

PERA Overview for School Board Members

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Prepared by: Kimberly A. Small, IASB General Counsel

Edited by: Maryam T. Brotine and Debra H. Jacobson, IASB Asst. Gen. Counsels

This document is prepared for informational purposes only.

Please contact your board attorney for legal advice or a legal opinion.

1. What is PERA and where can I get detailed information?

PERA is the acronym for the Performance Evaluation Reform Act that became Illinois law on January 1, 2010. It was followed by education reform legislation that took effect on June 13, 2011 and has been subsequently amended. PERA and the reform measures almost exclusively concern the terms and conditions of teacher and principal employment.

The Illinois State Board of Education (ISBE) has posted considerable information on its website about PERA and education reform at www.isbe.net/Pages/Educator-Evaluations.aspx.

2. What are the central requirements for the evaluation system?

In every Illinois school system,

- a. All principals and assistant principals must be evaluated by trained, pre-qualified evaluators (often the superintendent) and the evaluations must include data and indicators of student growth as a significant factor.
- b. Principals, assistant principals, and teachers must be evaluated using four rating categories (excellent, proficient, needs improvement, or unsatisfactory).
- c. Teachers must be evaluated by trained evaluators (usually the principal).
- d. Teacher evaluations must include data and indicators of student growth as a "significant factor." State law provides unique requirements for Chicago Public Schools.

3. What are the basic components of a principal or assistant principal evaluation plan?

The education reform measures contain many requirements for a district's evaluation plan for principals and assistant principals. The evaluation plan must consider the principal's or assistant principal's duties, responsibilities, management, and competence; the individual's strengths and weaknesses; and performance goals. All evaluations of principals and assistant principals must incorporate student growth as a "significant factor." Principals and assistant principals on single-year contracts must be evaluated at least once every school year, no later than March 1. Principals and assistant principals on multi-year contracts must be evaluated by March 1 of the final year of their contracts.

4. What happens if a district fails to conduct a timely principal or assistant principal's evaluation?

Failure to timely evaluate a principal or assistant principal automatically extends his or her contract for an additional year.

5. What was the deadline to begin incorporating student growth as a significant factor in teacher evaluations?

September 1, 2016, the date by which all districts in Illinois reached full PERA implementation.

6. Who performs evaluations?

Evaluators must be pre-qualified by having successfully completed a program provided or approved by ISBE. This means that principals, assistant principals, superintendents, and any other individuals who conduct evaluations must be pre-qualified. If your superintendent also serves as a principal, your board must appoint a pre-qualified evaluator to conduct an evaluation of the individual as a principal.

In all districts, your board will continue to evaluate your superintendent. PERA and the education reform legislation did not change superintendent evaluations. This process is left to the board and its superintendent. The IASB guide, "The Superintendent Evaluation Process: Strengthening the Board-Superintendent Relationship," is available at www.iasb.com/IASB/media/Documents/superintendent-evaluation-process.pdf.

7. What are the major components of the teacher evaluation plan?

The following items include the major components of a teacher evaluation plan:

- a. The rating categories must be *excellent*, *proficient*, *needs improvement*, and *unsatisfactory*. Each district must evaluate its teachers using an instructional framework that: (i) is based upon research regarding effective instruction; (ii) addresses at least planning, instructional delivery, and classroom management; and (iii) aligns with the Illinois Professional Teaching Standards.
- b. Each teacher in contractual continued service (tenured) generally must be evaluated *at least* once every two or three school years.¹ By September 1, 2022, each district had to: (1) establish a teacher evaluation plan that ensures tenured teachers rated as *excellent* or *proficient* are evaluated at least once every three school years; and (2) implement an informal teacher observation plan that ensures such tenured teachers are informally observed at least once in the course of the two school years after receipt of the rating.² 105 ILCS 5/24A-5, amended by P.A. 102-252. A tenured teacher who receives a *needs improvement* or *unsatisfactory* rating must be evaluated in the next school year after receiving that rating. Each teacher not in contractual continued service (nontenured) must be evaluated at least once every year.
- c. Evidence of each teacher's professional practice must be collected using formal and informal observations.
 - i. For each tenured teacher who received an *excellent* or *proficient* rating, a minimum of two observations are required during the cycle in which the current evaluation is conducted, one of which must be a formal observation.
 - ii. For each tenured teacher who received a *needs improvement* or *unsatisfactory* rating, a minimum of three observations are required in the school year immediately following the year in which the *needs improvement* or *unsatisfactory* rating was assigned, of which two must be formal observations.
 - iii. For each nontenured teacher, a minimum of three observations are required each school year, of which two must be formal observations.
- d. During a conference held after an observation, the qualified evaluator must share with the teacher any evidence collected during an observation and the evaluator's judgments concerning the evidence.
 - i. Following a formal observation, the qualified evaluator must meet with the teacher to discuss the evidence collected about the teacher's professional practice and provide written feedback to the teacher.

- ii. Following an informal observation, the qualified evaluator must provide feedback to the teacher either orally or in writing and, if the feedback is in a written format, must also provide the teacher with an opportunity to have an in-person discussion with the evaluator.
- e. The evaluation plan must provide for the consideration of each teacher's attendance, planning, instructional methods, classroom management, where relevant, and competency in the subject matter taught.
- f. The evaluation plan must provide for the use of student growth as a significant factor in each teacher's evaluation. "Significant factor" means that data and indicators on student growth must be at least 30% of the evaluation rating.

8. What is the first step for incorporating data and indicators of student growth into the evaluation plan?

The district must use a PERA Joint Committee to develop a plan for incorporating data and indicators of student growth into the evaluation plan. The PERA Joint Committee is "composed of equal representation selected by the district and its teachers, or where applicable, the executive bargaining representative of its teachers." If, within 180 calendar days of the committee's first meeting, the committee did not reach agreement on the plan, the district must have implemented ISBE's model evaluation plan with respect to the use of data and indicators on student growth. Now, the PERA Joint Committee must also meet at least once a year to assess and review the effectiveness of the district's evaluation plan for the purposes of continuous improvement of instruction and evaluation practices. (105 ILCS 5/24A-4(d)). The PERA Joint Committee is not subject to the requirements of the Open Meetings Act (OMA).

The amendment of an evaluation plan continues to be a mandatory subject of bargaining. As the school board must approve the bargaining agreement between the district and the teachers' exclusive representative, school board members will be interested in the PERA Joint Committee's progress and will want to request updates from the superintendent or designee.

9. Did education reform alter contractual continued service (tenure)?

Yes. After the PERA implementation date in your district, your teachers will acquire tenure on the basis of performance evaluations.

Before education reform there were, and now after it, there still are three broad categories of teachers for purposes of statutory employment rights:

- a. Tenured teachers have a continuing employment relationship (referred to in State law as "contractual continued service").
- b. Probationary teachers do not have tenure.
- c. Probationary teachers in their final year of probationary service have slightly greater rights than other probationary teachers.

Before a district's PERA implementation date, a teacher's probationary period for earning tenure was four consecutive years. After the PERA implementation date:

- a. Tenure is given to teachers who have completed four consecutive school terms of employment earning a *proficient* or better overall rating in their fourth school term and also in either of their second or third school terms.

- b. Portable tenure is given to teachers who previously attained tenure in a different district if other statutory requirements are met.
- c. Accelerated tenure is given to teachers who receive an overall performance rating of *excellent* in their first three terms.

10. What are the consequences if a teacher receives a performance rating of *needs improvement* or *unsatisfactory*?

Whether before or after a district's PERA implementation date, any tenured teacher rated *needs improvement* must receive a professional development plan. If a tenured teacher is rated *unsatisfactory*, the district must develop and commence a plan for 90 school days of remediation within the classroom.³ The remediation plan must involve a consulting teacher and include multiple evaluations. The teacher must be dismissed if he or she fails to complete the remediation plan with a rating of *proficient* or better.

After a district's PERA implementation date, a nontenured teacher must be dismissed if he or she is not eligible for tenure at the end of his or her probationary period.

Beginning with the 2020-2021 school year, 105 ILCS 5/24A-5.5, added by P.A. 101-591, required districts to develop and implement a local appeals process for unsatisfactory teacher ratings.

11. What happens if a district fails to conduct a teacher's performance evaluation?

If a required teacher evaluation is not conducted, State law provides that the teacher's rating will automatically default to *proficient*. The one exception to this general rule is that during any time in which the Governor has declared a disaster due to a public health emergency, the rating will default to *excellent* for a tenured teacher only if the tenured teacher's most recent evaluation was deemed *excellent*, unless the board and union agree to an alternative rating. A probationary teacher's evaluation would continue to default to *proficient* in this specific circumstance, unless the board and union agree to an alternative rating. 105 ILCS 5/24-11 and 24-12, amended by P.A. 101-643.

Practically speaking, this means if a required evaluation for a teacher is not conducted, a probationary teacher could acquire tenure earlier or later than he or she otherwise would have, and/or a teacher could be placed in a higher or lower grouping for honorable dismissal purposes than he or she would be placed, had the evaluation actually occurred (See Question #14, below).⁴

12. How did education reform alter the process to nonrenew a probationary teacher?

To nonrenew a probationary teacher a district must (a) fully comply with its evaluation plan and collectively bargained evaluation procedure, and (b) give a written notice of nonrenewal to the teacher at least 45 days before the end of the school term.

The written notice must contain specific reasons for the nonrenewal when:

- a. The probationary teacher is in the fourth year of his or her probationary period, or
- b. The teacher is in the third year of his or her probationary period if the teacher received an *excellent* rating in each of his or her first three years of his or her probationary period.

13. What is the traditional process for dismissing a tenured teacher? May it be used now?

The traditional dismissal process is available now for dismissing tenured teachers. It was streamlined by education reform and is found in 105 ILCS 5/24-12(d). It may be used in a dismissal for any reason other than a reduction in force/layoff. The traditional process is independent of the Optional Alternative Evaluation Dismissal Process described in question #14.

The traditional dismissal process was informally labeled “streamlined” because education reform made it more efficient. ISBE no longer appoints a hearing officer. Instead, the parties may mutually agree on a hearing officer or the board appoints one from a list maintained by ISBE. The hearing officer now has mandatory timelines for holding the hearing and presenting findings of fact to the board. The failure of a board to strictly follow the timelines does “not render it without jurisdiction to dismiss the teacher.” The process is different depending on whether the board seeks to dismiss a tenured teacher due to:

- a. Performance when a teacher received an *unsatisfactory* evaluation rating and failed to successfully complete a performance remediation plan. If the teacher requests a hearing, a hearing officer holds the hearing and renders the final decision.
- b. Conduct (incompetency, cruelty, negligence, immorality, other sufficient cause, or whenever, in the board’s opinion, the interests of the schools require it). If the conduct is remediable, the board must first allow the teacher time to remediate or cure the conduct. The board makes the decision to dismiss or retain a teacher after receipt of the hearing officer’s recommendation. The board’s decision is final unless the teacher files a lawsuit to appeal its decision.

14. What is the Optional Alternative Evaluation Dismissal Process for dismissing a tenured teacher? When may it be used?

The expedited dismissal process is known as the “Optional Alternative Evaluation Dismissal Process” for tenured teachers and is found in 105 ILCS 5/24-16.5. This dismissal process may be used only after a teacher has failed to complete a remediation plan with a rating equal to or better than a *proficient* rating.

An Optional Alternative Evaluation Dismissal is a shorter process than the streamlined process described in question #13. This is the reason it is nicknamed “expedited.” The basic timelines, procedures, and requirements follow:

- a. The dismissal must be preceded by a statutory remediation process that, among other things, requires the use of a second evaluator.
- b. To institute a dismissal proceeding, the board must first provide written notice to the teacher within 30 days after the completion of the final remediation evaluation.
- c. No hearing is required unless the teacher requests one within 17 days after receiving notice.
- d. The hearing officer may only consider and give weight to performance evaluations relevant to the scope of the hearing.
- e. With a few exceptions, each party has only two days to present evidence and testimony.
- f. The hearing officer, within 30 days from the close of the hearing, issues findings of fact and a recommendation to the board to either retain or dismiss the teacher.

- g. The board, within 45 days after receipt of the hearing officer's findings of fact and recommendation, must decide, through adoption of a written order, whether the teacher is dismissed from its employ or retained, provided that only PERA-trained board members may participate in the vote with respect to the decision.

15. What is the process for selecting teachers for a reduction in force/layoff (RIF)?

The education reform legislation significantly changed the method for selecting teachers for RIF. Before the reform legislation, the selection was strictly based on seniority. After the reform legislation, the process generally involves categorizing teachers in one or more position list(s) by certification and qualifications. The next step is to place teachers on each position list in one of four groups based on their performance evaluations as follows:

Group 1 – nontenured teachers who (i) have not received a performance evaluation rating, (ii) are employed for one school term or less to replace a teacher on leave, or (iii) are employed on a part-time basis as defined in the statute

Group 2 – teachers evaluated as *needs improvement* or *unsatisfactory*

Group 3 – teachers evaluated as *satisfactory* or *proficient*

Group 4 – teachers evaluated as *excellent*

The district must choose teachers according to group number beginning with Group 1. The district must annually establish, in consultation with any exclusive employee representatives:

1. A list of the sequence of honorable dismissal showing each teacher by name and categorized by positions and groupings, and
2. A list showing the length of continuing service of each teacher who is qualified to hold any position, unless an alternative method of determining a sequence of dismissal is established, in which case a list must be made in accordance with the alternative method

The statute provides deadlines for providing these lists to the exclusive representative.

Each district must use a RIF Joint Committee selected by the school board and its teachers (or the exclusive bargaining representative of its teachers). The joint RIF committee considers various issues identified in the reform legislation concerning the selection of teachers for layoff. On or before December 1 each year, the RIF Joint Committee must be established and must hold its first meeting. 105 ILCS 5/24-12(b), or any applicable collective bargaining agreement, controls the notice of honorable dismissal that a district must give a teacher and the order of recall. The RIF Joint Committee is not subject to the requirements of the Open Meetings Act (OMA).

16. What are the mandatory training requirements for board members?

Of the three training requirements described below, only the first two are the result of education reform.

- a. **Professional Development Leadership Training.** Board members elected or appointed must complete this training within the first year of their term. The training must be a minimum of four hours and cover education and labor law, financial oversight and accountability, and fiduciary responsibilities.

- b. PERA Training.** A board member must complete PERA training before participating in the vote on an Optional Alternative Evaluation Dismissal.
- c. Open Meetings Act Training.** Board members must complete this training no later than 90 days after taking the oath of office. The Ill. Attorney General's office and IASB are authorized to provide this training.

IASB offers courses on these topics in a variety of formats and locations, including through the Online Learning Center at www.iasb.com/conference-training-and-events/training/online-learning.

17. What is the school board's role in PERA and education reform?

The school board's role in PERA and education reform is one of governance of the school district with an elevated and focused obligation for ensuring student growth. This means that the board must identify the district's ends in accordance with the reform measures and revise its monitoring function accordingly. The board must enter into performance-based contracts with administrators that contain meaningful goals and indicators of student performance and academic growth. The board must evaluate the superintendent. It must review information that will inform the board whether principals and staff members are being effectively evaluated and it must dismiss staff based on inadequate performance. It must monitor student growth. It must select members to the RIF Joint Committee. Individual board members must complete professional development leadership training and, eventually, PERA training for Optional Alternative Evaluation Dismissals.

Illinois Association of School Boards

2921 Baker Drive • Springfield, Illinois 62703-5929
(217) 528-9688

One Imperial Place • 1 East 22nd Street, Suite 310 • Lombard, Illinois 60148
(630) 629-3776

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- 1 For the 2022-2023 school year only, if the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act, a district may waive the evaluation requirement of all tenured teachers whose performances were rated as either excellent or proficient during the last school year in which the teachers were evaluated. 105 ILCS 5/24A-5, amended by P.A. 102-729.
 - 2 The informal teacher observation plan implemented must be established by ISBE rules and agreement of the district's PERA Joint Committee. 105 ILCS 5/24A-5, amended by P.A. 102-252.
 - 3 The timelines for remediation plans are waived in the event the Governor has declared a disaster due to a public health emergency that suspends in-person instruction. Under that circumstance, unless the board and union agree otherwise in writing, remediation plans that were in place for more than 45 days prior to the suspension of in-person instruction resume when in-person instruction resumes, and those plans in place for fewer than 45 days must be discontinued and re-started when in-person instruction resumes. 105 ILCS 5/24A-5, amended by P.A. 101-643.
 - 4 During the COVID-19 pandemic, some boards, through written agreements with unions, decided not to conduct formal evaluations for probationary and/or tenured teachers in their districts during the 2020-2021 school year due to the novelty of remote learning instruction and the limited time available for administrators to conduct formal, in-person observations.