



GUIDANCE FOR POLICY DEVELOPMENT AND IMPLEMENTATION



www.dese.mo.gov

The Department of Elementary and Secondary Education does not discriminate on the basis of race, color, religion, gender, national origin, age, or disability in its programs and activities. Inquiries related to Department programs and to the location of services, activities, and facilities that are accessible by persons with disabilities may be directed to the Jefferson State Office Building, Office of the General Counsel, Coordinator – Civil Rights Compliance (Title VI/Title IX/504/ADA/Age Act), 6th Floor, 205 Jefferson Street, P.O. Box 480, Jefferson City, MO 65102-0480; telephone number 573-526-4757 or TTY 800-735-2966; email civilrights@dese.mo.gov.

Contents

Introduction 4

History of Educator Evaluation in Missouri 4

Pilot Project..... 7

Purpose 8

Design of the Evaluation System..... 9

Implementation of the Evaluation System Process 10

Additional Policy Considerations 11

References and Resources 13

GUIDANCE FOR POLICY DEVELOPMENT AND IMPLEMENTATION

NOTE: This document is intended to provide guidance for LEAs in the construction of policies regarding educator evaluation systems and should under no circumstances be considered legal advice. Specific issues and concerns relating to educator evaluation should be addressed in consultation with the legal counsel of the respective LEA.

Introduction

An educator's primary responsibility is the learning of his or her students. Engaging in a process of continual growth and improvement of practice is a professional obligation to ensure the continued growth and improvement of student learning. The accurate evaluation of educator performance is integral to any process of improving practice.

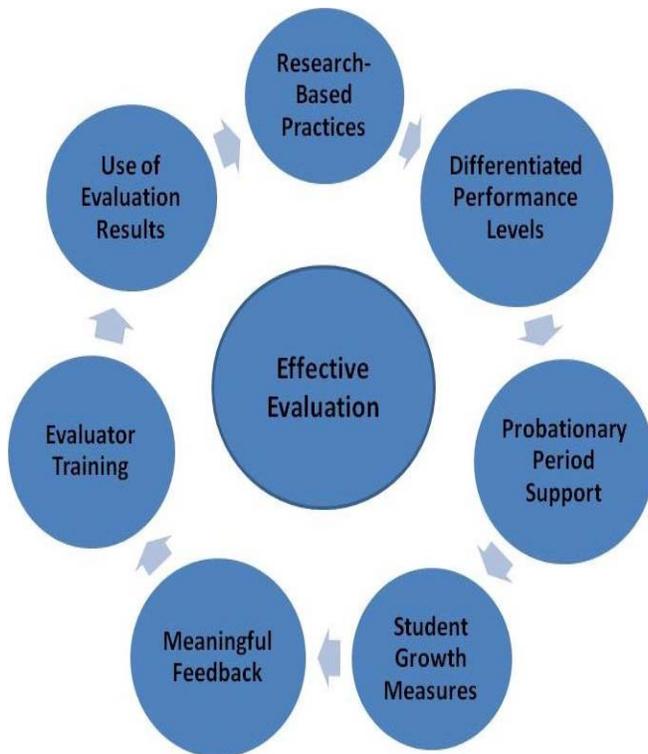
History of Educator Evaluation in Missouri

The state of Missouri has a long history of implementing various processes designed to improve the practice of teachers and leaders. In 1983, the Missouri legislature adopted section [168.128, RSMo](#) directing the board of education of each school district to cause a comprehensive performance-based evaluation for each teacher employed by the district and the Department to provide suggested procedures for such an evaluation. This led to the creation of performance-based evaluation models for educators at all levels and marked the beginning of an intentional effort to link together the evaluation and the development of an educator's practice.

More recently, on June 29, 2012 the U.S. Department of Education approved Missouri's Elementary and Secondary Education Act (ESEA) waiver giving the state flexibility with respect to No Child Left Behind (NCLB) requirements. Missouri's ESEA flexibility request addressed three principles: (1) college and career ready expectations for all students; (2) state developed differentiated recognition, accountability and support; and (3) structures for the support of effective instruction and leadership. In addressing the support of effective instruction and leadership, Missouri used current research to

identify seven principles of effective evaluation. The research was in response to articles such as *The Widget Effect* (NTP, 2009) which challenged the effectiveness of current processes used to evaluate educators. It called for developing and implementing an evaluation system that not only accurately and reliably rates an educator's performance but also promotes growth and improvement in practice.

Missouri's seven Essential Principles of Effective Evaluation which summarize this research include:



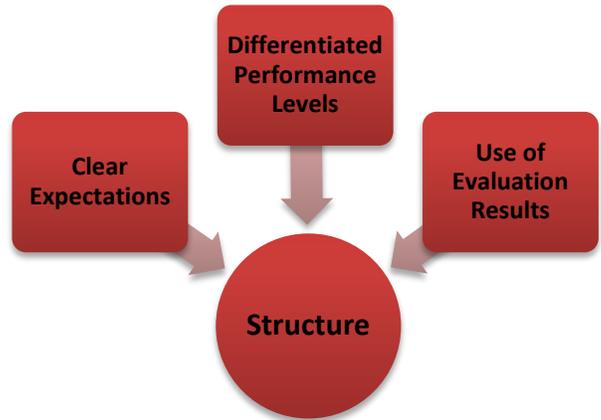
- 1) Making determinations about an educator's performance using research-based expectations and targets
- 2) Using differentiated, developmental and discrete levels of performance
- 3) Including a process to offer intensive support guiding the development of the novice educator during the probationary period
- 4) Using measures of growth in student learning as a significant contributing factor when determining an educator's effectiveness

- 5) Developing and using strategies for providing regular and meaningful feedback
- 6) Providing initial and periodic training for evaluators as well as those being evaluated
- 7) Ensuring the use of evaluation results to guide employment policies and decisions

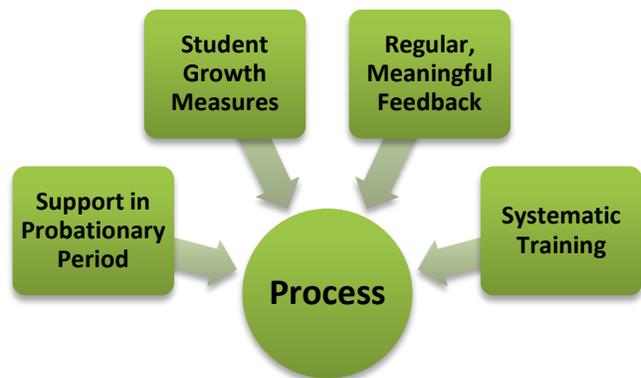
As articulated in Missouri’s Waiver Request and approved by the U.S. Department of Education, the local educator evaluation process for all district/LEAs will be guided by the research that supports these seven Essential Principles of Effective Evaluation by the 2014 – 2015 school year.

Three of the seven principles primarily address the structure of an effective evaluation process while the other four principles address implementation of effective educator evaluation.

The principles of structure in an effective evaluation system are: (1) clear, research-based expectations, (2) differentiated performance levels, and (3) the use of evaluation results for the development of policies and to inform employment decisions.



The other four principles reflect research about how an effective process is implemented. The principles of process are: (1) support for novice educators during the probationary period, (2) measures of growth in student learning are incorporated into the evaluation of educators, (3) the inclusion of regular and meaningful feedback to all educators, and (4) systematic training of those doing the evaluation as well as those being evaluated.



Pilot Project

A full scale pilot project of Missouri's model Educator Evaluation System was conducted in the 2012 – 2013 school year. More than 100 districts and several charter schools participated. These districts included both the largest and smallest school communities, and a broad representation of urban, suburban and rural districts. They represented low and high concentrations of minority students, free and reduced-lunch students, and low and high achieving students. These pilot districts represent 20,872 or just over 30%, of the state's

teachers. These teachers are responsible for educating 236,842 or nearly 27% of Missouri's students.

The pilot districts provided input and feedback on the content of these guidelines in addition to piloting the overall process in the state's model Educator Evaluation System. As such, the pilot project serves to inform and enhance the process as districts/LEAs work to incorporate the research represented by the seven Essential Principles of Effective Evaluation and begin to provide meaningful feedback. The collective learning and development that will result will be used to generate ongoing updates and revisions to these guidelines as Missouri approaches its full implementation year in 2014 – 2015.

2012-2013 Pilot Project Districts
Model Educator Evaluation System



- | | | | |
|---------------------|--------------------------|--------------------------------|---------------------------|
| Adair Co. R-II | Ferguson-Florissant R-II | Lee ton R-X | Southwest R-V |
| Advance R-IV | Festus R-VI | Lexington R-V | Springfield |
| Allen Village | Fox C-6 | Lift for Life Academy | St. James R-I |
| Alton R-V | Francis Howell R-III | Linn Co. R-I | St. Joseph |
| Arcadia Valley R-II | Ft. Zumwalt R-II | Malta Bend R-V | St. Genevieve Co. R-II |
| Ash Grove R-IV | Gasconade County R-II | Mexico 59 | Stoutland R-II |
| Atlanta C-3 | Gorin R-III | Milan C-2 | Sturgeon R-V |
| B. Banneker Academy | Green City R-I | Moberly | Sullivan |
| Belton 124 | Greenville R-II | Morgan County R-I | Summersville R-II |
| Bevier C-4 | Hazelwood | Morgan County R-II | Swedeborg R-III |
| Braymer C-4 | Henry County R-I | Mountain Grove R-III | Valley Park |
| Brookfield R-III | Hickman Mills C-1 | Mountain View-Birch Tree R-III | Valley R-VI |
| Brunswick R-II | Higbee R-VIII | North Wood R-IV | Van-Far R-I |
| Campbell R-II | Holden R-III | Oak Grove R-VI | Warrensburg R-VI |
| Carrollton R-VII | Howell Valley R-I | Palmyra R-I | Webb City R-VII |
| Central R-III | Hume R-VIII | Paris R-II | Wellsville Middletown R-I |
| Chilhowee R-IV | Junction Hill C-12 | Pattonville R-III | Wentville R-IV |
| Clarksburg C-2 | Kearney R-I | Pike County R-III | West Plains R-VII |
| Clearwater R-I | Kelso C-7 | Ralls Co. R-II | Willow Springs R-IV |
| Clinton Co. R-III | Keytesville R-III | Renick R-V | Winona R-III |
| Community R-VI | Kingston 42 | Richland R-IV | Worth County R-III |
| Crawford Co. R-I | Kirkville R-III | Richwoods R-VII | Zalma R-V |
| Crocker R-II | Laclede County C-5 | Scott City R-I | |
| Drexel R-IV | Lakeland R-III | Sedalia 200 | |
| Fairfax R-3 | Laquey R-V | Shawnee R-III | |
| Farmington R-VI | Lebanon R-III | Southwest Livingston Co. R-I | |
- Updated 11/21/2012

Purpose

Though this guide will not answer every question or address every issue, it will provide LEAs with a starting point to developing and implementing evaluation systems aligned to their specific demands. Accordingly, evaluation systems used for high-stakes employment decisions should be designed with consideration to potential legal challenges in the early stages of design, development and implementation. Foundational to this consideration are the following:

- The right to collective bargaining on conditions is recognized under Art. I, Sect. 29 of the Missouri Constitution. For that reason, the process by which teachers are evaluated is a condition which may be subject to a collective bargaining agreement (CBA) and included in the bargaining process if the district recognizes an exclusive bargaining representative for teachers.
- Although no system of evaluation is error-free, efforts made to ensure the overall quality, transparency and fairness of the system should reduce the likelihood of legal challenges when such efforts are described in board policy and/or a CBA, and adhered to by the district.
- Court rulings relating to educator evaluation have recognized the legitimate interest states and LEAs have in evaluating educators by using evidence of student academic gains. This recognition assumes that:
 - 1) LEAs must link a student's growth to the appropriate educator(s), and
 - 2) The educators' impact on the student's growth must be reasonably and fairly assessed broadly and in the context of the educational structure of the school.

Key Ideas

- Missouri LEAs should determine to what extent the teacher evaluation process should be considered in the bargaining process with the teacher bargaining unit representative. Or, in the absence of a CBA, LEAs should work with teachers and leaders to develop and enact local policy to govern the local evaluation process, regardless of the particular evaluation model they choose to adopt.
- Courts expect states and/or districts to develop/use evaluation systems that ensure quality with reasonable effort.
- Courts recognize that student data may be used as a part of an educator's evaluation.

Design of the Evaluation System

To evaluate an educator's performance in a manner that is legally defensible, it is important to consider the design of the system itself as well as the implementation of the process. Essential to the design phase are the following considerations:

- Performance indicators are supported by research linking them to student achievement
- There is consistency in ratings regardless of the evaluator, the location, the instruction content, or the academic level
- The criteria for evaluation are "rationally relevant and indicative of effective teaching"
- A system of roster verification ensures matching the appropriate educator(s) to the student
- The system produces a determination made using multiple measures of performance over multiple years of student data

In addressing these basic considerations, LEAs should take proactive steps to meaningfully involve teachers and leaders in the design of such evaluation systems.

Implementation of the Evaluation System Process

Once an effective design has been determined, special consideration should be given to the following guidance regarding implementation of the evaluation process:

- Provide an adequate amount of time to implement the system, including piloting the system, collecting feedback, making adjustments, and/or sequencing or phasing-in full implementation
- Ensure transparency: provide advance notice of all procedures and criteria, timely notifications and clear process expectations (maintain documentation of all efforts and sources)
- Ensure consistency and inter-rater reliability by implementing a comprehensive evaluator training process, including bias training to avoid Title VII, Title IX, or MHRA discrimination claims
- Provide feedback specific to the evidence of performance and opportunity to improve, including the use of professional growth/improvement plans to document requirements and timelines
- Integrate the evaluation process into any policies adopted and any relevant compliance with state laws addressing issues applicable to such an evaluation process.

Key Ideas

- A legally defensible evaluation system addresses potential legal issues in both the design and the implementation of the system.
- The system is designed to ensure that performance criteria are research-based, and performance determination is based on multiple measures and sufficient data.
- The implementation and use of the evaluation process ensures transparency, reliability, opportunity for improvement.

Additional Policy Considerations

As previously stated, federal and state law, as well as LEA policies will impact the implementation of any educator evaluation system. These issues require review prior to applying evaluation results to specific employment decisions. It is essential to seek input from legal counsel and/or human resource staff in reviewing and implementing any proposed system.

An additional area of consideration is the use of student data and information in the educator evaluation process, particularly in the case of those educators working with potentially limited numbers of students (e.g. special education or ELL students). While the Family Educational Rights and Privacy Act (FERPA) does not directly address issues of educator evaluation, it does provide specific exemptions for records created which relate exclusively to an employee and which are not available for use for any other purpose. For example, videotaping classroom instruction may be a key component of the evaluation process. So long as the videotapes are made pursuant to a district's evaluation process for the purpose of evaluating an employee's performance and are not available for any other purpose, they are not educational records covered by FERPA. Therefore, even if individual students are identifiable, the tape would not be subject to the same storage and parental access requirements as educational records of the student. State and federal laws relating to school record retention and security should be examined as the LEA identifies materials to be used in the educator evaluation process.

Key Ideas

- Have the evaluation system and its supporting policies reviewed by legal counsel and human resource directors to ensure its compliance with federal, state and local laws.
- Although student data is to be used as a part of the evaluation process, ensure that students' personally identifiable information is protected.
- If videotaping is included as a component of the evaluation process, ensure that the tapes are used only for evaluations pursuant to district policy.
- Most documents used in evaluating an employee, including videotapes, evaluation forms, and feedback sheets, are closed records under the Missouri Sunshine Law and are not available to the general public.

References and Resources

- Civil Rights Act of 1974. *Unlawful Employment Practices*. 42 U.S.C. § 2000e-2 (1974). Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>.
- Darling-Hammond, L. (2012). *Creating a comprehensive system for evaluating and supporting effective teaching*. Stanford, CA: Stanford Center for Opportunity Policy in Education. Retrieved from <http://edpolicy.stanford.edu/publications/pubs/591> .
- EducationCounsel, LLC. (2012, October). *Legal Implications of Next-Generation Teacher and Leader Evaluations*. Retrieved from <http://scee.groupsite.com/uploads/files/x/000/073/173/Legal%20Implications%20for%20Next%20Generation%20Teacher%20and%20Leader%20Evaluations.pdf?1323116956>.
- Education Amendments of 1972. *Prohibitions Against Discrimination*. 20 U.S.C. § 1681 (1972). Retrieved from <http://www.dol.gov/oasam/regs/statutes/titleix.htm>.
- Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g)(1974); 34 C.F.R. § 99.31 (2010). Retrieved from <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.
- Missouri School Boards' Association. (2012, June). *Missouri Teacher Standards*. Retrieved from https://em.eboardsolutions.com/TempFolder/Attachment/Teacher%20Standards_31401vmn5my55alsp2p55psusuo55.pdf.
- National Board for Professional Teaching Standards. (1990). *Initial Policies*, 3d. Ed. Available at www.nbpts.org.
- Section 168.128, RSMo 2012. *Teacher Records, How Maintained--Evaluations, How Performed and Maintained*. Retrieved from <http://moga.mo.gov/statutes/c100-199/1680000128.htm>.
- The New Teacher Project. (2009, June). *The Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness*. Retrieved from <http://tnpt.org/ideas-and-innovations/view/the-widget-effect>.