

T.E.S.S. Law

Ark. Code Ann. § 6-17-2801 et seq.

*As amended by Act 1091 of 2015 (effective July 22, 2015)**

6-17-2801. Title.

This subchapter shall be known and may be cited as the "Teacher Excellence and Support System".

6-17-2802. Legislative intent.

It is the intent of the General Assembly to:

- (1) Provide a program affording public school districts and public charter schools a transparent and consistent teacher evaluation system that ensures effective teaching and promotes professional learning;
- (2) Provide an evaluation, feedback, and support system that will encourage teachers to improve their knowledge and instructional skills in order to improve student learning;
- (3) Provide a basis for making teacher employment decisions;
- (4) Provide an integrated system that links evaluation procedures with curricular standards, professional development activities, targeted support, and human capital decisions;
- (5) Encourage highly effective teachers to undertake challenging assignments;
- (6) Support teachers' roles in improving students' educational achievements;
- (7) Inform policymakers regarding the benefits of a consistent evaluation and support system in regard to improving student achievement across the state; and
- (8) Increase the awareness of parents and guardians of public school students concerning the effectiveness of public school teachers.

6-17-2803. Definitions.

As used in this subchapter:

- (1) "Artifact" means a documented piece of evidence chosen by the teacher being evaluated, the evaluator, or both, that:
 - (A) Relates to the evaluation rubric; and
 - (B) Represents output from one (1) or more of the following, without limitation:

- (i) Lesson plans or pacing guides aligned with the state standards;
- (ii) Self-directed or collaborative research approved by an evaluator;
- (iii) Participation in professional development;
- (iv) Contributions to parent, community, or professional meetings;
- (v) Classroom assessments, including:
 - (a) Unit tests;
 - (b) Samples of student work, portfolios, writing, and projects;
 - (c) Pre-assessments and post-assessments; and
 - (d) Classroom-based formative assessments;
- (vi) District-level assessments, including:
 - (a) Formative assessments;
 - (b) Grade or subject level assessments;
 - (c) Department-level assessments; and
 - (d) Common assessments;
- (vii) State-level assessments, including:
 - (a) End-of-course assessments;
 - (b) Statewide assessments of student achievement; and
 - (c) Career and technical assessments; and
- (viii) National assessments, including:
 - (a) Advanced placement assessments;
 - (b) Norm-referenced assessments; and
 - (c) Career and technical assessments;

(2)(A) "Evaluation" means the process under this subchapter used to:

- (i) Assess with evidence what a teacher should know and be able to do as measured by the domains and performance ratings of an evaluation framework; and
- (ii) Promote teacher growth through professional learning.

(B) "Evaluation" does not include a teacher's performance relating to competitive athletics and competitive extracurricular activities;

(3) "Evaluation framework" means a standardized set of teacher evaluation domains that provide the overall basis for an evaluation;

(4) "Evaluation rubric" means a set of performance components for each teacher evaluation domain in the evaluation framework;

(5) "Evaluator" means a person licensed by the State Board of Education as an administrator who is designated as the person responsible for evaluating teachers and who is an employee of the school district in which the evaluations are performed;

(6) "External assessment measure" means a measure of student achievement or growth that is administered, developed, and scored by a person or entity other than the teacher being evaluated, except that the assessment may be administered by the teacher being evaluated if the assessment is monitored by a licensed individual designated by the evaluator;

(7) "Formal classroom observation" means an announced visit to a classroom that:

(A) Is preceded by a pre-observation conference to discuss the lesson plan and objectives;

(B)(i) Is conducted by an evaluator for at least seventy-five percent (75%) of the class period either by observing the teacher:

(a) In the classroom;

(b) Through the use of three-hundred-sixty-degree video technology; or

(c) For a teacher in a digital learning environment, through the use of other appropriate technology.

(ii) The length of time for a formal classroom observation of a teacher teaching in a block schedule or in a class period lasting longer than sixty (60) minutes may be adjusted to allow for an observation for forty-five (45) minutes or more of the teacher's class period;

(C) Facilitates a professional dialogue for the teacher and evaluator; and

(D) Provides essential evidence of the teacher's classroom practices;

(8) "Formative assessment" means an evaluation of a student's learning that is given before the student completes a course of instruction to foster the student's development and improvement on a specific strand within the course of instruction;

(9) "Informal classroom observation" means an observation conducted by an evaluator for the same purpose as a formal classroom observation but may be:

(A) Unannounced; or

(B) For a shorter period of time than a formal classroom observation;

(10) "Intensive support status" means the employment status administered under this

subchapter that is assigned to a teacher under § 6-17-2807;

(11) "Interim teacher appraisal" means a form of evaluation, other than a summative evaluation, that:

(A) Provides support for teaching practices; and

(B) Uses standards for teacher growth and performance that are consistent with the evaluation rubrics for the teacher evaluation domains of a summative evaluation;

(12) "Novice teacher" means a teacher having less than one (1) school year of public school classroom teaching experience;

(13) "Post-observation conference" means a conference between the teacher and evaluator following a formal classroom observation to discuss:

(A) The evaluator's observations; and

(B) Artifacts presented by the teacher after the formal classroom observation;

(14) "Pre-observation conference" means a conference between the teacher and evaluator to discuss goals and planned outcomes for a classroom lesson before a formal classroom observation;

(15) "Probationary teacher" means the same as probationary teacher under § 6-17-1502;

(16) "Professional development plan" means the professional development plan under § 6-17-704 that encompasses all professional development required by rule, under law, and by a school district, public school, or education service cooperative for a teacher;

(17) "Professional growth plan" means the component of a professional development plan that is designed to meet the specific growth needs of a teacher identified under the Teacher Excellence and Support System, § 6-17-2801 et seq.

(18) "Statewide assessment of student achievement" means a statewide benchmark exam, end-of-course assessment, or a summative assessment of student achievement administered through:

(A) The Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq.; or

(B) A program of common core assessments administered under rules of the State Board of Education;

(19) "Summative assessment" means an evaluation of student achievement given at the completion of a course of instruction that cumulatively measures whether the student met long-term learning goals for the course;

(20) "Summative evaluation" means an evaluation of a teacher's performance that evaluates all domains of the evaluation framework that supports:

(A) Improvement in the teacher's teaching practices and student achievement; and

(B) A school district's employment decision concerning the teacher;

(21)(A) "Teacher" means a person who is:

(i) Required to hold and holds a teaching license from the state board as a condition of employment; and

(ii) Employed in a public school as a:

(a) Classroom teacher engaged directly in instruction with students in a classroom setting;

(b) Guidance counselor;

(c) Library media specialist;

(d) Special education teacher; or

(e) Teacher in another position identified by the state board.

(B) "Teacher" also includes a nonlicensed classroom teacher employed at a public charter school under a waiver of teacher licensure requirements granted by the state board in the charter.

(C) "Teacher" does not include a person who is employed full time by a school district or public school solely as a superintendent or administrator; and

(22) "Tested content area" means a teaching content area that is tested under a statewide assessment of student achievement.

6-17-2804. Administrative agency responsibilities.

(a) The State Board of Education shall promulgate rules for the Teacher Excellence and Support System consistent with this subchapter.

(b) The rules shall without limitation:

(1) Recognize that student learning is the foundation of teacher effectiveness, that many factors impact student learning not all of which are under the control of the teacher or the school, and that evidence of student learning includes trend data and is not limited to a single assessment;

(2) Provide that the goals of the Teacher Excellence and Support System are quality assurance and teacher growth;

(3) Reflect evidence-based or proven practices that improve student learning;

- (4) Utilize clear, concise, evidentiary data for teacher professional growth and development to improve student achievement;
- (5) Recognize that evidence of student growth is a significant part of the Teacher Excellence and Support System;
- (6) Ensure that student growth is analyzed at every phase of the evaluation system to illustrate teacher effectiveness;
- (7) Require annual evidence of student growth from artifacts and external assessment measures;
- (8) Include clearly defined teacher evaluation domains, performance ratings, and evaluation rubric components for the evaluation framework;
- (9) Include procedures for implementing each component of the Teacher Excellence and Support System; and
- (10) Include the professional development requirements for all superintendents, administrators, evaluators, and teachers to obtain the training necessary to be able to understand and successfully implement a Teacher Excellence and Support System under this subchapter.

6-17-2805. Summative evaluations.

(a) The evaluation framework for a summative evaluation for a classroom teacher shall include:

(1) The following teacher evaluation domains:

- (A) Planning and preparation;
- (B) Classroom environment;
- (C) Instruction; and
- (D) Professional responsibilities; and

(2) An evaluation rubric using nationally accepted components that consists of the following four (4) performance ratings:

- (A) Distinguished;
- (B) Proficient;
- (C) Basic; and
- (D) Unsatisfactory.

(b) A summative evaluation shall result in a written:

(1) Evaluation determination for the teacher's performance rating on each teacher evaluation domain; and

(2) Summative evaluation determination of the teacher's performance rating on all teacher evaluation domains as a whole.

(c) A summative evaluation shall use an appropriate evaluation framework, evaluation rubric, and external assessment measurements for a teacher who is not a classroom teacher, including without limitation:

(1) A guidance counselor;

(2) A library media specialist;

(3) A special education teacher; or

(4) Other teacher as identified by the State Board of Education.

(d) A summative evaluation process shall include:

(1) A pre-observation conference and post-observation conference;

(2) A formal classroom observation and may also include an informal classroom observation;

(3) Presentations of artifacts chosen by the teacher, the evaluator, or both;

(4) An opportunity for the evaluator and teacher to discuss the review of external assessment measures used in the evaluation;

(5) A written evaluation determination for each teacher evaluation domain and a written summative evaluation determination;

(6) Feedback based on the evaluation rubric that the teacher can use to improve teaching skills and student learning; and

(7) Feedback from the teacher concerning the evaluation process and evaluator.

6-17-2806. Teacher support components.

(a)(1) Except as provided in subdivision (a)(3) of this section, a teacher being evaluated and the evaluator, working together, shall develop a professional growth plan for the teacher that:

(A) Identifies professional growth outcomes to advance the teacher's professional skills; and

(B) Clearly links professional development activities and the teacher's individual professional growth needs identified through the Teacher Excellence and Support System.

(2) The professional growth plan shall require that at least one-half (1/2) of the

professional development hours required by law or rule for teacher licensure are directly related to one (1) or more of:

- (A) The teacher's content area;
- (B) Instructional strategies applicable to the teacher's content area; or
- (C) The teacher's identified needs.

(3) If a teacher and evaluator cannot agree on a professional growth plan, the evaluator's decision shall be final.

(4)(A) For a teacher in intensive support status, the evaluator or an administrator designated by the evaluator shall have final approval of the teacher's professional growth plan.

(B) Until the teacher is removed from intensive support status, the teacher's professional growth plan shall require that all professional development, except professional development that is required by law, shall be directly related to the individual teacher's needs.

(b)(1) Interim teacher appraisals shall be used to support teachers on an ongoing basis throughout the school year and:

(A) Provide a teacher with immediate feedback about the teacher's teaching practices;

(B) Engage the teacher in a collaborative, supportive learning process; and

(C) Help the teacher use formative assessments to inform the teacher of student progress and adapt teaching practices based on the formative assessments.

(2) The interim teacher appraisal process may be guided in whole or in part by an evaluator or by one (1) or more of the following persons designated by the evaluator:

(A) A teacher designated by an administrator as a leader for the teaching content area of a teacher who is being evaluated;

(B) An instructional facilitator;

(C) A curriculum specialist; or

(D) An academic coach for the teacher's content area.

(c) The Teacher Excellence and Support System also shall include novice teacher mentoring and induction for each novice teacher employed at the public school that:

(1) Provides training, support, and follow-up to novice teachers to increase teacher retention;

(2) Establishes norms of professionalism; and

(3) Leads to improved student achievement by increasing effective teacher performance.

6-17-2807. Intensive support status.

(a)(1) An evaluator shall place a teacher in intensive support status if the teacher has a rating of "Unsatisfactory" in any one (1) entire teacher evaluation domain of the evaluation framework.

(2) An evaluator may place a teacher in intensive support status if the teacher has a rating of "Unsatisfactory" or "Basic" in a majority of components in a teacher evaluation domain.

(b) If a teacher is placed in intensive support status, the evaluator shall:

(A) Establish the time period for the intensive support status; and

(B)(i) Provide a written notice to the teacher that the teacher is placed in intensive support status.

(ii) The notice shall state that if the teacher's contract is renewed while the teacher is in intensive support status, the fulfillment of the contract term is subject to the teacher's accomplishment of the goals established and completion of the tasks assigned in the intensive support status.

(c)(1) The period of time specified by the evaluator for intensive support status shall afford the teacher an opportunity to accomplish the goals of and complete the tasks assigned in the intensive support status.

(2) Intensive support status shall not last for more than two (2) consecutive semesters unless the teacher has substantially progressed and the evaluator elects to extend the intensive support status for up to two (2) additional consecutive semesters.

(d) The evaluator shall work with the teacher to:

(1) Develop a clear set of goals and tasks that correlate to:

(A) The professional growth plan; and

(B) Evidence-based research concerning the evaluation domain that forms the basis for the intensive support status; and

(2) Ensure the teacher is offered the support that the evaluator deems necessary for the teacher to accomplish the goals developed and to complete the tasks assigned while the teacher is in intensive support status.

(e)(1) If the intensive support status is related to student performance, the teacher shall use formative assessments to gauge student progress throughout the period of intensive support status.

(2) The teacher shall be offered the support necessary to use formative assessments

under this subsection during the intensive support status.

(f) At the end of the specified period of time for intensive support status, the evaluator shall:

(1) Evaluate whether the teacher has met the goals developed and completed the tasks assigned for the intensive support status; and

(2) Provide written notice to the teacher that the teacher either:

(A) Is removed from intensive support status; or

(B) Has failed to meet the goals and complete the tasks of the intensive support status.

(g)(1) If a teacher does not accomplish the goals and complete the tasks established for the intensive support status during the period of intensive support status, the evaluator shall notify the superintendent of the school district where the teacher is employed and provide the superintendent with documentation of the intensive support status.

(2)(A) Upon review and approval of the documentation, the superintendent shall recommend termination or nonrenewal of the teacher's contract.

(B) A recommendation for termination or nonrenewal of a teacher's contract under this section shall be made pursuant to the authority granted to a superintendent for recommending termination or nonrenewal under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

(3) When a superintendent makes a recommendation for termination or nonrenewal of a teacher's contract under subdivision (g)(2) of this section, the public school:

(A) Shall provide the notice required under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., but is exempt from the provisions of § 6-17-1504(b); and

(B)(i) If the public school has substantially complied with the requirements of this section, is entitled to a rebuttable presumption that the public school has a substantive basis for the termination or nonrenewal of the teacher's contract under the applicable standard for termination or nonrenewal under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

(ii) The presumption may be rebutted by the teacher during an appeal under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

(4) This section does not preclude a public school superintendent from:

(A) Making a recommendation for the termination or nonrenewal of a teacher's contract for any lawful reason under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.; or

(B) Including in a recommendation for termination or nonrenewal of a teacher's contract under this section any other lawful reason for termination or nonrenewal under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

6-17-2808. Implementation -- Applicability.

(a) Beginning in the 2014-2015 school year, a public school shall implement the Teacher Excellence and Support System for all teachers employed at the public school under the rules established by the State Board of Education.

(b)(1) Annually during a school year, a public school shall conduct a summative evaluation for every teacher employed in the public school who is a:

(A) Novice teacher;

(B) Probationary teacher; or

(C) Teacher who successfully completed intensive support status within the current or immediately preceding school year.

(2)(A) At least one (1) time every four (4) school years, a public school shall conduct a summative evaluation for a teacher who is not in a status under subdivision (b)(1) of this section.

(B) In a school year in which a summative evaluation is not required for a teacher under this subdivision (b)(2), the teacher:

(i) Shall focus on elements of the teacher's professional growth plan as approved by the evaluator that are designed to help the teacher improve his or her teaching practices; and

(ii) With the evaluator's approval may:

(a) Collaborate with a team of teachers on a shared plan that benefits the whole school, a content area, or a grade level; or

(b) Conduct self-directed research related to the teacher's professional growth plan under § 6-17-2806.

(C) During the two (2) years in which a summative evaluation is not required, a public school may conduct an evaluation that is lesser in scope than a summative evaluation but uses the portions of the evaluation framework and evaluation rubrics that are relevant to the teacher's professional growth plan.

(c)(1) A teacher shall:

(A) Participate in the Teacher Excellence and Support System under this subchapter, including without limitation in:

(i) Classroom observations; and

(ii) Pre-observation and post-observation conferences; and

(B)(i) Collaborate in good faith with the evaluator to develop the teacher's

professional growth plan under § 6-17-2806(a).

(ii) If a teacher and evaluator cannot agree on the professional learning plan, the evaluator's decision shall be final.

(2) A failure to comply with this subsection may be reflected in the teacher's evaluation.

(3) Annually, a public school shall assign each teacher employed by the school an annual overall rating that is based on:

(A) The teacher's professional practice, as evidenced by the performance rating for a summative evaluation or for an interim appraisal; and

(B) Student growth, as determined by rules promulgated by the State Board of Education.

(4)(A) A teacher shall submit artifacts agreed upon by the teacher and evaluator or by the evaluator if the teacher and evaluator cannot agree, as evidence of professional practice in determining the performance rating for a summative evaluation or for an interim appraisal.

(B) External assessment measures may be among the artifacts submitted.

(d) Every teacher contract renewed or entered into after July 27, 2011 is subject to and shall reference this subchapter.

(e) A public school that in the 2012-2013 and 2013-2014 school years uses a nationally recognized system of teacher evaluation and support that is substantially similar to the Teacher Excellence and Support System may continue to use that system and is deemed to have met the requirements of this section.

6-17-2809. Administrator evaluations.

(a) The Department of Education may develop and implement an administrator evaluation system for school districts to evaluate administrators that weighs an administrator evaluation on student performance and growth to the same extent as provided for teachers under the Teacher Excellence and Support System, § 6-17-2801 et seq.

(b) The State Board of Education may promulgate rules as necessary for the administration of this section.