
05-071 DEPARTMENT OF EDUCATION**Chapter 180: PERFORMANCE EVALUATION AND PROFESSIONAL GROWTH SYSTEMS**

SUMMARY: This rule establishes standards and procedures for implementation of performance evaluation and professional growth systems (PE/PG systems) for educators, as required in Chapter 508 of Title 20-A of the Maine Revised Statutes. It defines terms, identifies professional practice standards for use in PE/PG systems, establishes criteria that must be met by student learning and growth measures used in a PE/PG system and requires involvement of educators in implementation of systems. The rule sets forth the process for obtaining Department approval of locally-developed plans, and describes technical assistance to be provided by the Department.

SECTION 1. PURPOSE OF THE RULE

This rule sets forth requirements for implementing Chapter 508 of Title 20-A of the Maine Revised Statutes. Chapter 508 requires school administrative units to develop, pilot and implement systems of performance evaluation and professional growth for teachers and principals. The purpose of Chapter 508 and this rule is to improve educator effectiveness by clearly setting forth expectations for professional practice and student learning and growth, and providing actionable feedback and support to help educators meet those expectations. The goal of improving educator effectiveness is to improve student achievement.

SECTION 2. DEFINITIONS

1. “Approved PE/PG system” means a PE/PG system that complies with the requirements of Chapter 508 and this rule and that has been approved by the Department.
2. “Chapter 508” means Chapter 508 of Title 20-A of the Maine Revised Statutes.
3. “Department” means the Maine Department of Education.
4. “Educator” means a teacher or a principal.
5. “Instructional Cohort” of a particular teacher means the group of students for whom that teacher is the teacher of record.
6. “InTASC Model Core Teaching Standards” or “InTASC standards” means the set of professional practice standards for teachers adopted in April, 2011 by the Interstate Teacher Assessment and Support Consortium (InTASC).

7. “Educational Leadership Policy Standards: ISLLC 2008” or “ISLLC standards” means the set of professional practice standards for educational leaders adopted by the National Policy Board for Educational Administration/Interstate Leader Licensure Consortium Steering Committee.
8. “Performance evaluation and professional growth system”, or “PE/PG system” means a system of evaluation and support as described in Chapter 508.
9. “PE/PG system plan” means the documents governing the operation of a local PE/PG system, including but not limited to professional practice standards, descriptors and rubrics; student learning and growth measures; the method for combining measures into a summative effectiveness rating; and other documents describing implementation of the PE/PG system.
10. “Principal” means a person serving in a position that requires certification under State Board of Education Rule Chapter 115, Part II, Section 4.5, 4.6 and 4.7. This includes a person serving as principal, assistant principal, teaching principal, career and technical education administrator and assistant career and technical education administrator.
11. “Rating level” means one of the four summative effectiveness ratings assigned to educators under a PE/PG system.
12. “School administrative unit” has the same meaning as in Title 20-A, section 1, subsection 26 except that, for purposes of this rule, it also includes career and technical education regions.
13. “Summative effectiveness rating” means the effectiveness rating of an educator that is assigned at the end of an evaluation period, under an approved PE/PG system.
14. “Teacher” means a person who provides classroom instruction to students in a general education, special education or career and technical education program. It does not include adult education instructors or persons defined as “educational specialists” in State Board of Education Rule Chapter 115, section 2.20.
15. “Teacher of Record” means a teacher to whom the academic growth of a student in a course or other learning experience is attributed, in whole or in part, as described in Section 7(2).

SECTION 3. REQUIREMENT TO DEVELOP, PILOT AND IMPLEMENT SYSTEMS

Each school administrative unit shall develop, pilot and implement a performance evaluation and professional growth system for educators that complies with Chapter 508 and this rule.

Development, piloting and implementation of the system must occur within the time frame set forth in Chapter 508.

SECTION 4. DEPARTMENT APPROVAL OF SYSTEM

1. Timing of submission and approval

A PE/PG system must be approved by the Department before the first school year in which the system is implemented, other than as a pilot. To ensure adequate time for Department review and feedback, and to ensure adequate time for the school administrative unit to train educators on the system, a school administrative unit shall submit its PE/PG system plan for Department approval not less than 90 days before the beginning of the first school year in which the PE/PG system will be used to assign a summative effectiveness rating.

Within 30 days of receiving a complete filing of a proposed system plan, the Department shall notify the school administrative unit of whether the system plan is approved, or what changes are needed in order for the plan to be approved. The Department shall assist the school administrative unit in understanding options, and making changes to the system plan to bring it into compliance with Chapter 508 and this rule.

A school administrative unit is encouraged to seek advice and comment from the Department as it develops and pilots its PE/PG system.

2. Submittal requirements

To obtain Department approval, a school administrative unit must submit its PE/PG system plan, on a form provided by the Department.

The PE/PG system plan must include:

- A. A professional practice model applicable to teachers;
- B. A professional practice model applicable to principals;
- C. Student learning and growth measures;
- D. If a school chooses to use team-wide, school-wide or other collective measures of student learning and growth in the evaluation of a teacher, the process for creating such measures and seeking teacher approval of the use of collective measures;
- E. A description of other measures of educator effectiveness, if any, that will be used in determining the educator's summative effectiveness rating;

- F. A description of the four rating levels and the method of combining the multiple measures of educator effectiveness, weights, targets and actual performance to arrive at a summative effectiveness rating for an educator;
- G. A description of the results and consequences of being placed in each of the rating levels;
- H. Implementation procedures, including but not limited to training requirements for evaluators and the process for making and reviewing “teacher of record” determinations;
- I. A description of how educators were involved in development of the system, and how they will be trained to ensure that they understand and can fully participate in the system;
- J. A description of how teachers, principals, administrators, school board members, parents and other members of the public were involved in development of the system;
- K. A description of when and how the Steering Committee was formed and the mechanism by which the Steering Committee’s review will lead to revision of the PE/PG system to ensure that it is aligned with school administrative unit goals and priorities; and
- L. A description of the PE/PG system pilot, and what changes, if any, were made to the system plan as a result of the pilot.

The submittal must also include evidence of adoption of the system by the school board.

SECTION 5. PROFESSIONAL PRACTICE STANDARDS FOR TEACHERS

The Interstate Teacher Assessment and Support Consortium (InTASC) Model Core Teaching Standards are the benchmark for teacher effectiveness in Maine schools. To evaluate the professional practice of teachers in a PE/PG system, a school administrative unit must use a professional practice model that includes performance standards aligned with the InTASC Model Core Teaching Standards; supporting descriptors for each standard as published or endorsed by the creator/sponsor of the standards; and rubrics for each standard. At the time this rule was drafted, the creators of the InTASC Model Core Standards had not created rubrics to be used with the standards and descriptors. Therefore, a school administrative unit must either locate or create rubrics for the InTASC standards or use a professional practice model that includes a complete set of InTASC-aligned standards, descriptors and rubrics.

The Department has determined that the following models contain all of the elements necessary to be approved for use as the professional practice element of a PE/PG system for teachers:

1. The National Board for Professional Teaching Standards (NBPTS) Five Core Propositions and Indicators, along with the rubrics created by the Maine Schools for Excellence;
2. *The Framework for Teaching*, by Charlotte Danielson; and
3. *The Marzano Art and Science of Teaching Framework*.

If a school administrative unit chooses to use a professional practice model other than the models listed above, it must demonstrate to the Department that the school administrative unit's selected model meets the criteria set forth in this section.

SECTION 6. PROFESSIONAL PRACTICE STANDARDS FOR PRINCIPALS

The Educational Leadership Policy Standards: ISLLC 2008 are the benchmark for principal effectiveness in Maine schools. To evaluate the professional practice of principals, a school administrative unit must use a principal evaluation model that includes performance standards that align with the ISLLC 2008 standards; supporting descriptions or indicators for each standard as published or endorsed by the creator /sponsor of the standards; and rubrics for each standard that are aligned with the adopted standards and descriptors. At the time this rule was drafted, the creators of the ISLLS 2008 standards had not created rubrics to be used with the standards and descriptors. Therefore, a school administrative unit must either locate or create rubrics for the ISLLC 2008 standards or use a professional practice model that includes a complete set of ISLLC-aligned standards, descriptors and rubrics.

The Department has determined that the following models contain all of the elements necessary to be approved for use as the professional practice element of a PE/PG system for principals:

1. National Board Core Propositions for Accomplished Educational Leaders, adopted by the National Board for Professional Teaching Standards in 2009, along with the rubrics created by the Maine Schools for Excellence; and
2. The principal professional practice evaluation model created by the Supervision and Evaluation Committee of the Maine Principal's Association, dated September 2013 and posted on the Association's Website at www.mpa.cc.

If a school administrative unit chooses to use a professional practice model other than the models listed above, it must demonstrate to the Department that the model meets the criteria set forth in this section.

SECTION 7. STUDENT LEARNING AND GROWTH MEASURES

1. “Significant Factor”

Student learning and growth measures must be a significant factor in the determination of the summative effectiveness rating of an educator. To be considered “significant,” student learning and growth measures must have a discernible impact on an educator’s summative effectiveness rating.

The proportionate weight of the student learning and growth measures that are considered to be a significant factor in the determination of the summative effectiveness rating of an educator must be a local decision made by a school administrative unit in accordance with the provisions in section 12.

2. “Teacher of Record”

A. A teacher is a “teacher of record” for a student only if:

- (1) The student is enrolled in the course or other learning experience taught by that teacher;
- (2) The student was present and was subject to instruction by that teacher at least 80% of the scheduled instructional time for that course or learning experience with that teacher; and
- (3) The student took both the pre-test and the post-test designed to measure achievement in that course or learning experience.

A student’s academic performance may be attributed to more than one teacher, as long as the criteria set forth in subparagraphs (1) to (3) above are met for each teacher, or the criteria set forth in subsection 5 are met.

B. A school administrative unit must provide each teacher with a list of students for whom the teacher is likely to be the teacher of record, and must provide the teacher an opportunity to request review and revision of the list to correct any inaccuracies on the list. A list of those students must be provided within a reasonable time after the beginning of the course or learning experience, and must include information about the pre-test taken by each student and the scheduled instructional time for that course or learning experience with that teacher. A proposed final list of students must be provided to the teacher within a reasonable amount of time before the end of the course or learning experience, and must include a calculation of the amount of time that the student was present and taught by that teacher. The PE/PG system must include a process by which a teacher can contest and seek correction of determinations of “teacher of record” status.

3. Permissible Measures

Student learning and growth measures must meet the criteria established in this subsection. Student learning and growth measures must be appropriately attributed to the teacher or principal whose evaluation is impacted by those measures.

- A. A student learning and growth measure must measure student growth in achievement, not solely the level of achievement.
- B. Multiple measures of student learning and growth must be used for each educator being evaluated. Large-scale, norm-referenced standardized tests may not be the sole type of student learning and growth measures used.
- C. To obtain growth information, the subject must have been assessed before the student is taught or led by the teacher or principal, and after, i.e., there must be a pre-assessment and a post-assessment to measure the growth of the student under instruction or leadership of the teacher or principal whose evaluation is impacted by the student. The pre-assessment and post-assessment are not required to occur in the same school year.
- D. A particular student's growth measure may be included in the evaluation of a teacher only if:
 - (1) The teacher is a teacher of record for that student; or
 - (2) The student's growth measure is part of a collective measure, the use of which has been agreed to by the teacher pursuant to the process set forth in the school administrative unit's PE/PG system plan.
- E. The criteria or instrument used to measure student growth must:
 - (1) Be able to measure growth in identified and intended learning outcomes;
 - (2) Provide all students in the instructional cohort the opportunity to demonstrate growth in knowledge or skills;
 - (3) Be able to inform instruction and inform others about the effectiveness of a teacher; and
 - (4) Be administered consistently across similar grade spans, courses or instructional cohorts.
- F. The results must be used in a way that takes into account differences in growth opportunity across the spectrum, e.g., higher-achieving students

shouldn't be expected to make the same quantity of growth as lowest-achieving students.

4. Use of Student Learning Objectives and IEP goals

Student Learning Objectives (SLOs) and Individual Education Plan (IEP) goals are important tools for individualizing instruction and learning. They may be used to establish an appropriate basis for measuring student growth, as long as progress toward the objective or goal can be, and is, assessed according to the criteria set forth in subsection 3.

5. Use of Collective Student Growth Measures

In recognition that a student's academic achievement may be affected by teachers other than the student's teacher of record, a PE/PG system may include academic achievement of students outside the teacher's instructional cohort. Any use of such collective measures must:

- A. Be agreed to by teachers to whom it will be applied, under the agreement process set forth in the PE/PG system plan; and
- B. Comprise not more than one-fourth of the total student growth measure.

SECTION 8. RATING LEVELS

Each PE/PG system must result in placement of educators into one of the following four summative effectiveness rating categories: Highly Effective; Effective; Partially Effective; and Ineffective.

While implementing a PE/PG system, a school administrative unit may use different labels for its four rating levels, as long as the levels align with the levels above, and the labels above are used for purposes of applying laws and rules.

SECTION 9. METHODS OF COMBINING MEASURES

A school administrative unit shall adopt a method of combining qualitative and quantitative measures of educator effectiveness to determine an educator's summative effectiveness rating. The method may include, but is not limited to:

1. Assigning numerical values to each element in the system and weighting them to provide a single numerical result; and
2. Creation of a two-dimensional matrix with professional practice on one axis and student learning and growth on the other axis. The intersection of the

levels results in one of the four possible ratings (effective, highly effective, partially effective and ineffective).

SECTION 10. RESULTS OF PLACEMENT IN RATING LEVELS

A school administrative unit must set forth the professional growth opportunities and the employment consequences tied to each rating level. An educator who is rated ineffective must be provided an opportunity to develop and implement a professional improvement plan.

SECTION 11. IMPLEMENTATION REQUIREMENTS

1. Notice of person overseeing evaluations

A school administrative unit must provide to each educator who will be evaluated under this rule the name and contact information of the administrator responsible for overseeing the evaluation and support process for that educator.

2. Evaluation frequency

A school administrative unit shall determine and set forth in its system plan, the frequency with which it will conduct full evaluations leading to summative effectiveness ratings. A school administrative unit is not required to conduct a full evaluation leading to a summative effectiveness rating of each educator in each year. The frequency of full evaluations may vary depending on the effectiveness rating of an educator. However, full evaluations must be conducted at least every three years, even for highly effective educators.

Regardless of whether an educator is evaluated formally in a particular year, observations of professional practice and formative feedback must occur each year and throughout the school year for all educators.

3. Training of evaluators

A person is a qualified evaluator in a Chapter 508 system only if that person has completed training appropriate to the role he or she will play in the system.

Evaluators must be trained in the specific professional practice model selected by the school administrative unit in which the evaluator will perform duties.

A. Evaluators must complete training in the following:

- (1) Conducting pre-observation and post-observation conferences;
- (2) Observing and evaluating the professional practice of teachers and/or

principals; and

(3) Developing and guiding professional growth plans.

B. The training in observing and evaluating professional practice of teachers and/or principals must include the following:

(1) Training in evaluating performance based on evidence, and without bias;

(2) Adequate time for evaluators to practice and become familiar with the model during their trainings;

(3) Opportunity for evaluators to work collaboratively;

(4) Training in assessing evidence of performance not directly observed in classroom observations or direct observations of principals and in incorporating that evidence into a summative evaluation; and

(5) Training designed to ensure a high level of inter-rater reliability and agreement. To continue to serve as a trained evaluator, an evaluator must maintain an identified minimum level of inter-rater reliability and agreement by participating in training or recalibration at intervals specified in the PE/PG system plan.

4. Written evaluation

In addition to a summative effectiveness rating, each educator must receive a written evaluation that includes a narrative providing recommendations and commendations that describe the educator's effectiveness.

5. Personnel record

An educator's written evaluation, evaluation documentation and summative effectiveness rating are confidential personnel records, in accordance with Title 20-A, section 6101, subsection 2.

SECTION 12. EDUCATOR INVOLVEMENT IN DEVELOPING, IMPLEMENTING AND REVIEWING PE/PG SYSTEMS

1. Development of system

Title 20-A of the Maine Revised Statutes, Section 13705 requires school administrative units to develop PE/PG systems "in collaboration with teachers, principals, administrators, school board members, parents and other members of the public."

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- A. A majority of the members of the initial group of stakeholders must be composed of at least a majority of teachers. Of the teachers appointed to the initial group of stakeholders, 2/3rds must have the endorsement of the majority of the teachers in the school administrative unit and 2/3rds must have the endorsement of the majority of the school administrative unit's governing body.
 - B. For a school administrative unit that has established an initial group of stakeholders to develop the unit's performance evaluation and professional growth system prior to the effective date of this rule, the existing group of stakeholders, with the consent of a majority of teachers in the school administrative unit, may continue as constituted even if the group of stakeholders does not meet the specific composition established in paragraph A.
 - C. The initial group of stakeholders must use a consensus decision-making process to develop the performance evaluation and professional growth system, including the proportionate weight of the student learning and growth measures as set forth in section 7.
 - D. If the stakeholder group fails to reach consensus on the issue of the proportionate weight of student learning and growth measures by June 1, 2015, the proportionate weight of student learning and growth measures in that school administrative unit must be 20% in a system that uses a numerical approach to combining measures into a summative effectiveness rating or, in a system that uses a matrix approach to combining measures into a summative effectiveness rating, student learning and growth measures must appear on a single axis of the matrix and that axis must be divided into not more than 5 segments.
 - E. If the stakeholder group fails to reach consensus on any issue in addition to the proportionate weight of the student growth measures by June 1, 2015, the school administrative unit shall adopt one of the State Model PE/PG system developed pursuant to section 16 of the rule. Upon request by the entire membership of the stakeholder group, the commissioner may provide additional time to the group to reach consensus. Upon the expiration of that additional time, the school administrative unit shall adopt one of the State Model PE/PG systems developed pursuant to section 16 of this rule.

2. Training

Prior to implementing a PE/PG system, a school administrative unit must provide training to each educator who will be evaluated under the PE/PG system to provide the opportunity for each educator to understand:

- A. The structure of the system, including the multiple measures of educator effectiveness and the evaluation cycle;
- B. The names and roles of administrators and others whose decisions impact the educator's rating;
- C. How to participate in professional development opportunities to assist the educator in meeting professional practice standards used in the system;
- D. The results and consequences of receiving each type of summative effectiveness rating; and
- E. Other aspects of the system necessary to enable the educator to participate fully in the evaluation and professional growth aspects of the system.

3. Implementation, review and refinement of systems; Steering Committee

Each school administrative unit shall form a Steering Committee to regularly review and refine the PE/PG system to ensure that it is aligned with school administrative unit goals and priorities. The Steering Committee must include representatives of the local education association, appointed by the local association, teachers, administrators and other school administrative unit staff. The structure and proposed operation of a Steering Committee, including the method of appointing members to the Steering Committee, must be included in the PE/PG system plan. The Steering Committee must be formed no later than the beginning of the pilot period of the PE/PG system.

4. Peer review and collaboration

Each PE/PG system must include a peer review component and opportunities for educators to share, learn and continually improve their practice. A school administrative unit shall specify in its system plans what peer review components will be included and what qualifications will be required of peer reviewers, including, but not limited to, training.

Peer review includes, but is not limited to, observation of peers, review of portfolios and other evidence offered to demonstrate an educator's performance, and review of professional improvement plans. Peer review is for formative evaluation purposes only, and must not be included in determining the summative effectiveness rating unless the peer reviewer is trained in the evaluation process as required under Section 11 of this rule, and the educator being evaluated chooses to include the peer review as part of the summative effectiveness rating.

Educator opportunities for sharing, learning and continually improving practice include, but are not limited to, providing opportunities for mentoring and coaching, involvement in professional learning communities, and targeted professional development.

SECTION 13. USE OF RATING IN PROFESSIONAL DEVELOPMENT DECISIONS

Professional development opportunities must be provided to educators, based on individual needs identified during PE/PG system evaluations.

SECTION 14. PROFESSIONAL IMPROVEMENT PLAN

An educator who receives a summative effectiveness rating of “ineffective” must be provided the opportunity to develop and implement a professional improvement plan. The PE/PG system plan must assign responsibility to one or more supervisors or administrators to work with the educator and to oversee development and implementation of a professional improvement plan.

The professional improvement plan must:

1. Be in writing;
2. Be developed with input from the educator;
3. Set forth clear, measurable objectives and deadlines; and
4. Be focused on improvement in the specific areas of evaluation identified as needing improvement.

SECTION 15. PILOTING OF SYSTEM

The purpose of the pilot is to evaluate the school administrative unit’s proposed PE/PG system. Data from the pilot must be used to inform potential refinement and improvement of the system. During the pilot period of a PE/PG system, a school administrative unit may not use a summative effectiveness rating assigned under the PE/PG system in any action related to employment or compensation of an educator.

A school administrative unit shall design a pilot to include any aspects of the proposed PE/PG system that have been identified as concerns of local educators. School administrative units are encouraged to utilize student growth measures during the pilot. The school administrative unit shall ensure that the local Steering Committee is formed before the pilot begins and must ensure that the Steering Committee is involved in evaluating the results of the pilot.

SECTION 16. TECHNICAL ASSISTANCE; STATE MODEL PE/PG SYSTEM

The Department shall provide technical assistance to school administrative units in developing, piloting and implementing PE/PG systems, including, but not limited to: an online bank of tools, training and resources for use in developing, piloting and implementing PE/PG systems; posting

of approved PE/PG systems and system tools; and technical assistance in developing student learning and growth measures. The Department shall develop at least one complete State Model PE/PG system for teachers and at least one complete State Model PE/PG system for principals.

SECTION 17. FUNDING FOR DEVELOPMENT, PILOTING AND IMPLEMENTATION

The Department shall provide guidance to school administrative units on sources of funding for development and implementation of PE/PG systems, which may include guidance on the permissible use of federal Elementary and Secondary Education Act (ESEA) funds, state essential programs and services (EPS) funds and potential grant sources.

SECTION 18. IMPACT OF EFFECTIVENESS RATINGS UNDER PRE-CHAPTER 508 SYSTEMS

An effectiveness rating assigned to an educator in a system that has not been approved pursuant to Chapter 508 and this rule, is not an “effectiveness rating pursuant to Chapter 508” as used in Title 20-A, section 13201 or a “summative effectiveness rating” as used in Title 20-A, section 13703.

STATUTORY AUTHORITY: Title 20-A MRSA §13706

EFFECTIVE DATE: