

AMENDED IN ASSEMBLY APRIL 14, 2015

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 Sections 44662, 44663, and 44664 of Section 33039 of, and to add Article 14 (commencing with Section 44672) to Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, relating to teachers.

LEGISLATIVE COUNSEL'S DIGEST

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

*Existing law requires the State Board of Education to develop guidelines that school districts may use in the development of certain teach evaluation procedures and to distribute those guidelines to every school district.*

*This bill would require the development of those guidelines to comply with the Administrative Procedure Act.*

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 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.~~ *provide, if applicable, multiple measures of pupil progress, pupil academic growth, pupil achievement, and pupil outcomes as used for certain purposes of evaluating and assessing certificated employee performance may include specified sources.*

The bill would require an employing authority to ~~utilize~~ *use* 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~~ *these evaluations to include a requirement that the employee participate in a specified program* if a permanent certificated employee receives an unsatisfactory evaluation.

~~This bill would instead require or authorize these things relating to the evaluation~~ *require an employee, if the that* employee receives one of the *specified* rating levels of professional achievement for evaluation and ~~assessment.~~ *assessment, to participate in the California Peer Assistance and Review Program for Teachers if the school district participates in that program.* The bill would require, in order to endeavor to ~~assess~~ *assist* the employee in areas of improvement, the school district to, at minimum, *consider the employee's eligibility for professional development identified in the school district and applicable school's local control and accountability plan, and 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: yes.  
State-mandated local program: yes.

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

1     *SECTION 1. Section 33039 of the Education Code is amended*  
2 *to read:*

3     33039. ~~The State Board of Education~~ *state board* shall develop  
4 guidelines ~~which~~ *that* school districts may use in the development  
5 of teacher evaluation procedures pursuant to Article 11  
6 (commencing with Section 44660) of Chapter 1 of Part 25 of  
7 Division 3 of this title, and shall distribute ~~such~~ *the* guidelines to  
8 every school district. *The development of these guidelines shall*  
9 *comply with the Administrative Procedure Act (Chapter 3.5*  
10 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
11 *2 of the Government Code).*

12     *SEC. 2. Article 14 (commencing with Section 44672) is added*  
13 *to Chapter 3 of Part 25 of Division 3 of Title 2 of the Education*  
14 *Code, to read:*

15  
16             *Article 14. Common Evaluation System Provisions*

17  
18     44672. *If applicable, multiple measures of pupil progress, pupil*  
19 *academic growth, pupil achievement, and pupil outcomes as used*  
20 *in this chapter for purposes of evaluating and assessing certificated*  
21 *employee performance may include, but shall not be limited to,*  
22 *any of the following sources:*

23     (a) *State-adopted formative and summative criterion referenced*  
24 *assessments.*

25     (b) *School district, school, or department-developed*  
26 *assessments.*

27     (c) *Curriculum-based and end-of-course assessments.*

28     (d) *Pretest and posttest data.*

29     (e) *Interim, periodic, benchmark, and formative assessments.*

30     (f) *English language proficiency assessments.*

- 1 (g) Assessments measuring progress in an individualized  
2 education program.
- 3 (h) Advance placement, international baccalaureate, and college  
4 preparedness examinations.
- 5 (i) A-G coursework completion.
- 6 (j) Industry-recognized career technical education assessments  
7 and program completion.
- 8 (k) Portfolios of pupils' work, projects, and performances  
9 redacted of personally identifiable pupil information.
- 10 (l) Surveys from parents, if approved in advance by the  
11 certificated employee.
- 12 (m) Surveys from pupils, if approved in advance by the  
13 certificated employee.
- 14 (n) Written reports from classroom observations.
- 15 (o) Progress on outcomes described in the local control and  
16 accountability plan pursuant to paragraphs (4) and (8) of  
17 subdivision (d) of Section 52060.
- 18 44673. (a) The employing authority shall use a minimum of  
19 three rating levels of professional achievement for evaluation and  
20 assessment of certificated employees pursuant to this chapter.
- 21 (b) At least two rating levels shall identify certificated employees  
22 who meet either of the following:
- 23 (1) Require more development and growth to achieve a rating  
24 of satisfactory or meeting standards, and who are required to  
25 participate and receive appropriate additional support, training,  
26 and assistance.
- 27 (2) Demonstrate unsatisfactory performance or conduct,  
28 unsuccessfully participated in mandatory corrective action, refused  
29 to participate in required additional support and training, or are  
30 subject to mandatory reassignment, suspension, or adverse action  
31 resulting from charges pursuant to Article 3 (commencing with  
32 Section 44930) of Chapter 4. This rating level shall be applicable  
33 to paragraph (5) of subdivision (a) of Section 44932.
- 34 44674. (a) If a school district participates in the California  
35 Peer Assistance and Review Program for Teachers established  
36 pursuant to Article 4.5 (commencing with Section 44500), a  
37 certificated employee who receives a rating in either of the levels  
38 described by subdivision (b) of Section 44673 on an evaluation  
39 performed pursuant to Section 44664 shall participate in the  
40 California Peer Assistance and Review Program for Teachers.

1 (b) Notwithstanding any other law, in endeavoring to assist the  
2 employee as mandated by Article 11 (commencing with Section  
3 44660) and Article 13 (commencing with Section 44670), the school  
4 district shall, at a minimum, consider the employee's eligibility  
5 for professional development identified in the school district and  
6 applicable school's local control and accountability plan, and  
7 prioritize the employee's eligibility for any professional  
8 development supported by one-time or ongoing funds appropriated  
9 by the Legislature in the annual Budget Act, including professional  
10 development in the state academic content standards adopted by  
11 the state board, and training on services to English learners to  
12 access the common core academic content standards adopted  
13 pursuant to Section 60605.8 and the English language development  
14 standards adopted pursuant to former Section 60811.3, as that  
15 section read on June 30, 2013, or Section 60811.4.

16 SEC. 3. If the Commission on State Mandates determines that  
17 this act contains costs mandated by the state, reimbursement to  
18 local agencies and school districts for those costs shall be made  
19 pursuant to Part 7 (commencing with Section 17500) of Division  
20 4 of Title 2 of the Government Code.

21 SECTION 1. ~~Section 44662 of the Education Code is amended~~  
22 ~~to read:~~

23 ~~44662. (a) The governing board of a school district shall~~  
24 ~~establish standards of expected pupil achievement at each grade~~  
25 ~~level in each area of study.~~

26 ~~(b) The governing board of a school district shall evaluate and~~  
27 ~~assess certificated employee performance as it reasonably relates~~  
28 ~~to:~~

29 ~~(1) The progress of pupils toward the standards established~~  
30 ~~pursuant to subdivision (a) and, if applicable, pupil achievement~~  
31 ~~and pupil outcomes described in the local control and~~  
32 ~~accountability plan pursuant to paragraphs (4) and (8) of~~  
33 ~~subdivision (d) of Section 52060, and the state adopted academic~~  
34 ~~content standards as measured by state adopted criterion referenced~~  
35 ~~assessments.~~

36 ~~(2) The instructional techniques and strategies used by the~~  
37 ~~employee.~~

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

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

1     ~~(e) The governing board of a school district shall establish and~~  
 2 ~~define job responsibilities for certificated noninstructional~~  
 3 ~~personnel, including, but not limited to, supervisory and~~  
 4 ~~administrative personnel, whose responsibilities cannot be~~  
 5 ~~evaluated appropriately under the provisions of subdivision (b)~~  
 6 ~~and shall evaluate and assess the performance of those~~  
 7 ~~noninstructional certificated employees as it reasonably relates to~~  
 8 ~~the fulfillment of those responsibilities.~~

9     ~~(d) Results of an employee’s participation in the California Peer~~  
 10 ~~Assistance and Review Program for Teachers established by Article~~  
 11 ~~4.5 (commencing with Section 44500) shall be made available as~~  
 12 ~~part of the evaluation conducted pursuant to this section.~~

13     ~~(e) The evaluation and assessment of certificated employee~~  
 14 ~~performance pursuant to this section shall not include the use of~~  
 15 ~~publishers’ norms established by standardized tests.~~

16     ~~(f) Nothing in this section shall be construed as in any way~~  
 17 ~~limiting the authority of the governing board of a school district~~  
 18 ~~to develop and adopt additional evaluation and assessment~~  
 19 ~~guidelines or criteria.~~

20     ~~(g) For purposes of paragraph (1) of subdivision (b), evidence~~  
 21 ~~of actual pupil progress may include, but shall not be limited to,~~  
 22 ~~written reports from classroom observations and data from any or~~  
 23 ~~all of the following:~~

- 24     ~~(1) State-adopted criterion-referenced assessments.~~
- 25     ~~(2) District, school, or department-developed assessments.~~
- 26     ~~(3) Curriculum-based and end-of-course assessments.~~
- 27     ~~(4) Pretest and posttest data.~~
- 28     ~~(5) Interim, periodic, benchmark, and formative assessments.~~
- 29     ~~(6) English language proficiency assessments.~~
- 30     ~~(7) Assessments measuring progress in an individualized~~  
 31 ~~education program.~~
- 32     ~~(8) Advance placement, international baccalaureate and college~~  
 33 ~~preparedness examinations.~~
- 34     ~~(9) A-G coursework completion.~~
- 35     ~~(10) Industry-recognized career technical education assessments~~  
 36 ~~and program completion.~~
- 37     ~~(11) Portfolios of pupils’ work and projects and of live and~~  
 38 ~~recorded pupil performances.~~
- 39     ~~(12) Surveys from parents.~~

1     ~~SEC. 2. Section 44663 of the Education Code is amended to~~  
2     ~~read:~~

3     ~~44663. (a) The employing authority shall utilize a minimum~~  
4     ~~of three rating levels of professional achievement for evaluation~~  
5     ~~and assessment of certificated employees pursuant to this article.~~

6     ~~(b) At least two rating levels shall identify certificated~~  
7     ~~employees who meet either of the following:~~

8     ~~(1) Require more development and growth to achieve a rating~~  
9     ~~of satisfactory or meeting standards, and who are to participate~~  
10    ~~and receive appropriate additional support, training, and assistance~~  
11    ~~pursuant to Section 44664.~~

12    ~~(2) Demonstrate unsatisfactory performance or conduct,~~  
13    ~~unsuccessfully participated in mandatory corrective action, refused~~  
14    ~~to participate in required additional support and training pursuant~~  
15    ~~to Section 44664, or are subject to mandatory reassignment,~~  
16    ~~suspension, or adverse action resulting from charges pursuant to~~  
17    ~~Article 3 (commencing with Section 44930) of Chapter 4.~~

18    ~~(c) The evaluation and assessment made pursuant to this article~~  
19    ~~shall be reduced to writing and a copy of the evaluation and~~  
20    ~~assessment shall be transmitted to the certificated employee not~~  
21    ~~later than 30 days before the last schoolday scheduled on the school~~  
22    ~~calendar adopted by the governing board for the school year in~~  
23    ~~which the evaluation takes place. The certificated employee shall~~  
24    ~~have the right to initiate a written reaction or response to the~~  
25    ~~evaluation. This response shall become a permanent attachment~~  
26    ~~to the employee's personnel file. Before the last schoolday~~  
27    ~~scheduled on the school calendar adopted by the governing board~~  
28    ~~for the school year, a meeting shall be held between the certificated~~  
29    ~~employee and the evaluator to discuss the evaluation.~~

30    ~~(d) In the case of a certificated noninstructional employee, who~~  
31    ~~is employed on a 12-month basis, the evaluation and assessment~~  
32    ~~made pursuant to this article shall be reduced to writing and a copy~~  
33    ~~of the evaluation and assessment shall be transmitted to the~~  
34    ~~certificated employee no later than June 30 of the year in which~~  
35    ~~the evaluation and assessment is made. A certificated~~  
36    ~~noninstructional employee, who is employed on a 12-month basis~~  
37    ~~shall have the right to initiate a written reaction or response to the~~  
38    ~~evaluation. This response shall become a permanent attachment~~  
39    ~~to the employee's personnel file. Before July 30 of the year in~~  
40    ~~which the evaluation and assessment takes place, a meeting shall~~

1 be held between the certificated employee and the evaluator to  
2 discuss the evaluation and assessment.

3 ~~SEC. 3. Section 44664 of the Education Code is amended to~~  
4 ~~read:~~

5 ~~44664. (a) Evaluation and assessment of the performance of~~  
6 ~~each certificated employee shall be made on a continuing basis as~~  
7 ~~follows:~~

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

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

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

20 ~~(b) The evaluation shall include recommendations, if necessary,~~  
21 ~~as to areas of improvement in the performance of the employee.~~  
22 ~~If an employee is not performing his or her duties in a satisfactory~~  
23 ~~manner according to the standards prescribed by the governing~~  
24 ~~board, the employing authority shall notify the employee in writing~~  
25 ~~of that fact and describe the unsatisfactory performance. The~~  
26 ~~employing authority shall thereafter confer with the employee~~  
27 ~~making specific recommendations as to areas of improvement in~~  
28 ~~the employee's performance and endeavor to assist the employee~~  
29 ~~in his or her performance. If a permanent certificated employee~~  
30 ~~has received an evaluation rating in either of the levels described~~  
31 ~~in subdivision (b) of Section 44663, the employing authority shall~~  
32 ~~annually evaluate the employee until the employee achieves a~~  
33 ~~positive evaluation or is separated from the district.~~

34 ~~(c) An evaluation performed pursuant to this article that contains~~  
35 ~~a rating of an employee's performance described in subdivision~~  
36 ~~(b) of Section 44663 in the area of teaching methods, instruction,~~  
37 ~~or progress of pupils towards standards of expected pupil~~  
38 ~~achievement, may include the requirement that the certificated~~  
39 ~~employee shall, as determined necessary by the employing~~  
40 ~~authority, participate in a program designed to improve appropriate~~

1 areas of the employee's performance and to further pupil  
2 achievement and the instructional objectives of the employing  
3 authority.

4 (d) If a district participates in the California Peer Assistance  
5 and Review Program for Teachers established pursuant to Article  
6 4.5 (commencing with Section 44500), any certificated employee  
7 who receives a rating in either of the levels described by  
8 subdivision (b) of Section 44663 on an evaluation performed  
9 pursuant to this section shall participate in the California Peer  
10 Assistance and Review Program for Teachers.

11 (e) Notwithstanding any other law, in endeavoring to assist the  
12 employee pursuant to subdivision (b), the district shall, at a  
13 minimum, prioritize the employee's eligibility for professional  
14 development identified in the district and applicable school's local  
15 control and accountability plan, and any professional development  
16 supported by one time or ongoing funds appropriated by the  
17 Legislature in the annual Budget Act, including professional  
18 development in the state academic content standards adopted by  
19 the state board, and training on services to English learners to  
20 access the common core academic content standards adopted  
21 pursuant to Section 60605.8 and the English language development  
22 standards adopted pursuant to former Section 60811.3, as that  
23 section read on June 30, 2013, or Section 60811.4.

24 (f) Hourly and temporary hourly certificated employees, other  
25 than those employed in adult education classes who are excluded  
26 by the provisions of Section 44660, and substitute teachers may  
27 be excluded from this section at the discretion of the governing  
28 board.

29 SEC. 4. If the Commission on State Mandates determines that  
30 this act contains costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.