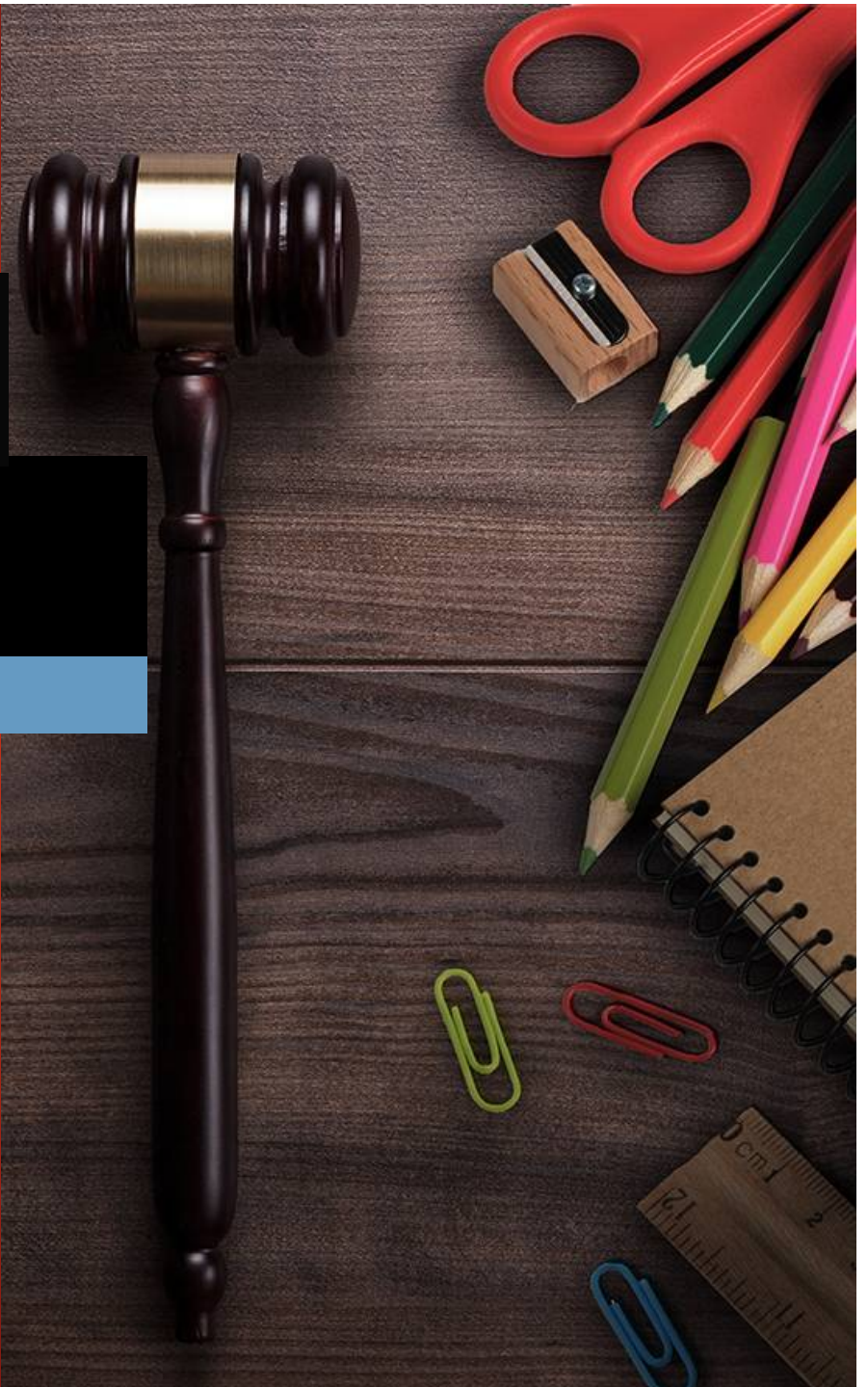


# ADMINISTRATOR EVALUATIONS

**MAISA**  
**March 17, 2016**

**By Barbara Ruga**

**CLARK HILL**  
*PLC*  
ATTORNEYS AT LAW





# Historical Context

2

- **July 19, 2011: statutory changes radically alter labor relations in Michigan public schools.**
- **PERA Sections 15(3)(l),(n); 15(4) – teacher and school administrator evaluations and observations become a prohibited subject of bargaining, “...within the sole authority of the public school employer to decide.”**
- **Layoff and recall decisions dictated by individual performance not length of service or tenure.**
- **Section 1249 – skeletal evaluation law established the Michigan Council Educator Effectiveness. MCEE report issued July 2013.**



# Historical Context

3

- **Option to grant tenure in administrative positions is eliminated.**
- **“Teachers” within administrator bargaining units are also impacted by prohibited subjects.**
- **New “not arbitrary or capricious standard” within Section 101 of Tenure Act, governs teachers and school administrators who are “teachers”.**



# Classroom Teacher Tenure and School Administrators

4

- **Administrators with teaching certificates who acquired teacher tenure in your District before becoming an administrator maintain teacher tenure in your District, albeit serving as an administrator.**
- **Administrators who come to your District having acquired classroom teacher tenure in another Michigan public school district serve a two year probationary period before they acquire classroom teacher tenure in your District (while possessing a teaching certificate).**
- **Administrators who had not acquired tenure as a teacher elsewhere or in your District, do not acquire classroom teacher tenure in your District.**
- **Administrators do not acquire tenure as administrators.**



# November 2015

5

- **2015 Public Act 173 effective November 10, 2015.**
- **Decisions from Michigan Court of Appeals in *Summer v Southfield Public Schools* and *Baumgartner et al v. Perry Public Schools*, reinforce need to assure strict compliance when implementing performance evaluation systems.**
- **Litigation risk – when high stakes decisions made using year end ratings on evaluation tools subject to 2015 PA 173.**



# So Now What?

6

- **Make sure collective bargaining agreements are devoid of prohibited subjects on evaluation, discipline, dismissal, layoff and recall.**
- **Conform your evaluation system and procedures in 2015-2016 and 2016-2017 to comply with PA 173.**
- **Get ready for 2016-2017 requirements of PA 173.**
- **Prepare boards of education for their roles vis-à-vis superintendent evaluations.**



# Who Is Subject to 2015 PA 173?

7

- **Per MDE, a “teacher” is anyone who acts as a teacher of record for any portion of a school year and who holds a teacher certificate or permit for that position.**
- **Per MDE, a building administrator is subject to PA 173 if they (1) administer an instructional program and (2) hold the required administrator certificate or are otherwise qualified under the School Code to serve in that role.**
- **Per MDE, a central office administrator is covered by PA 173 if they (1) administer an instructional program and (2) are regularly involved in instructional matters.**



# School Code; Certification Code

8

- **MCL 380.1246: superintendent, principal, assistant principal or other person whose primary responsibility is administering an instructional program.**
- **Administrator Certification Code.**
  - Elementary or secondary principals and assistant principals.
  - Administrators who supervise instructional programs
    - being responsible for program content
    - directing the activities of instructional staff at the level of the administrator's certificate
    - evaluating instructional staff
    - recommending instructional staff for hire and fire.





# Field 20 – Educator Effectiveness – The REP

9

- **Superintendent, Assistant Superintendents, Principals, Assistant Principals.**
- **Directors, Assistant Directors, Supervisors, Coordinators and Consultants.**
- **Chief Academic Officers, Bilingual/ESL, Career & Technical Education, Curriculum & Instruction, Gifted & Talented, Migrant Education, Special Education, Alternative Education. Subject Area Consultants.**
- **Professional Development and Technology Integration.**

**Source: March 1, 2016 Addendum to EOY Field Descriptions**



# How Michigan School Boards Maintain Quality School Administrators

10

- **Comply with new §1249b of the Michigan Revised School Code.**
- **Select one of [2] approved tools [to date].**
- **Train board members and Superintendent/central office who conduct the evaluations on the selected tool.**
- **Add the §1249b criteria to the tool you select – see slide 21.**
- **Where have an administrator union, develop administrative regulations for evaluation, etc., just as with teacher units.**
- **Use §1229 when needed for contract non-renewal.**
- **Applies to “building level school administrators” and “central office...who are regularly involved in instructional matters...”**



# Section 1249's Mandates

11

- **Annual Evaluations of school administrators.**
- **Use Four Ratings: HI, E, ME, IE.**
- **Individualized Development Plan not applicable to school administrators, unless you have incorporated it into your administrative regulations.**



# Improvement Plan For School Administrators

12

**For school administrator rated ME or IE on most recent evaluation:**

- **Evaluator shall develop and require administrator to implement an improvement plan to correct the deficiencies.**
- **The improvement plan shall recommend PD and other actions designed to improve the rating on the next annual evaluation.**



# MidYear Progress Report (MYPR)

13

- **Not required for school administrators, unless you have incorporated it into your system or administrative regulations.**





# 2015 Multiple Classroom Observations

14

- **Not applicable to school administrators, unless you have incorporated it into your system or administrative regulations.**





# Annual Year-End Evaluation

15

- **Exception for school administrators rated HE on 3 consecutive year-end evaluations, provided remain HE, *may* limit to every other year.**
  - This should be a district decision, not building by building.
- **If regress to E, then annual evaluation required again.**





# 2015-16 Student Growth Mandates

16

- **Applies to teachers and school administrators.**
- **Must provide clear approaches to measuring student growth.**
- **Provide relevant data on student growth; 3 years of data, if available.**
- **May exempt a particular student upon approval of evaluator and superintendent.**







# PA 173 of 2015 – Student Growth

17

## **Beginning 2015-2016:**

- **25% student growth.**
- **Requires “multiple measures” that may include student learning objectives, achievement of IEP goals, nationally normed or locally developed assessments aligned to state standards, other research-based growth measures or alternative assessments that are rigorous and comparable.**
- **Increases to 40% in 2018-2019.**





## PA 173 of 2015 – State Assessments

18

- **No State assessment mandated until 2018-2019.**
- **Beginning in 2018-2019, 50% of 40% student growth must be the state assessment for teachers of core content areas tested on state assessment.**
- **If do not teach subjects tested by the state assessment, then the requisite multiple measures may include the same types of measures permitted beginning in 2015-2016.**



# 2015-16 School Administrators

19

- **Identical to teachers, except:**
  - The student growth and assessment data “...are **the aggregate student growth and assessment data** that are used in teacher annual year-end evaluations in each school in which the school administrators works as an administrator, or, for a central-office level school administrator, for the entire school district or intermediate school district.”
- **Must provide training on the student growth measures, and how each measure is used.**





# Must Supplement Tools

20

- **The portion of year-end evaluation that is not measured by student growth shall “primarily be” measured by an approved evaluation tool.**
- **For school administrators, the remainder shall be the section 1249b criteria not already measured by the evaluation tool.**
- **Same tool must be used throughout district for similarly situated teachers and same tool must be used for similarly situated school administrators.**
  - Tool for teachers may be different than administrator tool.



# School Administrator 1249b Criteria

21

- **Training and proficiency in using the evaluation tool for teachers, including a random sampling of his or her teacher performance evaluations to assess the quality of the school administrator's input in the teacher performance evaluation system.**
- **The progress made by the school or school district in meeting the goals set forth in the school's school improvement plan or the school district's school improvement plans.**
- **Pupil attendance in the school or school district.**
- **Student, parent, and teacher feedback**
- **Other information considered pertinent by the superintendent or other school administrator conducting the performance evaluation or the board or board of directors.**



# Student Growth and Assessment Data

22

## 2015-2016, 2016-2017 and 2017-2018 Administrators



■ Student Growth 25%

■ Evaluation Tool + Section 1249b Criteria 75%



# Student Growth and Assessment Data

23

## 2018-2019 School Administrators



- Student Growth 40% (20% based on State Assessment, where applicable)
- Evaluation Tool + Section 1249b Criteria 60%



# Best Practices

24

- **Develop thoughtful process for determining the final year end rating.**
- **Look for a preponderance of evidence – what is the overall picture, weighing strengths and weaknesses?**
- **If administrator excellent at paperwork, but alienates a key portion of the school community, what is the overall assessment?**
- **If use a mathematical formula in determining the year end rating, reserve the right to assign an overall rating of ME or I when the administrator is rated ME or I in a domain or significant area of responsibility, regardless of pre-determined mathematical weight.**
- **Think through how boards will assign a final rating in the event of disagreement on the board about rating a superintendent's performance.**





# Getting Ready for 2016-2017

25

2016

YEAR OF THE MONKEY

DESIGNED BY [vector open stock](#)



# Observations By 2016-17

26

- **Observations are not required for school administrators, but may be included as part of District's system for school administrators.**
- **Multiple observations defined as "2" – now.**
- **By 2016-2017:**
  - at least one observation by assigned evaluator.
  - at least one unscheduled observation.
  - feedback from observations must be given to teacher within 30 **calendar** days.





# PA 173 of 2015 – 2016-2017 Posting Requirement

27

- **Must post on website:**
  - Research basis for tool.
  - If modified tool, assurance modifications do not impair research basis.
  - Authors of tool and their qualifications.
  - If modified, identity and qualifications of person who reviewed modifications.
  - Evidence of tool's validity and reliability or a plan for developing same.

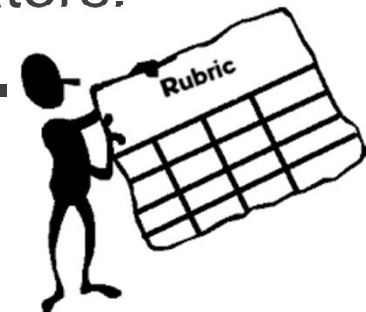




# PA 173 of 2015 – More Posting 2016-2017

28

- **The rubrics with detailed descriptors for each performance level on key summative indicators.**
- **Description of processes for conducting classroom observations, collecting evidence, developing performance ratings, and developing IDPs.**
  - Some not applicable to school administrators.
- **Plan for providing requisite training.**





# Requisite Assurances

29

- **If use a tool not on the list, or if you adapt or modify a tool on the list, must make specific assurances that adaptations or modifications are research-based and do not impair the validity and reliability of the tool.**
- **If use modified, adapted or local tool, you must use same tool for similarly situated teachers.**
- **MDE will publish standards for getting a tool on the list; estimated to be ready by 2017-2018.**



# Unmandated Mandate to Use Listed Tool?

30

- **In our opinion, the upshot is that most districts will elect, if not already doing so, to use one of the listed tools, and then not modify or adapt it.**
- ***Irony: listed tools generally do not measure supplemental section 1248 or 1249 criteria. Will most likely have to supplement the tool.***
- **If modify or adapt, vendors are a likely source to assure that any adaptations or modifications do not impair research basis.**
- **Alternatively, ISD(s) or groups of districts may collaborate and employ a psychometrician or other expert in educator evaluations to develop a plan to establish validity, reliability and efficacy.**



# 2016-17 Training about Tool

31

- **Mandated Training – 2016-2017.**
- **All evaluators and observers must be trained in the System *and* Tool.**
- **By someone with expertise in teacher evaluation tool.**
- **Could be a consultant or someone trained to train in use of that tool.**





# Essential Role of ISD

32

- **\$12,100,000 Section 95a funds to be provided through intermediate school districts.**
- **April 29, 2016 deadline for submission.**
- **Intermediate school district or RESA on behalf of all constituent locals or public school academies.**
- **MDE guidance on website with FAQ.**







# Are We Making Progress?

33

- **More certainty about 1249 requirements.**
- **More guidance about Student Growth.**
- **Significant funds for training and research.**
- **Is perception of unfairness founded in fact? See slides 35-36.**





# Anecdotal evidence...

34

- **Many districts report greater attention to student data, instructional practice, relevant accomplishments & contributions, etc.**
- **As a practical matter, more districts have exited teachers and school administrators, via relatively less expensive resignation agreements than in prior years.**



# MI Effectiveness Ratings\*

35




- Ineffective Teachers & Administrators
  - 2011-2012: 0.8% (0.7%)
  - 2012-2013: 0.6% (0.5%)
  - 2013-2014: 0.5% (0.3%)
  - 2014-2015: 0.5% (0.4%)
- Minimally Effective Teachers & Administrators
  - 2011-2012: 2.04% (1.76%)
  - 2012-2013: 2.41% (2.24%)
  - 2013-2014: 2.26% (2.37%)
  - 2014-2015: 2.07% (1.33%)
- Effective Teachers & Administrators
  - 2011-2012: 74.6% (74%)
  - 2012-2013: 64.4% (68%)
  - 2013-2014: 59.3% (66%)
  - 2014-2015: 55.9% (65%)

\*Source: MDE/CEPI Website Staffing Reports



# Increase in Highly Effective Educators

36

- **Highly Effective Teachers** 
  - 2011-2012: 23%
  - 2012-2013: 33%
  - 2013-2014: 38%
  - 2014-2015: 42%
- **Highly Effective Administrators** 
  - 2011-2012: 23%
  - 2012-2013: 29%
  - 2013-2014: 32%
  - 2014-2015: 33%
- **97%-98% of Teachers = Effective or Highly Effective** 
- **98% of Administrators = Effective or Highly Effective**



# Takeaways

37

- **Select Tool.**
- **Submit application to MDE by April 29, 2016.**
- **Supplement Tool as needed.**
- **Update Administrative Regulations.**
- **Post Assurances.**
- **Train Staff and Evaluators.**
- **Inform board of education.**
- **Maintain focus on performance that advances student learning and enables success of your ISD/RESA.**



# QUESTIONS

38





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- **As with all legal issues, this presentation provides general principles only, and your attorney should be consulted for specific questions related to any and all principles contained herein.**
- **School law issues are complex and fact specific; when in doubt, consult with legal counsel.**



# Thank you!

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Barbara A. Ruga

[bruga@clarkhill.com](mailto:bruga@clarkhill.com)

(616) 608-1105