (e) Notwithstanding subsections (b), (c) and (d),
14 professional employees and temporary professional employees
15 serving as classroom teachers, principals and nonteaching
16 professional employees 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 employees and temporary professional employees
24 serving as classroom teachers, principals and nonteaching
25 professional employees 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 employee 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 employee to participate in a
12 performance improvement plan. No employee 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 employee 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 employee. The performance improvement plan
19 shall be implemented at the beginning of the school year after
20 an employee is rated "needs improvement" or "failing." The
21 employee shall be deemed "unsatisfactory" if the employee 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 employee 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 employees.

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

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

11 (2) Professional employees shall be rated at least annually
12 and temporary professional employees 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 employee or temporary
19 professional employee being rated, provided that no
20 unsatisfactory rating shall be valid unless approved by the
21 chief school administrator.

22 (4) No employee shall be dismissed under section 1122 unless
23 the employee 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 employee and temporary

1 professional employee, principal and nonteaching professional
2 employee 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 employees
24 in accordance with the act of July 23, 1970 (P.L.563, No.195),
25 known as the "Public Employee 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 employee'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.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 995 Session of
2017

INTRODUCED BY GROVE, ZIMMERMAN, RYAN, ORTITAY, MILLARD AND
PHILLIPS-HILL, MARCH 28, 2017

REFERRED TO COMMITTEE ON EDUCATION, MARCH 28, 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," providing for innovation schools.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
9 as the Public School Code of 1949, is amended by adding an
10 article to read:

11 ARTICLE XV-J

12 INNOVATION SCHOOLS

13 Section 1501-J. Definitions.

14 The following words and phrases when used in this article
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Department." The Department of Education of the
18 Commonwealth.

19 "Education management service provider." A for-profit or

nonprofit management organization, nonprofit charter management organization, school design provider, business manager or any other partner entity with which a school district contracts to provide educational design, business services, comprehensive management or personnel functions. The term shall not include a charter school foundation.

"Innovation school." A school that:

(1) is part of a school district;

(2) ranks in the lowest 15% of the school's classification as an elementary or secondary school according to the SPP; and

(3) has an SPP score that does not exceed 60.

"Innovation School Board." The board created under section 1509-J.

"Local governing body." A board of school directors, school reform commission or other governing authority of a school district.

"School Performance Profile" or "SPP." A comprehensive overview of student academic performance in a public school developed and compiled annually by the department under section 1123.

"Secretary." The Secretary of Education of the Commonwealth. Section 1502-J. Identification of intervention schools.

(a) General rule.--By October 1, 2017, and by October 1 of each year thereafter, the department shall publish on its publicly accessible Internet website and in the Pennsylvania Bulletin a list of innovation schools.

(b) Designation.--Within 20 days of the department's publication under subsection (a), the Innovation School Board shall designate as innovation schools all schools that meet the

1 criteria of an innovation school.

2 Section 1503-J. Powers of local governing body.

3 A local governing body shall have all the following powers
4 with respect to an innovation school within its jurisdiction:

5 (1) authority to enter into agreements with education
6 management service providers to operate the school;

7 (2) authority to employ professional and senior
8 management employees who do not hold State certification in
9 the innovation school, if the local governing body has
10 approved the employee's qualifications, at a salary
11 established by the local governing body;

12 (3) authority to enter into agreements with persons or
13 education management service providers providing educational
14 or other services to the school;

15 (4) authority to close or reconstitute the school,
16 including the reassignment, suspension or dismissal of
17 professional employees;

18 (5) authority to suspend professional employees without
19 regard to the provisions of seniority and according to a
20 professional employee's performance;

21 (6) authority to appoint managers, administrators or
22 education management service providers to oversee the
23 operations of the school;

24 (7) authority to convert the school to a charter school;
25 and

26 (8) authority to apply to the Innovation School Board
27 for a waiver of any provision of this act, regulation of the
28 State Board of Education or standard of the secretary that
29 inhibits the ability of the school to increase student
30 achievement.

1 Section 1504-J. Advisory teams.

2 The following apply:

3 (1) Within 30 days of a school's initial designation as
4 an innovation school, the local governing body shall convene
5 the following for the innovation school:

6 (i) An academic advisory team, comprised of the
7 following members:

8 (A) A school administrator appointed by the
9 local governing body.

10 (B) A school business manager or individual
11 responsible for the fiscal management of the district
12 appointed by the local governing body.

13 (C) A teacher appointed by the local governing
14 body.

15 (D) Three experts, appointed by the local
16 governing body in consultation with the department,
17 who possess knowledge and experience in such areas as
18 school or business administration, staff development,
19 early childhood education, curriculum development,
20 budget development or fiscal management, labor
21 relations or special education.

22 (ii) A community advisory team comprised of the
23 following members appointed by the local governing body:

24 (A) Three parents of students attending the
25 innovation school.

26 (B) Three residents of the area served by the
27 innovation school who are not parents of students
28 attending the innovation school.

29 (2) The academic advisory team and the community
30 advisory team may terminate when the school is no longer

1 designated as an innovation school.

2 Section 1505-J. Diagnostic evaluation.

3 The following apply:

4 (1) Within three months of a school's initial
5 designation as an innovation school, each local governing
6 body of a school district, in which at least one school has
7 been designated as an innovation school, shall conduct a
8 districtwide review of academic programs, management and
9 operations, including whether school facilities are being
10 used to maximize student academic opportunities, using a
11 standard evaluation and diagnostic tool and submit its
12 findings to the Innovation School Board.

13 (2) A local governing body which has completed a
14 diagnostic evaluation within the past five years under
15 paragraph (1) shall not be required to complete a
16 districtwide diagnostic evaluation developed by the
17 department subsequent to the initial designation of a new
18 innovation school within its jurisdiction, provided that the
19 local governing body shall complete, within two months of the
20 designation of a new innovation school, a supplemental study
21 of the school to the extent that the needs of the school are
22 different from those of the district.

23 Section 1506-J. School improvement plan.

24 The following apply:

25 (1) Using the results of the diagnostic evaluation under
26 section 1505-J(1), the local governing body, with input from
27 the academic advisory team and the community advisory team,
28 shall develop for each innovation school a school improvement
29 plan that shall include all of the following:

30 (i) Performance goals consistent with School

1 Performance Profile benchmarks and timetables to improve
2 academic performance.

3 (ii) Revisions to curriculum or instructional
4 practices.

5 (iii) A system of academic accountability for
6 students and administrators.

7 (iv) Procedures to increase parent and community
8 involvement.

9 (v) Policies to provide individual schools greater
10 authority over personnel, budget and educational
11 programming.

12 (vi) A multiyear strategic plan with annual goals
13 and measurable objectives based on identified needs,
14 projected enrollment and revenue.

15 (vii) Clear delineation of the responsibilities of
16 the local governing body and superintendents.

17 (viii) A plan to formally evaluate the performance
18 and cost of major educational and operational programs.

19 (ix) A plan for professional development to assist
20 teachers and administrators with ensuring that students
21 reach academic standards.

22 (x) A plan for the allocation of any resources
23 targeted to the innovation school.

24 (xi) A plan for the implementation of at least two
25 interventions allowable under section 1503-J.

26 (2) The local governing body may include in a school
27 improvement plan an application to the Innovation School
28 Board for a waiver of any provision of this act, regulation
29 of the State Board of Education or standard of the secretary
30 if the Innovation School Board determines that the proposed

1 waiver will help the innovation school to increase academic
2 achievement. The Innovation School Board may not waive
3 either:

4 (i) Federal statutes or regulations; or

5 (ii) State statutes or regulations or standards of
6 the secretary related to the following:

7 (A) Civil rights.

8 (B) Health and safety.

9 (C) Public records.

10 (D) Possession of weapons on school grounds.

11 (E) Employment history reviews, criminal
12 background checks and child abuse clearances for
13 school personnel and volunteers.

14 (F) Special education requirements.

15 (G) Student due process.

16 (H) Parental rights.

17 (I) Student assessment and accountability.

18 (J) Open meetings.

19 (3) Within 60 days of the completion of the diagnostic
20 evaluation, the local governing body shall submit the school
21 improvement plan for approval to the Innovation School Board.

22 (4) Within 30 days of receipt of the school improvement
23 plan, the Innovation School Board shall approve the school
24 improvement plan or request further modifications to the
25 plan. Within 30 days of the request for modifications to the
26 plan, the local governing body of the innovation school shall
27 resubmit the school improvement plan to the Innovation School
28 Board. The Innovation School Board shall have 30 days from
29 the receipt of the modified plan to take action.

30 (5) Following the approval of the school improvement

1 plan by the Innovation School Board, the local governing body
2 of an innovation school shall, with input from the academic
3 advisory team and the community advisory team, submit reports
4 to the Innovation School Board detailing the implementation
5 and progress of the school improvement plan every six months.
6 The local governing body of an innovation school shall post
7 these reports on its publicly accessible Internet website.

8 Section 1507-J. Funding for innovation schools.

9 The department shall use funds provided for under section
10 2510.3 to assist innovation schools. Innovation schools may use
11 funds appropriated by the General Assembly for the purposes of
12 this article and may accept donations from all public and
13 private sources, including the Federal Government, to pay for
14 the implementation of the school improvement plan.

15 Section 1508-J. Duration of innovation school designation.

16 The following apply:

17 (1) A school designated as an innovation school shall
18 remain an innovation school for a minimum of five years
19 following the school's initial designation.

20 (2) After five years, a school designated as an
21 innovation school shall remain an innovation school if:

22 (i) the innovation school does not have a School
23 Performance Profile score of at least 70 for the previous
24 year;

25 (ii) the parents or guardians of 51% of the students
26 enrolled in the innovation school sign a petition
27 requesting that the school remain an innovation school;
28 or

29 (iii) the local governing body adopts, at a public
30 meeting at which an opportunity for public comment has

1 been provided, a resolution requesting that the school
2 remain an innovation school.

3 Section 1509-J. Innovation School Board.

4 (a) Membership.--Within 30 days, an Innovation School Board
5 shall be appointed as follows:

6 (1) The secretary shall appoint one member.

7 (2) The President pro tempore of the Senate, in
8 consultation with the Majority Leader of the Senate, shall
9 appoint two members.

10 (3) The Speaker of the House of Representatives, in
11 consultation with the Majority Leader of the House of
12 Representatives, shall appoint two members.

13 (4) The majority and the minority chairperson of the
14 Education Committee of the Senate shall each appoint one
15 member.

16 (5) The majority and the minority chairperson of the
17 Education Committee of the House of Representatives shall
18 each appoint one member.

19 (b) Qualifications.--Each member of the board must satisfy
20 at least one of the following:

21 (1) Possess at least five years' experience in school
22 administration or academic assessment.

23 (2) Satisfy the requirements of section 1003(a) or (b).

24 (c) Term.--Members of the board shall be appointed for terms
25 of five years each, except that those persons initially
26 appointed shall draw lots to determine which members shall serve
27 for a term of five years, which members shall serve for a term
28 of four years and which members shall serve for a term of three
29 years. To the extent practicable, from those members initially
30 appointed, an equal number shall draw lots to serve for a term

1 of five years, for a term of four years and for a term of three
2 years. Thereafter, all members shall be appointed for terms of
3 five years each.

4 (d) Chairperson.--The board shall select a chairperson from
5 its membership by a majority vote.

6 (e) Quorum.--Five members of the board shall constitute a
7 quorum.

8 (f) Meetings.--The board shall meet at least quarterly at
9 the call of the chair.

10 (g) Vacancy.--Upon expiration of a member's term or in the
11 occurrence of a vacancy in the office of a member, the original
12 appointing authority shall appoint a successor member. An
13 appointment to fill a vacancy shall be for the balance of a
14 term.

15 (h) Removal.--No board member shall be removed from office
16 during the member's term of office except in accordance with the
17 Constitution of Pennsylvania and as authorized in this section.
18 The appointing authority of a member may, upon proof by clear
19 and convincing evidence of malfeasance or misfeasance in office,
20 remove a board member prior to the expiration of the term.
21 Before a board member is removed, the member shall be provided
22 with a written statement of the reasons for removal and an
23 opportunity for a hearing.

24 (i) Prohibition.--No member, while in service of the
25 Innovation School Board, may seek or hold a position as any
26 other public official or as an officer of a political party.

27 (j) Compensation.--Members of the Innovation School Board
28 shall receive no compensation but shall be reimbursed for
29 reasonable and necessary expenses incurred in the performance of
30 their official duties from the funds of the department.

1 (k) Duty of department.--The department shall provide
2 administrative support, meeting space and any other assistance
3 required by the board to carry out its duties under this section
4 and shall provide the board with data, research and other
5 information upon request by the board.

6 (l) Appeals.--An objecting party may appeal a determination
7 of the Innovation School Board to Commonwealth Court.

8 (m) Report.--Beginning October 31, 2019, and by October 31
9 of each year thereafter, the Innovation School Board shall
10 submit a written report to the secretary, the President pro
11 tempore of the Senate, the Majority Leader of the Senate, the
12 Minority Leader of the Senate, the Speaker of the House of
13 Representatives, the Majority Leader of the House of
14 Representatives and the Minority Leader of the House of
15 Representatives, which shall include all of the following:

16 (1) A listing and description of status, including
17 academic performance, of each innovation school.

18 (2) A list of all schools eligible for designation as an
19 innovation school.

20 Section 1510-J. State Board of Education.

21 The State Board of Education shall adopt regulations
22 necessary for the implementation of this article, including any
23 changes proposed after the effective date of this article to the
24 calculation of the School Performance Profile building-level
25 score created by the department under section 1123.

26 Section 2. This act shall take effect immediately.