

SENATE FILE NO. SF0146

Teacher accountability act.

Sponsored by: Senator(s) Nicholas, P., Anderson, Coe,
Meier and Rothfuss and Representative(s)
Buchanan, Harshman and Teeters

A BILL

for

1 AN ACT relating to teacher contracts; establishing the
2 teacher accountability act; requiring school district
3 teacher performance evaluations to be based in part upon
4 student achievement; directing the state board of education
5 to establish performance criteria based upon educational
6 accountability measures to be established by law;
7 establishing performance as a basis for contract
8 determinations; modifying grounds for teacher suspension,
9 dismissal and termination; requiring office of
10 administrative hearings to preside over teacher dismissal,
11 suspension and termination hearings; specifying
12 application; providing intent; requiring studies; and
13 providing for effective dates.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

16

1 **Section 1.** W.S. 21-2-304(b) (xv), 21-3-110(a) (xvii)
2 through (xix), 21-7-102(a) (intro), (ii) (A) and (B),
3 21-7-104(a), 21-7-106(a), 21-7-110(a), (c) and (d),
4 21-7-112 and 21-7-113 are amended to read:

5

6 **21-2-304. Duties of the state board of education.**

7

8 (b) In addition to subsection (a) of this section and
9 any other duties assigned to it by law, the state board
10 shall:

11

12 (xv) Promulgate rules and regulations for the
13 development, assessment and approval of annual school
14 district teacher performance evaluation systems based in
15 part upon defined student academic growth measures as
16 prescribed by law and upon longitudinal data systems
17 linking student achievement with teachers of record,
18 clearly prescribing standards for satisfactory and
19 unsatisfactory performance. Rules and regulations adopted
20 under this paragraph shall ~~allow each~~ to the extent student
21 achievement measures are not compromised, provide district
22 ~~flexibility in developing~~ ability to include a portion of
23 an evaluation system ~~which meets~~ designed to address the
24 individual needs of the district. The performance

1 evaluation system shall also include reasonable opportunity
2 for district provision of mentoring and other professional
3 development activities made available to teachers
4 performing unsatisfactorily, which are designed to improve
5 instruction and student achievement;

6
7 **21-3-110. Duties of boards of trustees.**

8
9 (a) The board of trustees in each school district
10 shall:

11
12 (xvii) Require the performance of each initial
13 contract teacher to be evaluated in writing at least twice
14 annually based in part upon student achievement measures as
15 prescribed by rule and regulation of the state board under
16 W.S. 21-2-304(b)(xv). The teacher shall receive a copy of
17 each evaluation of his performance;

18
19 (xviii) Establish a teacher performance
20 evaluation system and require the performance of each
21 continuing contract teacher to be evaluated in writing at
22 least once each year based in part upon student achievement
23 measures as prescribed by rule and regulation of the state

1 board under W.S. 21-2-304(b)(xv). The teacher shall
2 receive a copy of each evaluation of his performance;

3

4 (xix) Based upon student achievement measures
5 established by the state board of education under W.S.
6 21-2-304(b)(xv), performance evaluations ~~required~~ shall
7 serve as a basis for improvement of instruction,
8 enhancement of curriculum program implementation,
9 measurement of both individual teacher performance and
10 professional growth and development and the performance
11 level of all teachers within the school district, and as
12 documentation for unsatisfactory performance for dismissal,
13 suspension and termination proceedings under W.S. 21-7-110;

14

15 **21-7-102. Definitions.**

16

17 (a) As used in ~~the~~this article the following
18 definitions shall apply:

19

20 (ii) "Continuing Contract Teacher":

21

22 (A) Any initial contract teacher who has
23 been employed by the same school district in the state of
24 Wyoming for a period of three (3) consecutive school years,

1 has performed satisfactorily on performance evaluations
2 implemented by the district under W.S. 21-3-110(a)(xvii)
3 during this period of time and has had his contract renewed
4 for a fourth consecutive school year; or

5
6 (B) A teacher who has achieved continuing
7 contract status in one (1) district, and who without lapse
8 of time has taught two (2) consecutive school years and has
9 had his contract renewed for a third consecutive school
10 year by the employing school district, and has performed
11 satisfactorily on performance evaluations conducted by both
12 districts under W.S. 21-3-110(a)(xvii) during this period
13 of time.

14
15 **21-7-104. Employment of continuing contract teachers**
16 **on continuing basis; salary increases.**

17
18 (a) Subject to satisfactory performance evaluation
19 under W.S. 21-3-110(a)(xviii), a continuing contract
20 teacher shall be employed by each school district on a
21 continuing basis from year to year without annual contract
22 renewal at a salary determined by the board of trustees of
23 each district, said salary subject to increases from time

1 to time as provided for in the salary provisions adopted by
2 the board.

3

4 **21-7-106. Notice of recommendation of termination to**
5 **teacher; when termination effective.**

6

7 (a) A continuing contract teacher shall be notified
8 of a recommendation of termination by the superintendent or
9 any member of the board designated by the superintendent or
10 designated by the board pursuant to a majority vote of the
11 board by giving the teacher written notice together with
12 written reasons for termination on or before April 15 of
13 any year. Upon receipt of notice, the teacher may request
14 a hearing on the recommendation before an independent
15 hearing officer through the office of administrative
16 hearings as provided under W.S. 21-7-110.

17

18 **21-7-110. Suspension or dismissal of teachers;**
19 **notice; hearing; independent hearing officer; board review**
20 **and decision; appeal.**

21

22 (a) The board may suspend or dismiss any teacher, or
23 terminate any continuing contract teacher, for any of the
24 following reasons:

1

2 (i) Incompetency;

3

4 (ii) Neglect of duty;

5

6 (iii) Immorality;

7

8 (iv) Insubordination; ~~unsatisfactory~~9 ~~performance or any other good or just cause.~~

10

11 (v) Physical incapacity to perform job duties12 without reasonable accommodation;

13

14 (vi) Failure to perform duties in a satisfactory15 manner;

16

17 (vii) Inadequate performance as determined18 through annual performance evaluation tied to student19 academic growth completed in accordance with W.S.20 21-3-110(a)(xvii) through (xix); and

21

22 (viii) Any other good or just cause relating to23 the educational process.

24

1 (c) Any continuing contract teacher receiving notice
2 of a recommendation of termination under W.S. 21-7-106(a),
3 or any teacher against whom dismissal or suspension
4 proceedings are instituted, is entitled to a hearing before
5 an independent hearing officer provided through the office
6 of administrative hearings on the recommendation for
7 termination or the reasons for dismissal or suspension,
8 upon submission of a written request to the superintendent.
9 The request for hearing shall be given within seven (7)
10 days after receipt of notice of termination under W.S.
11 21-7-106(a) or after receiving notice of dismissal or
12 suspension under subsection (b) of this section. ~~The~~
13 ~~independent hearing officer shall insofar as possible, be~~
14 ~~impartial, experienced in education, labor and employment~~
15 ~~matters and in the conduct of hearings. Within five (5)~~
16 ~~days following receipt of the hearing request, the~~
17 ~~superintendent and the teacher shall jointly select a~~
18 ~~hearing officer. If they fail to agree upon selection, the~~
19 ~~district judge of the judicial district in which the school~~
20 ~~district is located shall upon request select a hearing~~
21 ~~officer. Expenses of the hearing officer shall be paid~~
22 ~~equally by the school district and the teacher~~ by the
23 school district in accordance with W.S. 9-2-2202(b)(ii).
24

1 (d) Within five (5) days after selection, the hearing
2 officer shall set the date for hearing and notify the
3 teacher and superintendent of the hearing date, time and
4 location. In no event shall the hearing commence on a date
5 later than forty-five (45) days after notice under W.S.
6 21-7-106(a) or subsection (b) of this section, as
7 applicable. The hearing shall be conducted in accordance
8 with ~~the Wyoming Administrative Procedure Act and the~~
9 ~~hearing officer may accordingly receive or reject evidence~~
10 ~~and testimony, administer oaths and if necessary, subpoena~~
11 ~~witnesses~~ contested case procedures specified under W.S.
12 9-2-2202(b). All school district records pertaining to the
13 teacher shall be made available to the hearing officer.

14

15 **21-7-112. Effect on existing contracts.**

16

17 The contracts of all teachers in the state of Wyoming from
18 and after ~~the effective date of this act~~ July 1, 2012,
19 shall be subject to the policies, rules, and regulations of
20 the school district not in conflict with this law or the
21 other laws of the state of Wyoming.

22

23 **21-7-113. Application to teachers presently employed.**

24

1 The provisions of this article shall apply to all teachers
2 who are teaching in Wyoming on ~~the effective date hereof;~~
3 ~~provided, however, the status of teachers covered under~~
4 ~~this act will be determined by their original date of~~
5 ~~employment as a teacher in the state of~~ and after July 1,
6 2012, and shall apply regardless of whether the teacher was
7 employed prior to July 1, 2012 as a teacher in Wyoming.

8
9 **Section 2.** W.S. 21-7-110(e) and (f) and 21-7-111(b)
10 are repealed.

11
12 **Section 3.**

13
14 (a) If 2011 Senate File 70 is enacted by the
15 legislature, the select committee on statewide educational
16 accountability established under 2011 Senate File 70 shall
17 study the use of the statewide accountability system for
18 use in annual teacher evaluations. The select committee
19 shall be assisted by the advisory committee created under
20 2011 Senate File 70 to provide information to the select
21 committee as it deems necessary to carry out this section.

22
23 (b) The select committee created under 2011 Senate
24 File 70 shall, if 2011 Senate File 70 is enacted, recommend

1 changes to the teacher accountability act established under
2 Section 1 of this act which will provide a consistent,
3 reliable and clearly defined evaluation process to measure
4 teacher performance based upon growth in student
5 performance.

6

7 **Section 4.**

8

9 (a) This act shall be cited as the teacher
10 accountability act.

11

12 (b) The Wyoming legislature finds:

13

14 (i) That under current law, teachers achieve
15 continuing contract status after three (3) continuous years
16 of employment with a Wyoming school district, giving
17 teachers tenure. A fundamental premise of tenure is to
18 protect competent teachers from arbitrary termination for
19 reasons unrelated to teaching performance;

20

21 (ii) In the absence of clear, coherent criteria
22 to measure job performance to terminate teachers determined
23 to be inadequately performing their duties, tenure has
24 become a guarantee of employment;

1

2 (iii) Wyoming school districts have expressed
3 frustration with the difficulty in removing nonperforming
4 teachers from the classroom, describing the process as
5 complex, time consuming and legally challenging;

6

7 (iv) The Wyoming teacher contract law should
8 provide protection to performing teachers and ensure that a
9 struggling teacher has a fair opportunity to improve
10 performance;

11

12 (v) Current law goes beyond the intended purpose
13 of tenure and provides an obstacle to removing
14 nonperforming teachers and thereby serves to protect jobs
15 for nonperforming teachers at the expense of student
16 performance. This, in turn, creates higher demands on
17 performing teachers to remediate lagging student
18 performance.

19

20 (b) Based upon these findings, the Wyoming teacher
21 accountability act places emphasis on a teacher performance
22 evaluation system based upon student achievement for use by
23 school district boards of trustees in determining teacher
24 contract performance and status. The basis for the

1 performance evaluation system shall be built upon the
2 educational accountability system and the assessments and
3 measures within the accountability system identified by law
4 to measure student achievement and the effectiveness of
5 classroom teachers in improving student achievement.

6

7 **Section 5.** Prior to November 1, 2011, the joint
8 appropriations interim committee shall review the fiscal
9 impact of this act upon the office of administrative
10 hearings and develop necessary recommendations to the
11 legislature for funding the requirements of this act in
12 establishing the 2013-2014 biennial budget for this office.
13 Not later than September 1, 2011, the office of
14 administrative hearings shall report to the committee on
15 its analysis of the placement of teacher dismissal,
16 suspension and termination hearings under this office, and
17 evaluate the placement of this function as a responsibility
18 for this office.

19

20 **Section 6.**

21

22 (a) Except as provided by subsection (b) of this
23 section this act is effective July 1, 2012.

24

1 (b) Notwithstanding subsection (a) of this section,
2 sections 3, 4 and 5 of this act are effective immediately
3 upon completion of all acts necessary for a bill to become
4 law as provided by Article 4, Section 8 of the Wyoming
5 Constitution.

6

7

(END)