

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 441

Introduced by Senator Calderon

February 21, 2013

An act to amend Sections 44500, 44661, 44662, and 44664 of the Education Code, relating to education employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, Calderon. Education employment: certificated employees.

(1) Existing law requires the evaluation and assessment of the performance of each certificated employee to be made on a continuing basis, as prescribed, including at least every other year for personnel with permanent status and at least every 5 years for personnel with permanent status who have been employed at least 10 years with the school district and meet specified requirements.

This bill would require the evaluation and assessment at least every 3 years of the performance of each certificated employee with permanent status who have been employed at least 10 years with the school district and meet specified requirements.

(2) Existing law requires the governing board of each school district to evaluate and assess certificated employee performance as it reasonably relates to specified matters.

This bill would instead require the governing board of each school district to regularly evaluate and assess the performance of certificated employees assigned to positions as classroom teachers or school principals using multiple measures, including, but not limited to, specified minimum criteria. The bill would require at least 4 rating

levels to be used in evaluating a certificated employee and for the governing board of the school district to define each rating level used.

(3) Existing law requires the governing board of a school district, in the development and adoption of specified guidelines and procedures, to avail itself of the advice of the certificated instructional personnel in the district’s organization of certificated personnel.

This bill would also require the governing board to avail itself of the advice of parents of pupils, as specified.

(4) By imposing new duties or a higher level of service on a school district in the creation of guidelines and procedures and for the evaluation and assessment of certificated employees, this 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 44500 of the Education Code is amended
2 to read:
3 44500. (a) There is hereby established the California Peer
4 Assistance and Review Program for Teachers. The governing board
5 of a school district and the exclusive representative of the
6 certificated employees in the school district may develop and
7 implement a program authorized by this article that meets local
8 conditions and conforms with the principles set forth in subdivision
9 (b).
10 (b) The following principles, at a minimum, shall be included
11 in a locally developed program authorized by this article:
12 (1) A teacher participant shall be a permanent employee in a
13 school district with 250 or greater units of average daily attendance
14 or a permanent or probationary employee in a school district with
15 fewer than 250 units of average daily attendance and volunteer to
16 participate in the program or be referred for participation in the

1 program as a result of an evaluation performed pursuant to Section
2 44662 or 44664. In addition, teachers receiving assistance may be
3 referred pursuant to a collectively bargained agreement.

4 (2) Performance goals for an individual teacher shall be in
5 writing, clearly stated, aligned with pupil learning, and consistent
6 with Section 44662.

7 (3) Assistance and review shall include multiple observations
8 of a teacher during periods of classroom instruction.

9 (4) The program shall expect and strongly encourage a
10 cooperative relationship between the consulting teacher and the
11 principal with respect to the process of peer assistance and review.

12 (5) The school district shall provide sufficient staff development
13 activities to assist a teacher to improve his or her teaching skills
14 and knowledge.

15 (6) The program shall have a monitoring component with a
16 written record.

17 (7) The final evaluation of a teacher's participation in the
18 program shall be made available for placement in the personnel
19 file of the teacher receiving assistance.

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

22 44661. (a) In the development and adoption of guidelines and
23 procedures pursuant to this article, the governing board shall avail
24 itself of the advice of the certificated instructional personnel in the
25 district's organization of certificated personnel and ~~of the parents
26 of pupils, including obtaining systematic and continuing input
27 through open feedback~~ *consider the findings of sessions, surveys,*
28 *and specific focus groups by subject matter and grade level from*
29 *parents of pupils.*

30 (b) *This section does not alter or affect the provisions set forth*
31 *in Section 3543.2 of the Government Code.*

32 SEC. 3. Section 44662 of the Education Code is amended to
33 read:

34 44662. (a) The governing board of each school district shall
35 establish standards of expected pupil achievement at each grade
36 level in each area of study.

37 (b) The governing board of each school district shall regularly
38 evaluate and assess the performance of certificated employees
39 assigned to positions as classroom teachers or school principals

1 using multiple measures including, but not limited to, the following
2 minimum criteria:

3 (1) The progress of pupils toward the standards established
4 pursuant to subdivision (a) and, if applicable, the state adopted
5 academic content standards as measured by state adopted criterion
6 referenced assessments.

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

9 (3) The employee’s adherence to curricular objectives.

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

12 (c) At least four rating levels shall be used in evaluating a
13 certificated employee pursuant to this section. The governing board
14 of the school district shall define each rating level used.

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

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

27 (f) The evaluation and assessment of certificated employee
28 performance pursuant to this section shall not include the use of
29 publishers’ norms established by standardized tests.

30 (g) Nothing in this section shall be construed as in any way
31 limiting the authority of school district governing boards to develop
32 and adopt additional evaluation and assessment guidelines or
33 criteria.

34 SEC. 4. Section 44664 of the Education Code is amended to
35 read:

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

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

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

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

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

24 (c) Any evaluation performed pursuant to this article that
25 contains an unsatisfactory rating of an employee's performance
26 in the area of teaching methods or instruction may include the
27 requirement that the certificated employee shall, as determined
28 necessary by the employing authority, participate in a program
29 designed to improve appropriate areas of the employee's
30 performance and to further pupil achievement and the instructional
31 objectives of the employing authority. If a district participates in
32 the Peer Assistance and Review Program for Teachers established
33 pursuant to Article 4.5 (commencing with Section 44500), any
34 certificated employee who receives an unsatisfactory rating on an
35 evaluation performed pursuant to this section shall participate in
36 the Peer Assistance and Review Program for Teachers.

37 (d) Hourly and temporary hourly certificated employees, other
38 than those employed in adult education classes who are excluded
39 by the provisions of Section 44660, and substitute teachers may

1 be excluded from the provisions of this section at the discretion
2 of the governing board.

3 SEC. 5. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

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