

## Chapter 189

(House Bill 1263)

AN ACT concerning

### Education Reform Act of 2010

FOR the purpose of altering the probationary period of employment of a certificated employee in a ~~public~~ local school system; altering certain procedures related to the probationary period of a certificated employee; requiring a county board of education to evaluate annually a nontenured certificated employee based on established performance evaluation criteria; requiring certain certificated employees to be assigned a mentor and provided ~~certain guidance and instruction and~~ additional professional development under certain circumstances; ~~requiring that a performance evaluation of a certificated teacher or principal in a public school system include certain data as a certain component of the evaluation; requiring that a certain component of an evaluation be one of multiple measures; requiring the State Board of Education to adopt regulations to implement certain provisions of this Act; requiring certain classroom teachers and principals working in certain public schools to receive a certain stipend~~ requiring the State Board of Education to adopt regulations establishing to establish certain standards for effective mentoring; providing that a tenured certificated employee who moves to another local school system in the State shall be tenured in the local school system to which the employee relocates under certain circumstances; authorizing the local school system to which an employee relocates to extend the employee's probationary period under certain circumstances; requiring a county board to establish certain performance evaluation criteria for a certificated teacher or principal under certain conditions; requiring the performance evaluation criteria to include certain measures; requiring the State Board to establish by regulation general standards for teacher and principal performance evaluations, that the performance evaluation criteria include certain measures, and that certain criteria be accounted for in a certain manner; requiring the State Board to establish a certain program to support certain incentives, contingent on the receipt of certain federal funds that include certain provisions; requiring certain employees to be tenured under certain circumstances; authorizing certain local school systems to extend a certain probationary period for certain employees under certain circumstances; requiring the State Board to adopt certain regulations that establish general standards for certain performance evaluations, including certain model performance evaluation criteria; requiring the State Board to solicit certain information and recommendations from local school systems before proposing certain regulations and convene a certain meeting; requiring certain county boards to establish certain performance evaluation criteria that are mutually agreed upon by certain local school systems and

certain exclusive employee representatives for certain teachers and principals based on certain standards; requiring certain performance evaluation criteria to include certain data as a certain component of the evaluation; requiring that a certain component of an evaluation be one of multiple measures; prohibiting certain performance evaluation criteria from being based solely on certain examinations or assessments; requiring certain model performance evaluation criteria adopted by the State Board to take effect in a local jurisdiction at a certain time under certain circumstances; requiring the State Board to establish a certain program to support certain incentives for certain teachers and principals that meets certain requirements; authorizing the program to include certain incentives; requiring the State Board to adopt certain guidelines to implement a certain program; authorizing the award of certain stipends in certain years to be based on obtainment of National Board Certification; requiring each local school system, on or before a certain date, to submit to the State Board certain information relating to the local system's teacher mentoring program; providing for the construction of certain provisions of this Act; defining a certain term certain terms; providing for the application of a certain provision of this Act; making this Act an emergency measure; and generally relating to the employment of certificated employees in a public local school system.

BY repealing and reenacting, with amendments,

Article – Education

Section 6–202

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY adding to

Article – Education

Section 6–306(b)(5)

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Education**

6–202.

(a) (1) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for:

(i) Immorality;

(ii) Misconduct in office, including knowingly failing to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

(2) Before removing an individual, the county board shall send the individual a copy of the charges against him and give him an opportunity within 10 days to request a hearing.

(3) If the individual requests a hearing within the 10–day period:

(i) The county board promptly shall hold a hearing, but a hearing may not be set within 10 days after the county board sends the individual a notice of the hearing; and

(ii) The individual shall have an opportunity to be heard before the county board, in person or by counsel, and to bring witnesses to the hearing.

(4) The individual may appeal from the decision of the county board to the State Board.

(5) Notwithstanding any provision of local law, in Baltimore City the suspension and removal of assistant superintendents and higher levels shall be as provided by the personnel system established by the Baltimore City Board of School Commissioners under § 4–311 of this article.

(b) (1) ~~Except as provided in~~ **SUBJECT TO EXCEPT AS PROVIDED IN** paragraph ~~(2)~~ **(3)** of this subsection, the probationary period of employment of a certificated employee in a ~~public~~ **LOCAL** school system shall cover a period of **[2 years]** **3 YEARS** from the date of employment and shall consist of a 1–year employment contract that may be renewed by the county board.

[(2) (i) A probationary period for a certificated employee in a public school system may be extended for a third year from the date of employment if the certificated employee does not qualify for tenure at the end of the second year based on established performance evaluation criteria and the employee demonstrates a strong potential for improvement.

(ii) If the probationary period of a certificated employee is extended as provided in this paragraph, a mentor shall be assigned to the employee and the employee shall be evaluated at the end of the third year based on established performance evaluation criteria.]

(2) (I) A COUNTY BOARD SHALL EVALUATE ANNUALLY A NONTENURED CERTIFICATED EMPLOYEE BASED ON ESTABLISHED PERFORMANCE EVALUATION CRITERIA.

(II) ~~IF~~ SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF THE NONTENURED CERTIFICATED EMPLOYEE IS NOT ON TRACK TO QUALIFY FOR TENURE AT THE END OF THE FIRST OR SECOND YEAR, A ANY FORMAL EVALUATION POINT:

1. A MENTOR PROMPTLY SHALL BE ASSIGNED TO THE EMPLOYEE TO PROVIDE THE EMPLOYEE COMPREHENSIVE GUIDANCE AND INSTRUCTION; AND ~~AND ADDITIONAL~~

2. ADDITIONAL PROFESSIONAL DEVELOPMENT SHALL BE PROVIDED TO THE EMPLOYEE, AS APPROPRIATE.

(III) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROHIBIT A COUNTY BOARD FROM ASSIGNING A MENTOR AT ANY TIME DURING A NONTENURED CERTIFICATED EMPLOYEE'S EMPLOYMENT.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A CERTIFICATED EMPLOYEE HAS ACHIEVED TENURE IN ~~ANY~~ A LOCAL SCHOOL SYSTEM IN THE STATE AND MOVES TO ANOTHER LOCAL SCHOOL SYSTEM IN THE STATE, THAT EMPLOYEE SHALL BE TENURED IF THE EMPLOYEE'S CONTRACT IS RENEWED AFTER 1 YEAR OF PROBATIONARY EMPLOYMENT IN THE LOCAL SCHOOL SYSTEM TO WHICH THE EMPLOYEE RELOCATED IF:

1. THE EMPLOYEE'S FINAL EVALUATION IN THE LOCAL SCHOOL SYSTEM FROM WHICH THE EMPLOYEE DEPARTED IS SATISFACTORY OR BETTER; AND

2. THERE HAS BEEN NO BREAK IN THE EMPLOYEE'S SERVICE BETWEEN THE TWO SYSTEMS OF LONGER THAN 1 YEAR.

(II) A LOCAL SCHOOL SYSTEM MAY EXTEND THE PROBATIONARY PERIOD FOR A CERTIFICATED EMPLOYEE SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A SECOND YEAR FROM THE DATE OF EMPLOYMENT IF:

1. THE EMPLOYEE DOES NOT QUALIFY FOR TENURE AT THE END OF THE FIRST YEAR BASED ON ESTABLISHED PERFORMANCE EVALUATION CRITERIA; AND

**2. THE EMPLOYEE DEMONSTRATES A STRONG POTENTIAL FOR IMPROVEMENT.**

~~(3)~~ **(4) (I)** The State Board shall adopt regulations that implement the provisions of paragraphs (1) and (2) of this subsection and define the scope of a mentoring program **AND PROFESSIONAL DEVELOPMENT** that will be aligned with the [2-year] **3-YEAR** probationary period [and the 1-year extension as provided in paragraph (2) of this subsection].

**(II) THE STATE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH STANDARDS FOR EFFECTIVE MENTORING, INCLUDING PROVISIONS TO ENSURE THAT MENTORS PROVIDE MENTORING THAT IS FOCUSED, OF HIGH QUALITY, AND GEARED TO THE NEEDS OF EACH EMPLOYEE BEING MENTORED:**

- 1. IS FOCUSED;**
- 2. IS SYSTEMATIC;**
- 3. IS ONGOING;**
- 4. IS OF HIGH QUALITY;**
- 5. IS GEARED TO THE NEEDS OF EACH EMPLOYEE BEING MENTORED;**
- 6. INCLUDES OBSERVATIONS; AND**
- 7. INCLUDES FEEDBACK.**

~~(C) (1) A PERFORMANCE EVALUATION OF A CERTIFICATED TEACHER OR PRINCIPAL IN A PUBLIC SCHOOL SYSTEM SHALL INCLUDE DATA ON STUDENT GROWTH AS A SIGNIFICANT COMPONENT OF THE EVALUATION AND ONE OF MULTIPLE MEASURES.~~

~~(2) THE STATE BOARD SHALL ADOPT REGULATIONS THAT IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.~~

**(C) (1) IN THIS SUBSECTION, "STUDENT GROWTH" MEANS STUDENT PROGRESS MEASURED ASSESSED BY MULTIPLE CRITERIA MEASURES AND FROM A CLEARLY ARTICULATED BASELINE TO ONE OR MORE POINTS IN TIME.**

~~(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A COUNTY BOARD SHALL ESTABLISH PERFORMANCE EVALUATION CRITERIA~~

~~FOR CERTIFICATED TEACHERS AND PRINCIPALS IN A LOCAL SCHOOL SYSTEM AFTER MEETING AND CONFERRING WITH THE EXCLUSIVE EMPLOYEE REPRESENTATIVE.~~

~~(3) THE STATE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH GENERAL STANDARDS FOR PERFORMANCE EVALUATIONS FOR CERTIFICATED TEACHERS AND PRINCIPALS.~~

~~(4) (I) PERFORMANCE EVALUATION CRITERIA FOR A CERTIFICATED TEACHER OR PRINCIPAL IN A LOCAL SCHOOL SYSTEM SHALL INCLUDE MULTIPLE MEASURES.~~

~~(II) STUDENT GROWTH SHALL ACCOUNT FOR 50% OF THE PERFORMANCE EVALUATION CRITERIA.~~

~~(III) NO SINGLE CRITERION SHALL ACCOUNT FOR MORE THAN 35% OF THE TOTAL PERFORMANCE EVALUATION CRITERIA.~~

(2) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE STATE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH GENERAL STANDARDS FOR PERFORMANCE EVALUATIONS FOR CERTIFICATED TEACHERS AND PRINCIPALS THAT INCLUDE OBSERVATIONS, CLEAR STANDARDS, RIGOR, AND CLAIMS AND EVIDENCE OF OBSERVED INSTRUCTION.

(II) THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE MODEL PERFORMANCE EVALUATION CRITERIA.

(III) BEFORE THE PROPOSAL OF THE REGULATIONS REQUIRED UNDER THIS PARAGRAPH, THE STATE BOARD SHALL SOLICIT INFORMATION AND RECOMMENDATIONS FROM EACH LOCAL SCHOOL SYSTEM AND CONVENE A MEETING WHEREIN THIS INFORMATION AND THESE RECOMMENDATIONS ARE DISCUSSED AND CONSIDERED.

(3) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION:

(I) A COUNTY BOARD SHALL ESTABLISH PERFORMANCE EVALUATION CRITERIA FOR CERTIFICATED TEACHERS AND PRINCIPALS IN THE LOCAL SCHOOL SYSTEM BASED ON THE GENERAL STANDARDS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT ARE MUTUALLY AGREED ON BY THE LOCAL SCHOOL SYSTEM AND THE EXCLUSIVE EMPLOYEE REPRESENTATIVE.

(II) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO REQUIRE MUTUAL AGREEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO BE GOVERNED BY SUBTITLES 4 AND 5 OF THIS TITLE.

(4) THE PERFORMANCE EVALUATION CRITERIA DEVELOPED UNDER PARAGRAPH (3) OF THIS SUBSECTION:

(I) SHALL INCLUDE DATA ON STUDENT GROWTH AS A SIGNIFICANT COMPONENT OF THE EVALUATION AND AS ONE OF MULTIPLE MEASURES; AND

(II) MAY NOT BE BASED SOLELY ON AN EXISTING OR NEWLY CREATED SINGLE EXAMINATION OR ASSESSMENT.

(5) (I) AN EXISTING OR NEWLY CREATED SINGLE EXAMINATION OR ASSESSMENT MAY BE USED AS ONE OF THE MULTIPLE MEASURES.

(II) NO SINGLE CRITERION SHALL ACCOUNT FOR MORE THAN 35% OF THE TOTAL PERFORMANCE EVALUATION CRITERIA.

(6) IF A LOCAL SCHOOL SYSTEM AND THE EXCLUSIVE EMPLOYEE REPRESENTATIVE FAIL TO MUTUALLY AGREE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE MODEL PERFORMANCE EVALUATION CRITERIA ADOPTED BY THE STATE BOARD UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION SHALL TAKE EFFECT IN THE LOCAL JURISDICTION 6 MONTHS FOLLOWING THE FINAL ADOPTION OF THE REGULATIONS.

6-306.

~~(b) (5) (i) IN THIS PARAGRAPH, "RACE TO THE TOP APPLICATION" GRANT MEANS THE STATE'S APPLICATION TO THE UNITED STATES DEPARTMENT OF EDUCATION FOR THE RACE TO THE TOP FUND, AUTHORIZED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.~~

~~(ii) A HIGHLY EFFECTIVE CLASSROOM TEACHER OR PRINCIPAL WORKING IN A PUBLIC SCHOOL IDENTIFIED IN THE STATE'S RACE TO THE TOP APPLICATION AS A SCHOOL IN THE LOWEST ACHIEVING 5% OF TITLE I SCHOOLS IN IMPROVEMENT, CORRECTIVE ACTION, OR RESTRUCTURING SHALL RECEIVE A STIPEND FROM THE STATE IN AN AMOUNT DETERMINED BY THE STATE BOARD, CONTINGENT ON RECEIPT OF RACE TO THE TOP GRANT FUNDS.~~

~~(H) CONTINGENT ON THE RECEIPT OF RACE TO THE TOP GRANT FUNDS, THE STATE BOARD SHALL ESTABLISH A PROGRAM TO SUPPORT LOCALLY NEGOTIATED INCENTIVES FOR HIGHLY EFFECTIVE CLASSROOM TEACHERS AND PRINCIPALS TO WORK IN PUBLIC SCHOOLS IN IMPROVEMENT, CORRECTIVE ACTION, OR RESTRUCTURING.~~

(I) 1. THE STATE BOARD SHALL ESTABLISH A PROGRAM TO SUPPORT LOCALLY NEGOTIATED INCENTIVES, GOVERNED UNDER SUBTITLES 4 AND 5 OF THIS TITLE, FOR HIGHLY EFFECTIVE CLASSROOM TEACHERS AND PRINCIPALS TO WORK IN PUBLIC SCHOOLS THAT ARE:

A. IN IMPROVEMENT, CORRECTIVE ACTION, OR RESTRUCTURING;

B. CATEGORIZED BY THE LOCAL SCHOOL SYSTEM AS A TITLE I SCHOOL; OR

C. IN THE HIGHEST 25% OF SCHOOLS IN THE STATE BASED ON A RANKING OF THE PERCENTAGE OF STUDENTS WHO RECEIVE FREE AND REDUCED PRICED MEALS.

2. THE PROGRAM ESTABLISHED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH MAY INCLUDE FINANCIAL INCENTIVES, LEADERSHIP CHANGES, OR OTHER INCENTIVES.

(II) 1. THE STATE BOARD SHALL ADOPT GUIDELINES TO IMPLEMENT THIS PARAGRAPH.

2. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROHIBIT A LOCAL SCHOOL SYSTEM FROM EMPLOYING MORE STRINGENT STANDARDS THAN THE GUIDELINES ADOPTED UNDER THIS SUBPARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That during the 2010–2011 and 2011–2012 school years, stipends awarded under § 6–306(b)(5) of the Education Article, as enacted by Section 1 of this Act, may be based on whether the teacher has obtained certification by the National Board for Professional Teaching Standards.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2010, each local school system shall submit to the State Board of Education a description of the local school system’s teacher mentoring program, including data relating to the number of mentors who have been assigned, the number of teachers to whom the mentors have been assigned, and how, if at all, the effectiveness of the mentoring program is measured.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That the probationary period of employment specified in § 6-202(b) of the Education Article, as enacted by Section 1 of this Act, shall be applicable to a certificated employee in a ~~public~~ local school system with a date of employment starting on or after July 1, 2010.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2010~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**