



SENATE BILL 7 ANALYSIS – PART TWO - EVALUATIONS

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In Part 2 of this firm's analysis of Senate Bill 7, we address Senate Bill 7's reliance upon recent changes in the teacher evaluation process. Much of Senate Bill 7 relates to the new evaluation procedures put in place in 2010, through the Performance Evaluation Review Act ("PERA").

PERA requires that each school district develop an evaluation plan incorporating the use of data and indicators on student growth as a factor in rating performance. Such factors must be implemented in the lowest performing 20% of school districts on or before September 1, 2015. For the remainder of school districts, the new evaluation plan must be implemented on or before September 1, 2016.

All evaluators undertaking evaluations after September 1, 2012 must be trained in an ISBE-approved program, and teachers must be rated as "excellent," "proficient," "needs improvement," or "unsatisfactory." All probationary teachers must be evaluated at least annually, and tenured teachers must be evaluated at least every two years.

1. Senate Bill 7 changes the manner in which a school district may fill new and vacant positions.

In filling new and vacant positions, a school district may consider certification, qualifications, merit, ability (including performance evaluations), and relevant experience. The length of continuing service with a school district must not be considered, unless all other factors among two candidates are considered to be equal. Whether a performance evaluation was performed in accordance with PERA will bear upon such consideration, in that PERA evaluations should be given more weight than non-PERA evaluations.

A school district's decision to select a candidate for a new or vacant position shall not be subject to review under grievance resolution procedures in the *Illinois Educational Labor Relations Act* (IELRA) so long as the school district does not fail to comply with the procedural requirements set forth in the school district's collective bargaining agreement ("CBA").

In the event that the school district's CBA does provide for the filling of new and vacant positions, those provisions will remain in effect for the remainder of the term of the CBA. At a minimum, your CBA should clarify when a "vacancy" exists.

2. Senate Bill 7 makes changes regarding the State Superintendent's suspension, revocation, or limiting an individual's teaching certificate through its definition of "incompetency."

The State Superintendent has the authority to suspend, revoke, or limit an individual's teaching certificate for "incompetency." "Incompetency" is defined as receiving an "unsatisfactory" performance evaluation in two or more school terms within a seven (7) year period.

In determining whether to suspend, revoke, or limit an individual's teaching certificate based on incompetency, the State Superintendent will consider whether the unsatisfactory evaluations occurred prior to Senate Bill 7 taking effect; whether the unsatisfactory evaluations occurred prior to the implementation date of the recently passed evaluation procedures described in the PERA; whether the evaluators who rated the teacher unsatisfactory had completed proper training under the PERA; the time between the ratings; the quality of the remediation plans; whether the unsatisfactory ratings were related to the same or different assignments; or whether the unsatisfactory ratings occurred during the first year of an assignment.

As an alternative to suspension or revocation, the State Superintendent may require that the teacher receive additional professional development, at the teacher's expense.

Please do not hesitate to contact Scariano, Himes and Petrarca, Chtd., with any questions about teacher evaluations.

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