

Introduced by Senators Liu and De León

February 26, 2015

An act to amend and repeal Section 44661.5 of, to amend, repeal, and add Sections 44660, 44661, 44662, and 44664 of, to add Sections 44662.1, 44662.5, 44662.6, and 44662.8 to, and to add and repeal Section 44662.7 of, the Education Code, relating to teachers, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 499, as introduced, Liu. Teachers: best practices teacher evaluation system.

(1) 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 the progress of pupils toward the established standards and, if applicable, the state adopted academic content standards as measured by state adopted criterion referenced assessments, the instructional techniques and strategies used by the employee, the employee's adherence to curricular objectives, and the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities.

This bill would provide that the provisions described above would become inoperative on July 1, 2016. The bill would state findings and declarations of the Legislature regarding the nature of effective teachers and of the teaching profession. Commencing on July 1, 2016, the bill

would require the governing board of each school district to adopt and implement a locally negotiated best practices teacher evaluation system, described as one in which each teacher is evaluated on a continuing basis on the degree to which he or she accomplishes specific objectives and multiple observations of instructional and other professional practices that are conducted by trained evaluators. The bill would authorize the state board, in consultation with the Superintendent of Public Instruction and appropriate education stakeholder groups, to adopt nonregulatory guidance to support the implementation of a best practices teacher evaluation system by school districts, as specified. The bill would also require the governing board of each school district to establish and define job responsibilities for certificated, noninstructional employees whose responsibilities cannot be evaluated appropriately under the best practices teacher evaluation system and to evaluate and assess their performance in relation to the fulfillment of those responsibilities. The bill would, on or before May 1, 2016, require the governing board of each school district, at a regularly scheduled public hearing, to seek comment on the development and implementation of the best practices teacher evaluation system, and, on or before May 1 of each year prior to local negotiations required by law, to seek comment on the best practices teacher evaluation system. The bill also would require the governing board of each school district to disclose the provisions of the best practices teacher evaluation system at a regularly scheduled public hearing. The bill would provide that these provisions do not apply to certificated personnel who are employed on an hourly basis in adult education classes. The bill would also provide that the provisions of the best practices teacher evaluation system do not supersede or invalidate a teacher evaluation system that is locally negotiated and that is in effect at the time the best practices teacher evaluation system becomes operative. By imposing additional duties on school districts, this bill would impose a state-mandated local program. The bill would appropriate, for the 2016–17 fiscal year, an unspecified amount of money from the General Fund to the State Department of Education for allocation to school districts for the purpose of implementing the best practices teachers evaluation system, as specified, thereby making an appropriation.

(2) Existing law requires that an evaluation and assessment of the performance of a certificated employee be made on a continuing basis, as provided, including at least every 5 years for personnel with permanent status who have been employed at least 10 years with the

school district, are highly qualified, as specified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.

This bill, commencing July 1, 2016, would require the evaluation and assessment of the above personnel at least every 3 years, except as locally negotiated and provided in the best practices teacher evaluation system. By requiring additional duties on school districts, this bill would impose a state-mandated local program.

(3) This bill would update cross-references and would make other nonsubstantive changes.

(4) 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.

(5) Funds appropriated by this bill would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 44660 of the Education Code is amended
2 to read:
3 44660. (a) It is the intent of the Legislature that governing
4 boards establish a uniform system of evaluation and assessment
5 of the performance of all certificated personnel within each school
6 district of the state, including schools conducted or maintained by
7 county superintendents of education. The system shall involve the
8 development and adoption by each school district of objective
9 evaluation and assessment guidelines—~~which~~ *that* may, at the
10 discretion of the governing ~~board~~, *board of the school district*, be
11 uniform throughout the *school* district or, for compelling reasons,
12 be individually developed for territories or schools within the
13 *school* district, provided that all certificated personnel of the *school*

1 district shall be subject to a system of evaluation and assessment
2 adopted pursuant to this article.

3 ~~This~~

4 (b) *This article does not apply to certificated personnel who are*
5 *employed on an hourly basis in adult education classes.*

6 (c) *This section shall become inoperative on July 1, 2016, and,*
7 *as of January 1, 2017, is repealed, unless a later enacted statute,*
8 *that becomes operative on or before January 1, 2017, deletes or*
9 *extends the dates on which it becomes inoperative and is repealed.*

10 SEC. 2. Section 44660 is added to the Education Code, to read:

11 44660. (a) The Legislature finds and declares all of the
12 following:

13 (1) Teaching is a professional endeavor, in which effective
14 practice is driven by an understanding of knowledge in the field
15 and a commitment to all pupils and their families.

16 (2) Excellent teaching requires knowledge, skills, artistry,
17 passion, and commitment.

18 (3) Effective teachers integrate ethical concern for children and
19 society, extensive subject matter competence, thoughtfully selected
20 pedagogical practices, and a depth of knowledge about their pupils,
21 including knowledge of child and adolescent development and
22 learning, an understanding of their individual strengths, interests,
23 and needs, and knowledge about their families and communities.

24 (4) Effective teachers share a common set of professional and
25 ethical obligations that includes a profound and fundamental
26 commitment to the growth and success of the individual pupils in
27 their care as well as to the strengthening and continual revitalization
28 of our democratic society.

29 (5) Certificated, noninstructional employees share the same
30 deep commitment to children, families, and communities, and they
31 provide essential support and administrative services to pupils and
32 teachers that enable pupils to succeed.

33 (b) The Legislature further finds and declares that because
34 teachers are the most important school-related factor for influencing
35 pupil academic success the primary purpose of an evaluation
36 system is to ensure that teachers meet the highest professional
37 standards of effective teaching, thereby resulting in high levels of
38 pupil learning.

39 (c) *This article does not apply to certificated personnel who are*
40 *employed on an hourly basis in adult education classes.*

1 (d) This section shall become operative on July 1, 2016.

2 SEC. 3. Section 44661 of the Education Code is amended to
3 read:

4 44661. (a) In the development and adoption of guidelines and
5 procedures pursuant to this article, the governing board *of a school*
6 *district* shall avail itself of the advice of the certificated
7 instructional personnel in the *school* district's organization of
8 certificated personnel; ~~provided, however, that the development~~
9 ~~and adoption of guidelines pursuant to this article shall also be~~
10 ~~subject to the provisions of Article 1 (commencing with Section~~
11 ~~7100) of Chapter 2 of Part 5 of Division 1 of Title 1.~~ *personnel.*

12 (b) *This section shall become inoperative on July 1, 2016, and,*
13 *as of January 1, 2017, is repealed, unless a later enacted statute,*
14 *that becomes operative on or before January 1, 2017, deletes or*
15 *extends the dates on which it becomes inoperative and is repealed.*

16 SEC. 4. Section 44661 is added to the Education Code, to read:

17 44661. (a) The governing board of each school district shall
18 adopt and implement a best practices teacher evaluation system
19 as set forth in this article.

20 (b) The best practices teacher evaluation system required to be
21 adopted pursuant to this article shall be locally negotiated pursuant
22 to Chapter 10.7 (commencing with Section 3540) of Division 4 of
23 Title 1 of the Government Code. If the certificated employees of
24 the school district do not have an exclusive bargaining
25 representative, the governing board of the school district shall
26 adopt objective evaluation and support components, as applicable,
27 that are consistent with this article.

28 (c) This section shall become operative on July 1, 2016.

29 SEC. 5. Section 44661.5 of the Education Code is amended to
30 read:

31 44661.5. (a) When developing and adopting objective
32 evaluation and assessment guidelines pursuant to Section 44660,
33 a school district may, by mutual agreement between the exclusive
34 representative of the certificated employees of the school district
35 and the governing board of the school district, include any objective
36 standards from the National Board for Professional Teaching
37 Standards or any objective standards from the California Standards
38 for the Teaching Profession if the standards to be included are
39 consistent with this article. If the certificated employees of the
40 school district do not have an exclusive representative, the school

1 district may adopt objective evaluation and assessment guidelines
2 consistent with this section.

3 *(b) This section shall become inoperative on July 1, 2016, and,*
4 *as of January 1, 2017, is repealed, unless a later enacted statute,*
5 *that becomes operative on or before January 1, 2017, deletes or*
6 *extends the dates on which it becomes inoperative and is repealed.*

7 SEC. 6. Section 44662 of the Education Code is amended to
8 read:

9 44662. (a) The governing board of each school district shall
10 establish standards of expected pupil achievement at each grade
11 level in each area of study.

12 (b) The governing board of each school district shall evaluate
13 and assess certificated employee performance as it reasonably
14 relates to:

15 (1) The progress of pupils toward the standards established
16 pursuant to subdivision (a) and, if applicable, the state adopted
17 academic content standards as measured by state adopted criterion
18 referenced assessments.

19 (2) The instructional techniques and strategies used by the
20 employee.

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

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

24 (c) The governing board of each school district shall establish
25 and define job responsibilities for certificated noninstructional
26 personnel, including, but not limited to, supervisory and
27 administrative personnel, whose responsibilities cannot be
28 evaluated appropriately under the provisions of subdivision (b)
29 and shall evaluate and assess the performance of those
30 noninstructional certificated employees as it reasonably relates to
31 the fulfillment of those responsibilities.

32 (d) Results of an employee's participation in the *California* Peer
33 Assistance and Review Program for Teachers established by Article
34 4.5 (commencing with Section 44500) shall be made available as
35 part of the evaluation conducted pursuant to this section.

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

39 (f) Nothing in this section shall be construed as in any way
40 limiting the authority of ~~school district governing boards~~ *the*

governing board of a school district to develop and adopt additional evaluation and assessment guidelines or criteria.

(g) *This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.*

SEC. 7. Section 44662 is added to the Education Code, to read:
44662. (a) A best practices teacher evaluation system shall include, but not be limited to, the following attributes:

(1) An evaluation of each teacher based on the degree to which he or she accomplishes the following objectives:

(A) Engages and supports all pupils in learning, evidence of which may include, but is not limited to, evidence of high expectations and active pupil engagement for each pupil.

(B) Creates and maintains effective environments for pupil learning, to the extent that those environments are within the teacher's control.

(C) Understands and organizes subject matter for pupil learning, evidence of which may include, but is not limited to, extensive subject matter, content standards, and curriculum competence.

(D) Plans instruction and designs learning experiences for all pupils, evidence of which may include, but is not limited to, use of differentiated instruction and practices based upon pupil progress and use of culturally responsive instruction, including, but not limited to, incorporation of multicultural information and content into the delivery of curriculum, to eliminate the achievement gap.

(E) Uses pupil assessment information to inform instruction and to improve learning, evidence of which shall include, but is not limited to, use of formative and summative assessments to adjust instructional practices to meet the needs of individual pupils. For certified employees who directly instruct English learner pupils in acquiring English language fluency, the assessment information shall include the results of assessments adopted pursuant to Chapter 7 (commencing with Section 60810) of Part 33 of Division 4.

(F) Develops, as a professional educator, evidence of which may include, but is not limited to, consistent and positive relationships with pupils, parents, staff, and administrators, use of collaborative professional practices for improving instructional strategies, participation in identified professional growth

1 opportunities, and use of meaningful self-assessment to improve
2 as a professional educator.

3 (G) Contributes to pupil academic growth based on multiple
4 measures, as follows:

5 (i) Multiple measures shall include state and local formative
6 and summative assessments in the grade levels and subjects that
7 these assessments are administered.

8 (ii) Multiple measures may include, but are not limited to,
9 classroom work, local and state academic assessments, and pupil
10 grades, classroom participation, presentations and performances,
11 and projects and portfolios.

12 (iii) Measures used for assessing pupil academic growth shall
13 be valid and reliable for the curriculum and the pupil being taught
14 and for the purpose of teacher evaluation, provided that the
15 evaluation and assessment of certificated employee performance
16 pursuant to this section shall not include the use of publishers'
17 norms established by standardized tests. For certificated employees
18 who directly instruct English learner pupils in acquiring English,
19 measures shall include the degree to which pupils acquire the
20 English language development standards adopted pursuant to
21 former Section 60811.3, as that section read on June 30, 2013, or
22 Section 60811.4, for the purpose of improving a pupil's English
23 proficiency. Pupil data used for purposes of teacher evaluation
24 shall be confidential in the same manner as all other elements of
25 a teacher's personnel file. It is the intent of the Legislature that
26 any assessments developed by a national consortium and adopted
27 by the state board and used for purposes of this section meet
28 statistical and psychometric standards appropriate for this use.

29 (2) Multiple observations of instructional and other professional
30 practices that are conducted by evaluators who have been
31 appropriately trained and calibrated to ensure consistency and who
32 have demonstrated competence in teacher evaluation, as determined
33 by the school district.

34 (A) Multiple observations may include, but are not limited to,
35 classroom observations, one-on-one discussions, and review of
36 classroom materials and course of study.

37 (B) Observations shall be conducted using a uniform evaluation
38 tool that is appropriate to the teacher's assignment.

39 (C) Before each formal observation, the observer shall meet
40 with the teacher to discuss the purpose of the observation.

1 (D) After each formal observation, the observer shall meet with
2 the teacher to discuss recommendations, as necessary, with regard
3 to areas of improvement in the performance of the teacher.

4 (3) A minimum of three performance levels for the evaluation
5 of teacher performance for purposes of Section 44664.

6 (b) This section shall not be interpreted to prohibit a locally
7 negotiated evaluation process from designating certificated
8 employees to conduct, or participate in, evaluations of other
9 certificated employees for purposes of determining the need for
10 professional development or providing corrective advice for the
11 certificated employee being evaluated. A nonsupervisory
12 certificated employee who conducts, or participates in, an
13 evaluation pursuant to this article shall not be deemed to be
14 exercising a management or supervisory function as defined by
15 subdivision (g) or (m) of Section 3540.1 of the Government Code.

16 (c) This section shall become operative on July 1, 2016.

17 SEC. 8. Section 44662.1 is added to the Education Code, to
18 read:

19 44662.1. The state board, in consultation with the
20 Superintendent and appropriate education stakeholder groups, may
21 adopt nonregulatory guidance to support the implementation of a
22 best practices teacher evaluation system by school districts that
23 may include all of the following:

24 (a) Model evaluation systems that may be used by school
25 districts to implement the best practices teacher evaluation system
26 pursuant to Sections 44661 and 44662, as added by Sections 4 and
27 7 of the act adding this section.

28 (b) Model processes for implementing observations of
29 instructional and other professional practices pursuant to paragraph
30 (2) of subdivision (a) of Section 44662, as added by Section 7 of
31 the act adding this section.

32 (c) Model processes for defining calibration for purposes of
33 training evaluators pursuant to paragraph (2) of subdivision (a) of
34 Section 44662, as added by Section 7 of the act adding this section.

35 (d) Model processes for developing the observation tool that
36 may be used for observations of instructional and other professional
37 practices pursuant to paragraph (2) of subdivision (a) of Section
38 44662, as added by Section 7 of the act adding this section.

39 (e) Model processes for determining and defining the
40 performance levels for the evaluation of teacher performance

1 pursuant to paragraph (3) of subdivision (a) of Section 44662, as
2 added by Section 7 of the act adding this section.

3 SEC. 9. Section 44662.5 is added to the Education Code, to
4 read:

5 44662.5. (a) The governing board of each school district shall
6 establish and define job responsibilities for certificated,
7 noninstructional employees, including, but not limited to,
8 supervisory and administrative personnel, whose responsibilities
9 cannot be evaluated appropriately under the provisions of
10 subdivision (a) of Section 44662. The governing board of each
11 school district shall evaluate and assess the performance of
12 certificated, noninstructional employees as it reasonably relates to
13 the fulfillment of those responsibilities.

14 (b) This section shall become operative on July 1, 2016.

15 SEC. 10. Section 44662.6 is added to the Education Code, to
16 read:

17 44662.6. (a) (1) On or before May 1, 2016, the governing
18 board of each school district, at a regularly scheduled public
19 hearing, shall seek comment on the development and
20 implementation of the best practices teacher evaluation system.
21 The governing board of a school district shall use the comments
22 received at the hearing to guide the development and
23 implementation of the best practices teacher evaluation system.

24 (2) On or before May 1 of each year prior to local negotiations
25 required pursuant to Chapter 10.7 (commencing with Section 3540)
26 of Division 4 of Title 1 of the Government Code, the governing
27 board of each school district shall seek comment on the best
28 practices teacher evaluation system.

29 (b) Consistent with Section 3547 of the Government Code and
30 no more than 30 days after the local negotiations required pursuant
31 to Chapter 10.7 (commencing with Section 3540) of Division 4 of
32 Title 1 of the Government Code, the governing board of each
33 school district shall disclose the provisions of the best practices
34 teacher evaluation system at a regularly scheduled public hearing.

35 SEC. 11. Section 44662.7 is added to the Education Code, to
36 read:

37 44662.7. (a) Notwithstanding any other law, for the 2016–17
38 fiscal year, ____ dollars (\$____) shall be appropriated from the
39 General Fund to the department for allocation to school districts
40 for the purpose of implementing the best practices teacher

1 evaluation system established pursuant to Sections 44661 and
2 44662, as added by Sections 4 and 7 of the act adding this section.
3 The amount appropriated by this section shall be allocated based
4 on the number of certificated staff employed at the eligible
5 schoolsites by a recipient school district. School districts shall use
6 the funds to plan for the implementation of the best practices
7 teacher evaluation system, including, but not limited to, both of
8 the following:

9 (1) Train evaluators to ensure calibration and consistency in
10 conducting observations pursuant to subparagraph (A) of paragraph
11 (2) of subdivision (a) of Section 44662, as added by Section 7 of
12 the act adding this section.

13 (2) Develop the uniform observation tool used in observations
14 pursuant to subparagraph (B) of paragraph (2) of subdivision (a)
15 of Section 44662, as added by Section 7 of the act adding this
16 section.

17 (b) Funds provided to a school district pursuant to this section
18 shall support activities related to implementation of the best
19 practices teacher evaluation system developed pursuant to
20 subdivision (b) of Section 44661, as added by Section 4 of the act
21 adding this section.

22 (c) This section shall remain in effect only until January 1, 2019,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2019, deletes or extends that date.

25 SEC. 12. Section 44662.8 is added to the Education Code, to
26 read:

27 44662.8. (a) This article does not supersede or invalidate a
28 teacher evaluation system that is locally negotiated pursuant to
29 Chapter 10.7 (commencing with Section 3540) of Division 4 of
30 Title 1 of the Government Code and that is in effect at the time
31 this section becomes operative. If a locally negotiated teacher
32 evaluation system is in effect at the time this section becomes
33 operative, the teacher evaluation system shall remain in effect until
34 the parties to the agreement negotiate a successor agreement.

35 (b) This section shall become operative on July 1, 2016.

36 SEC. 13. Section 44664 of the Education Code is amended to
37 read:

38 44664. (a) Evaluation and assessment of the performance of
39 each certificated employee shall be made on a continuing basis as
40 follows:

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

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

3 (3) At least every five years for personnel with permanent status
4 who have been employed at least 10 years with the school district,
5 are highly qualified, if those personnel occupy positions that are
6 required to be filled by a highly qualified professional by the
7 federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. ~~6301~~,
8 *6301* et seq.), as defined in ~~20 U.S.C. Sec. 7801~~, *Section 7801 of*
9 *Title 20 of the United States Code*, and whose previous evaluation
10 rated the employee as meeting or exceeding standards, if the
11 evaluator and certificated employee being evaluated agree. The
12 certificated employee or the evaluator may withdraw consent at
13 any time.

14 ~~(b) The evaluation shall include recommendations, if necessary,~~
15 ~~as to areas of improvement in the performance of the employee.~~
16 ~~If an employee is not performing his or her duties in a satisfactory~~
17 ~~manner according to the standards prescribed by the governing~~
18 ~~board, the employing authority shall notify the employee in writing~~
19 ~~of that fact and describe the unsatisfactory performance. The~~
20 ~~employing authority shall thereafter confer with the employee~~
21 ~~making specific recommendations as to areas of improvement in~~
22 ~~the employee's performance and endeavor to assist the employee~~
23 ~~in his or her performance. If any permanent certificated employee~~
24 ~~has received an unsatisfactory evaluation, the employing authority~~
25 ~~shall annually evaluate the employee until the employee achieves~~
26 ~~a positive evaluation or is separated from the district.~~

27 *(b) The evaluation shall include recommendations, if necessary,*
28 *as to areas of improvement in the performance of the certificated*
29 *employee.*

30 *(1) If an employee is not performing his or her duties in a*
31 *satisfactory manner according to the standards prescribed by the*
32 *governing board of the school district, the employing authority*
33 *shall notify the certificated employee in writing of that fact and*
34 *describe the unsatisfactory performance.*

35 *(2) The employing authority shall thereafter confer with the*
36 *certificated employee making specific recommendations as to areas*
37 *of improvement in the certificated employee's performance and*
38 *endeavor to assist the employee in his or her performance.*

39 *(3) If a permanent certificated employee has received an*
40 *unsatisfactory evaluation, the employing authority shall annually*

1 *evaluate the certificated employee until the certificated employee*
2 *achieves a positive evaluation or is separated from the school*
3 *district.*

4 (c) ~~Any (1) An evaluation performed pursuant to this article~~
5 ~~which that contains an unsatisfactory rating of an a certificated~~
6 ~~employee's performance in the area of teaching methods or~~
7 ~~instruction may include the requirement that the certificated~~
8 ~~employee shall, as determined necessary by the employing~~
9 ~~authority, participate in a program designed to improve appropriate~~
10 ~~areas of the certificated employee's performance and to further~~
11 ~~pupil achievement and the instructional objectives of the employing~~
12 ~~authority. If a district participates in the Peer Assistance and~~
13 ~~Review Program for Teachers established pursuant to Article 4.5~~
14 ~~(commencing with Section 44500), any certificated employee who~~
15 ~~receives an unsatisfactory rating on an evaluation performed~~
16 ~~pursuant to this section shall participate in the Peer Assistance and~~
17 ~~Review Program for Teachers.~~

18 (2) *If a school district participates in the California Peer*
19 *Assistance and Review Program for Teachers established pursuant*
20 *to Article 4.5 (commencing with Section 44500), a certificated*
21 *employee who receives an unsatisfactory rating on an evaluation*
22 *performed pursuant to this section shall participate in the*
23 *California Peer Assistance and Review Program for Teachers.*

24 (d) 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 the provisions of this section at the discretion
28 of the governing ~~board.~~ *board of the school district.*

29 (e) *This section shall become inoperative on July 1, 2016, and,*
30 *as of January 1, 2017, is repealed, unless a later enacted statute,*
31 *that becomes operative on or before January 1, 2017, deletes or*
32 *extends the dates on which it becomes inoperative and is repealed.*

33 SEC. 14. Section 44664 is added to the Education Code, to
34 read:

35 44664. (a) Evaluation and assessment of the performance of
36 each certificated employee shall be made on a continuing basis as
37 follows:

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

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

(3) Except as may be provided in the best practices teacher evaluation system locally negotiated pursuant to subdivision (b) of Section 44661, at least every three years for personnel with permanent status who have been employed at least 10 years with the school district, are highly qualified, if those personnel occupy positions that are required to be filled by a highly qualified professional by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), as defined in Section 7801 of Title 20 of the United States Code, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree. The certificated employee or the evaluator may withdraw consent at any time.

(b) The evaluation shall include recommendations, if necessary, as to areas of improvement in the performance of the certificated employee.

(1) If a certificated employee is not performing his or her duties in a satisfactory manner according to the standards prescribed by the governing board, the employing authority shall notify the certificated employee in writing of that fact and describe the unsatisfactory performance.

(2) The employing authority shall thereafter confer with the certificated employee making specific recommendations as to areas of improvement in the certificated employee's performance and endeavor to assist the certificated employee in his or her performance.

(3) If a permanent certificated employee has received an unsatisfactory evaluation, the employing authority shall do both of the following:

(A) Provide professional development based on the specific recommendations as to areas of improvement in the certificated employee's performance.

(B) Annually evaluate the certificated employee until the certificated employee achieves a positive evaluation or is separated from the school district.

(c) (1) An evaluation performed pursuant to this article that contains an unsatisfactory rating of a certificated employee's performance in the area of teaching methods or instruction may include the requirement that the certificated employee shall, as determined necessary by the employing authority, participate in a program designed to improve appropriate areas of the certificated

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

3 (2) If a school district participates in the California Peer
4 Assistance and Review Program for Teachers established pursuant
5 to Article 4.5 (commencing with Section 44500), a certificated
6 employee who receives an unsatisfactory rating on an evaluation
7 performed pursuant to this section shall participate in the California
8 Peer Assistance and Review Program for Teachers.

9 (d) Hourly and temporary hourly certificated employees, other
10 than those employed in adult education classes who are excluded
11 by the provisions of Section 44660, and substitute teachers may
12 be excluded from the provisions of this section at the discretion
13 of the governing board.

14 (e) This section shall become operative on July 1, 2016.

15 SEC. 15. If the Commission on State Mandates determines
16 that this act contains costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.