Senate Bill 364

By: Senators Tippins of the 37th, Sims of the 12th, Wilkinson of the 50th, Shafer of the 48th, Cowser of the 46th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to revise provisions relating to annual teacher, principal, and assistant principal evaluations; to revise provisions relating to student assessments; to provide for mastery in reading by the end of third grade and mastery in basic math skills by the end of fifth grade; to provide for complaints on procedural deficiencies in conducting evaluations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by revising subsection (b) of Code Section 20-2-210, relating to annual performance evaluations, as follows:

“(b)(1) No later than the 2014-2015 school year, each local school system and all charter schools shall implement an evaluation system as adopted and defined by the State Board of Education for elementary and secondary school teachers of record, assistant principals, and principals. The evaluation system shall be developed by the department in consultation with stakeholders, such as teachers and principals. The evaluation system shall use multiple measures, prioritizing growth in student achievement as specified in this subsection. For purposes of the evaluation system established pursuant to this subsection, the state board shall define and designate teachers of record, assistant principals, and principals; provided, however, that growth in student achievement shall not include the test scores of any student who has not been in attendance for a specific course for at least 90 percent of the instructional days for such course.

(2) Teachers of record, assistant principals, and principals shall be evaluated using multiple, rigorous, and transparent measures. Beginning with the 2014-2015 school year,
teachers of record, assistant principals, and principals shall be given written notice in
advance of the school year of the evaluation measures and any specific indicators that
will be used to evaluate them. Evaluation measures shall include the following elements:

(A) For teachers of record who teach courses that are subject to annual state
assessments aligned with state standards and the principals and assistant principals of
elementary or secondary schools that are subject to such assessments, growth in student
achievement on such assessments shall count for at least 50 percent of the evaluation,
using the student growth and academic achievement measures identified in the
evaluation system;

(B) For teachers of record who teach courses not subject to annual state assessments,
growth in student achievement shall be assessed through measures of student
achievement growth developed at the school system level and approved by the
Department of Education. When sufficient data becomes available from the department
to calculate student achievement growth measures, such measures of student
achievement growth shall count for at least 50 percent of the evaluation, using student
growth and academic achievement measures developed by the school system in a
process approved by the State Board of Education;

(C) For teachers of record, the annual evaluation shall also include multiple additional
measures that shall be correlated with impacts on student achievement results. These
measures shall include multiple classroom observations each year by appropriately
trained and credentialed evaluators, using clear, consistent observation rubrics, and
supplemented by other measures aligned with student achievement, including student
perception data and documentation of practice; and

(D) For assistant principals and principals, the annual evaluation shall also include
multiple additional measures that shall be aligned with impacts on student achievement
results. These measures shall include multiple school observations each year by
appropriately trained and credentialed evaluators. When sufficient data becomes
available from the department to calculate performance measures, these measures shall
also include the principal’s ability to attract and retain highly effective teachers,
effectively manage the school, and establish a positive climate for learning, and other
measures aligned with student achievement for students in all subgroups. Reserved.

(3) Teachers of record, assistant principals, and principals shall be evaluated using
multiple, rigorous, and transparent measures. Teachers of record, assistant principals, and
principals shall be given written notice in advance of the school year of the evaluation
measures and any specific indicators that will be used to evaluate them. Beginning with
the 2016-2017 school year, evaluation measures shall include the following elements:
(A) For teachers of record who teach courses that are subject to annual state assessments aligned with state standards, the evaluation shall be composed of the following:

(i) Student growth, based on student scores on the annual state assessment, shall count for 30 percent of the evaluation;

(ii) Professional growth shall count for 20 percent of the evaluation. Professional growth shall be measured by progress toward or attainment of professional growth goals within an academic school year or across academic school years. Professional growth goals may include measurements based on multiple student growth indicators, evaluations and observations, standards of practice, and any additional professional growth measures allowed by the local school system's or charter school's flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract; and

(iii) Teacher evaluations and observations conducted pursuant to paragraph (5) of this subsection shall count for 50 percent of the evaluation.

(B) For teachers of record who teach courses that are not subject to annual state assessments aligned with state standards, the evaluation shall be composed of the following:

(i) Student growth shall count for 30 percent of the evaluation. Student growth shall include at least one student growth measure and may utilize other student growth indicators, including the school or local school system total score on the annual state assessments, as allowed by the local school system's or charter school's flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract for at least one classroom for each teacher of record who teaches courses that are not subject to annual state assessments aligned with state standards. This provision shall not be construed to require the measurement of student growth for every student taking courses that are not subject to annual state assessments aligned with state standards;

(ii) Professional growth shall count for 20 percent of the evaluation. Professional growth shall be measured by progress toward or attainment of professional growth goals within an academic school year or across academic school years. Professional growth goals may include measurements based on multiple student growth indicators, evaluations and observations, standards of practice, and any additional professional growth measures allowed by the local school system's or charter school's flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract; and
(iii) Teacher evaluations and observations conducted pursuant to paragraph (5) of this subsection shall count for 50 percent of the evaluation.

(C) For principals and assistant principals, the evaluation shall be composed of the following:

(i) Student growth, based on the school score on annual state assessments, shall count for 40 percent of the evaluation;

(ii) School climate shall count for 10 percent of the evaluation;

(iii) A combination of achievement gap closure, Beat the Odds, and College and Career Readiness Performance Index data, as allowed by the flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract, shall count for 20 percent of the evaluation; and

(iv) The results of evaluations, observations, and standards of practice shall count for 30 percent of the evaluation.

(3)(4) The evaluation system adopted by the State Board of Education shall give every teacher of record, assistant principal, and principal one of four rating levels that are designated as 'Exemplary,' 'Proficient,' 'Needs Development,' or 'Ineffective,' as further defined by the State Board of Education. A rating of 'Ineffective' shall constitute evidence of incompetency as provided by paragraph (1) of subsection (a) of Code Section 20-2-940. Each teacher of record, assistant principal, and principal shall be evaluated on his or her own individual merits and neither the State Board of Education, a local school system, nor a charter school shall impose or require any quota system or predetermined distribution of ratings for teachers of record, assistant principals, or principals.

(3)(5) All teachers of record, assistant principals, and principals shall have a pre-evaluation conference, midyear evaluation conference, and a summative evaluation conference, in accordance with state board rules. All teachers of record, assistant principals, and principals shall be notified of and have access to the results of the annual summative performance evaluation and any formative observations conducted throughout the school year pursuant to this subsection within ten working days of such evaluation or observations. A teacher of record, assistant principal, or principal, or an evaluator of any such individuals, may request a conference within ten working days of notice of results of a formative observation and such conference shall be provided within ten working days of the request. Conferences shall include the individual being evaluated, his or her supervisor, and the evaluator, unless otherwise agreed upon. For teachers of record, the annual evaluation shall include multiple classroom observations conducted each year by appropriately trained and credentialed evaluators, using clear, consistent observation rubrics, and supplemented by other measures aligned with student achievement and professional growth. A local school system or charter school may
include in its flexibility contract, or other agreement with the State Board of Education for local school systems that are not under a flexibility contract, a provision for a tiered evaluation system, in which reduced observations of certain teachers of record may be conducted to provide additional time for evaluators to coach and mentor new teachers and teachers with a performance rating of 'Needs Development' or 'Ineffective' pursuant to paragraph (4) of this subsection on a pathway of continuous improvement. For the evaluation of teachers of record with a minimum of three years' teaching experience and a performance rating of 'Proficient' or 'Exemplary' pursuant to paragraph (4) of this subsection in the previous school year, the local school system or charter school, in its discretion, shall require no less than two classroom observations and one summative evaluation for the school year.

In order to ensure proper implementation of the evaluation system developed pursuant to this Code section, the Department of Education shall:

(A) Establish processes and requirements to determine the teacher of record for purposes of assigning student achievement scores to a teacher in evaluating the teacher's performance;

(B) Establish processes for roster verification and student teacher linkages in order to assign the student's achievement scores to the teacher for the purposes of evaluating the teacher's performance;

(C) Establish minimum training and credentialing requirements for evaluators of teachers and principals; and

(D) Provide data systems to support the professional growth of teachers and leaders and facilitate human capital management.

(7) As used in this subsection, the term 'flexibility contract' means a charter for a charter system or a charter school or a contract entered into with the State Board of Education for a strategic waivers school system."

SECTION 2.

Said article is further amended by revising Code Section 20-2-281, relating to student assessments, as follows:

"20-2-281.

(a) The State Board of Education shall adopt a student assessment program consisting of instruments, procedures, and policies necessary to implement the program and shall fund all costs of providing and scoring such instruments, subject to appropriation by the General Assembly. The student assessment program shall include a comprehensive summative assessment program for grades three through 12. In addition, each local school system shall administer, with state funding, a research based formative assessment with a
summative component that is tied to performance indicators in English, language arts/reading, and mathematics in grades one and two, subject to available appropriations. Each local school system may elect to administer, with state funding, nationally norm-referenced instruments in reading, mathematics, science, or social studies in grade three, four, or five and in grade six, seven, or eight, subject to available appropriations, with assistance to such school systems by the State Board of Education with regard to administration guidance, scoring, and reporting of such instruments. Further, the State Board of Education shall adopt a school readiness assessment for students entering first grade and shall administer such assessment pursuant to paragraph (2) of subsection (b) of Code Section 20-2-151. Each local school system is strongly encouraged to develop and implement a program of multiple formative assessment and intervention assessments in reading and mathematics for kindergarten through third grade and mathematics for kindergarten through fifth grade to ensure that students entering sixth grade are on track to meet grade-level expectations, including mastery in reading by the end of third grade to prepare for the infusion of literacy in subsequent grades and mastery in basic mathematics skills by the end of fifth grade and in accordance with the local school system's five-year strategic plan, performance indicators, and, if applicable, flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract. The State Board of Education shall periodically review, revise, and upgrade the content standards. Following the adoption of such content standards, the State Board of Education shall contract for development of end-of-grade assessments to measure the content standards. Such as part of the comprehensive summative assessment program, end-of-grade assessments in English, language arts/reading, and mathematics shall be administered annually to students in grades three through eight, and such tests in science and social studies shall be administered annually to students in grades three through five and eight. These tests shall contain features that allow for comparability to other states with whom establishing such comparison would be statistically sound; provided, however, that no such comparison shall be conducted which would relinquish any measure of control over assessments to any individual or entity outside the state. This action shall be completed according to a schedule established by the State Board of Education. Further, as part of the comprehensive summative assessment program, the State Board of Education shall adopt and administer, through the Department of Education, end-of-course assessments for students in grades nine through 12 for all core subjects, as determined by the state board. Writing performance shall be assessed, at a minimum, for students in grades three, five, eight, and 11 and may be assessed for students in additional grade levels as designated by the State Board of Education. Such required writing performance assessment may be embedded within the assessments included in the comprehensive
summative assessment program. Writing performance results shall be provided to students and their parents. If authorized by federal law, the Department of Education may establish a pilot program for local school systems that have an existing program of multiple formative assessments during the course of the academic year that result in a single summative score that is valid and reliable in measuring individual student achievement or growth and assessing individual student needs or deficiencies, to utilize such local assessments in place of end-of-grade or end-of-course assessments, if provided for in the terms of the local school system's flexibility contract. As used in this subsection, the term 'flexibility contract' means a charter for a charter system or a charter school or a contract entered into with the State Board of Education for a strategic waivers school system.

(b) The nationally norm-referenced instruments provided for in subsection (a) of this Code section shall provide students and their parents with grade equivalencies and percentile ranks which result from the administration of such instruments. End-of-grade assessments shall provide for results that reflect student achievement at the individual student, classroom, school, system, state, and national levels. The State Board of Education shall participate in the National Assessment of Educational Progress (NAEP) and may participate in any other tests that will allow benchmarking this state's performance against national or international performance. The results of such testing shall be provided to the Governor, the General Assembly, and the State Board of Education and shall be reported to the citizens of Georgia. Further, the state board shall adopt a school readiness assessment for students entering first grade and shall administer such assessment pursuant to paragraph (2) of subsection (b) of Code Section 20-2-151. One of the components in the awarding of salary supplements as part of a pay for performance or related plan under this article may be assessments of student achievement.

(b.1) The State Board of Education shall notify local school systems and individual schools of the results of the assessment instruments administered under this Code section at the earliest possible date determined by the state board, but not later than the beginning of the subsequent school year. In the event the state board is unable to provide timely results in the first year of implementation of a substantially new assessment instrument, the provisions in paragraphs (2) and (3) of subsection (b) of Code Section 20-2-283 shall not apply.

(c) The State Board of Education shall have the authority to condition the awarding of a high school diploma to a student upon achievement of satisfactory scores on end-of-course assessments and other instruments adopted and administered by the state board pursuant to subsection (a) of this Code section and the end-of-course assessments adopted and administered by the state board pursuant to subsections (f) and (h) of this Code section. The state board is authorized and directed to adopt regulations providing that any disabled...
child, as defined by the provisions of this article, shall be afforded opportunities to take any test adopted by the state board as a condition for the awarding of a high school diploma. Such regulations shall further provide for appropriate accommodations in the administration of such test. Such regulations shall further provide for the awarding of a special education diploma to any disabled student who is lawfully assigned to a special education program and who does not achieve a passing score on such test or who has not completed all of the requirements for a high school diploma but who has nevertheless completed his or her Individualized Education Program.

(d)(1) The State Board of Education shall develop or adopt alternate assessments to be administered to those students with significant cognitive disabilities, receiving special education services pursuant to Code Section 20-2-152, who cannot access the state adopted content standards without appropriate accommodations to those standards and for whom the assessment instruments adopted under subsections (a) and (f) of this Code section, even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's Individualized Education Program team. Such alternate assessments shall be aligned with alternate academic achievement standards that have been adopted through a documented and validated standards-setting process, for students with the most significant cognitive disabilities, provided those standards are aligned with the state standards established pursuant to Code Section 20-2-140 and promote access to the general education curriculum, consistent with the federal Individuals with Disabilities Education Act. The State Board of Education shall ensure that any alternate assessments developed or adopted pursuant to this subsection are in compliance with applicable federal law, but do not impose requirements in excess of such federal law in a manner that unduly burdens a local school system or that does not benefit students with the most significant cognitive disabilities.

(2) A student's Individualized Education Program team shall determine appropriate participation in assessment and identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act and state board regulations.

(e) The State Board of Education is authorized to adopt rules, regulations, policies, and procedures regarding accommodations and the participation of limited-English-proficient students, as defined in Code Section 20-2-156, in the assessments described in this Code section.

(f) The State Board of Education shall adopt end-of-course assessments for students in grades nine through 12 for all core subjects to be determined by the state board. For those students with an Individualized Education Program, each such student's Individualized
Education Program team shall identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act and state board regulations.

(g) Under rules adopted by the State Board of Education, the Department of Education shall, subject to appropriations by the General Assembly, release some or all of the questions and answers to each end-of-grade assessment and each end-of-course assessment administered under subsection (a) of this Code section and each end-of-course assessment administered under subsection (h) of this Code section after the last time such assessment is administered for a school year.

(h) The State Board of Education, through the Department of Education, shall administer the end-of-course assessments for core subject areas as defined by state board policy. By the 2015-2016 school year, the State Board of Education shall make all end-of-course assessments available for administration online and shall establish rules and regulations to maximize the number of students and school systems utilizing such online assessments.

(i) The Department of Education shall develop study guides for the end-of-grade assessments and end-of-course assessments administered pursuant to subsections (a) and (h) of this Code section. Each school system shall distribute the study guides to students who do not perform satisfactorily on one or more parts of an assessment instrument administered under this Code section and to the parents or guardians of such students.

(j) The State Board of Education shall adopt rules and regulations requiring the results of core subject end-of-course assessments to be included as a factor in a student's final grade in the core subject course for which the end-of-course assessment is given.

(k) In addition to the assessment instruments adopted by the State Board of Education and administered by the Department of Education, a local school system may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. Such locally adopted assessment instruments may not replace the state's adopted assessment instruments for purposes of state accountability programs. A local school system shall be responsible for all costs and expenses incurred for locally adopted assessment instruments. Students with Individualized Education Programs must be included in the locally adopted assessments or provided an alternate assessment in accordance with the federal Individuals with Disabilities Education Act.

(l) In adopting academic skills assessment instruments under this Code section, the State Board of Education or local school system shall ensure the security of the instruments in their preparation, administration, and scoring. Notwithstanding any other provision of law, meetings or portions of meetings held by the state board or a local board of education at which individual assessment instruments or assessment instrument items are discussed or
adopted shall not be open to the public, and the assessment instruments or assessment instrument items shall be confidential.

(m) The results of individual student performance on academic skills assessment instruments administered under this Code section shall be confidential and may be released only in accordance with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.

(n) Overall student performance data shall be disaggregated by ethnicity, sex, socioeconomic status, disability, language proficiency, grade level, subject area, school system, and other categories determined by policies established by the Office of Student Achievement.

(o) Student performance data shall be made available to the public, with appropriate interpretations, by the State Board of Education, the Office of Student Achievement, and local school system. The information made available to the public shall not contain the names of individual students or teachers.

(p) Teachers in kindergarten through grade 12 shall be offered the opportunity to participate annually in a staff development program on the use of tests within the instructional program designed to improve students' academic achievement. This program shall instruct teachers on curriculum alignment related to tests, disaggregated student test data to identify student academic weaknesses by subtests, and other appropriate applications as determined by the State Board of Education.

(q) The State Board of Education shall consider the passage by a student of an industry certification examination or a state licensure examination which is approved by the State Board of Education when considering whether to grant such student a variance or a waiver of one or more end-of-course assessments or other instruments required by the State Board of Education pursuant to subsection (c) of this Code section in order to obtain a Georgia high school diploma; provided, however, that the state board shall not grant a variance to a student unless the student has attempted and failed to pass the relevant end-of-course assessment or assessments at least four times.

(r) In order to maximize classroom instruction time, the State Board of Education shall study and adopt policies beginning with the 2017-2018 school year that will move the end-of-grade and end-of-course assessment testing windows as close to the end of the school year or semester as possible. The Department of Education shall prepare and submit a report to the House Committee on Education and the Senate Education and Youth Committee no later than December 31, 2016, regarding proposed policies and obstacles that prevent testing windows from being scheduled later in the school year or semester. Local school systems are strongly encouraged to administer any such state required
assessments within the last week of the school system's midyear semester, for assessments administered at the end of a midyear semester, and within the last two weeks of the school year for the school system, for assessments administered at the end of the academic year. (s) All assessments adopted or developed by the State Board of Education pursuant to this Code section shall be verified for reliability and validity by a nationally recognized, research based, third-party evaluator.”

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 20-2-989.7, relating to matters not subject to complaint, as follows:

“(a) The performance ratings contained in personnel evaluations conducted pursuant to Code Section 20-2-210, professional development plans, and job performance shall not be subject to complaint under the provisions of this part; provided, however, this shall not apply to procedural deficiencies on the part of the local school system or charter school in conducting an evaluation pursuant to Code Section 20-2-210. The termination, nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940, and the revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5, shall not be subject to complaint under the provisions of this part.”

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.