

**As Reported by the House Education and Career Readiness Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Am. H. B. No. 540**

**Representatives Gavarone, Manning**

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**A BILL**

To amend sections 3319.075, 3319.111, and 3319.112 1  
and to repeal sections 3319.114 and 3319.58 of 2  
the Revised Code with regard to teacher 3  
evaluations. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3319.075, 3319.111, and 3319.112 5  
of the Revised Code be amended to read as follows: 6

**Sec. 3319.075.** Once the state board of education adopts 7  
professional development standards pursuant to section 3319.61 8  
of the Revised Code, the board of education of each school 9  
district shall use the standards for the following purposes: 10

(A) To guide the design of teacher education programs 11  
serving both teacher candidates and experienced teachers; 12

(B) To guide school-based professional development that is 13  
aligned with student achievement; 14

(C) To determine what types of professional development 15  
the school district and the schools within the district should 16  
provide; 17

(D) To guide how state and federal funding for 18

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| professional development should be spent;  | 19   |
| (E) To develop criteria for decision making by the local professional development committees established under section 3319.22 of the Revised Code;  | 20<br>21<br>22                                     |
| (F) To guide the school district in the hiring of third-party providers of instructional services who use or meet the professional development standards;  | 23<br>24<br>25                                     |
| (G) To guide all licensed school personnel in developing their own plans for professional growth;  | 26<br>27   |
| <u>(H) To guide the development of professional growth plans and improvement plans resulting from the teacher evaluations conducted under section 3319.111 of the Revised Code.</u>  | 28<br>29<br>30                                     |
| <b>Sec. 3319.111.</b> Notwithstanding section 3319.09 of the Revised Code, this section applies to any person who is employed under a teacher license issued under this chapter, or under a professional or permanent teacher's certificate issued under former section 3319.222 of the Revised Code, and who spends at least fifty per cent of the time employed providing student instruction. However, this section does not apply to any person who is employed as a substitute teacher or as an instructor of adult education.                        | 31<br>32<br>33<br>34<br>35<br>36<br>37<br>38<br>39 |
| (A) Not later than July 1, <del>2013</del> 2019, the board of education of each school district, in consultation with teachers employed by the board, shall <del>adopt a</del> <u>update its</u> standards-based teacher evaluation policy <del>that conforms to conform</del> with the framework for evaluation of teachers <del>developed</del> <u>adopted</u> under section 3319.112 of the Revised Code. The policy shall become operative at the expiration of any collective bargaining agreement covering teachers employed by the board that is in | 40<br>41<br>42<br>43<br>44<br>45<br>46<br>47       |

effect on ~~September 29, 2011~~ the effective date of this 48  
amendment, and shall be included in any renewal or extension of 49  
such an agreement. 50

(B) When using measures of student ~~academic growth as a~~ 51  
~~component of performance as evidence in a teacher's evaluation,~~ 52  
those measures shall ~~include the value added progress dimension~~ 53  
~~prescribed by section 3302.021 of the Revised Code or an~~ 54  
~~alternative student academic progress measure if adopted under~~ 55  
~~division (C) (1) (e) of section 3302.03 of the Revised Code. For~~ 56  
~~teachers of grade levels and subjects for which the value added~~ 57  
~~progress dimension or alternative student academic progress~~ 58  
~~measure is not applicable, the board shall administer~~ 59  
~~assessments on the list developed under division (B) (2) of~~ 60  
~~section 3319.112 of the Revised Code~~ be high-quality student 61  
data. The board of education of each school district may use 62  
data from the assessments on the list developed under division 63  
(B) (2) of section 3319.112 of the Revised Code as high-quality 64  
student data. 65

(C) (1) The board shall conduct an evaluation of each 66  
teacher employed by the board at least once each school year, 67  
except as provided in division (C) (2) of this section. The 68  
evaluation shall be completed by the first day of May and the 69  
teacher shall receive a written report of the results of the 70  
evaluation by the tenth day of May. 71

(2) (a) The board may evaluate each teacher who received a 72  
rating of accomplished on the teacher's most recent evaluation 73  
conducted under this section once every three school years, so 74  
long as the ~~teacher's student academic growth measure, for the~~ 75  
~~most recent school year for which data is available, is average~~ 76  
~~or higher, as determined by the department of education~~ teacher 77

submits a self-directed professional growth plan to the 78  
evaluator that focuses on specific areas identified in the 79  
observations and evaluation and the evaluator determines that 80  
the teacher is making progress on that plan. 81

(b) The board may evaluate each teacher who received a 82  
rating of skilled on the teacher's most recent evaluation 83  
conducted under this section once every two years, so long as 84  
~~the teacher's student academic growth measure, for the most~~ 85  
~~recent school year for which data is available, is average or~~ 86  
~~higher, as determined by the department of education~~ teacher and 87  
evaluator jointly develop a professional growth plan for the 88  
teacher that focuses on specific areas identified in the 89  
observations and evaluation and the evaluator determines that 90  
the teacher is making progress on that plan. 91

(c) For each teacher who is evaluated pursuant to division 92  
(C)(2) of this section, the evaluation shall be completed by the 93  
first day of May of the applicable school year, and the teacher 94  
shall receive a written report of the results of the evaluation 95  
by the tenth day of May of that school year. 96

(d) ~~Beginning with the 2014-2015 school year, the~~ The 97  
board may elect not to conduct an evaluation of a teacher who 98  
meets one of the following requirements: 99

(i) The teacher was on leave from the school district for 100  
fifty per cent or more of the school year, as calculated by the 101  
board. 102

(ii) The teacher has submitted notice of retirement and 103  
that notice has been accepted by the board not later than the 104  
first day of December of the school year in which the evaluation 105  
is otherwise scheduled to be conducted. 106

(e) ~~Beginning with the 2017-2018 school year, the~~The board may elect not to conduct an evaluation of a teacher who is participating in the teacher residency program established under section 3319.223 of the Revised Code for the year during which that teacher takes, for the first time, at least half of the performance-based assessment prescribed by the state board of education for resident educators.

(3) In any year that a teacher is not formally evaluated pursuant to division (C) of this section as a result of receiving a rating of accomplished or skilled on the teacher's most recent evaluation, an individual qualified to evaluate a teacher under division (D) of this section shall conduct at least one observation of the teacher and hold at least one conference with the teacher. The conference shall include a discussion of progress on the teacher's professional growth plan.

(D) Each evaluation conducted pursuant to this section shall be conducted by one or more of the following persons who hold a credential established by the department of education for being an evaluator:

(1) A person who is under contract with the board pursuant to section 3319.01 or 3319.02 of the Revised Code and holds a license designated for being a superintendent, assistant superintendent, or principal issued under section 3319.22 of the Revised Code;

(2) A person who is under contract with the board pursuant to section 3319.02 of the Revised Code and holds a license designated for being a vocational director, administrative specialist, or supervisor in any educational area issued under section 3319.22 of the Revised Code;

(3) A person designated to conduct evaluations under an agreement entered into by the board, including an agreement providing for peer review entered into by the board and representatives of teachers employed by the board;

(4) A person who is employed by an entity contracted by the board to conduct evaluations and who holds a license designated for being a superintendent, assistant superintendent, principal, vocational director, administrative specialist, or supervisor in any educational area issued under section 3319.22 of the Revised Code or is qualified to conduct evaluations.

(E) Notwithstanding division (A) (3) of section 3319.112 of the Revised Code:

~~(1) The~~, the board shall require at least three formal observations of each teacher who is under consideration for nonrenewal and with whom the board has entered into a limited contract or an extended limited contract under section 3319.11 of the Revised Code.

~~(2) The board may elect, by adoption of a resolution, to require only one formal observation of a teacher who received a rating of accomplished on the teacher's most recent evaluation conducted under this section, provided the teacher completes a project that has been approved by the board to demonstrate the teacher's continued growth and practice at the accomplished level.~~

(F) The board shall include in its evaluation policy procedures for using the evaluation results for retention and promotion decisions and for removal of poorly performing teachers. Seniority shall not be the basis for a decision to retain a teacher, except when making a decision between teachers

who have comparable evaluations. 166

(G) For purposes of section 3333.0411 of the Revised Code, 167  
the board annually shall report to the department of education 168  
the number of teachers for whom an evaluation was conducted 169  
under this section and the number of teachers assigned each 170  
rating prescribed under division (B)(1) of section 3319.112 of 171  
the Revised Code, aggregated by the teacher preparation programs 172  
from which and the years in which the teachers graduated. The 173  
department shall establish guidelines for reporting the 174  
information required by this division. The guidelines shall not 175  
permit or require that the name of, or any other personally 176  
identifiable information about, any teacher be reported under 177  
this division. 178

(H) Notwithstanding any provision to the contrary in 179  
Chapter 4117. of the Revised Code, the requirements of this 180  
section prevail over any conflicting provisions of a collective 181  
bargaining agreement entered into on or after ~~September 24, 2012~~ 182  
the effective date of this amendment. 183

**Sec. 3319.112.** (A) ~~Not later than December 31, 2011, The~~ 184  
department of education shall revise the state board of 185  
~~education shall develop a~~ education's standards-based state 186  
framework for the evaluation of teachers, based on the 187  
recommendations of the educator standards board established 188  
under section 3319.60 of the Revised Code, and shall submit a 189  
summary of the revisions to the state board for review. Not 190  
later than May 1, 2019, the state board shall adopt the revised 191  
framework. The state board may update the framework periodically 192  
by adoption of a resolution. The framework shall establish an 193  
evaluation system that does the following: 194

(1) Provides for multiple evaluation factors. ~~One factor~~ 195

~~shall be student academic growth which shall account for fifty- 196~~  
~~per cent of each evaluation, except as otherwise prescribed by- 197~~  
~~the alternative framework under section 3319.114 of the Revised- 198~~  
~~Code. When applicable to the grade level or subject area taught- 199~~  
~~by a teacher, the value added progress dimension established- 200~~  
~~under section 3302.021 of the Revised Code or an alternative- 201~~  
~~student academic progress measure if adopted under division (C)- 202~~  
~~(1)(e) of section 3302.03 of the Revised Code shall be used in- 203~~  
~~the student academic growth portion of an evaluation in- 204~~  
~~proportion to the part of a teacher's schedule of courses or- 205~~  
~~subjects for which the value added progress dimension is- 206~~  
~~applicable. 207~~

~~If a teacher's schedule is comprised only of courses or- 208~~  
~~subjects for which the value added progress dimension is- 209~~  
~~applicable, one of the following applies: 210~~

~~(a) Beginning with March 22, 2013, until June 30, 2014,- 211~~  
~~the majority of the student academic growth factor of the- 212~~  
~~evaluation shall be based on the value-added progress dimension.- 213~~

~~(b) On or after July 1, 2014, the entire student academic- 214~~  
~~growth factor of the evaluation shall be based on the value- 215~~  
~~added progress dimension. In calculating student academic growth- 216~~  
~~for an evaluation, a student shall not be included if the- 217~~  
~~student has forty five or more excused or unexcused absences- 218~~  
~~during the full academic year.; 219~~

~~(2) Is aligned with the standards for teachers adopted 220~~  
~~under section 3319.61 of the Revised Code; 221~~

~~(3) Requires observation of the teacher being evaluated, 222~~  
~~including at least two formal observations by the evaluator of 223~~  
~~at least thirty minutes each and classroom-walkthroughs walk- 224~~

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| <u>throughs;</u>   | 225 |
| (4) Assigns a rating on each evaluation in accordance with                   | 226 |
| division (B) of this section <del>or section 3319.114 of the Revised</del>   | 227 |
| <del>Code, whichever is applicable;</del>                                    | 228 |
| (5) Requires each teacher to be provided with a written                      | 229 |
| report of the results of the teacher's evaluation;                           | 230 |
| (6) <del>Identifies measures of student academic growth for</del>            | 231 |
| <del>grade levels and subjects for which the value added progress-</del>     | 232 |
| <del>dimension prescribed by section 3302.021 of the Revised Code or</del>   | 233 |
| <del>an alternative student academic progress measure if adopted</del>       | 234 |
| <del>under division (C) (1) (e) of section 3302.03 of the Revised Code</del> | 235 |
| <del>does not apply;</del>   | 236 |
| <del>(7) Implements a classroom-level, value added program</del>             | 237 |
| <del>developed by a nonprofit organization described in division (B)</del>   | 238 |
| <del>of section 3302.021 of the Revised Code or an alternative</del>         | 239 |
| <del>student academic progress measure if adopted under division (C)</del>   | 240 |
| <del>(1) (e) of section 3302.03 of the Revised Code;</del>                   | 241 |
| <u>(8) Uses at least two measures of high quality student</u>                | 242 |
| <u>data to provide evidence of student learning attributable to the</u>      | 243 |
| <u>teacher being evaluated. The department shall define "high</u>            | 244 |
| <u>quality student data" for this purpose. When applicable to the</u>        | 245 |
| <u>grade level or subject area taught by a teacher, high quality</u>         | 246 |
| <u>student data shall include the value-added progress dimension</u>         | 247 |
| <u>established under section 3302.021 of the Revised Code, but the</u>       | 248 |
| <u>teacher or evaluator shall use at least one other measure of</u>          | 249 |
| <u>high quality student data to demonstrate student learning. In</u>         | 250 |
| <u>accordance with the guidance described in division (D) (3) of</u>         | 251 |
| <u>this section, high quality student data may be used as evidence</u>       | 252 |
| <u>in any component of the evaluation related to the following:</u>          | 253 |

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|---|---|
| <u>(a) Knowledge of the students to whom the teacher provides instruction;</u>  | 254<br>255                                    |
| <u>(b) The teacher's use of differentiated instructional practices based on the needs or abilities of individual students;</u>  | 256<br>257<br>258                             |
| <u>(c) Assessment of student learning;</u>  | 259   |
| <u>(d) The teacher's use of assessment data;</u>  | 260   |
| <u>(e) Professional responsibility and growth.</u>  | 261   |
| <u>(7) Prohibits the shared attribution of student performance data among all teachers in a district, building, grade, content area, or other group;</u>  | 262<br>263<br>264                             |
| <u>(8) Includes development of a professional growth plan or improvement plan for the teacher that is based on the results of the evaluation and is aligned to any school district or building improvement plan required for the teacher's district or building under the "Elementary and Secondary Education Act of 1965," as amended by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, 20 U.S.C. 6301 et seq.;</u> | 265<br>266<br>267<br>268<br>269<br>270<br>271 |
| <u>(9) Provides for professional development to accelerate and continue teacher growth and provide support to poorly performing teachers;</u>   | 272<br>273<br>274                             |
| <del>(9)</del> <u>(10) Provides for the allocation of financial resources to support professional development;</u>  | 275<br>276                                    |
| <u>(11) Prohibits the use of student learning objectives.</u>   | 277   |
| (B) For purposes of the framework <del>developed</del> <u>adopted</u> under this section, the <del>state board also</del> <u>department</u> shall do the following:   | 278<br>279<br>280                             |

(1) ~~Develop~~ Revise, as necessary, specific standards and 281  
criteria that distinguish between the following levels of 282  
performance for teachers and principals for the purpose of 283  
assigning ratings on the evaluations conducted under sections 284  
3311.80, 3311.84, 3319.02, and 3319.111 of the Revised Code: 285

(a) Accomplished; 286

(b) Skilled; 287

(c) Developing; 288

(d) Ineffective. 289

(2) ~~For grade levels and subjects for which the~~ 290  
~~assessments prescribed under sections 3301.0710 and 3301.0712 of~~ 291  
~~the Revised Code and the value-added progress dimension~~ 292  
~~prescribed by section 3302.021 of the Revised Code, or~~ 293  
~~alternative student academic progress measure, do not apply,~~ 294  
~~develop~~ Develop a list of student assessments that measure 295  
mastery of the course content for the appropriate grade level, 296  
which may include nationally normed standardized assessments, 297  
industry certification examinations, or end-of-course 298  
examinations. The data from these assessments may be considered 299  
high-quality student data. 300

(C) The ~~state board~~ department shall consult with experts, 301  
teachers and principals employed in public schools, the educator 302  
standards board, and representatives of stakeholder groups in 303  
~~developing~~ revising the standards and criteria required by 304  
division (B) (1) of this section. 305

(D) To assist school districts in developing evaluation 306  
policies under sections 3311.80, 3311.84, 3319.02, and 3319.111 307  
of the Revised Code, the department shall do ~~both~~ all of the 308  
following: 309

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| (1) Serve as a clearinghouse of promising evaluation procedures and evaluation models that districts may use;  | 310<br>311   |
| (2) Provide technical assistance to districts in creating evaluation policies;   | 312<br>313   |
| <u>(3) Provide guidance to districts on how high quality student data may be used as evidence of student learning attributable to a particular teacher, including examples of appropriate use of that data within the framework adopted under this section;</u>  | 314<br>315<br>316<br>317<br>318  |
| <u>(4) Provide guidance to districts on how information from student surveys, student portfolios, peer review evaluations, teacher self-evaluations, and other components determined appropriate by the district may be used as part of the evaluation process.</u>  | 319<br>320<br>321<br>322<br>323  |
| (E) Not later than <del>June 30, 2013</del> <u>July 1, 2019</u> , the <del>state board department</del> , in consultation with <u>other</u> state agencies that employ teachers, shall <del>develop a</del> <u>update its</u> standards-based framework for the evaluation of teachers employed by those agencies. Each state agency that employs teachers shall adopt a standards-based teacher evaluation policy <del>that conforms to</del> <u>conform</u> with the framework <del>developed under this division</del> . The policy shall become operative at the expiration of any collective bargaining agreement covering teachers employed by the agency that is in effect on <del>September 24, 2012</del> <u>the effective date of this amendment</u> , and shall be included in any renewal or extension of such an agreement. However, this division does not apply to any person who is employed as a substitute teacher or as an instructor of adult education. | 324<br>325<br>326<br>327<br>328<br>329<br>330<br>331<br>332<br>333<br>334<br>335<br>336<br>337 |
| <b>Section 2.</b> That existing sections 3319.075, 3319.111, and   | 338  |

3319.112 and sections 3319.114 and 3319.58 of the Revised Code 339  
are hereby repealed. 340

**Section 3.** (A) For the 2018-2019 school year, the 341  
Department of Education shall establish a pilot program to guide 342  
implementation of the framework for the evaluation of teachers 343  
revised under section 3319.112 of the Revised Code, as amended 344  
by this act. The Department shall issue a request for school 345  
districts to volunteer to participate in the pilot program. 346  
However, the Department may designate districts to participate 347  
as necessary to ensure a participant pool of adequate size and 348  
diversity. 349

(B) The Department shall provide professional development 350  
and technical assistance to teachers and evaluators in 351  
participating school districts prior to their use of the revised 352  
teacher evaluation framework. The Department shall collect 353  
feedback from participating districts, teachers, and evaluators 354  
on the implementation of the framework, and shall use such 355  
feedback to make adjustments to the framework and to improve 356  
professional development on the framework. 357

(C) The Department shall work with stakeholder groups in 358  
conducting the pilot program. 359

**Section 4.** Notwithstanding the amendment or repeal of 360  
sections 3319.111, 3319.112, and 3319.114 of the Revised Code by 361  
this act, for the 2017-2018 and 2018-2019 school years, the 362  
following shall apply: 363

(A) Each school district, other than a district 364  
participating in the pilot program established under Section 3 365  
of this act, shall conduct teacher evaluations in accordance 366  
with those sections as they existed prior to the effective date 367

of this section. 368

(B) Each state agency that employs teachers shall conduct 369  
teacher evaluations in accordance with its teacher evaluation 370  
policy developed under former division (E) of section 3319.112 371  
of the Revised Code, as it existed prior to the effective date 372  
of this section. 373

(C) Any reference in law to evaluations conducted under 374  
section 3319.111 of the Revised Code shall be construed to 375  
include evaluations conducted as required by this section. 376

(D) References to "evaluation procedures" in section 377  
3319.11 of the Revised Code shall be construed to include the 378  
evaluation procedures required by this section. 379