
SUBSTITUTE HOUSE BILL 3035

State of Washington

61st Legislature

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By House Education (originally sponsored by Representatives Quall, Priest, Hunter, Carlyle, Probst, Kagi, Haigh, Lias, Dammeier, Kelley, Anderson, Kenney, Conway, Santos, Maxwell, Sullivan, and Rolfes)

READ FIRST TIME 02/03/10.

1 AN ACT Relating to educator performance and innovation; amending
2 RCW 28A.150.230, 28A.405.100, 28A.405.220, 28A.405.210, 28A.405.230,
3 28A.405.300, and 28A.400.200; adding new sections to chapter 28A.405
4 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **PART I**

7 **EDUCATOR EVALUATIONS AND PERFORMANCE**

8 **Sec. 101.** RCW 28A.150.230 and 2006 c 263 s 201 are each amended to
9 read as follows:

10 (1) It is the intent and purpose of this section to guarantee that
11 each common school district board of directors, whether or not acting
12 through its respective administrative staff, be held accountable for
13 the proper operation of their district to the local community and its
14 electorate. In accordance with the provisions of Title 28A RCW, as now
15 or hereafter amended, each common school district board of directors
16 shall be vested with the final responsibility for the setting of
17 policies ensuring quality in the content and extent of its educational

1 program and that such program provide students with the opportunity to
2 achieve those skills which are generally recognized as requisite to
3 learning.

4 (2) In conformance with the provisions of Title 28A RCW, as now or
5 hereafter amended, it shall be the responsibility of each common school
6 district board of directors to adopt policies to:

7 (a) Establish performance criteria and an evaluation process for
8 its superintendent, classified staff, certificated personnel, including
9 administrative staff, and for all programs constituting a part of such
10 district's curriculum. Each district shall report annually to the
11 superintendent of public instruction the following for each employee
12 group listed in this subsection (2)(a): (i) Evaluation criteria and
13 rubrics; (ii) a description of each rating; and (iii) the number of
14 staff in each rating;

15 (b) Determine the final assignment of staff, certificated or
16 classified, according to board enumerated classroom and program needs
17 and data, based upon a plan to ensure that the assignment policy: (i)
18 Supports the learning needs of all the students in the district; and
19 (ii) gives specific attention to high-need schools and classrooms;

20 (c) Provide information to the local community and its electorate
21 describing the school district's policies concerning hiring, assigning,
22 terminating, and evaluating staff, including the criteria for
23 evaluating teachers and principals;

24 (d) Determine the amount of instructional hours necessary for any
25 student to acquire a quality education in such district, in not less
26 than an amount otherwise required in RCW 28A.150.220, or rules of the
27 state board of education;

28 ~~((d))~~ (e) Determine the allocation of staff time, whether
29 certificated or classified;

30 ~~((e))~~ (f) Establish final curriculum standards consistent with
31 law and rules of the superintendent of public instruction, relevant to
32 the particular needs of district students or the unusual
33 characteristics of the district, and ensuring a quality education for
34 each student in the district; and

35 ~~((f))~~ (g) Evaluate teaching materials, including text books,
36 teaching aids, handouts, or other printed material, in public hearing
37 upon complaint by parents, guardians or custodians of students who
38 consider dissemination of such material to students objectionable.

1 **Sec. 102.** RCW 28A.405.100 and 1997 c 278 s 1 are each amended to
2 read as follows:

3 (1)(a) Except as provided in subsection (2) of this section, the
4 superintendent of public instruction shall establish and may amend from
5 time to time minimum criteria for the evaluation of the professional
6 performance capabilities and development of certificated classroom
7 teachers and certificated support personnel. For classroom teachers
8 the criteria shall be developed in the following categories:
9 Instructional skill; classroom management, professional preparation and
10 scholarship; effort toward improvement when needed; the handling of
11 student discipline and attendant problems; and interest in teaching
12 pupils and knowledge of subject matter.

13 (b) Every board of directors shall, in accordance with procedure
14 provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920,
15 establish evaluative criteria and procedures for all certificated
16 classroom teachers and certificated support personnel. The evaluative
17 criteria must contain as a minimum the criteria established by the
18 superintendent of public instruction pursuant to this section and must
19 be prepared within six months following adoption of the superintendent
20 of public instruction's minimum criteria. The district must certify to
21 the superintendent of public instruction that evaluative criteria have
22 been so prepared by the district.

23 (2)(a) Pursuant to the implementation schedule and procedure
24 established in subsection (7)(b) of this section, every board of
25 directors shall adopt revised evaluative criteria and a four-level
26 rating system for all certificated classroom teachers.

27 (b) The minimum criteria shall include: (i) Centering instruction
28 on high expectations for student achievement; (ii) demonstrating
29 effective teaching practices; (iii) recognizing individual student
30 learning needs and developing strategies to address those needs; (iv)
31 providing clear and intentional focus on subject matter content and
32 curriculum; (v) fostering and managing a safe, positive learning
33 environment; (vi) using multiple student data elements to modify
34 instruction and improve student learning; (vii) communicating and
35 collaborating with parents and the school community; and (viii)
36 exhibiting collaborative and collegial practices focused on improving
37 instructional practice and student learning.

1 (c) The four-level rating system used to evaluate the certificated
2 classroom teacher must describe performance along a continuum that
3 indicates the extent to which the criteria have been met or exceeded.
4 When student growth data, if available and appropriate, is referenced
5 in the evaluation process it must be based on multiple measures that
6 can include classroom-based, school-based, district-based, and state-
7 based tools. As used in this subsection, "student growth" means the
8 change in student achievement between two points in time.

9 (3)(a) Except as provided in subsection ((+5+)) (10) of this
10 section, it shall be the responsibility of a principal or his or her
11 designee to evaluate all certificated personnel in his or her school.
12 During each school year all classroom teachers and certificated support
13 personnel(, hereinafter referred to as "employees" in this section,)
14 shall be observed for the purposes of evaluation at least twice in the
15 performance of their assigned duties. Total observation time for each
16 employee for each school year shall be not less than sixty minutes. An
17 employee in the third year of provisional status as defined in RCW
18 28A.405.220 shall be observed at least three times in the performance
19 of his or her duties and the total observation time for the school year
20 shall not be less than ninety minutes. Following each observation, or
21 series of observations, the principal or other evaluator shall promptly
22 document the results of the observation in writing, and shall provide
23 the employee with a copy thereof within three days after such report is
24 prepared. New employees shall be observed at least once for a total
25 observation time of thirty minutes during the first ninety calendar
26 days of their employment period.

27 (b) As used in this subsection and subsection (4) of this section,
28 "employees" means classroom teachers and certificated support
29 personnel.

30 (4)(a) At any time after October 15th, an employee whose work is
31 not judged ((unsatisfactory)) satisfactory based on district evaluation
32 criteria shall be notified in writing of the specific areas of
33 deficiencies along with a reasonable program for improvement. During
34 the period of probation, the employee may not be transferred from the
35 supervision of the original evaluator. Improvement of performance or
36 probable cause for nonrenewal must occur and be documented by the
37 original evaluator before any consideration of a request for transfer
38 or reassignment as contemplated by either the individual or the school

1 district. A probationary period of sixty school days shall be
2 established. The establishment of a probationary period does not
3 adversely affect the contract status of an employee within the meaning
4 of RCW 28A.405.300. The purpose of the probationary period is to give
5 the employee opportunity to demonstrate improvements in his or her
6 areas of deficiency. The establishment of the probationary period and
7 the giving of the notice to the employee of deficiency shall be by the
8 school district superintendent and need not be submitted to the board
9 of directors for approval. During the probationary period the
10 evaluator shall meet with the employee at least twice monthly to
11 supervise and make a written evaluation of the progress, if any, made
12 by the employee. The evaluator may authorize one additional
13 certificated employee to evaluate the probationer and to aid the
14 employee in improving his or her areas of deficiency; such additional
15 certificated employee shall be immune from any civil liability that
16 might otherwise be incurred or imposed with regard to the good faith
17 performance of such evaluation. The probationer may be removed from
18 probation if he or she has demonstrated improvement to the satisfaction
19 of the principal in those areas specifically detailed in his or her
20 initial notice of deficiency and subsequently detailed in his or her
21 improvement program. Lack of necessary improvement during the
22 established probationary period, as specifically documented in writing
23 with notification to the probationer and shall constitute grounds for
24 a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

25 (b) Immediately following the completion of a probationary period
26 that does not produce performance changes detailed in the initial
27 notice of deficiencies and improvement program, the employee may be
28 removed from his or her assignment and placed into an alternative
29 assignment for the remainder of the school year. This reassignment may
30 not displace another employee nor may it adversely affect the
31 probationary employee's compensation or benefits for the remainder of
32 the employee's contract year. If such reassignment is not possible,
33 the district may, at its option, place the employee on paid leave for
34 the balance of the contract term.

35 ~~((+2))~~ (5) Every board of directors shall establish evaluative
36 criteria and procedures for all superintendents, principals, and other
37 administrators. It shall be the responsibility of the district
38 superintendent or his or her designee to evaluate all administrators.

1 Except as provided in subsection (6) of this section, such evaluation
2 shall be based on the administrative position job description. Such
3 criteria, when applicable, shall include at least the following
4 categories: Knowledge of, experience in, and training in recognizing
5 good professional performance, capabilities and development; school
6 administration and management; school finance; professional preparation
7 and scholarship; effort toward improvement when needed; interest in
8 pupils, employees, patrons and subjects taught in school; leadership;
9 and ability and performance of evaluation of school personnel.

10 ((+3)) (6)(a) Pursuant to the implementation schedule and
11 procedure established by subsection (7)(b) of this section, every board
12 of directors shall adopt revised evaluative criteria and a four-level
13 rating system for principals.

14 (b) The minimum criteria shall include: (i) Creating a school
15 culture that promotes the ongoing improvement of learning and teaching
16 for students and staff; (ii) providing for school safety; (iii) leading
17 the development, implementation, and evaluation of a data-driven plan
18 for increasing student achievement, including the use of multiple
19 student data elements; (iv) assisting instructional staff with
20 alignment of curriculum, instruction, and assessment with state and
21 local district learning goals; (v) monitoring, assisting, and
22 evaluating effective instruction and assessment practices; (vi)
23 managing both staff and fiscal resources to support student achievement
24 and legal responsibilities; and (vii) partnering with the school
25 community to promote student learning.

26 (c) The four-level rating system used to evaluate the principal
27 must describe performance along a continuum that indicates the extent
28 to which the criteria have been met or exceeded. When student growth
29 data, if available and appropriate, is referenced in the evaluation
30 process it must be based on multiple measures that can include
31 classroom-based, school-based, district-based, and state-based tools.
32 As used in this subsection, "student growth" means the change in
33 student achievement between two points in time.

34 (7)(a) The superintendent of public instruction, in collaboration
35 with state professional associations representing teachers, principals,
36 and administrators, shall create common statewide models for the
37 evaluation system criteria and the four-level rating systems described
38 under subsections (2) and (6) of this section. Models for student

1 growth tools, professional development programs, and evaluator training
2 for certificated classroom teachers and principals shall be developed.
3 Human resources specialists, professional development experts, and
4 assessment experts must also be consulted. Due to the diversity of
5 teaching assignments and the many developmental levels of students,
6 classroom teachers and principals must be prominently represented in
7 this work.

8 (b) A new certificated classroom teacher evaluation system that
9 implements the provisions of subsection (2) of this section and a new
10 principal evaluation system that implements the provisions of
11 subsection (6) of this section shall be phased-in beginning with the
12 2010-11 school year as follows:

13 (i) A set of school districts shall be selected by the
14 superintendent of public instruction to participate in a collaborative
15 process resulting in the development and piloting of the new evaluation
16 systems for certificated classroom teachers and principals during the
17 2010-11 and 2011-12 school years. These school districts must be
18 selected based on: (A) The agreement of the local associations
19 representing classroom teachers and principals to collaborate with the
20 district and with the superintendent of public instruction in this
21 developmental work; and (B) the agreement of the district and the
22 associations to participate in the full range of development and
23 implementation activities, including development of rubrics for the
24 evaluation criteria and rating systems, identification or development
25 of appropriate multiple measures of student growth and student
26 learning, development of evaluation system forms, participation in
27 professional development for principals and classroom teachers,
28 participation in evaluator training, and participation in activities to
29 evaluate the effectiveness of the new systems and support programs.

30 (ii) Based on the results of the developmental work in 2010-11, the
31 superintendent of public instruction shall adopt common statewide model
32 evaluation criteria and four-level rating systems, one set each for
33 classroom teachers and for principals, for use in 2011-12 by the school
34 districts under (b)(i) of this subsection. The superintendent may
35 modify the statewide models based on the experience of these school
36 districts in the 2011-12 school year. During the 2012-13 school year,
37 the common statewide model evaluation criteria and four-level rating

1 systems must be pilot-tested with at least some employees in each
2 school district in the state.

3 (iii) Beginning with the 2013-14 school year, each school district
4 in the state must either:

5 (A) Implement the common statewide model evaluation criteria and
6 four-level rating systems for all classroom teachers and principals; or

7 (B) Submit to the superintendent of public instruction a set of
8 evaluation criteria and a four-level rating system that meets the
9 requirements of subsection (2) or (6) of this section as applicable,
10 but has been modified by the district. Any modifications to the
11 criteria and rating system for classroom teachers must be made in
12 accordance with procedures provided in chapter 41.59 RCW. If the
13 superintendent of public instruction determines that the evaluation
14 criteria and four-level rating system proposed by the district are
15 substantially equivalent to or an improvement on the common statewide
16 models, the district may use the modified criteria and rating system.
17 Any further modifications must be submitted to the superintendent of
18 public instruction for review.

19 (c) The superintendent of public instruction shall report on the
20 status of the evaluation system development and implementation to the
21 governor and the education committees of the legislature by July 1,
22 2011, and at the conclusion of the development phase by July 1, 2012.

23 (8) Each certificated (~~employee~~) classroom teacher and
24 certificated support personnel shall have the opportunity for
25 confidential conferences with his or her immediate supervisor on no
26 less than two occasions in each school year. Such confidential
27 conference shall have as its sole purpose the aiding of the
28 administrator in his or her assessment of the employee's professional
29 performance.

30 ~~((+4))~~ (9) The failure of any evaluator to evaluate or supervise
31 or cause the evaluation or supervision of certificated (~~employees~~)
32 classroom teachers and certificated support personnel or administrators
33 in accordance with this section, as now or hereafter amended, when it
34 is his or her specific assigned or delegated responsibility to do so,
35 shall be sufficient cause for the nonrenewal of any such evaluator's
36 contract under RCW 28A.405.210, or the discharge of such evaluator
37 under RCW 28A.405.300.

1 ~~((+5))~~ (10) After ~~((an employee))~~ a certificated classroom teacher
2 or certificated support personnel has four years of satisfactory
3 evaluations under subsection (1) of this section or has received one of
4 the two top ratings for four years under subsection (2) of this
5 section, a school district may use a short form of evaluation, a
6 locally bargained evaluation emphasizing professional growth, an
7 evaluation under subsection (1) or (2) of this section, or any
8 combination thereof. The short form of evaluation shall include either
9 a thirty minute observation during the school year with a written
10 summary or a final annual written evaluation based on the criteria in
11 subsection (1) or (2) of this section and based on at least two
12 observation periods during the school year totaling at least sixty
13 minutes without a written summary of such observations being prepared.
14 A locally bargained short-form evaluation emphasizing professional
15 growth must provide that the professional growth activity conducted by
16 the certificated classroom teacher be specifically linked to one or
17 more of the certificated classroom teacher evaluation criteria.
18 However, the evaluation process set forth in subsection (1) or (2) of
19 this section shall be followed at least once every three years unless
20 this time is extended by a local school district under the bargaining
21 process set forth in chapter 41.59 RCW. The employee or evaluator may
22 require that the evaluation process set forth in subsection (1) or (2)
23 of this section be conducted in any given school year. No evaluation
24 other than the evaluation authorized under subsection (1) or (2) of
25 this section may be used as a basis for determining that an employee's
26 work is ~~((unsatisfactory))~~ not satisfactory under subsection (1) or (2)
27 of this section or as probable cause for the nonrenewal of an
28 employee's contract under RCW 28A.405.210 unless an evaluation process
29 developed under chapter 41.59 RCW determines otherwise.

30 **Sec. 103.** RCW 28A.405.220 and 2009 c 57 s 2 are each amended to
31 read as follows:

32 (1) Notwithstanding the provisions of RCW 28A.405.210, every person
33 employed by a school district in a teaching or other nonsupervisory
34 certificated position shall be subject to nonrenewal of employment
35 contract as provided in this section during the first ~~((two))~~ three
36 years of employment by such district, unless: (a) The employee has
37 previously completed at least two years of certificated employment in

1 another school district in the state of Washington, in which case the
2 employee shall be subject to nonrenewal of employment contract pursuant
3 to this section during the first year of employment with the new
4 district; or (b) the school district superintendent may make a
5 determination to remove an employee from provisional status if the
6 employee has received one of the top two evaluation ratings during the
7 second year of employment by the district. Employees as defined in
8 this section shall hereinafter be referred to as "provisional
9 employees((=))."

10 (2) In the event the superintendent of the school district
11 determines that the employment contract of any provisional employee
12 should not be renewed by the district for the next ensuing term such
13 provisional employee shall be notified thereof in writing on or before
14 May 15th preceding the commencement of such school term, or if the
15 omnibus appropriations act has not passed the legislature by May 15th,
16 then notification shall be no later than June 15th, which notification
17 shall state the reason or reasons for such determination. Such notice
18 shall be served upon the provisional employee personally, or by
19 certified or registered mail, or by leaving a copy of the notice at the
20 place of his or her usual abode with some person of suitable age and
21 discretion then resident therein. The determination of the
22 superintendent shall be subject to the evaluation requirements of RCW
23 28A.405.100.

24 (3) Every such provisional employee so notified, at his or her
25 request made in writing and filed with the superintendent of the
26 district within ten days after receiving such notice, shall be given
27 the opportunity to meet informally with the superintendent for the
28 purpose of requesting the superintendent to reconsider his or her
29 decision. Such meeting shall be held no later than ten days following
30 the receipt of such request, and the provisional employee shall be
31 given written notice of the date, time and place of meeting at least
32 three days prior thereto. At such meeting the provisional employee
33 shall be given the opportunity to refute any facts upon which the
34 superintendent's determination was based and to make any argument in
35 support of his or her request for reconsideration.

36 (4) Within ten days following the meeting with the provisional
37 employee, the superintendent shall either reinstate the provisional
38 employee or shall submit to the school district board of directors for

1 consideration at its next regular meeting a written report recommending
2 that the employment contract of the provisional employee be nonrenewed
3 and stating the reason or reasons therefor. A copy of such report
4 shall be delivered to the provisional employee at least three days
5 prior to the scheduled meeting of the board of directors. In taking
6 action upon the recommendation of the superintendent, the board of
7 directors shall consider any written communication which the
8 provisional employee may file with the secretary of the board at any
9 time prior to that meeting.

10 (5) The board of directors shall notify the provisional employee in
11 writing of its final decision within ten days following the meeting at
12 which the superintendent's recommendation was considered. The decision
13 of the board of directors to nonrenew the contract of a provisional
14 employee shall be final and not subject to appeal.

15 (6) This section applies to any person employed by a school
16 district in a teaching or other nonsupervisory certificated position
17 after June 25, 1976. This section provides the exclusive means for
18 nonrenewing the employment contract of a provisional employee and no
19 other provision of law shall be applicable thereto, including, without
20 limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

21 NEW SECTION. **Sec. 104.** A new section is added to chapter 28A.405
22 RCW to read as follows:

23 (1) Representatives of the office of the superintendent of public
24 instruction and statewide associations representing administrators,
25 principals, human resources specialists, and certificated classroom
26 teachers shall analyze how the evaluation systems in RCW 28A.405.100
27 (2) and (6) affect issues related to a change in contract status.

28 (2) The analysis shall be conducted during each of the phase-in
29 years of the certificated classroom teacher and principal evaluation
30 systems. The analysis shall include: Procedures, timelines,
31 probationary periods, appeal procedures, and other items related to the
32 timely exercise of employment decisions and due process provisions for
33 certificated classroom teachers and principals.

34 NEW SECTION. **Sec. 105.** A new section is added to chapter 28A.405
35 RCW to read as follows:

36 If funds are provided for professional development activities

1 designed specifically for first through third-year teachers, the funds
2 shall be allocated first to districts participating in the evaluation
3 systems in RCW 28A.405.100 (2) and (6) before the required
4 implementation date under that section.

5 **PART II**

6 **PRINCIPAL PERFORMANCE**

7 NEW SECTION. **Sec. 201.** The legislature finds that the presence of
8 highly effective principals in schools has never been more important
9 than it is today. To enable students to meet high academic standards,
10 principals must lead and encourage teams of teachers and support staff
11 to work together, align curriculum and instruction, use student data to
12 target instruction and intervention strategies, and serve as the chief
13 school officer with parents and the community. Greater responsibility
14 should come with greater authority over personnel, budgets, resource
15 allocation, and programs. But greater responsibility also comes with
16 greater accountability for outcomes. Washington is putting into place
17 an updated and rigorous system of evaluating principal performance, one
18 that will measure what matters. This system will never be truly
19 effective unless the results are meaningfully used.

20 NEW SECTION. **Sec. 202.** A new section is added to chapter 28A.405
21 RCW to read as follows:

22 (1) Any certificated employee of a school district under this
23 section who is first employed as a principal after the effective date
24 of this section shall be subject to transfer as provided under this
25 section, at the expiration of the term of his or her employment
26 contract, to any subordinate certificated position within the school
27 district. "Subordinate certificated position" as used in this section
28 means any administrative or nonadministrative certificated position for
29 which the annual compensation is less than the position currently held
30 by the administrator. This section applies only to school districts
31 with an annual average student enrollment of more than thirty-five
32 thousand full-time equivalent students.

33 (2) During the first three consecutive school years of employment
34 as a principal by the school district, or during the first full school
35 year of such employment in the case of a principal who has been

1 previously employed as a principal by another school district in the
2 state for three or more consecutive school years, the transfer of the
3 principal to a subordinate certificated position may be made by a
4 determination of the superintendent that the best interests of the
5 school district would be served by the transfer.

6 (3) Commencing with the fourth consecutive school year of
7 employment as a principal, or the second consecutive school year of
8 such employment in the case of a principal who has been previously
9 employed as a principal by another school district in the state for
10 three or more consecutive school years, the transfer of the principal
11 to a subordinate certificated position shall be based on the
12 superintendent's determination that the results of the evaluation of
13 the principal's performance using the evaluative criteria and rating
14 system established under RCW 28A.405.100 provide a valid reason for the
15 transfer without regard to whether there is probable cause for the
16 transfer. If a valid reason is shown, it shall be deemed that the
17 transfer is reasonably related to the principal's performance. No
18 probationary period is required. However, provision of support and an
19 attempt at remediation of the performance of the principal, as defined
20 by the superintendent, are required for a determination by the
21 superintendent under this subsection that the principal should be
22 transferred to a subordinate certificated position.

23 (4) Any superintendent transferring a principal under this section
24 to a subordinate certificated position shall notify that principal in
25 writing on or before May 15th before the beginning of the school year
26 of that determination, or if the omnibus appropriations act has not
27 passed the legislature by May 15th, then notification shall be no later
28 than June 15th. The notification shall state the reason or reasons for
29 the transfer and shall identify the subordinate certificated position
30 to which the principal will be transferred. The notification shall be
31 served upon the principal personally, or by certified or registered
32 mail, or by leaving a copy of the notice at the place of his or her
33 usual abode with some person of suitable age and discretion then
34 resident therein.

35 (5) Any principal so notified may request to the president or chair
36 of the board of directors of the district, in writing and within ten
37 days after receiving notice, an opportunity to meet informally with the
38 board of directors in an executive session for the purpose of

1 requesting the board to reconsider the decision of the superintendent,
2 and shall be given such opportunity. The board, upon receipt of such
3 request, shall schedule the meeting for no later than the next
4 regularly scheduled meeting of the board, and shall give the principal
5 written notice at least three days before the meeting of the date,
6 time, and place of the meeting. At the meeting the principal shall be
7 given the opportunity to refute any evidence upon which the
8 determination was based and to make any argument in support of his or
9 her request for reconsideration. The principal and the board may
10 invite their respective legal counsel to be present and to participate
11 at the meeting. The board shall notify the principal in writing of its
12 final decision within ten days following its meeting with the
13 principal. No appeal to the courts shall lie from the final decision
14 of the board of directors to transfer a principal to a subordinate
15 certificated position.

16 (6) This section provides the exclusive means for transferring a
17 certificated employee first employed by a school district under this
18 section as a principal after the effective date of this section to a
19 subordinate certificated position at the expiration of the term of his
20 or her employment contract.

21 **Sec. 203.** RCW 28A.405.210 and 2009 c 57 s 1 are each amended to
22 read as follows:

23 No teacher, principal, supervisor, superintendent, or other
24 certificated employee, holding a position as such with a school
25 district, hereinafter referred to as "employee", shall be employed
26 except by written order of a majority of the directors of the district
27 at a regular or special meeting thereof, nor unless he or she is the
28 holder of an effective teacher's certificate or other certificate
29 required by law or the Washington professional educator standards board
30 for the position for which the employee is employed.

31 The board shall make with each employee employed by it a written
32 contract, which shall be in conformity with the laws of this state, and
33 except as otherwise provided by law, limited to a term of not more than
34 one year. Every such contract shall be made in duplicate, one copy to
35 be retained by the school district superintendent or secretary and one
36 copy to be delivered to the employee. No contract shall be offered by
37 any board for the employment of any employee who has previously signed

1 an employment contract for that same term in another school district of
2 the state of Washington unless such employee shall have been released
3 from his or her obligations under such previous contract by the board
4 of directors of the school district to which he or she was obligated.
5 Any contract signed in violation of this provision shall be void.

6 In the event it is determined that there is probable cause or
7 causes that the employment contract of an employee should not be
8 renewed by the district for the next ensuing term such employee shall
9 be notified in writing on or before May 15th preceding the commencement
10 of such term of that determination, or if the omnibus appropriations
11 act has not passed the legislature by May 15th, then notification shall
12 be no later than June 15th, which notification shall specify the cause
13 or causes for nonrenewal of contract. Such determination of probable
14 cause for certificated employees, other than the superintendent, shall
15 be made by the superintendent. Such notice shall be served upon the
16 employee personally, or by certified or registered mail, or by leaving
17 a copy of the notice at the house of his or her usual abode with some
18 person of suitable age and discretion then resident therein. Every
19 such employee so notified, at his or her request made in writing and
20 filed with the president, chair or secretary of the board of directors
21 of the district within ten days after receiving such notice, shall be
22 granted opportunity for hearing pursuant to RCW 28A.405.310 to
23 determine whether there is sufficient cause or causes for nonrenewal of
24 contract: PROVIDED, That any employee receiving notice of nonrenewal
25 of contract due to an enrollment decline or loss of revenue may, in his
26 or her request for a hearing, stipulate that initiation of the
27 arrangements for a hearing officer as provided for by RCW
28 28A.405.310(4) shall occur within ten days following July 15 rather
29 than the day that the employee submits the request for a hearing. If
30 any such notification or opportunity for hearing is not timely given,
31 the employee entitled thereto shall be conclusively presumed to have
32 been reemployed by the district for the next ensuing term upon
33 contractual terms identical with those which would have prevailed if
34 his or her employment had actually been renewed by the board of
35 directors for such ensuing term.

36 This section shall not be applicable to "provisional employees" as
37 so designated in RCW 28A.405.220; transfer to a subordinate

1 certificated position as that procedure is set forth in RCW 28A.405.230
2 or section 202 of this act shall not be construed as a nonrenewal of
3 contract for the purposes of this section.

4 **Sec. 204.** RCW 28A.405.230 and 2009 c 57 s 3 are each amended to
5 read as follows:

6 Any certificated employee of a school district employed as an
7 assistant superintendent, director, principal, assistant principal,
8 coordinator, or in any other supervisory or administrative position,
9 hereinafter in this section referred to as "administrator", shall be
10 subject to transfer, at the expiration of the term of his or her
11 employment contract, to any subordinate certificated position within
12 the school district. "Subordinate certificated position" as used in
13 this section, shall mean any administrative or nonadministrative
14 certificated position for which the annual compensation is less than
15 the position currently held by the administrator.

16 Every superintendent determining that the best interests of the
17 school district would be served by transferring any administrator to a
18 subordinate certificated position shall notify that administrator in
19 writing on or before May 15th preceding the commencement of such school
20 term of that determination, or if the omnibus appropriations act has
21 not passed the legislature by May 15th, then notification shall be no
22 later than June 15th, which notification shall state the reason or
23 reasons for the transfer, and shall identify the subordinate
24 certificated position to which the administrator will be transferred.
25 Such notice shall be served upon the administrator personally, or by
26 certified or registered mail, or by leaving a copy of the notice at the
27 place of his or her usual abode with some person of suitable age and
28 discretion then resident therein.

29 Every such administrator so notified, at his or her request made in
30 writing and filed with the president or chair, or secretary of the
31 board of directors of the district within ten days after receiving such
32 notice, shall be given the opportunity to meet informally with the
33 board of directors in an executive session thereof for the purpose of
34 requesting the board to reconsider the decision of the superintendent.
35 Such board, upon receipt of such request, shall schedule the meeting
36 for no later than the next regularly scheduled meeting of the board,
37 and shall notify the administrator in writing of the date, time and

1 place of the meeting at least three days prior thereto. At such
2 meeting the administrator shall be given the opportunity to refute any
3 facts upon which the determination was based and to make any argument
4 in support of his or her request for reconsideration. The
5 administrator and the board may invite their respective legal counsel
6 to be present and to participate at the meeting. The board shall
7 notify the administrator in writing of its final decision within ten
8 days following its meeting with the administrator. No appeal to the
9 courts shall lie from the final decision of the board of directors to
10 transfer an administrator to a subordinate certificated position:
11 PROVIDED, That in the case of principals such transfer shall be made at
12 the expiration of the contract year and only during the first three
13 consecutive school years of employment as a principal by a school
14 district; except that if any such principal has been previously
15 employed as a principal by another school district in the state of
16 Washington for three or more consecutive school years the provisions of
17 this section shall apply only to the first full school year of such
18 employment.

19 This section applies to any person employed as an administrator by
20 a school district on June 25, 1976, and to all persons so employed at
21 any time thereafter, except that section 202 of this act applies to
22 persons first employed after the effective date of this section as a
23 principal by a school district meeting the criteria of section 202 of
24 this act. This section provides the exclusive means for transferring
25 an administrator subject to this section to a subordinate certificated
26 position at the expiration of the term of his or her employment
27 contract.

28 **Sec. 205.** RCW 28A.405.300 and 1990 c 33 s 395 are each amended to
29 read as follows:

30 In the event it is determined that there is probable cause or
31 causes for a teacher, principal, supervisor, superintendent, or other
32 certificated employee, holding a position as such with the school
33 district, hereinafter referred to as "employee", to be discharged or
34 otherwise adversely affected in his or her contract status, such
35 employee shall be notified in writing of that decision, which
36 notification shall specify the probable cause or causes for such
37 action. Such determinations of probable cause for certificated

1 employees, other than the superintendent, shall be made by the
2 superintendent. Such notices shall be served upon that employee
3 personally, or by certified or registered mail, or by leaving a copy of
4 the notice at the house of his or her usual abode with some person of
5 suitable age and discretion then resident therein. Every such employee
6 so notified, at his or her request made in writing and filed with the
7 president, chair of the board or secretary of the board of directors of
8 the district within ten days after receiving such notice, shall be
9 granted opportunity for a hearing pursuant to RCW 28A.405.310 to
10 determine whether or not there is sufficient cause or causes for his or
11 her discharge or other adverse action against his or her contract
12 status.

13 In the event any such notice or opportunity for hearing is not
14 timely given, or in the event cause for discharge or other adverse
15 action is not established by a preponderance of the evidence at the
16 hearing, such employee shall not be discharged or otherwise adversely
17 affected in his or her contract status for the causes stated in the
18 original notice for the duration of his or her contract.

19 If such employee does not request a hearing as provided herein,
20 such employee may be discharged or otherwise adversely affected as
21 provided in the notice served upon the employee.

22 Transfer to a subordinate certificated position as that procedure
23 is set forth in RCW 28A.405.230 or section 202 of this act shall not be
24 construed as a discharge or other adverse action against contract
25 status for the purposes of this section.

26 **PART III**
27 **ENCOURAGING INNOVATIONS**

28 **Sec. 301.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to
29 read as follows:

30 (1) Every school district board of directors shall fix, alter,
31 allow, and order paid salaries and compensation for all district
32 employees in conformance with this section.

33 (2)(a) Salaries for certificated instructional staff shall not be
34 less than the salary provided in the appropriations act in the
35 statewide salary allocation schedule for an employee with a
36 baccalaureate degree and zero years of service; and

1 (b) Salaries for certificated instructional staff with a master's
2 degree shall not be less than the salary provided in the appropriations
3 act in the statewide salary allocation schedule for an employee with a
4 master's degree and zero years of service;

5 (3)(a) The actual average salary paid to certificated instructional
6 staff shall not exceed the district's average certificated
7 instructional staff salary used for the state basic education
8 allocations for that school year as determined pursuant to RCW
9 28A.150.410.

10 (b) Fringe benefit contributions for certificated instructional
11 staff shall be included as salary under (a) of this subsection only to
12 the extent that the district's actual average benefit contribution
13 exceeds the amount of the insurance benefits allocation provided per
14 certificated instructional staff unit in the state operating
15 appropriations act in effect at the time the compensation is payable.
16 For purposes of this section, fringe benefits shall not include payment
17 for unused leave for illness or injury under RCW 28A.400.210; employer
18 contributions for old age survivors insurance, workers' compensation,
19 unemployment compensation, and retirement benefits under the Washington
20 state retirement system; or employer contributions for health benefits
21 in excess of the insurance benefits allocation provided per
22 certificated instructional staff unit in the state operating
23 appropriations act in effect at the time the compensation is payable.
24 A school district may not use state funds to provide employer
25 contributions for such excess health benefits.

26 (c) Salary and benefits for certificated instructional staff in
27 programs other than basic education shall be consistent with the salary
28 and benefits paid to certificated instructional staff in the basic
29 education program.

30 (4) Salaries and benefits for certificated instructional staff may
31 exceed the limitations in subsection (3) of this section only by
32 separate contract for additional time, for additional responsibilities,
33 ~~((or))~~ for incentives, or for implementing specific measurable
34 innovative activities specified by the school district to: (a) Close
35 one or more achievement gaps or (b) focus on development of science,
36 technology, engineering, and mathematics (STEM) learning opportunities
37 to include professional development. Supplemental contracts shall not
38 cause the state to incur any present or future funding obligation.

1 Supplemental contracts shall be subject to the collective bargaining
2 provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240,
3 shall not exceed one year, and if not renewed shall not constitute
4 adverse change in accordance with RCW 28A.405.300 through 28A.405.380.
5 No district may enter into a supplemental contract under this
6 subsection for the provision of services which are a part of the basic
7 education program required by Article IX, section 3 of the state
8 Constitution.

9 (5) Employee benefit plans offered by any district shall comply
10 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

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