

**By Senator Wise**

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30 and school administrators which meets certain  
31 requirements; requiring charter schools to comply with  
32 requirements relating to personnel evaluation  
33 procedures and criteria and certain contracts;  
34 amending s. 1003.621, F.S.; providing additional  
35 requirements for personnel in academically high-  
36 performing school districts; amending s. 1012.07,  
37 F.S.; revising the methodology for determining  
38 critical teacher shortage areas; amending s.  
39 1012.2315, F.S.; providing additional reporting  
40 requirements concerning instructional personnel and  
41 school administrator assignments; amending s. 1012.27,  
42 F.S.; revising the criteria for transfer requests by  
43 teachers; conforming provisions to changes made by the  
44 act; amending s. 1012.28, F.S.; authorizing a  
45 principal to refuse to accept the placement or  
46 transfer of instructional personnel under certain  
47 circumstances; amending s. 1012.33, F.S.; revising  
48 provisions relating to contracts with certain  
49 education personnel; requiring that a district school  
50 board's decision to retain personnel be primarily  
51 based on the employee's performance; repealing s.  
52 1012.52, F.S., relating to legislative intent for  
53 teacher quality; amending s. 1012.795, F.S.;  
54 conforming provisions to changes made by the act;  
55 authorizing school districts to seek an exemption from  
56 the State Board of Education from the requirement of  
57 certain laws; authorizing the State Board of Education  
58 to adopt rules; providing for the repeal of certain

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59           special acts or general laws of local application  
60           related to instructional personnel in public schools  
61           or school districts; providing an exception; providing  
62           for severability; providing for application of a  
63           specified provision of the act; providing effective  
64           dates.

65  
66       Be It Enacted by the Legislature of the State of Florida:

67  
68       Section 1. This act may be cited as the "Race to the Top  
69       for Student Success Act."

70       Section 2. Effective upon this act becoming a law, section  
71       1012.34, Florida Statutes, is amended to read:

72       1012.34 Personnel evaluation Assessment procedures and  
73       criteria.—

74       (1) EVALUATION APPROVAL AND REPORTING.—

75       (a) For the purpose of increasing student achievement by  
76       improving the quality of instructional, administrative, and  
77       supervisory services in the public schools of the state, the  
78       district school superintendent shall establish procedures for  
79       evaluating assessing the performance of duties and  
80       responsibilities of all instructional, administrative, and  
81       supervisory personnel employed by the school district. Each  
82       school district shall annually report to the Department of  
83       Education the evaluation results of its evaluation system for  
84       instructional personnel and school administrators.

85       (b) The Department of Education must approve each  
86       district's evaluation systems for its instructional personnel  
87       and school administrators instructional personnel assessment

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88 system. The Department of Education shall monitor each  
89 district's implementation of its instructional personnel and  
90 school administrator evaluation system for compliance with this  
91 section.

92 (c) By December 1 of each year, the Commissioner of  
93 Education shall report to the Governor, the President of the  
94 Senate, and the Speaker of the House of Representatives the  
95 approval and implementation status of each district's evaluation  
96 system, including the aggregate performance results and findings  
97 from the monitoring process for: classroom teachers, but  
98 excluding substitute teachers; instructional personnel, as  
99 defined in s. 1012.01(2) (b) - (d); and school administrators.

100 (2) EVALUATION SYSTEM REQUIREMENTS.-The evaluation systems  
101 must ~~The following conditions must be considered in the design~~  
102 ~~of the district's instructional personnel assessment system:~~

103 (a) The system must Be designed to support effective  
104 instruction and student achievement, and the results must be  
105 used to inform district and school level improvement plans.

106 (b) The system must Provide appropriate instruments,  
107 procedures, and criteria for continuous quality improvement of  
108 the professional skills, and the results must be used to inform  
109 the professional development of instructional personnel and  
110 school administrators.

111 (c) The system must Include a mechanism to examine  
112 performance data from multiple sources, which includes giving  
113 give parents an opportunity to provide input into employee  
114 performance evaluations assessments when appropriate.

115 (d) Identify In addition to addressing generic teaching  
116 competencies, districts must determine those teaching fields for

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117 which special evaluation procedures and criteria will be  
118 developed.

119 (e) Differentiate among at least four levels of  
120 performance, which include the following:

121 1. Highly effective.

122 2. Effective.

123 3. Needs improvement or, for instructional personnel in the  
124 first 3 years of employment or in the first year of a new  
125 teaching assignment, developing.

126 4. Unsatisfactory.

127  
128 The Commissioner of Education shall consult with experts and  
129 classroom teachers in developing the criteria for the  
130 performance levels. Each district school board may establish a  
131 peer assistance process. The plan may provide a mechanism for  
132 assistance of persons who are placed on performance probation as  
133 well as offer assistance to other employees who request it.

134 (f) The district school board shall provide for training  
135 programs that are based upon guidelines provided by the  
136 department ~~of Education~~ to ensure that all individuals who have  
137 with evaluation responsibilities understand the proper use of  
138 the evaluation assessment criteria and procedures.

139 (g) Include a process for monitoring the effective and  
140 consistent use of evaluation criteria by supervisors and  
141 administrators.

142 (h) Include a process for evaluating the effectiveness of  
143 the system itself in improving the level of instruction and  
144 learning in the district's schools.

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146 In addition, each district school board may establish a peer  
147 assistance process. This process may be a part of the regular  
148 evaluation system or used to assist employees placed on  
149 performance probation, beginning teachers, or those who request  
150 assistance.

151 (3) EVALUATION CRITERIA.—The evaluation assessment  
152 procedure for instructional personnel and school administrators  
153 must be primarily based on the performance of students assigned  
154 to their classrooms or schools, as provided in this section  
155 appropriate. Pursuant to this section, a school district's  
156 performance evaluation assessment is not limited to basing  
157 unsatisfactory performance of instructional personnel and school  
158 administrators solely upon student performance, but may include  
159 other criteria approved to evaluate assess instructional  
160 personnel and school administrators' performance, or any  
161 combination of student performance and other approved criteria.  
162 The procedures must comply with, but are not limited to, the  
163 following requirements:

164 (a) An evaluation assessment must be conducted for each  
165 employee at least once a year, except that a first-year teacher  
166 must be evaluated at least twice in the first year of teaching.  
167 The evaluation assessment must be based upon sound educational  
168 principles and contemporary research in effective educational  
169 practices. The assessment must primarily use data and indicators  
170 of improvement in student performance assessed annually as  
171 specified in s. 1008.22 and may consider results of peer reviews  
172 in evaluating the employee's performance. Student performance  
173 must be measured by state assessments required under s. 1008.22  
174 and by local assessments for subjects and grade levels not

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175 measured by the state assessment program. The evaluation  
176 assessment criteria must include, but need are not be limited  
177 to, indicators of that relate to the following:

178 1. Performance of students. The evaluation must base at  
179 least 50 percent of the results on data and indicators of  
180 student learning growth assessed annually by state assessments  
181 or, for subjects and grade levels not measured by the state  
182 assessments, by district assessments as provided in s.  
183 1008.22(8). The school district must use the state-adopted  
184 measure of student growth for all courses associated with state  
185 assessments and must select comparable measures of student  
186 growth for other grades and subjects as provided in subsection  
187 (8).

188 a. For classroom teachers, excluding substitute teachers,  
189 the student growth portion of the evaluation must include growth  
190 data, as defined in subsection (8), for students assigned to the  
191 teacher over the course of at least 3 years. If less than 3  
192 years of data are available, the school district must include  
193 the years for which data are available and may reduce the  
194 percentage of the evaluation based on student growth to not less  
195 than 40 percent.

196 b. For instructional personnel who are not classroom  
197 teachers, the student growth portion of the evaluation must  
198 include growth data on state assessments, as defined in  
199 subsection (8), for students assigned to the instructional  
200 personnel over the course of at least 3 years, or may include a  
201 combination of growth data and other measurable student outcomes  
202 that are specific to the personnel assignment, provided that the  
203 student growth data account for not less than 30 percent of the

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204 evaluation. If less than 3 years of student growth data are  
205 available, the district must include the years for which data  
206 are available and may reduce the percentage of the evaluation  
207 based on student growth to not less than 20 percent.

208 c. For school administrators, the student growth portion of  
209 the evaluation must include growth data, as defined in  
210 subsection (8), for students assigned to the school over the  
211 course of at least 3 years. If less than 3 years of data are  
212 available, the district must include the years for which data  
213 are available, and may reduce the percentage of the evaluation  
214 based on student growth to not less than 40 percent.

215 2. Instructional practice. For classroom teachers, criteria  
216 must include indicators based on each of the Florida Educator  
217 Accomplished Practices adopted by the State Board of Education.  
218 For instructional personnel who are not classroom teachers,  
219 performance criteria must be based on indicators of the Florida  
220 Educator Accomplished Practices and may include specific job-  
221 performance expectations related to student support.

222 3. Instructional leadership. For school administrators,  
223 criteria must include indicators based on each of the leadership  
224 standards adopted by the State Board of Education under s.  
225 1012.986, including the following: performance measures related  
226 to the effectiveness of the instructional personnel in the  
227 school; the administrator's appropriate use of evaluation  
228 criteria and procedures; recruitment and retention of effective  
229 and highly effective classroom teachers; improvement in the  
230 percentage of classroom teachers evaluated at the effective or  
231 highly effective level; management of human, financial, and  
232 material resources so as to maximize the share of resources used

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233 for direct instruction, as opposed to overhead or other  
234 purposes; and other leadership practices that result in improved  
235 student outcomes. The system must include a means to give  
236 parents and instructional personnel an opportunity to provide  
237 input into the administrator's performance evaluation, when  
238 appropriate.

239 4. Professional responsibilities. This criteria must  
240 include other professional responsibilities and employment  
241 requirements, as established by the State Board of Education and  
242 through policies of the district school board.

243 2. Ability to maintain appropriate discipline.

244 3. Knowledge of subject matter. The district school board  
245 shall make special provisions for evaluating teachers who are  
246 assigned to teach out-of-field.

247 4. Ability to plan and deliver instruction and the use of  
248 technology in the classroom.

249 5. Ability to evaluate instructional needs.

250 6. Ability to establish and maintain a positive  
251 collaborative relationship with students' families to increase  
252 student achievement.

253 7. Other professional competencies, responsibilities, and  
254 requirements as established by rules of the State Board of  
255 Education and policies of the district school board.

256 (b) All personnel must be fully informed of the criteria  
257 and procedures associated with the evaluation assessment process  
258 before the evaluation assessment takes place.

259 (c) The individual responsible for supervising the employee  
260 must evaluate assess the employee's performance. The school  
261 district's evaluation system may provide for the supervisor to

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262 consider input from other trained evaluators. The evaluator must  
263 submit a written report of the evaluation assessment to the  
264 district school superintendent for the purpose of reviewing the  
265 employee's contract. The evaluator must submit the written  
266 report to the employee no later than 10 days after the  
267 evaluation assessment takes place. The evaluator must discuss  
268 the written report of the evaluation assessment with the  
269 employee. The employee shall have the right to initiate a  
270 written response to the evaluation assessment, and the response  
271 shall become a permanent attachment to his or her personnel  
272 file.

273 (d) A school district may amend an individual's evaluation  
274 based upon assessment data from the current year if the data  
275 become available within 60 days after the close of the school  
276 year.

277 (4) NOTIFICATION OF UNSATISFACTORY PERFORMANCE.—If an  
278 employee is not performing his or her duties in a satisfactory  
279 manner, the evaluator shall notify the employee in writing of  
280 such determination. The notice must describe such unsatisfactory  
281 performance and include notice of the following procedural  
282 requirements:

283 (a) 1. Upon delivery of a notice of unsatisfactory  
284 performance, the evaluator must confer with the employee, make  
285 recommendations with respect to specific areas of unsatisfactory  
286 performance, and provide assistance in helping to correct  
287 deficiencies within a prescribed period of time.

288 (b) 1.2.a. If the employee holds a professional service  
289 contract as provided in s. 1012.33, the employee shall be placed  
290 on performance probation and governed by the provisions of this

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291 section for 90 calendar days following the receipt of the notice  
292 of unsatisfactory performance to demonstrate corrective action.  
293 School holidays and school vacation periods are not counted when  
294 calculating the 90-calendar-day period. During the 90 calendar  
295 days, the employee who holds a professional service contract  
296 must be evaluated periodically and apprised of progress achieved  
297 and must be provided assistance and inservice training  
298 opportunities to help correct the noted performance  
299 deficiencies. At any time during the 90 calendar days, the  
300 employee who holds a professional service contract may request a  
301 transfer to another appropriate position with a different  
302 supervising administrator, as provided in s. 1012.33; however,  
303 if a transfer is granted, it does not extend the period for  
304 correcting performance deficiencies.

305 2.b. Within 14 days after the close of the 90 calendar  
306 days, the evaluator must evaluate assess whether the performance  
307 deficiencies have been corrected and forward a recommendation to  
308 the district school superintendent. Within 14 days after  
309 receiving the evaluator's recommendation, the district school  
310 superintendent must notify the employee who holds a professional  
311 service contract in writing whether the performance deficiencies  
312 have been satisfactorily corrected and whether the district  
313 school superintendent will recommend that the district school  
314 board continue or terminate his or her employment contract. If  
315 the employee wishes to contest the district school  
316 superintendent's recommendation, the employee must, within 15  
317 days after receipt of the district school superintendent's  
318 recommendation, submit a written request for a hearing. The  
319 hearing shall be conducted at the district school board's

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320 election in accordance with one of the following procedures:

321       a.(I) A direct hearing conducted by the district school  
322 board within 60 days after receipt of the written appeal. The  
323 hearing shall be conducted in accordance with the provisions of  
324 ss. 120.569 and 120.57. A majority vote of the membership of the  
325 district school board shall be required to sustain the district  
326 school superintendent's recommendation. The determination of the  
327 district school board shall be final as to the sufficiency or  
328 insufficiency of the grounds for termination of employment; or

329       b.(II) A hearing conducted by an administrative law judge  
330 assigned by the Division of Administrative Hearings of the  
331 Department of Management Services. The hearing shall be  
332 conducted within 60 days after receipt of the written appeal in  
333 accordance with chapter 120. The recommendation of the  
334 administrative law judge shall be made to the district school  
335 board. A majority vote of the membership of the district school  
336 board shall be required to sustain or change the administrative  
337 law judge's recommendation. The determination of the district  
338 school board shall be final as to the sufficiency or  
339 insufficiency of the grounds for termination of employment.

340       (5)(4) ADDITIONAL NOTIFICATIONS.—The district school  
341 superintendent shall notify the department of any instructional  
342 personnel who receive two consecutive unsatisfactory evaluations  
343 and who have been given written notice by the district that  
344 their employment is being terminated or is not being renewed or  
345 that the district school board intends to terminate, or not  
346 renew, their employment. The department shall conduct an  
347 investigation to determine whether action shall be taken against  
348 the certificateholder pursuant to s. 1012.795(1)(e).

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(5) The district school superintendent shall develop a mechanism for evaluating the effective use of assessment criteria and evaluation procedures by administrators who are assigned responsibility for evaluating the performance of instructional personnel. The use of the assessment and evaluation procedures shall be considered as part of the annual assessment of the administrator's performance. The system must include a mechanism to give parents and teachers an opportunity to provide input into the administrator's performance assessment, when appropriate.

(6) LIMITATIONS. Nothing in this section does not shall be construed to grant a probationary employee a right to continued employment beyond the term of his or her contract.

(7) ANNUAL REVIEW AND REVISIONS TO THE SCHOOL DISTRICT EVALUATION SYSTEM.—The district school board shall establish a procedure for annually reviewing instructional personnel and school administrator evaluation assessment systems to determine compliance with this section. All substantial revisions to an approved system must be reviewed and approved by the district school board before being used to evaluate assess instructional personnel and school administrators. Upon request by a school district, the department shall provide assistance in developing, improving, or reviewing an evaluation assessment system.

(8) MEASUREMENT OF STUDENT GROWTH IN LEARNING.—

(a) By June 1, 2011, the Commissioner of Education shall adopt a formula to measure individual student growth on the Florida Comprehensive Assessment Test administered under s. 1008.22(3)(c)1. The formula must take into account each student's prior performance, grade level, and subject. In the

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development of the formula, the Commissioner of Education shall consider other factors, including, but not limited to, student attendance, student disciplinary records, student disabilities, and student English language proficiency. The formula may not set different expectations for student growth based on gender, race, ethnicity, or socioeconomic status. The State Board of Education shall adopt the formula into rule by October 1, 2012.

(b) Beginning with the 2011-2012 school year, each district shall measure the growth in learning of each student using the commissioner-adopted student growth measure for courses associated with the FCAT. Beginning with the 2014-2015 school year, each school district shall measure the growth in learning for each student using a comparable measure of student growth for other grades and subjects for which the school district has selected appropriate student assessments under s. 1008.22(8). The Department of Education shall provide model student growth measures that school districts may adopt for this purpose.

(c) A school district may request through the evaluation system approval process to use a student achievement measure rather than a growth measure for courses for which achievement is a more appropriate measure of instructional personnel performance. A school district may request to use a combination of growth and achievement.

(d) A school district may request through the evaluation system approval process to include student growth demonstrated on state assessments as a percentage of the evaluation of classroom teachers who are assigned to courses not associated with state assessments, if the growth remains based upon the students assigned to the teacher and the percentage of growth

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407 for the teacher's assigned content area, as measured by the  
408 district-selected assessment, is the greater percentage.

409 (e) For classroom teachers of courses for which the  
410 district has not implemented appropriate assessments under s.  
411 1008.22(8) or for which the school district has not adopted a  
412 comparable measure of student growth under paragraphs (b) - (d),  
413 student growth must be measured by the growth in learning of the  
414 classroom teacher's students on state assessments, or, for  
415 courses in which enrolled students do not take the state  
416 assessment, measurable learning targets must be established  
417 based upon the goals of the school improvement plan and approved  
418 by the school principal. A district school superintendent may  
419 assign instructional team student learning growth to  
420 instructional personnel in lieu of overall student learning  
421 growth of the school in reading and mathematics based upon the  
422 state assessment program under s. 1008.22. This paragraph  
423 expires July 1, 2015.

424 (9) ~~(8)~~ RULEMAKING.—The State Board of Education shall adopt  
425 rules pursuant to ss. 120.536(1) and 120.54 ~~which, that~~  
426 establish uniform procedures ~~guidelines~~ for the submission,  
427 review, and approval of district procedures for the annual  
428 evaluation ~~assessment~~ of instructional personnel and school  
429 ~~administrators~~; the standards for each performance level  
430 required under subsection (2); the measurement of student growth  
431 in learning and associated implementation procedures required  
432 under subsection (8); and a process for monitoring district  
433 implementation of evaluation systems in accordance with this  
434 section ~~and that include criteria for evaluating professional~~  
435 performance.

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436       Section 3. Subsection (8) of section 1008.22, Florida  
437 Statutes, is amended to read:

438       1008.22 Student assessment program for public schools.—

439       (8) LOCAL ASSESSMENTS.—

440       (a) Measurement of the learning gains of students in all  
441 subjects and grade levels other than subjects and grade levels  
442 required for the state student achievement testing program is  
443 the responsibility of the school districts.

444       (b) Beginning with the 2014-2015 school year, each school  
445 district shall administer for each course offered in the  
446 district a student assessment that measures mastery of the  
447 content, as described in the state-adopted course description,  
448 at the necessary level of rigor for the course. Such assessments  
449 may include:

450       1. Statewide assessments under this section.

451       2. Other standardized assessments, including nationally  
452 recognized standardized assessments.

453       3. Industry certification examinations.

454       4. District-developed or selected end-of-course  
455 assessments.

456  
457 This paragraph shall be implemented as the Commissioner of  
458 Education identifies methods to assist and support districts in  
459 the development and acquisition of assessments, as described in  
460 paragraph (c).

461       (c) The Commissioner of Education shall identify methods to  
462 assist and support districts in the development and acquisition  
463 of assessments required under this subsection. Methods may  
464 include the development of item banks, facilitation of the

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465 sharing of developed tests among districts, and technical  
466 assistance in best professional practices of test development  
467 based on state-adopted curriculum standards, administration, and  
468 security.

469 Section 4. Paragraphs (c) and (e) of subsection (1) of  
470 section 1012.22, Florida Statutes, are amended to read:

471 1012.22 Public school personnel; powers and duties of the  
472 district school board.—The district school board shall:

473 (1) Designate positions to be filled, prescribe  
474 qualifications for those positions, and provide for the  
475 appointment, compensation, promotion, suspension, and dismissal  
476 of employees as follows, subject to the requirements of this  
477 chapter:

478 (c) *Compensation and salary schedules.*—

479 1. Definitions.—As used in this paragraph, the term:

480 a. “Salary schedule” means the schedule or schedules used  
481 to provide the base pay for district school board personnel.

482 b. “Adjustment” means an addition to the base salary  
483 schedule which is not a bonus, but becomes part of the  
484 employee’s permanent base salary and is considered compensation  
485 under s. 121.021(22).

486 c. “Supplement” means an annual addition to the base salary  
487 schedule for the term of the negotiated supplement as long as  
488 the employee continues his or her employment for the purpose of  
489 the supplement. A supplement does not become part of the  
490 employee’s continuing base salary but is considered compensation  
491 under s. 121.021(22).

492 d. “Grandfathered salary schedule” means the schedule or  
493 schedules adopted by a school district before July 1, 2014.

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494       e. "Performance salary schedule" means the schedule or  
495       schedules adopted by a school district pursuant to subparagraph  
496       3.

497       f. "Instructional personnel" means instructional personnel  
498       as defined in s. 1012.01(2)(a)-(d), excluding substitute  
499       teachers.

500       g. "School administrator" means school administrators as  
501       defined in s. 1012.01(3)(c).

502       2. Grandfathered salary schedule.—The district school board  
503       shall adopt a salary schedule or salary schedules to be used as  
504       the basis for paying all school employees hired before July 1,  
505       2014. In determining the grandfathered salary schedule for  
506       instructional personnel, a district school board must base a  
507       portion of each employee's compensation upon performance  
508       demonstrated under s. 1012.34 and shall provide differentiated  
509       pay for both instructional personnel and school administrators  
510       based upon district-determined factors, including, but not  
511       limited to, additional responsibilities, school demographics,  
512       critical shortage areas, and level of job-performance  
513       difficulties. Instructional personnel hired before July 1, 2014,  
514       shall remain on the grandfathered salary schedule for as long as  
515       the employee remains employed by the school district. However,  
516       such instructional personnel may choose, at any time, to opt  
517       into the performance salary schedule adopted under subparagraph  
518       3. Once an individual has chosen to opt into the performance  
519       salary schedule, he or she may not return to the grandfathered  
520       salary schedule.

521       3. Performance salary schedule.—By July 1, 2014, the  
522       district school board shall adopt a performance salary schedule

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523 that provides annual salary adjustments for instructional  
524 personnel and school administrators based upon performance  
525 determined under s. 1012.34. Employees hired on or after July 1,  
526 2014, shall be compensated pursuant to the performance salary  
527 schedule once they have received appropriate evaluation for this  
528 purpose, except that an instructional employee whose evaluation  
529 uses solely student growth measures established under s.  
530 1012.34(8)(e) shall remain under the grandfathered salary  
531 schedule until his or her teaching assignment changes or the  
532 district establishes comparable measures of student learning  
533 growth, as defined under that section and rules of the State  
534 Board of Education.

535 a. Base salary.—The base salary shall be established as  
536 follows:

537 (I) The base salary for all instructional personnel and  
538 school administrators returning subsequent to the 2014-2015  
539 school year shall be the salary paid in the prior year,  
540 including adjustments only. The total salary and adjustments  
541 shall be prorated based upon the respective contract days for  
542 the school year.

543 (II) Instructional personnel or school administrators new  
544 to the district, returning to the district after a break in  
545 service without an authorized leave of absence, or appointed for  
546 the first time to a position in the district in the capacity of  
547 instructional personnel or school administrators shall be placed  
548 on the performance salary schedule in accordance with the  
549 collective bargaining contract.

550 b. Salary adjustments.—Salary adjustments for highly  
551 effective or effective performance shall be established as

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552 follows:

553 (I) The annual salary adjustment under the performance  
554 salary schedule for an employee rated as highly effective must  
555 be greater than the highest annual salary adjustment available  
556 to an employee of the same classification through any other  
557 salary schedule adopted by the district.

558 (II) The annual salary adjustment under the performance  
559 salary schedule for an employee rated as effective must be equal  
560 to at least 50 percent and no more than 75 percent of the annual  
561 adjustment provided for a highly effective employee of the same  
562 classification.

563 (III) The performance salary schedule shall not provide an  
564 annual salary adjustment for employees who receive a rating  
565 other than highly effective or effective for the year.

566 c. Salary supplements.—In addition to the schedules for  
567 salary adjustments, each school district shall provide a  
568 schedule for salary supplements that include, but are not  
569 limited to, the following:

570 (I) Assignment to a Title-I-eligible school;  
571 (II) Assignment to a school in the bottom two categories of  
572 the school improvement system under s. 1008.33 such that the  
573 supplement remains in force for at least 1 year following  
574 improved performance in that school;

575 (III) Certification and teaching in critical teacher  
576 shortage areas. Statewide critical teacher shortage areas shall  
577 be identified by the State Board of Education. However, the  
578 district school board may define additional areas of critical  
579 shortage within the school district and may remove areas  
580 identified by the State Board of Education that do not apply

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581        within the school district; and

582        (IV) Assignment of additional academic responsibilities.

583        d. Cost-of-living adjustments.—A district school board may  
584 provide a cost-of-living salary adjustment if:

585        (I) The adjustment does not discriminate among comparable  
586 classes of employees based upon the salary schedule under which  
587 they are compensated.

588        (II) Does not exceed 50 percent of the annual adjustment  
589 provided to instructional personnel rated as effective.

590        e. Advanced degrees.—Beginning with instructional personnel  
591 hired on or after July 1, 2011, a district school board may not  
592 use advanced degrees in setting a salary schedule unless the  
593 advanced degree is held in the instructional personnel's area of  
594 certification.

595

596        If budget constraints in any given year limit a district school  
597 board's ability to fully fund all adopted salary schedules, the  
598 performance salary schedule shall not be reduced, either on the  
599 basis of total cost or the value of individual awards, in a  
600 manner that is proportionally greater than reductions to any  
601 other salary schedules adopted by the district. The district  
602 school board shall adopt a salary schedule or salary schedules  
603 designed to furnish incentives for improvement in training and  
604 for continued efficient service to be used as a basis for paying  
605 all school employees and fix and authorize the compensation of  
606 school employees on the basis thereof.

607        2. A district school board, in determining the salary  
608 schedule for instructional personnel, must base a portion of  
609 each employee's compensation on performance demonstrated under

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610 ~~s. 1012.34, must consider the prior teaching experience of a~~  
611 ~~person who has been designated state teacher of the year by any~~  
612 ~~state in the United States, and must consider prior professional~~  
613 ~~experience in the field of education gained in positions in~~  
614 ~~addition to district level instructional and administrative~~  
615 ~~positions.~~

616 ~~3. In developing the salary schedule, the district school~~  
617 ~~board shall seek input from parents, teachers, and~~  
618 ~~representatives of the business community.~~

619 ~~4. Beginning with the 2007-2008 academic year, each~~  
620 ~~district school board shall adopt a salary schedule with~~  
621 ~~differentiated pay for both instructional personnel and school-~~  
622 ~~based administrators. The salary schedule is subject to~~  
623 ~~negotiation as provided in chapter 447 and must allow~~  
624 ~~differentiated pay based on district-determined factors,~~  
625 ~~including, but not limited to, additional responsibilities,~~  
626 ~~school demographics, critical shortage areas, and level of job~~  
627 ~~performance difficulties.~~

628 (e) *Transfer and promotion.*—The district school board shall  
629 act on recommendations of the district school superintendent  
630 regarding transfer and promotion of any employee. The district  
631 school board's primary consideration in approving a promotion  
632 must be the individual's demonstrated effectiveness under s.  
633 1012.34.

634 Section 5. Section 1012.335, Florida Statutes, is created  
635 to read:

636 1012.335 Contracts with instructional personnel hired on or  
637 after July 1, 2011.—

638 (1) DEFINITIONS.—For purposes of this section, the term:

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639       (a) "Instructional personnel" means those personnel defined  
640       in s. 1012.01(2) (a)-(d), excluding substitute teachers.

641       (b) "Probationary contract" means an employment contract  
642       for a period of 1 school year awarded to instructional personnel  
643       upon initial employment in a school district. Probationary  
644       contract employees may be dismissed without cause or may resign  
645       without breach of contract.

646       (c) "Annual contract" means an employment contract for a  
647       period of no longer than 1 school year which the district school  
648       board may choose to award or not award without cause.

649       (2) EMPLOYMENT.-

650       (a) Beginning July 1, 2011, each individual newly hired as  
651       instructional personnel by a Florida school district shall be  
652       employed based upon the requirements of this section.

653       (b) The district school board may issue an annual contract  
654       to instructional personnel who have successfully completed the  
655       probationary contract or may award an additional annual contract  
656       if the individual:

657           1. Holds a professional certificate or temporary  
658       certificate issued pursuant to s. 1012.56 and rules of the State  
659       Board of Education.

660           2. Has been recommended by the district school  
661       superintendent for the annual contract based upon the  
662       individual's evaluation, as determined under s. 1012.34, and  
663       approved by the district school board.

664           3. Has not received two consecutive unsatisfactory  
665       evaluations under s. 1012.34, two unsatisfactory evaluations  
666       within a 3-year period under s. 1012.34, or three evaluations of  
667       needs improvement within any 5-year period under s. 1012.34.

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(3) VIOLATION OF ANNUAL CONTRACT.—Instructional personnel who accept an offer in writing from the district school board and who leave their position without prior release from the district school board are subject to the jurisdiction of the Education Practices Commission.

(4) SUSPENSION OR DISMISSAL OF CLASSROOM TEACHERS ON ANNUAL CONTRACT.—Instructional personnel who have an annual contract may be suspended or dismissed at any time during the term of the contract for just cause as provided in subsection (5). The district school board must notify the instructional personnel in writing whenever charges are made against the instructional personnel, and the district school board may suspend him or her without pay. However, if the charges are not sustained, the instructional personnel shall be immediately reinstated and his or her back pay shall be paid. In order to contest the charges, the instructional personnel must, within 15 days after receipt of the written notice, submit a written request for a hearing to the district school board. The district school board or a subcommittee thereof shall conduct a direct hearing within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with ss. 120.569 and 120.57. A majority vote of the membership of the district school board is required to sustain the superintendent's recommendation. The district school board's determination is final as to the sufficiency or insufficiency of the grounds for suspension without pay or dismissal. Any decision that is adverse to the instructional personnel may be appealed by the instructional personnel pursuant to s. 120.68 if the appeal is filed within 30 days after the decision of the district school board.

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697        (5) JUST CAUSE.—The State Board of Education shall adopt  
698        rules pursuant to ss. 120.536(1) and 120.54 to define the term  
699        “just cause.” Just cause includes, but is not limited to:

700        (a) Immorality.  
701        (b) Misconduct in office.  
702        (c) Incompetency.  
703        (d) Gross insubordination.  
704        (e) Willful neglect of duty.  
705        (f) Being convicted or found guilty of, or entering a plea  
706        of guilty to, regardless of adjudication of guilt, any crime  
707        involving moral turpitude.

708        (g) Unsatisfactory performance, as described in s. 1012.34.

709        Section 6. Paragraph (b) of subsection (16) of section  
710        1002.33, Florida Statutes, is amended to read:

711        1002.33 Charter schools.—

712        (16) EXEMPTION FROM STATUTES.—

713        (b) Additionally, a charter school shall be in compliance  
714        with the following statutes:

715        1. Section 286.011, relating to public meetings and  
716        records, public inspection, and criminal and civil penalties.

717        2. Chapter 119, relating to public records.

718        3. Section 1003.03, relating to the maximum class size,  
719        except that the calculation for compliance pursuant to s.  
720        1003.03 shall be the average at the school level.

721        4. Section 1012.22(1)(c), relating to compensation and  
722        salary schedules.

723        5. Section 1012.33(5), relating to workforce reductions.

724        6. Section 1012.335, relating to contracts with  
725        instructional personnel hired on or after July 1, 2011.

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726       7. Section 1012.34, relating to performance evaluations for  
727       instructional personnel and school administrators.

728       Section 7. Paragraph (h) of subsection (2) of section  
729       1003.621, Florida Statutes, is amended to read:

730       1003.621 Academically high-performing school districts.—It  
731       is the intent of the Legislature to recognize and reward school  
732       districts that demonstrate the ability to consistently maintain  
733       or improve their high-performing status. The purpose of this  
734       section is to provide high-performing school districts with  
735       flexibility in meeting the specific requirements in statute and  
736       rules of the State Board of Education.

737       (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically  
738       high-performing school district shall comply with all of the  
739       provisions in chapters 1000-1013, and rules of the State Board  
740       of Education which implement these provisions, pertaining to the  
741       following:

742       (h) Sections 1012.22(1)(c) and 1012.27(2), relating to  
743       differentiated compensation and salary schedules and public  
744       school personnel, respectively; s. 1012.34, relating to  
745       personnel evaluation procedures and criteria; and ss. 1012.33  
746       and 1012.335, relating to contracts with instructional  
747       personnel, staff, supervisors, and school administrators pay and  
748       performance pay policies for school administrators and  
749       instructional personnel. Professional service contracts are  
750       subject to the provisions of ss. 1012.33 and 1012.34.

751       Section 8. Section 1012.07, Florida Statutes, is amended to  
752       read:

753       1012.07 Identification of critical teacher shortage areas.—  
754       (1) As used in ss. 1009.57, 1009.58, and 1009.59, The term

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755 "critical teacher shortage area" means high-need content areas  
756 ~~applies to mathematics, science, career education, and high-~~  
757 ~~priority high priority~~ location areas identified by the State  
758 Board of Education ~~may identify career education programs having~~  
759 ~~critical teacher shortages~~. The State Board of Education shall  
760 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to  
761 annually identify ~~other~~ critical teacher shortage areas ~~and high~~  
762 ~~priority location areas~~. The state board must shall also  
763 consider current and emerging educational requirements and  
764 workforce demands ~~teacher characteristics such as ethnic~~  
765 ~~background, race, and sex~~ in determining critical teacher  
766 shortage areas. School grade levels may also be designated  
767 critical teacher shortage areas. Individual district school  
768 boards may identify and submit other critical teacher shortage  
769 areas. Such submissions ~~shortages~~ must be aligned to current and  
770 emerging educational requirements and workforce demands in order  
771 ~~to be certified to and~~ approved by the State Board of Education.  
772 High priority location areas shall be in high-density, low-  
773 economic urban schools, ~~and~~ low-density, low-economic rural  
774 schools, ~~and schools~~ identified as lowest performing under s.  
775 1008.33(4)(b) ~~shall include schools which meet criteria which~~  
776 ~~include, but are not limited to, the percentage of free lunches,~~  
777 ~~the percentage of students under Chapter I of the Education~~  
778 ~~Consolidation and Improvement Act of 1981, and the faculty~~  
779 ~~attrition rate.~~

780 ~~(2) This section shall be implemented only to the extent as~~  
781 ~~specifically funded and authorized by law.~~

782 Section 9. Subsection (5) of section 1012.2315, Florida  
783 Statutes, is amended to read:

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784 1012.2315 Assignment of teachers.—

785 (5) REPORTS REPORT.—

786 (a) The Department of Education shall annually report the  
787 percentage of classroom teachers and school administrators by  
788 district and by school based on performance ratings reported by  
789 each school district under s. 1012.34. The data must be reported  
790 via the department's website in a manner that is accessible by  
791 the public.

792 (b) Each school district shall annually report to the  
793 parent of any student who is assigned to a classroom teacher or  
794 school administrator having a performance rating of  
795 "unsatisfactory," "needs improvement," or a combination of  
796 "unsatisfactory" or "needs improvement" for 3 consecutive years  
797 or more. Schools graded "D" or "F" shall annually report their  
798 teacher retention rate. Included in this report shall be reasons  
799 listed for leaving by each teacher who left the school for any  
800 reason.

801 Section 10. Subsections (1) and (2) of section 1012.27,  
802 Florida Statutes, are amended to read:

803 1012.27 Public school personnel; powers and duties of  
804 district school superintendent.—The district school  
805 superintendent is responsible for directing the work of the  
806 personnel, subject to the requirements of this chapter, and in  
807 addition the district school superintendent shall perform the  
808 following:

809 (1) POSITIONS, QUALIFICATIONS, AND NOMINATIONS.—

810 (a) Recommend to the district school board duties and  
811 responsibilities which need to be performed and positions which  
812 need to be filled to make possible the development of an

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813 adequate school program in the district.

814 (b) Recommend minimum qualifications of personnel for these  
815 various positions, and nominate in writing persons to fill such  
816 positions.

817  
818 The district school superintendent's recommendations for filling  
819 instructional positions at the school level must consider  
820 nominations received from school principals of the respective  
821 schools. Before transferring a teacher who holds a professional  
822 teaching certificate from one school to another, including a  
823 transfer requested under s. 1012.33, the district school  
824 superintendent shall consult with the principal of the receiving  
825 school and allow the principal to review the teacher's records,  
826 including student performance demonstrated under s. 1012.34, and  
827 interview the teacher. If, in the judgment of the principal,  
828 students would not benefit from the placement, an alternative  
829 placement may be sought. A principal may refuse the placement in  
830 accordance with s. 1012.28(6).

831 (2) COMPENSATION AND SALARY SCHEDULES.—Prepare and  
832 recommend to the district school board for adoption a salary  
833 schedule or salary schedules in accordance with s. 1012.22. ~~The~~  
834 ~~district school superintendent must recommend a salary schedule~~  
835 ~~for instructional personnel which bases a portion of each~~  
836 ~~employee's compensation on performance demonstrated under s.~~  
837 ~~1012.34~~. ~~In developing the recommended salary schedule, the~~  
838 ~~district school superintendent shall include input from parents,~~  
839 ~~teachers, and representatives of the business community.~~  
840 ~~Beginning with the 2007-2008 academic year, the recommended~~  
841 ~~salary schedule for classroom teachers shall be consistent with~~

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842 the district's differentiated pay policy based upon s. 1012.22.

843 Section 11. Present subsection (6) of section 1012.28,  
844 Florida Statutes, is renumbered as subsection (7), and a new  
845 subsection (6) is added to that section, to read:

846 1012.28 Public school personnel; duties of school  
847 principals.—

848       (6) A principal may refuse to accept the placement or  
849 transfer of instructional personnel by the district school  
850 superintendent to his or her school unless the instructional  
851 personnel has a performance rating of "effective" or "highly  
852 effective" under s. 1012.34.

853       Section 12. Paragraph (a) of subsection (1), paragraphs (a)  
854 and (f) of subsection (3), and subsection (5) of section  
855 1012.33, Florida Statutes, are amended to read:

1012.33 Contracts with instructional staff, supervisors,  
and school principals.-

858 (1) (a) Each person employed as a member of the  
859 instructional staff in any district school system shall be  
860 properly certified pursuant to s. 1012.56 or s. 1012.57 or  
861 employed pursuant to s. 1012.39 and shall be entitled to and  
862 shall receive a written contract as specified in this section.  
863 All such contracts, except continuing contracts as specified in  
864 subsection (4), shall contain provisions for dismissal during  
865 the term of the contract only for just cause. Just cause  
866 includes, but is not limited to, the following instances, as  
867 defined by rule of the State Board of Education: immorality,  
868 misconduct in office, incompetency, two consecutive annual  
869 performance ratings of "unsatisfactory" under s. 1012.34, gross  
870 insubordination, willful neglect of duty, or being convicted or

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871 found guilty of, or entering a plea of guilty to, regardless of  
872 adjudication of guilt, any crime involving moral turpitude.

873 (3) (a) Each district school board shall provide a  
874 professional service contract as prescribed herein. Each member  
875 of the instructional staff who completed the following  
876 requirements prior to July 1, 1984, shall be entitled to and  
877 shall be issued a continuing contract in the form prescribed by  
878 rules of the state board pursuant to s. 231.36, Florida Statutes  
879 (1981). Each member of the instructional staff who completes the  
880 following requirements on or after July 1, 1984, shall be  
881 entitled to and shall be issued a professional service contract  
882 in the form prescribed by rules of the state board as provided  
883 herein:

884 1. The member must hold a professional certificate as  
885 prescribed by s. 1012.56 and rules of the State Board of  
886 Education.

887 2. The member must have completed 3 years of probationary  
888 service in the district during a period not in excess of 5  
889 successive years, except for leave duly authorized and granted.

890 3. The member must have been recommended by the district  
891 school superintendent for such contract and reappointed by the  
892 district school board based on effective or highly effective  
893 ~~successful performance demonstrated under s. 1012.34 ef duties~~  
894 ~~and demonstration of professional competence.~~

895 4. For any person newly employed as a member of the  
896 instructional staff after June 30, 1997, the initial annual  
897 contract shall include a 97-day probationary period during which  
898 time the employee's contract may be terminated without cause or  
899 the employee may resign without breach of contract.

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900 (f) The district school superintendent shall notify an  
901 employee who holds a professional service contract on July 1,  
902 1997, in writing, no later than 6 weeks prior to the end of the  
903 evaluation postschool conferencee period, of performance  
904 deficiencies which may result in termination of employment, if  
905 not corrected during the subsequent evaluation period year of  
906 employment (which shall be granted for an additional year in  
907 accordance with the provisions in subsection (1)). Except as  
908 otherwise hereinafter provided, this action shall not be subject  
909 to the provisions of chapter 120, but the following procedures  
910 shall apply:

911        1. On receiving notice of unsatisfactory performance, the  
912 employee, on request, shall be accorded an opportunity to meet  
913 with the district school superintendent, or his or her designee,  
914 for an informal review of the determination of unsatisfactory  
915 performance.

916        2. An employee notified of unsatisfactory performance may  
917 request an opportunity to be considered for a transfer to  
918 another appropriate position, with a different supervising  
919 administrator, for the subsequent year of employment. If the  
920 request for the transfer is granted and is consistent with s.  
921 1012.28(6), the district school superintendent shall annually  
922 report to the department the total number of employees  
923 transferred pursuant to this subparagraph, where they were  
924 transferred, and the annual performance level of the employee as  
925 determined under s. 1012.34 what, if any, remediation was  
926 implemented to remediate the unsatisfactory performance.

927       3. During the subsequent evaluation period year, the  
928       employee shall be provided assistance and inservice training

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929 opportunities to help correct the noted performance  
930 deficiencies. The employee shall also be evaluated periodically  
931 so that he or she will be kept apprised of progress achieved.

932 4. Not later than 6 weeks prior to the close of the  
933 postschool conference period of the subsequent year, the  
934 district school superintendent, after receiving and reviewing  
935 the recommendation required by s. 1012.34, shall notify the  
936 employee, in writing, whether the performance deficiencies have  
937 been corrected. If so, a new professional service contract shall  
938 be issued to the employee. If the performance deficiencies have  
939 not been corrected, the district school superintendent may  
940 notify the district school board and the employee, in writing,  
941 that the employee shall not be issued a new professional service  
942 contract; however, if the recommendation of the district school  
943 superintendent is not to issue a new professional service  
944 contract, and if the employee wishes to contest such  
945 recommendation, the employee will have 15 days from receipt of  
946 the district school superintendent's recommendation to demand,  
947 in writing, a hearing. In such hearing, the employee may raise  
948 as an issue, among other things, the sufficiency of the district  
949 school superintendent's charges of unsatisfactory performance.  
950 Such hearing shall be conducted at the district school board's  
951 election in accordance with one of the following procedures:

952 a. A direct hearing conducted by the district school board  
953 within 60 days of receipt of the written appeal. The hearing  
954 shall be conducted in accordance with the provisions of ss.  
955 120.569 and 120.57. A majority vote of the membership of the  
956 district school board shall be required to sustain the district  
957 school superintendent's recommendation. The determination of the

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958 district school board shall be final as to the sufficiency or  
959 insufficiency of the grounds for termination of employment; or  
960       b. A hearing conducted by an administrative law judge  
961 assigned by the Division of Administrative Hearings of the  
962 Department of Management Services. The hearing shall be  
963 conducted within 60 days of receipt of the written appeal in  
964 accordance with chapter 120. The recommendation of the  
965 administrative law judge shall be made to the district school  
966 board. A majority vote of the membership of the district school  
967 board shall be required to sustain or change the administrative  
968 law judge's recommendation. The determination of the district  
969 school board shall be final as to the sufficiency or  
970 insufficiency of the grounds for termination of employment.

971       (5) If ~~should~~ a district school board ~~has~~ have to choose  
972 from among its personnel ~~who are on continuing contracts or~~  
973 ~~professional service contracts~~ as to which should be retained at  
974 a school or in the school district, such decisions shall be  
975 based upon the performance evaluation under s. 1012.34, with  
976 primary consideration given to those personnel within the  
977 affected area whose students' growth in learning is greater ~~made~~  
978 pursuant to the terms of a collectively bargained agreement,  
979 ~~when one exists. If no such agreement exists, the district~~  
980 ~~school board shall prescribe rules to handle reductions in~~  
981 ~~workforce.~~

982       Section 13. Section 1012.52, Florida Statutes, is repealed.

983       Section 14. Paragraph (h) of subsection (1) of section  
984 1012.795, Florida Statutes, is amended to read:

985       1012.795 Education Practices Commission; authority to  
986 discipline.—

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987 (1) The Education Practices Commission may suspend the  
988 educator certificate of any person as defined in s. 1012.01(2)  
989 or (3) for up to 5 years, thereby denying that person the right  
990 to teach or otherwise be employed by a district school board or  
991 public school in any capacity requiring direct contact with  
992 students for that period of time, after which the holder may  
993 return to teaching as provided in subsection (4); may revoke the  
994 educator certificate of any person, thereby denying that person  
995 the right to teach or otherwise be employed by a district school  
996 board or public school in any capacity requiring direct contact  
997 with students for up to 10 years, with reinstatement subject to  
998 the provisions of subsection (4); may revoke permanently the  
999 educator certificate of any person thereby denying that person  
1000 the right to teach or otherwise be employed by a district school  
1001 board or public school in any capacity requiring direct contact  
1002 with students; may suspend the educator certificate, upon an  
1003 order of the court or notice by the Department of Revenue  
1004 relating to the payment of child support; or may impose any  
1005 other penalty provided by law, if the person:

1006 (h) Has breached a contract, as provided in s. 1012.33(2)  
1007 or s. 1012.335.

1008       Section 15. (1) Any school district that receives a grant  
1009 of at least \$75 million from a private foundation for the  
1010 purpose of improving the effectiveness of teachers within the  
1011 school district may seek an annual exemption from the State  
1012 Board of Education from requirements of the amendments made by  
1013 this act to ss. 1012.22 and 1012.34, Florida Statutes.

1014                   (2) In order to receive approval from the State Board of  
1015                   Education for an exemption under this section, a school district

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1016 must demonstrate to the State Board of Education that it is  
1017 implementing the following:

1018 (a) A teacher appraisal system that uses student  
1019 performance as the single greatest component of the teacher's  
1020 evaluation.

1021 (b) A teacher compensation system that awards salary  
1022 increases based on sustained student performance.

1023 (c) A teacher contract system that awards contracts based  
1024 on student performance.

1025 (3) The State Board of Education shall annually renew a  
1026 school district's exemption if the school district provides a  
1027 progress report that demonstrates that the school district  
1028 continues to meet the requirements of subsection (2).

1029 (4) The State Board of Education shall adopt rules pursuant  
1030 to ss. 120.536(1) and 120.54, Florida Statutes, to establish the  
1031 procedures for applying for an exemption under this section.

1032 Section 16. The provisions of any special act or general  
1033 law of local application relating to contracts for instructional  
1034 personnel in public schools or school districts in effect on or  
1035 before the effective date of this act are repealed, with the  
1036 exception of chapter 75-384, Laws of Florida.

1037 Section 17. If any provision of this act or its application  
1038 to any person or circumstance is held invalid, the invalidity  
1039 does not affect other provisions or applications of the act  
1040 which can be given effect without the invalid provision or  
1041 application, and to this end the provisions of this act are  
1042 severable.

1043 Section 18. The amendments made by this act to s. 1012.33,  
1044 Florida Statutes, apply to contracts newly entered into,

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1045 extended, or readopted on or after July 1, 2011, and to all  
1046 contracts entered into on or after July 1, 2014.

1047       Section 19. Except as otherwise expressly provided in this  
1048 act and except for this section, which shall take effect upon  
1049 this act becoming a law, this act shall take effect July 1,  
1050 2011.