

2011736er

1
2 An act relating to education personnel; providing a
3 short title; amending s. 1012.34, F.S.; revising
4 provisions relating to the evaluation of instructional
5 personnel and school administrators; requiring the
6 Department of Education to approve each school
7 district's instructional personnel and school
8 administrator evaluation systems; requiring reporting
9 by the Commissioner of Education relating to the
10 evaluation systems; providing requirements and
11 revising procedures and criteria for the evaluation
12 systems; requiring the commissioner to approve or
13 select and the State Board of Education to adopt
14 formulas for school districts to use in measuring
15 student learning growth; requiring the state board to
16 adopt rules relating to standards and measures for
17 implementation of the evaluation systems; amending s.
18 1008.22, F.S.; requiring school districts to
19 administer assessments for each course offered in the
20 district; amending s. 1012.22, F.S.; revising
21 provisions relating to instructional personnel and
22 school administrator compensation and salary
23 schedules; providing requirements for a performance
24 salary schedule, a grandfathered salary schedule,
25 adjustments, and supplements; revising criteria for
26 the promotion of instructional personnel; creating s.
27 1012.335, F.S.; providing employment criteria for
28 instructional personnel hired on or after July 1,
29 2011; providing definitions; providing grounds for

2011736er

30 suspension or dismissal; requiring rules to define the
31 term "just cause"; providing that certain individuals
32 who are hired as instructional personnel are
33 ineligible for contracts issued under s. 1012.33,
34 F.S.; amending s. 1002.33, F.S.; requiring charter
35 schools to comply with provisions relating to
36 compensation and salary schedules, workforce
37 reductions, contracts with instructional personnel
38 hired on or after July 1, 2011, and certain
39 requirements for performance evaluations; amending s.
40 1003.621, F.S.; requiring academically high-performing
41 school districts to comply with additional
42 requirements for personnel; amending s. 1006.09, F.S.;
43 conforming provisions to changes made by the act;
44 amending s. 1012.07, F.S.; revising the methodology
45 for determining critical teacher shortage areas;
46 amending s. 1012.2315, F.S.; providing reporting
47 requirements relating to instructional personnel and
48 school administrator performance; amending s. 1012.27,
49 F.S.; revising the criteria for transferring a
50 teacher; conforming provisions to changes made by the
51 act; amending s. 1012.28, F.S.; authorizing a
52 principal to refuse to accept the placement or
53 transfer of instructional personnel under certain
54 circumstances; amending s. 1012.33, F.S.; revising
55 provisions relating to contracts with certain
56 education personnel; revising just cause grounds for
57 dismissal; deleting provisions to conform to changes
58 made by the act; revising the criteria for renewing a

2011736er

59 professional service contract; requiring that a
60 district school board's decision to retain personnel
61 be primarily based on the employee's performance;
62 repealing s. 1012.52, F.S., relating to legislative
63 intent and findings to improve student achievement and
64 teacher quality; amending s. 1012.795, F.S.;
65 conforming provisions to changes made by the act;
66 authorizing an exemption from requirements for
67 performance evaluation systems and compensation and
68 salary schedules for certain school districts;
69 providing that specified provisions of law do not
70 apply to rulemaking required to administer the act;
71 providing for the repeal of certain special acts or
72 general laws of local application relating to
73 contracts for instructional personnel or school
74 administrators; providing for application of specified
75 provisions of the act; providing for severability;
76 providing effective dates.

77
78 Be It Enacted by the Legislature of the State of Florida:

79
80 Section 1. This act may be cited as the "Student Success
81 Act."

82 Section 2. Effective upon this act becoming a law, section
83 1012.34, Florida Statutes, is amended to read:

84 1012.34 Personnel evaluation ~~Assessment~~ procedures and
85 criteria.—

86 (1) EVALUATION SYSTEM APPROVAL AND REPORTING.—

87 (a) For the purpose of increasing student learning growth

2011736er

88 by improving the quality of instructional, administrative, and
89 supervisory services in the public schools of the state, the
90 district school superintendent shall establish procedures for
91 evaluating ~~assessing~~ the performance of duties and
92 responsibilities of all instructional, administrative, and
93 supervisory personnel employed by the school district. The
94 district school superintendent shall annually report the
95 evaluation results of instructional personnel and school
96 administrators to the Department of Education in addition to the
97 information required under subsection (5).

98 (b) The department of Education ~~must~~ approve each school
99 district's instructional personnel and school administrator
100 evaluation systems ~~assessment system~~. The department shall
101 monitor each district's implementation of its instructional
102 personnel and school administrator evaluation systems for
103 compliance with the requirements of this section.

104 (c) By December 1, 2012, the Commissioner of Education
105 shall report to the Governor, the President of the Senate, and
106 the Speaker of the House of Representatives the approval and
107 implementation status of each school district's instructional
108 personnel and school administrator evaluation systems. The
109 report shall include performance evaluation results for the
110 prior school year for instructional personnel and school
111 administrators using the four levels of performance specified in
112 paragraph (2) (e). The performance evaluation results for
113 instructional personnel shall be disaggregated by classroom
114 teachers, as defined in s. 1012.01(2) (a), excluding substitute
115 teachers, and all other instructional personnel, as defined in
116 s. 1012.01(2) (b)-(d). The commissioner shall continue to report,

2011736er

117 by December 1 each year thereafter, each school district's
118 performance evaluation results and the status of any evaluation
119 system revisions requested by a school district pursuant to
120 subsection (6).

121 (2) EVALUATION SYSTEM REQUIREMENTS.—The evaluation systems
122 for instructional personnel and school administrators must
123 ~~following conditions must be considered in the design of the~~
124 ~~district's instructional personnel assessment system:~~

125 (a) ~~The system must~~ Be designed to support effective
126 instruction and student learning growth, and performance
127 evaluation results must be used when developing district and
128 school level improvement plans.

129 (b) ~~The system must~~ Provide appropriate instruments,
130 procedures, and criteria for continuous quality improvement of
131 the professional skills of instructional personnel and school
132 administrators, and performance evaluation results must be used
133 when identifying professional development.

134 (c) ~~The system must~~ Include a mechanism to examine
135 performance data from multiple sources, including opportunities
136 ~~for give parents an opportunity~~ to provide input into employee
137 performance evaluations assessments when appropriate.

138 (d) Identify ~~In addition to addressing generic teaching~~
139 ~~competencies, districts must determine~~ those teaching fields for
140 which special evaluation procedures and criteria are necessary
141 ~~will be developed.~~

142 (e) Differentiate among four levels of performance as
143 follows:

144 1. Highly effective.

145 2. Effective.

2011736er

146 3. Needs improvement or, for instructional personnel in the
147 first 3 years of employment who need improvement, developing.

148 4. Unsatisfactory.

149
150 The Commissioner of Education shall consult with experts,
151 instructional personnel, school administrators, and education
152 stakeholders in developing the criteria for the performance
153 levels. Each district school board may establish a peer
154 assistance process. The plan may provide a mechanism for
155 assistance of persons who are placed on performance probation as
156 well as offer assistance to other employees who request it.

157 (f) ~~The district school board shall~~ Provide for training
158 programs that are based upon guidelines provided by the
159 department ~~of Education~~ to ensure that all individuals with
160 evaluation responsibilities understand the proper use of the
161 evaluation assessment criteria and procedures.

162 (g) Include a process for monitoring and evaluating the
163 effective and consistent use of the evaluation criteria by
164 employees with evaluation responsibilities.

165 (h) Include a process for monitoring and evaluating the
166 effectiveness of the system itself in improving instruction and
167 student learning.

168
169 In addition, each district school board may establish a peer
170 assistance process. This process may be a part of the regular
171 evaluation system or used to assist employees placed on
172 performance probation, newly hired classroom teachers, or
173 employees who request assistance.

174 (3) EVALUATION PROCEDURES AND CRITERIA. ~~The assessment~~

2011736er

175 ~~procedure for~~ Instructional personnel and school administrator
176 performance evaluations ~~administrators~~ must be ~~primarily~~ based
177 upon ~~on~~ the performance of students assigned to their classrooms
178 or schools, as provided in this section ~~appropriate~~. Pursuant to
179 this section, a school district's performance evaluation
180 ~~assessment~~ is not limited to basing unsatisfactory performance
181 of instructional personnel and school administrators solely upon
182 student performance, but may include other criteria approved to
183 evaluate ~~assess~~ instructional personnel and school
184 administrators' performance, or any combination of student
185 performance and other approved criteria. Evaluation ~~The~~
186 procedures and criteria must comply with, but are not limited
187 to, the following ~~requirements~~:

188 (a) A performance evaluation ~~An assessment~~ must be
189 conducted for each employee at least once a year, except that a
190 classroom teacher, as defined in s. 1012.01(2)(a), excluding
191 substitute teachers, who is newly hired by the district school
192 board must be observed and evaluated at least twice in the first
193 year of teaching in the school district. The performance
194 evaluation ~~assessment~~ must be based upon sound educational
195 principles and contemporary research in effective educational
196 practices. ~~The assessment must primarily use data and indicators~~
197 ~~of improvement in student performance assessed annually as~~
198 ~~specified in s. 1008.22 and may consider results of peer reviews~~
199 ~~in evaluating the employee's performance. Student performance~~
200 ~~must be measured by state assessments required under s. 1008.22~~
201 ~~and by local assessments for subjects and grade levels not~~
202 ~~measured by the state assessment program. The evaluation~~
203 ~~assessment~~ criteria must include, ~~but are not limited to,~~

2011736er

204 ~~indicators that relate to the following:~~

205 1. Performance of students. At least 50 percent of a
206 performance evaluation must be based upon data and indicators of
207 student learning growth assessed annually by statewide
208 assessments or, for subjects and grade levels not measured by
209 statewide assessments, by school district assessments as
210 provided in s. 1008.22(8). Each school district must use the
211 formula adopted pursuant to paragraph (7)(a) for measuring
212 student learning growth in all courses associated with statewide
213 assessments and must select an equally appropriate formula for
214 measuring student learning growth for all other grades and
215 subjects, except as otherwise provided in subsection (7).

216 a. For classroom teachers, as defined in s. 1012.01(2)(a),
217 excluding substitute teachers, the student learning growth
218 portion of the evaluation must include growth data for students
219 assigned to the teacher over the course of at least 3 years. If
220 less than 3 years of data are available, the years for which
221 data are available must be used and the percentage of the
222 evaluation based upon student learning growth may be reduced to
223 not less than 40 percent.

224 b. For instructional personnel who are not classroom
225 teachers, the student learning growth portion of the evaluation
226 must include growth data on statewide assessments for students
227 assigned to the instructional personnel over the course of at
228 least 3 years, or may include a combination of student learning
229 growth data and other measureable student outcomes that are
230 specific to the assigned position, provided that the student
231 learning growth data accounts for not less than 30 percent of
232 the evaluation. If less than 3 years of student growth data are

2011736er

233 available, the years for which data are available must be used
234 and the percentage of the evaluation based upon student learning
235 growth may be reduced to not less than 20 percent.

236 c. For school administrators, the student learning growth
237 portion of the evaluation must include growth data for students
238 assigned to the school over the course of at least 3 years. If
239 less than 3 years of data are available, the years for which
240 data are available must be used and the percentage of the
241 evaluation based upon student learning growth may be reduced to
242 not less than 40 percent.

243 2. Instructional practice. Evaluation criteria used when
244 annually observing classroom teachers, as defined in s.
245 1012.01(2)(a), excluding substitute teachers, must include
246 indicators based upon each of the Florida Educator Accomplished
247 Practices adopted by the State Board of Education. For
248 instructional personnel who are not classroom teachers,
249 evaluation criteria must be based upon indicators of the Florida
250 Educator Accomplished Practices and may include specific job
251 expectations related to student support.

252 3. Instructional leadership. For school administrators,
253 evaluation criteria must include indicators based upon each of
254 the leadership standards adopted by the State Board of Education
255 under s. 1012.986, including performance measures related to the
256 effectiveness of classroom teachers in the school, the
257 administrator's appropriate use of evaluation criteria and
258 procedures, recruitment and retention of effective and highly
259 effective classroom teachers, improvement in the percentage of
260 instructional personnel evaluated at the highly effective or
261 effective level, and other leadership practices that result in

2011736er

262 student learning growth. The system may include a means to give
263 parents and instructional personnel an opportunity to provide
264 input into the administrator's performance evaluation.

265 4. Professional and job responsibilities. For instructional
266 personnel and school administrators, other professional and job
267 responsibilities must be included as adopted by the State Board
268 of Education. The district school board may identify additional
269 professional and job responsibilities.

270 ~~2. Ability to maintain appropriate discipline.~~

271 ~~3. Knowledge of subject matter. The district school board~~
272 ~~shall make special provisions for evaluating teachers who are~~
273 ~~assigned to teach out-of-field.~~

274 ~~4. Ability to plan and deliver instruction and the use of~~
275 ~~technology in the classroom.~~

276 ~~5. Ability to evaluate instructional needs.~~

277 ~~6. Ability to establish and maintain a positive~~
278 ~~collaborative relationship with students' families to increase~~
279 ~~student achievement.~~

280 ~~7. Other professional competencies, responsibilities, and~~
281 ~~requirements as established by rules of the State Board of~~
282 ~~Education and policies of the district school board.~~

283 (b) All personnel must be fully informed of the criteria
284 and procedures associated with the evaluation ~~assessment~~ process
285 before the evaluation ~~assessment~~ takes place.

286 (c) The individual responsible for supervising the employee
287 must evaluate ~~assess~~ the employee's performance. The evaluation
288 system may provide for the evaluator to consider input from
289 other personnel trained under paragraph (2) (f). The evaluator
290 must submit a written report of the evaluation ~~assessment~~ to the

2011736er

291 district school superintendent for the purpose of reviewing the
292 employee's contract. The evaluator must submit the written
293 report to the employee no later than 10 days after the
294 evaluation ~~assessment~~ takes place. The evaluator must discuss
295 the written evaluation report ~~of assessment~~ with the employee.
296 The employee shall have the right to initiate a written response
297 to the evaluation ~~assessment~~, and the response shall become a
298 permanent attachment to his or her personnel file.

299 (d) The evaluator may amend an evaluation based upon
300 assessment data from the current school year if the data becomes
301 available within 90 days after the close of the school year. The
302 evaluator must then comply with the procedures set forth in
303 paragraph (c).

304 (4) NOTIFICATION OF UNSATISFACTORY PERFORMANCE.—If an
305 employee who holds a professional service contract as provided
306 in s. 1012.33 is not performing his or her duties in a
307 satisfactory manner, the evaluator shall notify the employee in
308 writing of such determination. The notice must describe such
309 unsatisfactory performance and include notice of the following
310 procedural requirements:

311 (a) ~~1.~~ Upon delivery of a notice of unsatisfactory
312 performance, the evaluator must confer with the employee who
313 holds a professional service contract, make recommendations with
314 respect to specific areas of unsatisfactory performance, and
315 provide assistance in helping to correct deficiencies within a
316 prescribed period of time.

317 (b) ~~1.2.a.~~ ~~If~~ The employee who holds a professional service
318 contract ~~as provided in s. 1012.33~~, the employee shall be placed
319 on performance probation and governed by the provisions of this

2011736er

320 section for 90 calendar days following the receipt of the notice
321 of unsatisfactory performance to demonstrate corrective action.
322 School holidays and school vacation periods are not counted when
323 calculating the 90-calendar-day period. During the 90 calendar
324 days, the employee who holds a professional service contract
325 must be evaluated periodically and apprised of progress achieved
326 and must be provided assistance and inservice training
327 opportunities to help correct the noted performance
328 deficiencies. At any time during the 90 calendar days, the
329 employee who holds a professional service contract may request a
330 transfer to another appropriate position with a different
331 supervising administrator; however, if a transfer is granted
332 pursuant to ss. 1012.27(1) and 1012.28(6), it does not extend
333 the period for correcting performance deficiencies.

334 2.b. Within 14 days after the close of the 90 calendar
335 days, the evaluator must evaluate ~~assess~~ whether the performance
336 deficiencies have been corrected and forward a recommendation to
337 the district school superintendent. Within 14 days after
338 receiving the evaluator's recommendation, the district school
339 superintendent must notify the employee who holds a professional
340 service contract in writing whether the performance deficiencies
341 have been satisfactorily corrected and whether the district
342 school superintendent will recommend that the district school
343 board continue or terminate his or her employment contract. If
344 the employee wishes to contest the district school
345 superintendent's recommendation, the employee must, within 15
346 days after receipt of the district school superintendent's
347 recommendation, submit a written request for a hearing. The
348 hearing shall be conducted at the district school board's

2011736er

349 election in accordance with one of the following procedures:

350 a.~~(I)~~ A direct hearing conducted by the district school
351 board within 60 days after receipt of the written appeal. The
352 hearing shall be conducted in accordance with the provisions of
353 ss. 120.569 and 120.57. A majority vote of the membership of the
354 district school board shall be required to sustain the district
355 school superintendent's recommendation. The determination of the
356 district school board shall be final as to the sufficiency or
357 insufficiency of the grounds for termination of employment; or

358 b.~~(II)~~ A hearing conducted by an administrative law judge
359 assigned by the Division of Administrative Hearings of the
360 Department of Management Services. The hearing shall be
361 conducted within 60 days after receipt of the written appeal in
362 accordance with chapter 120. The recommendation of the
363 administrative law judge shall be made to the district school
364 board. A majority vote of the membership of the district school
365 board shall be required to sustain or change the administrative
366 law judge's recommendation. The determination of the district
367 school board shall be final as to the sufficiency or
368 insufficiency of the grounds for termination of employment.

369 (5)~~(4)~~ ADDITIONAL NOTIFICATIONS.~~The district school~~
370 superintendent shall annually notify the department of any
371 instructional personnel or school administrators who receive two
372 consecutive unsatisfactory evaluations. The district school
373 superintendent shall also notify the department of any
374 instructional personnel or school administrators ~~and who are~~
375 ~~have been~~ given written notice by the district of intent to
376 terminate or not renew ~~that~~ their employment ~~is being terminated~~
377 ~~or is not being renewed or that the district school board~~

2011736er

378 ~~intends to terminate, or not renew, their employment.~~ The
379 department shall conduct an investigation to determine whether
380 action shall be taken against the certificateholder pursuant to
381 s. 1012.795(1)(e).

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

392 ~~(6) Nothing in this section shall be construed to grant a~~
393 ~~probationary employee a right to continued employment beyond the~~
394 ~~term of his or her contract.~~

395 ~~(6)-(7)~~ ANNUAL REVIEW OF AND REVISIONS TO THE SCHOOL
396 DISTRICT EVALUATION SYSTEMS.—The district school board shall
397 establish a procedure for annually reviewing instructional
398 personnel and school administrator evaluation ~~assessment~~ systems
399 to determine compliance with this section. All substantial
400 revisions to an approved system must be reviewed and approved by
401 the district school board before being used to evaluate ~~assess~~
402 instructional personnel or school administrators. Upon request
403 by a school district, the department shall provide assistance in
404 developing, improving, or reviewing an evaluation ~~assessment~~
405 system.

406 (7) MEASUREMENT OF STUDENT LEARNING GROWTH.—

2011736er

407 (a) By June 1, 2011, the Commissioner of Education shall
408 approve a formula to measure individual student learning growth
409 on the Florida Comprehensive Assessment Test (FCAT) administered
410 under s. 1008.22(3)(c)1. The formula must take into
411 consideration each student's prior academic performance. The
412 formula must not set different expectations for student learning
413 growth based upon a student's gender, race, ethnicity, or
414 socioeconomic status. In the development of the formula, the
415 commissioner shall consider other factors such as a student's
416 attendance record, disability status, or status as an English
417 language learner. The commissioner shall select additional
418 formulas as appropriate for the remainder of the statewide
419 assessments included under s. 1008.22 and continue to select
420 formulas as new assessments are implemented in the state system.
421 After the commissioner approves the formula to measure
422 individual student learning growth on the FCAT and as additional
423 formulas are selected by the commissioner for new assessments
424 implemented in the state system, the State Board of Education
425 shall adopt these formulas by rule.

426 (b) Beginning in the 2011-2012 school year, each school
427 district shall measure student learning growth using the formula
428 approved by the commissioner under paragraph (a) for courses
429 associated with the FCAT. Each school district shall implement
430 the additional student learning growth measures selected by the
431 commissioner under paragraph (a) for the remainder of the
432 statewide assessments included under s. 1008.22 as they become
433 available. Beginning in the 2014-2015 school year, for grades
434 and subjects not assessed by statewide assessments but otherwise
435 assessed as required under s. 1008.22(8), each school district

2011736er

436 shall measure student learning growth using an equally
437 appropriate formula. The department shall provide models for
438 measuring student learning growth which school districts may
439 adopt.

440 (c) For a course that is not measured by a statewide
441 assessment, a school district may request, through the
442 evaluation system approval process, to use a student achievement
443 measure rather than a student learning growth measure if
444 achievement is demonstrated to be a more appropriate measure of
445 classroom teacher performance. A school district may also
446 request to use a combination of student learning growth and
447 achievement, if appropriate.

448 (d) If the student learning growth in a course is not
449 measured by a statewide assessment but is measured by a school
450 district assessment, a school district may request, through the
451 evaluation system approval process, that the performance
452 evaluation for the classroom teacher assigned to that course
453 include the learning growth of his or her students on FCAT
454 Reading or FCAT Mathematics. The request must clearly explain
455 the rationale supporting the request. However, the classroom
456 teacher's performance evaluation must give greater weight to
457 student learning growth on the district assessment.

458 (e) For classroom teachers of courses for which the
459 district has not implemented appropriate assessments under s.
460 1008.22(8) or for which the school district has not adopted an
461 equally appropriate measure of student learning growth under
462 paragraphs (b)-(d), student learning growth must be measured by
463 the growth in learning of the classroom teacher's students on
464 statewide assessments, or, for courses in which enrolled

2011736er

465 students do not take the statewide assessments, measurable
466 learning targets must be established based upon the goals of the
467 school improvement plan and approved by the school principal. A
468 district school superintendent may assign to instructional
469 personnel in an instructional team the student learning growth
470 of the instructional team's students on statewide assessments.
471 This paragraph expires July 1, 2015.

472 (8) RULEMAKING.—The State Board of Education shall adopt
473 rules pursuant to ss. 120.536(1) and 120.54 which,~~that~~
474 establish uniform procedures ~~guidelines~~ for the submission,
475 review, and approval of district evaluation systems and
476 reporting requirements ~~procedures~~ for the annual evaluation
477 ~~assessment~~ of instructional personnel and school administrators;
478 specific, discrete standards for each performance level required
479 under subsection (2) to ensure clear and sufficient
480 differentiation in the performance levels and to provide
481 consistency in meaning across school districts; the measurement
482 of student learning growth and associated implementation
483 procedures required under subsection (7); a process to permit
484 instructional personnel to review the class roster for accuracy
485 and to correct any mistakes relating to the identity of students
486 for whom the individual is responsible; and a process for
487 monitoring school district implementation of evaluation systems
488 in accordance with this section ~~that include criteria for~~
489 ~~evaluating professional performance.~~ Specifically, the rules
490 shall establish a student learning growth standard that if not
491 met will result in the employee receiving an unsatisfactory
492 performance evaluation rating. In like manner, the rules shall
493 establish a student learning growth standard that must be met in

2011736er

494 order for an employee to receive a highly effective rating and a
495 student learning growth standard that must be met in order for
496 an employee to receive an effective rating.

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

499 1008.22 Student assessment program for public schools.—

500 (8) LOCAL ASSESSMENTS.—

501 (a) Measurement of the learning gains of students in all
502 subjects and grade levels other than subjects and grade levels
503 required for the state student achievement testing program is
504 the responsibility of the school districts.

505 (b) Beginning with the 2014-2015 school year, each school
506 district shall administer for each course offered in the
507 district a student assessment that measures mastery of the
508 content, as described in the state-adopted course description,
509 at the necessary level of rigor for the course. Such assessments
510 may include:

511 1. Statewide assessments.

512 2. Other standardized assessments, including nationally
513 recognized standardized assessments.

514 3. Industry certification examinations.

515 4. District-developed or district-selected end-of-course
516 assessments.

517 (c) The Commissioner of Education shall identify methods to
518 assist and support districts in the development and acquisition
519 of assessments required under this subsection. Methods may
520 include developing item banks, facilitating the sharing of
521 developed tests among school districts, acquiring assessments
522 from state and national curriculum-area organizations, and

2011736er

523 providing technical assistance in best professional practices of
524 test development based upon state-adopted curriculum standards,
525 administration, and security.

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

528 1012.22 Public school personnel; powers and duties of the
529 district school board.—The district school board shall:

530 (1) Designate positions to be filled, prescribe
531 qualifications for those positions, and provide for the
532 appointment, compensation, promotion, suspension, and dismissal
533 of employees as follows, subject to the requirements of this
534 chapter:

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

536 1. Definitions.—As used in this paragraph:

537 a. “Adjustment” means an addition to the base salary
538 schedule that is not a bonus and becomes part of the employee’s
539 permanent base salary and shall be considered compensation under
540 s. 121.021(22).

541 b. “Grandfathered salary schedule” means the salary
542 schedule or schedules adopted by a district school board before
543 July 1, 2014, pursuant to subparagraph 4.

544 c. “Instructional personnel” means instructional personnel
545 as defined in s. 1012.01(2) (a)-(d), excluding substitute
546 teachers.

547 d. “Performance salary schedule” means the salary schedule
548 or schedules adopted by a district school board pursuant to
549 subparagraph 5.

550 e. “Salary schedule” means the schedule or schedules used
551 to provide the base salary for district school board personnel.

2011736er

552 f. "School administrator" means a school administrator as
553 defined in s. 1012.01(3)(c).

554 g. "Supplement" means an annual addition to the base salary
555 for the term of the negotiated supplement as long as the
556 employee continues his or her employment for the purpose of the
557 supplement. A supplement does not become part of the employee's
558 continuing base salary but shall be considered compensation
559 under s. 121.021(22).

560 2. Cost-of-living adjustment.—A district school board may
561 provide a cost-of-living salary adjustment if the adjustment:

562 a. Does not discriminate among comparable classes of
563 employees based upon the salary schedule under which they are
564 compensated.

565 b. Does not exceed 50 percent of the annual adjustment
566 provided to instructional personnel rated as effective.

567 3. Advanced degrees.—A district school board may not use
568 advanced degrees in setting a salary schedule for instructional
569 personnel or school administrators hired on or after July 1,
570 2011, unless the advanced degree is held in the individual's
571 area of certification and is only a salary supplement.

572 4. Grandfathered salary schedule.—

573 a. The district school board shall adopt a salary schedule
574 or salary schedules to be used as the basis for paying all
575 school employees hired before July 1, 2014. Instructional
576 personnel on annual contract as of July 1, 2014, shall be placed
577 on the performance salary schedule adopted under subparagraph 5.
578 Instructional personnel on continuing contract or professional
579 service contract may opt into the performance salary schedule if
580 the employee relinquishes such contract and agrees to be

2011736er

581 employed on an annual contract under s. 1012.335. Such an
582 employee shall be placed on the performance salary schedule and
583 may not return to continuing contract or professional service
584 contract status. Any employee who opts into the performance
585 salary schedule may not return to the grandfathered salary
586 schedule.

587 b. In determining the grandfathered salary schedule for
588 instructional personnel, a district school board must base a
589 portion of each employee's compensation upon performance
590 demonstrated under s. 1012.34 and shall provide differentiated
591 pay for both instructional personnel and school administrators
592 based upon district-determined factors, including, but not
593 limited to, additional responsibilities, school demographics,
594 critical shortage areas, and level of job performance
595 difficulties.

596 5. Performance salary schedule.—By July 1, 2014, the
597 district school board shall adopt a performance salary schedule
598 that provides annual salary adjustments for instructional
599 personnel and school administrators based upon performance
600 determined under s. 1012.34. Employees hired on or after July 1,
601 2014, or employees who choose to move from the grandfathered
602 salary schedule to the performance salary schedule shall be
603 compensated pursuant to the performance salary schedule once
604 they have received the appropriate performance evaluation for
605 this purpose. However, a classroom teacher whose performance
606 evaluation utilizes student learning growth measures established
607 under s. 1012.34(7)(e) shall remain under the grandfathered
608 salary schedule until his or her teaching assignment changes to
609 a subject for which there is an assessment or the school

2011736er

610 district establishes equally appropriate measures of student
611 learning growth as defined under s. 1012.34 and rules of the
612 State Board of Education.

613 a. Base salary.—The base salary shall be established as
614 follows:

615 (I) The base salary for instructional personnel or school
616 administrators who opt into the performance salary schedule
617 shall be the salary paid in the prior year, including
618 adjustments only.

619 (II) Beginning July 1, 2014, instructional personnel or
620 school administrators new to the district, returning to the
621 district after a break in service without an authorized leave of
622 absence, or appointed for the first time to a position in the
623 district in the capacity of instructional personnel or school
624 administrator shall be placed on the performance salary
625 schedule.

626 b. Salary adjustments.—Salary adjustments for highly
627 effective or effective performance shall be established as
628 follows:

629 (I) The annual salary adjustment under the performance
630 salary schedule for an employee rated as highly effective must
631 be greater than the highest annual salary adjustment available
632 to an employee of the same classification through any other
633 salary schedule adopted by the district.

634 (II) The annual salary adjustment under the performance
635 salary schedule for an employee rated as effective must be equal
636 to at least 50 percent and no more than 75 percent of the annual
637 adjustment provided for a highly effective employee of the same
638 classification.

2011736er

639 (III) The performance salary schedule shall not provide an
640 annual salary adjustment for an employee who receives a rating
641 other than highly effective or effective for the year.

642 c. Salary supplements.-In addition to the salary
643 adjustments, each district school board shall provide for salary
644 supplements for activities that must include, but are not
645 limited to:

646 (I) Assignment to a Title I eligible school.

647 (II) Assignment to a school in the bottom two categories of
648 the school improvement system under s. 1008.33 such that the
649 supplement remains in force for at least 1 year following
650 improved performance in that school.

651 (III) Certification and teaching in critical teacher
652 shortage areas. Statewide critical teacher shortage areas shall
653 be identified by the State Board of Education under s. 1012.07.
654 However, the district school board may identify other areas of
655 critical shortage within the school district for purposes of
656 this sub-sub-subparagraph and may remove areas identified by the
657 state board which do not apply within the school district.

658 (IV) Assignment of additional academic responsibilities.

659
660 If budget constraints in any given year limit a district school
661 board's ability to fully fund all adopted salary schedules, the
662 performance salary schedule shall not be reduced on the basis of
663 total cost or the value of individual awards in a manner that is
664 proportionally greater than reductions to any other salary
665 schedules adopted by the district. ~~The district school board~~
666 ~~shall adopt a salary schedule or salary schedules designed to~~
667 ~~furnish incentives for improvement in training and for continued~~

2011736er

668 ~~efficient service to be used as a basis for paying all school~~
669 ~~employees and fix and authorize the compensation of school~~
670 ~~employees on the basis thereof.~~

671 ~~2. A district school board, in determining the salary~~
672 ~~schedule for instructional personnel, must base a portion of~~
673 ~~each employee's compensation on performance demonstrated under~~
674 ~~s. 1012.34, must consider the prior teaching experience of a~~
675 ~~person who has been designated state teacher of the year by any~~
676 ~~state in the United States, and must consider prior professional~~
677 ~~experience in the field of education gained in positions in~~
678 ~~addition to district level instructional and administrative~~
679 ~~positions.~~

680 ~~3. In developing the salary schedule, the district school~~
681 ~~board shall seek input from parents, teachers, and~~
682 ~~representatives of the business community.~~

683 ~~4. Beginning with the 2007-2008 academic year, each~~
684 ~~district school board shall adopt a salary schedule with~~
685 ~~differentiated pay for both instructional personnel and school-~~
686 ~~based administrators. The salary schedule is subject to~~
687 ~~negotiation as provided in chapter 447 and must allow~~
688 ~~differentiated pay based on district-determined factors,~~
689 ~~including, but not limited to, additional responsibilities,~~
690 ~~school demographics, critical shortage areas, and level of job~~
691 ~~performance difficulties.~~

692 ~~(e) *Transfer and promotion.*—The district school board shall~~
693 ~~act on recommendations of the district school superintendent~~
694 ~~regarding transfer and promotion of any employee. The district~~
695 ~~school superintendent's primary consideration in recommending an~~
696 ~~individual for a promotion must be the individual's demonstrated~~

2011736er

697 effectiveness under s. 1012.34.

698 Section 5. Section 1012.335, Florida Statutes, is created
699 to read:

700 1012.335 Contracts with instructional personnel hired on or
701 after July 1, 2011.—

702 (1) DEFINITIONS.—As used in this section, the term:

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

706 (b) "Instructional personnel" means instructional personnel
707 as defined in s. 1012.01(2) (a)-(d), excluding substitute
708 teachers.

709 (c) "Probationary contract" means an employment contract
710 for a period of 1 school year awarded to instructional personnel
711 upon initial employment in a school district. Probationary
712 contract employees may be dismissed without cause or may resign
713 without breach of contract. A district school board may not
714 award a probationary contract more than once to the same
715 employee unless the employee was rehired after a break in
716 service for which an authorized leave of absence was not
717 granted. A probationary contract shall be awarded regardless of
718 previous employment in another school district or state.

719 (2) EMPLOYMENT.—

720 (a) Beginning July 1, 2011, each individual newly hired as
721 instructional personnel by the district school board shall be
722 awarded a probationary contract. Upon successful completion of
723 the probationary contract, the district school board may award
724 an annual contract pursuant to paragraph (c).

725 (b) Beginning July 1, 2011, an annual contract may be

2011736er

726 awarded pursuant to paragraph (c) for instructional personnel
727 who have successfully completed a probationary contract with the
728 district school board and have received one or more annual
729 contracts from the district school board.

730 (c) An annual contract may be awarded only if the employee:

731 1. Holds an active professional certificate or temporary
732 certificate issued pursuant to s. 1012.56 and rules of the State
733 Board of Education.

734 2. Has been recommended by the district school
735 superintendent for the annual contract based upon the
736 individual's evaluation under s. 1012.34 and approved by the
737 district school board.

738 3. Has not received two consecutive annual performance
739 evaluation ratings of unsatisfactory, two annual performance
740 evaluation ratings of unsatisfactory within a 3-year period, or
741 three consecutive annual performance evaluation ratings of needs
742 improvement or a combination of needs improvement and
743 unsatisfactory under s. 1012.34.

744 (3) VIOLATION OF ANNUAL CONTRACT.—Instructional personnel
745 who accept a written offer from the district school board and
746 who leave their positions without prior release from the
747 district school board are subject to the jurisdiction of the
748 Education Practices Commission.

749 (4) SUSPENSION OR DISMISSAL OF INSTRUCTIONAL PERSONNEL ON
750 ANNUAL CONTRACT.—Any instructional personnel with an annual
751 contract may be suspended or dismissed at any time during the
752 term of the contract for just cause as provided in subsection

753 (5). The district school board shall notify the employee in
754 writing whenever charges are made and may suspend such person

2011736er

755 without pay. However, if the charges are not sustained, the
756 employee shall be immediately reinstated and his or her back pay
757 shall be paid. If the employee wishes to contest the charges, he
758 or she must, within 15 days after receipt of the written notice,
759 submit a written request for a hearing to the district school
760 board. A direct hearing shall be conducted by the district
761 school board or a subcommittee thereof within 60 days after
762 receipt of the written appeal. The hearing shall be conducted in
763 accordance with ss. 120.569 and 120.57. A majority vote of the
764 membership of the district school board shall be required to
765 sustain the district school superintendent's recommendation. The
766 district school board's determination is final as to the
767 sufficiency or insufficiency of the grounds for suspension
768 without pay or dismissal. Any such decision adverse to the
769 employee may be appealed by the employee pursuant to s. 120.68.

770 (5) JUST CAUSE.—The State Board of Education shall adopt
771 rules pursuant to ss. 120.536(1) and 120.54 to define the term
772 "just cause." Just cause includes, but is not limited to:

773 (a) Immorality.

774 (b) Misconduct in office.

775 (c) Incompetency.

776 (d) Gross insubordination.

777 (e) Willful neglect of duty.

778 (f) Being convicted or found guilty of, or entering a plea
779 of guilty to, regardless of adjudication of guilt, any crime
780 involving moral turpitude.

781 (6) LIMITATION.—An individual newly hired as instructional
782 personnel by a school district in this state under this section
783 is ineligible for any contract issued under s. 1012.33.

2011736er

784 Section 6. Paragraph (b) of subsection (16) of section
785 1002.33, Florida Statutes, is amended to read:

786 1002.33 Charter schools.—

787 (16) EXEMPTION FROM STATUTES.—

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

790 1. Section 286.011, relating to public meetings and
791 records, public inspection, and criminal and civil penalties.

792 2. Chapter 119, relating to public records.

793 3. Section 1003.03, relating to the maximum class size,
794 except that the calculation for compliance pursuant to s.
795 1003.03 shall be the average at the school level.

796 4. Section 1012.22(1)(c), relating to compensation and
797 salary schedules.

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

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

801 7. Section 1012.34, relating to the substantive
802 requirements for performance evaluations for instructional
803 personnel and school administrators.

804 Section 7. Paragraph (h) of subsection (2) of section
805 1003.621, Florida Statutes, is amended to read:

806 1003.621 Academically high-performing school districts.—It
807 is the intent of the Legislature to recognize and reward school
808 districts that demonstrate the ability to consistently maintain
809 or improve their high-performing status. The purpose of this
810 section is to provide high-performing school districts with
811 flexibility in meeting the specific requirements in statute and
812 rules of the State Board of Education.

2011736er

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

818 (h) Sections 1012.22(1)(c) and 1012.27(2), relating to
819 public school personnel compensation and salary schedules; s.
820 1012.34, relating to personnel evaluation procedures and
821 criteria; and ss. 1012.33 and 1012.335, relating to contracts
822 with instructional personnel, staff, supervisors, and school
823 administrators ~~differentiated pay and performance pay policies~~
824 ~~for school administrators and instructional personnel.~~
825 ~~Professional service contracts are subject to the provisions of~~
826 ~~ss. 1012.33 and 1012.34.~~

827 Section 8. Subsection (4) of section 1006.09, Florida
828 Statutes, is amended to read:

829 1006.09 Duties of school principal relating to student
830 discipline and school safety.—

831 (4) When a student has been the victim of a violent crime
832 perpetrated by another student who attends the same school, the
833 school principal shall make full and effective use of the
834 provisions of subsection (2) and s. 1006.13(6). A school
835 principal who fails to comply with this subsection shall be
836 ineligible for any portion of the performance pay ~~policy~~
837 ~~incentive~~ or the differentiated pay under s. 1012.22. However,
838 if any party responsible for notification fails to properly
839 notify the school, the school principal shall be eligible for
840 the performance pay ~~incentive~~ or differentiated pay.

841 Section 9. Section 1012.07, Florida Statutes, is amended to

2011736er

842 read:

843 1012.07 Identification of critical teacher shortage areas.—

844 ~~(1) As used in ss. 1009.57, 1009.58, and 1009.59, The term~~
845 ~~“critical teacher shortage area”~~ means high-need content areas
846 ~~applies to mathematics, science, career education, and high-~~
847 ~~priority high priority location areas identified by-~~ the State
848 Board of Education ~~may identify career education programs having~~
849 ~~critical teacher shortages.~~ The State Board of Education shall
850 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
851 annually identify ~~other~~ critical teacher shortage areas ~~and high~~
852 ~~priority location areas.~~ The state board ~~must shall~~ also
853 consider current and emerging educational requirements and
854 workforce demands ~~teacher characteristics such as ethnic~~
855 ~~background, race, and sex~~ in determining critical teacher
856 shortage areas. School grade levels may also be designated
857 critical teacher shortage areas. Individual district school
858 boards may identify and submit other critical teacher shortage
859 areas. Such submissions ~~shortages~~ must be aligned to current and
860 emerging educational requirements and workforce demands in order
861 to be certified to and approved by the State Board of Education.
862 High-priority High priority location areas shall be in high-
863 density, low-economic urban schools, ~~and~~ low-density, low-
864 economic rural schools, and schools identified as lowest
865 performing under s. 1008.33(4)(b) ~~shall include schools which~~
866 ~~meet criteria which include, but are not limited to, the~~
867 ~~percentage of free lunches, the percentage of students under~~
868 ~~Chapter I of the Education Consolidation and Improvement Act of~~
869 ~~1981, and the faculty attrition rate.~~

870 ~~(2) This section shall be implemented only to the extent as~~

2011736er

871 ~~specifically funded and authorized by law.~~

872 Section 10. Subsection (5) of section 1012.2315, Florida
873 Statutes, is amended to read:

874 1012.2315 Assignment of teachers.-

875 (5) REPORT.-

876 (a) By July 1, 2012, the Department of Education shall
877 annually report on its website, in a manner that is accessible
878 to the public, the performance rating data reported by district
879 school boards under s. 1012.34. The report must include the
880 percentage of classroom teachers, instructional personnel, and
881 school administrators receiving each performance rating
882 aggregated by school district and by school.

883 (b) Notwithstanding the provisions of s. 1012.31(3)(a)2.,
884 each school district shall annually report to the parent of any
885 student who is assigned to a classroom teacher or school
886 administrator having two consecutive annual performance
887 evaluation ratings of unsatisfactory under s. 1012.34, two
888 annual performance evaluation ratings of unsatisfactory within a
889 3-year period under s. 1012.34, or three consecutive annual
890 performance evaluation ratings of needs improvement or a
891 combination of needs improvement and unsatisfactory under s.
892 1012.34. Schools graded "D" or "F" shall annually report their
893 teacher retention rate. Included in this report shall be reasons
894 listed for leaving by each teacher who left the school for any
895 reason.

896 Section 11. Subsections (1) and (2) of section 1012.27,
897 Florida Statutes, are amended to read:

898 1012.27 Public school personnel; powers and duties of
899 district school superintendent.-The district school

2011736er

900 superintendent is responsible for directing the work of the
901 personnel, subject to the requirements of this chapter, and in
902 addition the district school superintendent shall perform the
903 following:

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

905 (a) Recommend to the district school board duties and
906 responsibilities which need to be performed and positions which
907 need to be filled to make possible the development of an
908 adequate school program in the district.

909 (b) Recommend minimum qualifications of personnel for these
910 various positions, and nominate in writing persons to fill such
911 positions.

912
913 The district school superintendent's recommendations for filling
914 instructional positions at the school level must consider
915 nominations received from school principals of the respective
916 schools. Before transferring a teacher who holds a professional
917 teaching certificate from one school to another, the district
918 school superintendent shall consult with the principal of the
919 receiving school and allow the principal to review the teacher's
920 records, including student performance demonstrated under s.
921 1012.34, and interview the teacher. If, in the judgment of the
922 principal, students would not benefit from the placement, an
923 alternative placement may be sought. A principal may refuse the
924 placement in accordance with s. 1012.28(6).

925 (2) COMPENSATION AND SALARY SCHEDULES.—Prepare and
926 recommend to the district school board for adoption a salary
927 schedule or salary schedules in accordance with s. 1012.22. ~~The~~
928 ~~district school superintendent must recommend a salary schedule~~

2011736er

929 ~~for instructional personnel which bases a portion of each~~
930 ~~employee's compensation on performance demonstrated under s.~~
931 ~~1012.34. In developing the recommended salary schedule, the~~
932 ~~district school superintendent shall include input from parents,~~
933 ~~teachers, and representatives of the business community.~~
934 ~~Beginning with the 2007-2008 academic year, the recommended~~
935 ~~salary schedule for classroom teachers shall be consistent with~~
936 ~~the district's differentiated pay policy based upon s. 1012.22.~~

937 Section 12. Subsection (3) of section 1012.28, Florida
938 Statutes, is amended, present subsection (6) is renumbered and
939 amended, and a new subsection (6) is added to that section, to
940 read:

941 1012.28 Public school personnel; duties of school
942 principals.—

943 (3) Each school principal is responsible for the
944 performance of all personnel employed by the district school
945 board and assigned to the school to which the principal is
946 assigned. The school principal shall faithfully and effectively
947 apply the personnel evaluation ~~assessment~~ system approved by the
948 ~~district school board~~ pursuant to s. 1012.34.

949 (6) A principal may refuse to accept the placement or
950 transfer of instructional personnel by the district school
951 superintendent to his or her school unless the instructional
952 personnel has a performance rating of effective or highly
953 effective under s. 1012.34.

954 (7) ~~(6)~~ A school principal who fails to comply with this
955 section shall be ineligible for any portion of the performance
956 pay ~~policy incentive~~ and differentiated pay under s. 1012.22.

957 Section 13. Paragraph (a) of subsection (1) and subsections

2011736er

958 (3) and (5) of section 1012.33, Florida Statutes, are amended to
959 read:

960 1012.33 Contracts with instructional staff, supervisors,
961 and school principals.—

962 (1) (a) Each person employed as a member of the
963 instructional staff in any district school system shall be
964 properly certified pursuant to s. 1012.56 or s. 1012.57 or
965 employed pursuant to s. 1012.39 and shall be entitled to and
966 shall receive a written contract as specified in this section.
967 All such contracts, except continuing contracts as specified in
968 subsection (4), shall contain provisions for dismissal during
969 the term of the contract only for just cause. Just cause
970 includes, but is not limited to, the following instances, as
971 defined by rule of the State Board of Education: immorality,
972 misconduct in office, incompetency, two consecutive annual
973 performance evaluation ratings of unsatisfactory under s.
974 1012.34, two annual performance evaluation ratings of
975 unsatisfactory within a 3-year period under s. 1012.34, three
976 consecutive annual performance evaluation ratings of needs
977 improvement or a combination of needs improvement and
978 unsatisfactory under s. 1012.34, gross insubordination, willful
979 neglect of duty, or being convicted or found guilty of, or
980 entering a plea of guilty to, regardless of adjudication of
981 guilt, any crime involving moral turpitude.

982 (3) (a) Each district school board shall provide a
983 professional service contract as prescribed herein. Each member
984 of the instructional staff who completed the following
985 requirements prior to July 1, 1984, shall be entitled to and
986 shall be issued a continuing contract in the form prescribed by

2011736er

987 rules of the state board pursuant to s. 231.36, Florida Statutes
988 (1981). Each member of the instructional staff who completes the
989 following requirements on or after July 1, 1984, shall be
990 entitled to and shall be issued a professional service contract
991 in the form prescribed by rules of the state board as provided
992 herein:

993 1. The member must hold a professional certificate as
994 prescribed by s. 1012.56 and rules of the State Board of
995 Education.

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

999 3. The member must have been recommended by the district
1000 school superintendent for such contract and reappointed by the
1001 district school board based on successful performance of duties
1002 and demonstration of professional competence.

1003 4. For any person newly employed as a member of the
1004 instructional staff after June 30, 1997, the initial annual
1005 contract shall include a 97-day probationary period during which
1006 time the employee's contract may be terminated without cause or
1007 the employee may resign without breach of contract.

1008 (b) The professional service contract shall be effective at
1009 the beginning of the school fiscal year following the completion
1010 of all requirements therefor.

1011 (c) The period of service provided herein may be extended
1012 to 4 years when prescribed by the district school board and
1013 agreed to in writing by the employee at the time of
1014 reappointment.

1015 ~~(d) A district school board may issue a continuing contract~~

2011736er

1016 ~~prior to July 1, 1984, and may issue a professional service~~
1017 ~~contract subsequent to July 1, 1984, to any employee who has~~
1018 ~~previously held a professional service contract or continuing~~
1019 ~~contract in the same or another district within this state. Any~~
1020 ~~employee who holds a continuing contract may, but is not~~
1021 ~~required to, exchange such continuing contract for a~~
1022 ~~professional service contract in the same district.~~

1023 (d)~~(e)~~ A professional service contract shall be renewed
1024 each year unless:

1025 1. The district school superintendent, after receiving the
1026 recommendations required by s. 1012.34, charges the employee
1027 with unsatisfactory performance and notifies the employee of
1028 performance deficiencies as required by s. 1012.34; or

1029 2. The employee receives two consecutive annual performance
1030 evaluation ratings of unsatisfactory under s. 1012.34, two
1031 annual performance evaluation ratings of unsatisfactory within a
1032 3-year period under s. 1012.34, or three consecutive annual
1033 performance evaluation ratings of needs improvement or a
1034 combination of needs improvement and unsatisfactory under s.
1035 1012.34. An employee who holds a professional service contract
1036 on July 1, 1997, is subject to the procedures set forth in
1037 paragraph (f) during the term of the existing professional
1038 service contract. The employee is subject to the procedures set
1039 forth in s. 1012.34(3) (d) upon the next renewal of the
1040 professional service contract; however, if the employee is
1041 notified of performance deficiencies before the next contract
1042 renewal date, the procedures of s. 1012.34(3) (d) do not apply
1043 until the procedures set forth in paragraph (f) have been
1044 exhausted and the professional service contract is subsequently

2011736er

1045 ~~renewed.~~

1046 ~~(f) The district school superintendent shall notify an~~
1047 ~~employee who holds a professional service contract on July 1,~~
1048 ~~1997, in writing, no later than 6 weeks prior to the end of the~~
1049 ~~postschool conference period, of performance deficiencies which~~
1050 ~~may result in termination of employment, if not corrected during~~
1051 ~~the subsequent year of employment (which shall be granted for an~~
1052 ~~additional year in accordance with the provisions in subsection~~
1053 ~~(1)). Except as otherwise hereinafter provided, this action~~
1054 ~~shall not be subject to the provisions of chapter 120, but the~~
1055 ~~following procedures shall apply:~~

1056 ~~1. On receiving notice of unsatisfactory performance, the~~
1057 ~~employee, on request, shall be accorded an opportunity to meet~~
1058 ~~with the district school superintendent, or his or her designee,~~
1059 ~~for an informal review of the determination of unsatisfactory~~
1060 ~~performance.~~

1061 ~~2. An employee notified of unsatisfactory performance may~~
1062 ~~request an opportunity to be considered for a transfer to~~
1063 ~~another appropriate position, with a different supervising~~
1064 ~~administrator, for the subsequent year of employment. If the~~
1065 ~~request for the transfer is granted, the district school~~
1066 ~~superintendent shall annually report to the department the total~~
1067 ~~number of employees transferred pursuant to this subparagraph,~~
1068 ~~where they were transferred, and what, if any, remediation was~~
1069 ~~implemented to remediate the unsatisfactory performance.~~

1070 ~~3. During the subsequent year, the employee shall be~~
1071 ~~provided assistance and inservice training opportunities to help~~
1072 ~~correct the noted performance deficiencies. The employee shall~~
1073 ~~also be evaluated periodically so that he or she will be kept~~

2011736er

1074 ~~apprised of progress achieved.~~

1075 ~~4. Not later than 6 weeks prior to the close of the~~
1076 ~~postschool conference period of the subsequent year, the~~
1077 ~~district school superintendent, after receiving and reviewing~~
1078 ~~the recommendation required by s. 1012.34, shall notify the~~
1079 ~~employee, in writing, whether the performance deficiencies have~~
1080 ~~been corrected. If so, a new professional service contract shall~~
1081 ~~be issued to the employee. If the performance deficiencies have~~
1082 ~~not been corrected, the district school superintendent may~~
1083 ~~notify the district school board and the employee, in writing,~~
1084 ~~that the employee shall not be issued a new professional service~~
1085 ~~contract; however, if the recommendation of the district school~~
1086 ~~superintendent is not to issue a new professional service~~
1087 ~~contract, and if the employee wishes to contest such~~
1088 ~~recommendation, the employee will have 15 days from receipt of~~
1089 ~~the district school superintendent's recommendation to demand,~~
1090 ~~in writing, a hearing. In such hearing, the employee may raise~~
1091 ~~as an issue, among other things, the sufficiency of the district~~
1092 ~~school superintendent's charges of unsatisfactory performance.~~
1093 ~~Such hearing shall be conducted at the district school board's~~
1094 ~~election in accordance with one of the following procedures:~~

1095 ~~a. A direct hearing conducted by the district school board~~
1096 ~~within 60 days of receipt of the written appeal. The hearing~~
1097 ~~shall be conducted in accordance with the provisions of ss.~~
1098 ~~120.569 and 120.57. A majority vote of the membership of the~~
1099 ~~district school board shall be required to sustain the district~~
1100 ~~school superintendent's recommendation. The determination of the~~
1101 ~~district school board shall be final as to the sufficiency or~~
1102 ~~insufficiency of the grounds for termination of employment; or~~

2011736er

1103 ~~b. A hearing conducted by an administrative law judge~~
1104 ~~assigned by the Division of Administrative Hearings of the~~
1105 ~~Department of Management Services. The hearing shall be~~
1106 ~~conducted within 60 days of receipt of the written appeal in~~
1107 ~~accordance with chapter 120. The recommendation of the~~
1108 ~~administrative law judge shall be made to the district school~~
1109 ~~board. A majority vote of the membership of the district school~~
1110 ~~board shall be required to sustain or change the administrative~~
1111 ~~law judge's recommendation. The determination of the district~~
1112 ~~school board shall be final as to the sufficiency or~~
1113 ~~insufficiency of the grounds for termination of employment.~~

1114 ~~(g) Beginning July 1, 2001, for each employee who enters~~
1115 ~~into a written contract, pursuant to this section, in a school~~
1116 ~~district in which the employee was not employed as of June 30,~~
1117 ~~2001, or was employed as of June 30, 2001, but has since broken~~
1118 ~~employment with that district for 1 school year or more, for~~
1119 ~~purposes of pay, a district school board must recognize and~~
1120 ~~accept each year of full-time public school teaching service~~
1121 ~~earned in the State of Florida for which the employee received a~~
1122 ~~satisfactory performance evaluation; however, an employee may~~
1123 ~~voluntarily waive this provision. Instructional personnel~~
1124 ~~employed pursuant to s. 121.091(9)(b) and (c) are exempt from~~
1125 ~~the provisions of this paragraph.~~

1126 (5) If workforce reduction is needed, a district school
1127 board must retain employees at a school or in the school
1128 district based upon educational program needs and the
1129 performance evaluations of employees within the affected program
1130 areas. Within the program areas requiring reduction, the
1131 employee with the lowest performance evaluations must be the

2011736er

1132 first to be released; the employee with the next lowest
1133 performance evaluations must be the second to be released; and
1134 reductions shall continue in like manner until the needed number
1135 of reductions has occurred. A district school board may not
1136 prioritize retention of employees based upon seniority. ~~Should a~~
1137 ~~district school board have to choose from among its personnel~~
1138 ~~who are on continuing contracts or professional service~~
1139 ~~contracts as to which should be retained, such decisions shall~~
1140 ~~be made pursuant to the terms of a collectively bargained~~
1141 ~~agreement, when one exists. If no such agreement exists, the~~
1142 ~~district school board shall prescribe rules to handle reductions~~
1143 ~~in workforce.~~

1144 Section 14. Section 1012.52, Florida Statutes, is repealed.

1145 Section 15. Paragraph (h) of subsection (1) of section
1146 1012.795, Florida Statutes, is amended to read:

1147 1012.795 Education Practices Commission; authority to
1148 discipline.-

1149 (1) The Education Practices Commission may suspend the
1150 educator certificate of any person as defined in s. 1012.01(2)
1151 or (3) for up to 5 years, thereby denying that person the right
1152 to teach or otherwise be employed by a district school board or
1153 public school in any capacity requiring direct contact with
1154 students for that period of time, after which the holder may
1155 return to teaching as provided in subsection (4); may revoke the
1156 educator certificate of any person, thereby denying that person
1157 the right to teach or otherwise be employed by a district school
1158 board or public school in any capacity requiring direct contact
1159 with students for up to 10 years, with reinstatement subject to
1160 the provisions of subsection (4); may revoke permanently the

2011736er

1161 educator certificate of any person thereby denying that person
1162 the right to teach or otherwise be employed by a district school
1163 board or public school in any capacity requiring direct contact
1164 with students; may suspend the educator certificate, upon an
1165 order of the court or notice by the Department of Revenue
1166 relating to the payment of child support; or may impose any
1167 other penalty provided by law, if the person:

1168 (h) Has breached a contract, as provided in s. 1012.33(2)
1169 or s. 1012.335.

1170 Section 16. (1) Notwithstanding any other provision of this
1171 act, a school district that received an exemption under
1172 Florida's Race to the Top Memorandum of Understanding for Phase
1173 2, as provided in section (D)(2)(ii) of the memorandum, is
1174 allowed to base 40 percent, instead of 50 percent, of
1175 instructional personnel and school administrator performance
1176 evaluations upon student learning growth under s. 1012.34,
1177 Florida Statutes, as amended by this act. The school district is
1178 also exempt from the amendments to s. 1012.22(1)(c), Florida
1179 Statutes, made by this act. The exemptions described in this
1180 subsection are effective for the 2011-2012 school year and are
1181 effective for each school year thereafter if the school district
1182 receives annual approval by the State Board of Education.

1183 (2) The State Board of Education shall base its approval
1184 upon demonstration by the school district of the following:

1185 (a) The instructional personnel and school administrator
1186 evaluation systems base at least 40 percent of an employee's
1187 performance evaluation upon student performance and that student
1188 performance is the single greatest component of an employee's
1189 evaluation.

2011736er

1190 (b) The instructional personnel and school administrator
1191 evaluation systems adopt the Commissioner of Education's student
1192 learning growth formula for statewide assessments as provided
1193 under s. 1012.34(7), Florida Statutes.

1194 (c) The school district's instructional personnel and
1195 school administrator compensation system awards salary increases
1196 based upon sustained student performance.

1197 (d) The school district's contract system awards
1198 instructional personnel and school administrators based upon
1199 student performance and removes ineffective employees.

1200 (e) Beginning with the 2014-2015 school year and each
1201 school year thereafter, student learning growth based upon
1202 performance on statewide assessments under s. 1008.22, Florida
1203 Statutes, must have significantly improved compared to student
1204 learning growth in the district in 2011-2012 and significantly
1205 improved compared to other school districts.

1206 (3) The State Board of Education shall annually renew a
1207 school district's exemptions if the school district demonstrates
1208 that it meets the requirements of subsection (2). If the
1209 exemptions are not renewed, the school district must comply with
1210 the requirements and laws described in subsection (1) by the
1211 beginning of the next school year immediately following the loss
1212 of the exemptions.

1213 (4) The State Board of Education shall adopt rules pursuant
1214 to ss. 120.536(1) and 120.54, Florida Statutes, to establish the
1215 procedures for applying for the exemptions and the criteria for
1216 renewing the exemptions.

1217
1218 This section shall be repealed August 1, 2017, unless reviewed

2011736er

1219 and reenacted by the Legislature.

1220 Section 17. Chapter 2010-279, Laws of Florida, does not
1221 apply to any rulemaking required to administer this act.

1222 Section 18. The provisions of any special act or general
1223 law of local application relating to contracts for instructional
1224 personnel or school administrators in public schools or school
1225 districts in effect on or before the effective date of this act
1226 are repealed.

1227 Section 19. The amendments made by this act to s. 1012.33,
1228 Florida Statutes, apply to contracts newly entered into,
1229 extended, or readopted on or after July 1, 2011, and to all
1230 contracts entered into on or after July 1, 2014.

1231 Section 20. If any provision of this act or its application
1232 to any person or circumstance is held invalid, the invalidity
1233 does not affect other provisions or applications of the act
1234 which can be given effect without the invalid provision or
1235 application, and to this end the provisions of this act are
1236 severable.

1237 Section 21. Except as otherwise expressly provided in this
1238 act and except for this section, which shall take effect upon
1239 this act becoming a law, this act shall take effect July 1,
1240 2011.