

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1495**

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**Introduced by Assembly Member Weber**

February 27, 2015

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An act to amend ~~Section~~ *Sections 44662, 44663, and 44664* of the Education Code, relating to teachers.

LEGISLATIVE COUNSEL’S DIGEST

AB 1495, as amended, Weber. Teachers: evaluation.

Existing law states the intent of the Legislature that governing boards of school districts establish a uniform system of evaluation and assessment of the performance of all certificated personnel within each school district of the state. Existing law requires the governing board of each school district to establish standards of expected pupil achievement at each grade level in each area of study and to evaluate and assess certificated employee performance on a continuing basis as it reasonably relates to specified matters, *including pupil progress, as provided*. Existing law authorizes the governing board of a school district to develop and adopt additional evaluation and assessment guidelines or criteria.

~~This bill would make nonsubstantive changes to these provisions.~~

*This bill would also require the governing board of each school district to evaluate and assess certificated employee performance as it reasonably relates to pupil achievement and pupil outcomes, if applicable, as provided. The bill would provide that evidence of actual pupil progress may include written reports from classroom observations and data from various sources, including state-adopted criterion referenced assessments.*

*The bill would require an employing authority to utilize a minimum of 3 rating levels of professional achievement for evaluation and assessment of certificated employees, as provided.*

*By imposing additional duties on school districts, this bill would impose a state-mandated local program.*

*Existing law requires an evaluation to include recommendations, if necessary, as to areas of improvement in the performance of the employee. Existing law requires or authorizes certain things relating to the evaluation if a permanent certificated employee receives an unsatisfactory evaluation.*

*This bill would instead require or authorize these things relating to the evaluation if the employee receives one of the rating levels of professional achievement for evaluation and assessment. The bill would require, in order to endeavor to assess the employee in areas of improvement, the school district to, at minimum, prioritize the employee's eligibility for professional development, as provided. By expanding the duties of a school district, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 44662 of the Education Code is amended
- 2 to read:
- 3 44662. (a) The governing board of a school district shall
- 4 establish standards of expected pupil achievement at each grade
- 5 level in each area of study.
- 6 (b) The governing board of a school district shall evaluate and
- 7 assess certificated employee performance as it reasonably relates
- 8 to:

1 (1) The progress of pupils toward the standards established  
2 pursuant to subdivision (a) and, if applicable, *pupil achievement*  
3 *and pupil outcomes described in the local control and*  
4 *accountability plan pursuant to paragraphs (4) and (8) of*  
5 *subdivision (d) of Section 52060, and the state adopted academic*  
6 content standards as measured by state adopted criterion referenced  
7 assessments.

8 (2) The instructional techniques and strategies used by the  
9 employee.

10 (3) The employee's adherence to curricular objectives.

11 (4) The establishment and maintenance of a suitable learning  
12 environment, within the scope of the employee's responsibilities.

13 (c) The governing board of a school district shall establish and  
14 define job responsibilities for certificated noninstructional  
15 personnel, including, but not limited to, supervisory and  
16 administrative personnel, whose responsibilities cannot be  
17 evaluated appropriately under the provisions of subdivision (b)  
18 and shall evaluate and assess the performance of those  
19 noninstructional certificated employees as it reasonably relates to  
20 the fulfillment of those responsibilities.

21 (d) Results of an employee's participation in the California Peer  
22 Assistance and Review Program for Teachers established by Article  
23 4.5 (commencing with Section 44500) shall be made available as  
24 part of the evaluation conducted pursuant to this section.

25 (e) The evaluation and assessment of certificated employee  
26 performance pursuant to this section shall not include the use of  
27 publishers' norms established by standardized tests.

28 (f) Nothing in this section shall be construed as in any way  
29 limiting the authority of the governing board of a school district  
30 to develop and adopt additional evaluation and assessment  
31 guidelines or criteria.

32 (g) *For purposes of paragraph (1) of subdivision (b), evidence*  
33 *of actual pupil progress may include, but shall not be limited to,*  
34 *written reports from classroom observations and data from any*  
35 *or all of the following:*

36 (1) *State-adopted criterion referenced assessments.*

37 (2) *District, school, or department-developed assessments.*

38 (3) *Curriculum-based and end-of-course assessments.*

39 (4) *Pretest and posttest data.*

40 (5) *Interim, periodic, benchmark, and formative assessments.*

1     (6) *English language proficiency assessments.*

2     (7) *Assessments measuring progress in an individualized*  
3 *education program.*

4     (8) *Advance placement, international baccalaureate and college*  
5 *preparedness examinations.*

6     (9) *A-G coursework completion.*

7     (10) *Industry-recognized career technical education assessments*  
8 *and program completion.*

9     (11) *Portfolios of pupils' work and projects and of live and*  
10 *recorded pupil performances.*

11     (12) *Surveys from parents.*

12     SEC. 2. *Section 44663 of the Education Code is amended to*  
13 *read:*

14     44663. (a) *The employing authority shall utilize a minimum*  
15 *of three rating levels of professional achievement for evaluation*  
16 *and assessment of certificated employees pursuant to this article.*

17     (b) *At least two rating levels shall identify certificated employees*  
18 *who meet either of the following:*

19     (1) *Require more development and growth to achieve a rating*  
20 *of satisfactory or meeting standards, and who are to participate*  
21 *and receive appropriate additional support, training, and*  
22 *assistance pursuant to Section 44664.*

23     (2) *Demonstrate unsatisfactory performance or conduct,*  
24 *unsuccessfully participated in mandatory corrective action, refused*  
25 *to participate in required additional support and training pursuant*  
26 *to Section 44664, or are subject to mandatory reassignment,*  
27 *suspension, or adverse action resulting from charges pursuant to*  
28 *Article 3 (commencing with Section 44930) of Chapter 4.*

29     ~~(a) Evaluation~~

30     (c) *The evaluation and assessment made pursuant to this article*  
31 *shall be reduced to writing and a copy thereof of the evaluation*  
32 *and assessment shall be transmitted to the certificated employee*  
33 *not later than 30 days before the last schoolday scheduled on the*  
34 *school calendar adopted by the governing board for the school*  
35 *year in which the evaluation takes place. The certificated employee*  
36 *shall have the right to initiate a written reaction or response to the*  
37 *evaluation. This response shall become a permanent attachment*  
38 *to the employee's personnel file. Before the last schoolday*  
39 *scheduled on the school calendar adopted by the governing board*

1 for the school year, a meeting shall be held between the certificated  
2 employee and the evaluator to discuss the evaluation.

3 ~~(b)~~

4 (d) In the case of a certificated noninstructional employee, who  
5 is employed on a 12-month basis, the evaluation and assessment  
6 made pursuant to this article shall be reduced to writing and a copy  
7 ~~thereof of the evaluation and assessment~~ shall be transmitted to  
8 the certificated employee no later than June 30 of the year in which  
9 the evaluation and assessment is made. A certificated  
10 noninstructional employee, who is employed on a 12-month basis  
11 shall have the right to initiate a written reaction or response to the  
12 evaluation. This response shall become a permanent attachment  
13 to the employee's personnel file. Before July 30 of the year in  
14 which the evaluation and assessment takes place, a meeting shall  
15 be held between the certificated employee and the evaluator to  
16 discuss the evaluation and assessment.

17 *SEC. 3. Section 44664 of the Education Code is amended to*  
18 *read:*

19 44664. (a) Evaluation and assessment of the performance of  
20 each certificated employee shall be made on a continuing basis as  
21 follows:

22 (1) At least once each school year for probationary personnel.

23 (2) At least every other year for personnel with permanent status.

24 (3) At least every five years for personnel with permanent status  
25 who have been employed at least 10 years with the school district,  
26 are highly qualified, if those personnel occupy positions that are  
27 required to be filled by a highly qualified professional by the  
28 federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. ~~6301~~,  
29 ~~6301~~ et seq.), as defined in ~~20 U.S.C. Sec. 7801~~, *Section 7801 of*  
30 *Title 20 of the United States Code*, and whose previous evaluation  
31 rated the employee as meeting or exceeding standards, if the  
32 evaluator and certificated employee being evaluated agree. The  
33 certificated employee or the evaluator may withdraw consent at  
34 any time.

35 (b) The evaluation shall include recommendations, if necessary,  
36 as to areas of improvement in the performance of the employee.  
37 If an employee is not performing his or her duties in a satisfactory  
38 manner according to the standards prescribed by the governing  
39 board, the employing authority shall notify the employee in writing  
40 of that fact and describe the unsatisfactory performance. The

1 employing authority shall thereafter confer with the employee  
2 making specific recommendations as to areas of improvement in  
3 the employee's performance and endeavor to assist the employee  
4 in his or her performance. ~~If any~~ a permanent certificated employee  
5 has received ~~an unsatisfactory evaluation~~ *an evaluation rating in*  
6 *either of the levels described in subdivision (b) of Section 44663,*  
7 the employing authority shall annually evaluate the employee until  
8 the employee achieves a positive evaluation or is separated from  
9 the district.

10 (c) ~~Any~~ *An* evaluation performed pursuant to this article ~~which~~  
11 ~~that contains an unsatisfactory~~ *a rating of an employee's*  
12 *performance described in subdivision (b) of Section 44663 in the*  
13 *area of teaching methods or methods, instruction, or progress of*  
14 *pupils towards standards of expected pupil achievement,* may  
15 include the requirement that the certificated employee shall, as  
16 determined necessary by the employing authority, participate in a  
17 program designed to improve appropriate areas of the employee's  
18 performance and to further pupil achievement and the instructional  
19 objectives of the employing authority. ~~If~~

20 (d) *If* a district participates in the California Peer Assistance  
21 and Review Program for Teachers established pursuant to Article  
22 4.5 (commencing with Section 44500), any certificated employee  
23 who receives ~~an unsatisfactory~~ *a rating in either of the levels*  
24 *described by subdivision (b) of Section 44663* on an evaluation  
25 performed pursuant to this section shall participate in the California  
26 Peer Assistance and Review Program for Teachers.

27 (e) *Notwithstanding any other law, in endeavoring to assist the*  
28 *employee pursuant to subdivision (b), the district shall, at a*  
29 *minimum, prioritize the employee's eligibility for professional*  
30 *development identified in the district and applicable school's local*  
31 *control and accountability plan, and any professional development*  
32 *supported by one time or ongoing funds appropriated by the*  
33 *Legislature in the annual Budget Act, including professional*  
34 *development in the state academic content standards adopted by*  
35 *the state board, and training on services to English learners to*  
36 *access the common core academic content standards adopted*  
37 *pursuant to Section 60605.8 and the English language development*  
38 *standards adopted pursuant to former Section 60811.3, as that*  
39 *section read on June 30, 2013, or Section 60811.4.*

40 (d)

1 (f) Hourly and temporary hourly certificated employees, other  
2 than those employed in adult education classes who are excluded  
3 by the provisions of Section 44660, and substitute teachers may  
4 be excluded from the provisions of this section at the discretion  
5 of the governing board.

6 *SEC. 4. If the Commission on State Mandates determines that*  
7 *this act contains costs mandated by the state, reimbursement to*  
8 *local agencies and school districts for those costs shall be made*  
9 *pursuant to Part 7 (commencing with Section 17500) of Division*  
10 *4 of Title 2 of the Government Code.*