



Changes Coming to FOIA and Teacher Evaluations

Senate Bill 315

By the time you read this, Senate Bill 315 may have been passed by both houses on its way to Governor Quinn. The bill clarifies the *Freedom of Information Act (FOIA)* with respect to the disclosure of performance evaluations and makes substantive changes to the requirements of teacher and principal evaluations under the *School Code*. It is expected to be quickly signed into law to help the State's application for Race to the Top funds.

FOIA

Under recent changes to *FOIA*, personnel file documents, including performance evaluations, are no longer shielded from disclosure. In response to concerns from teachers and administrators over the potential negative ramifications of releasing performance evaluations, Senate Bill 315 adds a new Article 24A-7.1 to the *School Code*. The new Article states that disclosure of teacher, principal and superintendent performance evaluations is prohibited, unless otherwise authorized by the *School Code*. This addition will allow school districts to invoke §7(1)(a) of *FOIA* (exempting information specifically prohibited from disclosure under federal or state law) in response to *FOIA* requests for teacher, principal, or superintendent evaluations.

Please note that the prohibition, on its face, relates only to teacher, principal and superintendent evaluations. Unless contrary guidance is issued by the Attorney General's office, it appears that the performance evaluations of other administrators and non-certificated employees remain subject to release under *FOIA*.

Teacher Evaluations

Senate Bill 315 makes several changes to teacher and principal evaluations. Some of those changes, such as incorporating student growth measures into evaluation plans, are contingent on receipt of Race to the Top funding, or on the state providing adequate funding if Race to the Top funds are not awarded to Illinois. However, the following changes are mandatory regardless of Race to the Top or state funding:

- Changing evaluation ratings to "Excellent", "Proficient", "Needs Improvement" and "Unsatisfactory";
- Allowing peer evaluation, subject to union agreement;
- Providing professional development plans for teachers rated "Needs Improvement";
- Providing for remediation periods of shorter than 90 days, if permitted by a collective bargaining agreement;
- During remediation, replacing evaluations every 30 school days with one midpoint evaluation and one final evaluation; and,
- Dismissal if following remediation the teacher does not achieve a rating of "Proficient" or "Excellent".

The bill also provides changes to the evaluation system for principals. One notable change is that the due date for principal evaluations is pushed back from February 1 to March 1. These changes must be made in the evaluation process by September 1, 2012. Senate Bill 315 will be effective immediately upon becoming law. Please contact us with any questions or concerns you may have about this, or any other, pending legislation.

The information herein was prepared by Scariano, Himes and Petrarca, Chtd. to provide general guidance on issues affecting educators. This publication is not intended to provide specific legal advice or to create an attorney-client relationship. We are pleased to provide legal assistance to you on the subjects addressed in this communication or on other subjects. Reproduction is permitted with credit to Scariano, Himes & Petrarca, Chtd.

Scariano, Himes and Petrarca, Chtd., represents more than 100 school districts, special education cooperatives and vocational education cooperatives. Our attorneys have expertise in all areas of education law and practice in three locations to more readily serve our clients:

CHICAGO OFFICE

Two Prudential Plaza
180 N. Stetson, Suite 3100
Chicago, Illinois 60601-6702
Phone 312.565.3100 / Fax 312.565.0000

CHICAGO HEIGHTS OFFICE

1450 Aberdeen
Chicago Heights, Illinois 60411
Phone 708.755.1900 / Fax 708.755.0000

WAUKEGAN OFFICE

209 W. Madison Street
Waukegan, Illinois 60085
Phone 847.662.5800 / Fax 847.662.6813

[CLICK here](#) to remove your email address from our list.

State and federal law require that this document be designated as advertising material.

© 2009 Scariano, Himes & Petrarca, Chtd.

