

THRUN'S EVALUATION TRACKER – THE EVALUATION PROCESS: PLANNING TO SUCCEED

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- [2017](#)
- [2016](#)
- [2015](#)
- [2014](#)
- [2013](#)

Section 1249 of the Michigan Revised School Code requires the governing board of a local school district, intermediate school district, or public school academy to adopt and implement a “rigorous, transparent, and fair performance evaluation system” for teachers. Now is a good time to review whether your school’s evaluation process meets those requirements.

Section 1249 requires that administrators provide “timely and constructive feedback” to a teacher during the evaluation process. This requirement can be achieved through a post-observation meeting or an e-mail summarizing the evaluator’s observations. When providing feedback, it is important to communicate any performance deficiencies and document both the specific deficiencies and the teacher’s notification of those deficiencies. Recently, Senate Bill 103 passed the Legislature, and we anticipate the Governor will sign it into law. This bill would require evaluators to give teachers feedback within 30 days after an observation.

Notifying a teacher of an identified deficiency early in the evaluation process is important to satisfy the legislative requirement that teachers be provided “ample opportunities for improvement.” *Webster’s Dictionary* defines “ample” as “generous or more than adequate in size, scope, or capacity; generously sufficient to satisfy a requirement or need.” The Legislature’s use of the word “ample,” together with the plural term “opportunities,” connotes multiple chances for improvement rather than “one and done.”

The “ample opportunities for improvement” standard also requires that the teacher have sufficient time to improve. If a teacher either is not notified of perceived deficiencies or is given notice only at the end of the school year, that teacher could allege denial of the standard.

Also, administrators must provide supports to help correct identified teacher deficiencies. Section 1249 requires administrators to use the evaluation tool to “inform decisions” regarding “[p]romotion, retention, and development of teachers and school administrators, including providing relevant coaching, instruction support, or professional development.” Administrators must provide such assistance when necessary and, importantly, document the teacher’s cooperation, participation, and response.

These requirements apply equally to tenured and probationary teachers. Performance deficiencies should be documented in the teacher’s individual development plan (“IDP”) immediately and monitored throughout the school year. The year-end evaluation should reflect the teacher’s progress, or lack thereof, towards meeting IDP goals. The teacher should receive a copy of any amendments made to the IDP and other relevant documents. Administrators should take similar action when evaluating a tenured teacher who was rated minimally effective or ineffective at the end the prior school year and placed on an IDP.

We recommend obtaining the teacher’s signature, which acknowledges receipt of documented deficiencies, even though the teacher may not agree with the document’s contents.

Administrators have no obligation to “teach a teacher how to teach.” In *Benton Harbor v Wolff*, 139 Mich App 148 (1984), the school district discharged a tenured teacher for incompetency. The Tenure Commission ordered the teacher’s reinstatement and district-provided training in classroom control and student discipline. The Court of Appeals reversed the Tenure Commission’s decision and held that a school board is not required to “retrain” an unsatisfactory teacher. The court reiterated the same standard discussed above: administrators must notify a teacher if his or her performance is inadequate and must allow the teacher a reasonable time for improvement.

Benjamin Franklin once said “If you fail to plan, you are planning to fail.” This mantra is applicable when reviewing the teacher evaluation process for the 2015-2016 school year. Importantly, the Michigan Court of Appeals has ruled that a school district’s failure to abide by the Section 1249 evaluation procedures can undermine a teacher layoff decision made later. Noncompliance with Section 1249 also may impact probationary teacher nonrenewals. Frequently, school districts recognize missed steps in the evaluation process only when it is too late to correct the error. Notice of deficiencies and providing ample opportunities to improve are crucial to Section 1249 compliance.