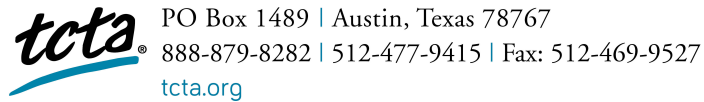


Texas Classroom Teachers Association



TCTA comments regarding Proposed Repeal of and New 19 TAC Chapter 150, Commissioner's Rules Concerning Educator Appraisal, Subchapter AA, Teacher Appraisal.

To Whom It May Concern:

The Texas Classroom Teachers Association, representing 50,000 classroom teachers and instructional personnel statewide, has the following comments regarding the **Proposed Repeal of and New 19 TAC Chapter 150, Commissioner's Rules Concerning Educator Appraisal, Subchapter AA, Teacher Appraisal.**

Our chief concern is about how the proposed rules deal with the student growth component of TTESS. In **Section 150.1002(d)**, the rules require school districts participating in TTESS to, beginning with the 2017-18 school year, include in each teacher appraisal the academic growth of the teacher's students at the individual teacher level as measured by one or more of the following student growth measures:

- (1) Student learning objectives;
- (2) Student portfolios;
- (3) Pre-and-post test results on district-level assessments; or
- (4) Value-added data based on student state assessment results.

The proposed rules also require that if calculating a single overall summative appraisal score for teachers, the measure of student growth, as defined above, shall count for **at least 20%** of a teacher's summative score. **(See Section 150.1002(e))**

The proposed rules additionally require school districts that choose **not** to participate in TTESS and that must develop their own local teacher appraisal systems, to develop evaluation criteria, including discipline management and performance of the teacher's students. Additionally the proposed rules require that the locally developed appraisal process shall include the performance of the teacher's students, defined as student growth, as identified in Section 150.1002(d) (under TTESS). **(See Section 150.1007(a) and (b))**

Each of these proposed rule revisions reflect conditions imposed by Texas's ESEA waiver – that student growth be measured at the individual teacher level, that student performance on state assessments must be included as a measure of student growth, that the student growth component must be weighted 20% in a teacher's evaluation, and that TEA ensure that local school districts using locally-developed appraisal systems use student growth at the individual teacher level.

In TCTA's view, not only do these provisions exceed the parameters of current Texas law,

particularly with regard to locally-developed teacher appraisal systems, but they are a hold-over from Texas's ESEA waiver requirements which ESSA rendered null and void.

In particular, the proposed rules exceed the parameters of current Texas law as follows:

- **They fail to accurately track current statute.**
TEC Section 21.351(a) provides that the commissioner shall adopt a recommended appraisal process and criteria on which to appraise the performance of teachers. The criteria must be based on observable, job-related behavior, including:
Teachers' implementation of discipline management procedures; and
The performance of teachers' students.

The proposed rules require that each teacher appraisal must include the academic growth of the teacher's students at the individual teacher level.
- **They provide for criteria that is not observable and job-related.**
The proposed rules require that each teacher appraisal must include the academic growth of the teacher's students at the individual teacher level as measured by one or more of the following student growth measures:
 - (1) Student learning objectives;
 - (2) Student portfolios;
 - (3) Pre-and-post test results on district-level assessments; or
 - (4) Value-added data based on student state assessment results.
- **They give the Commissioner rulemaking authority over locally-developed and adopted teacher appraisal systems.**
The proposed rules require that locally developed appraisal processes must include the performance of teacher's students, which the rules define as student growth as identified under the state-recommended system. **TCTA does not believe that the Commissioner has rulemaking authority over locally-adopted teacher appraisal systems, and particularly not to adopt rules dictating that locally-developed appraisal systems include the performance of the teacher's students, defined as student growth, as identified under TTESS.**

We have long objected to using value-added and other state assessment based measures for teacher evaluation at the individual teacher level, given that the weight of the research says it's an invalid, unreliable, and unfair measure of teacher performance.

Regarding the proposed rules' requirement that if calculating a single overall summative appraisal score, the measure of student growth must count for at least 20% of a teacher's summative score, we know that 20% was the figure Texas agreed to as a condition of its ESEA waiver, and accordingly was included in the proposed rules; however, with the subsequent passage of the Every Student Succeeds Act, effectively rendering the waiver null and void, this

requirement of the federal waiver should be removed from the rules. Additionally, this requirement should be removed from the rules because the proposed rule text contains the phrase “**at least 20%**”, which exceeds and is more expansive than the stated waiver agreement of 20%.

Additionally we note that there’s nothing in the rules to address how much weight student growth has if a district *isn’t* calculating a single overall summative appraisal score – if the rules don’t address that, a district could assign as much weight as it wanted to the student growth component under the state-recommended system when not calculating a single overall summative appraisal score.

Finally, we note that TEA does not intend to include a student growth component in the state-recommended system until the 2017-18 school year. Accordingly, there is no immediate need to include rule language addressing the student growth component. Given that fact, along with all of the issues associated with rule language regarding the student growth component mentioned above, we strongly recommend that subsections (d), (e), and (f) of Section 150.1002, as well as subsections (a)(2)(C)(i) and (ii), and (b)(2)(C)(i) and (ii) of Section 150.1007 be struck from the rule text.

Other concerns with the proposed rules:

In other examples of exceeding the parameters of and authority under current law:

- **Section 150.1003(l)(3)** provides that in the off-years that an eligible teacher isn’t getting a full annual appraisal, they must, in addition to participating in the Goal-Setting Professional Development Plan and modified end-of-year conference, participate in student growth measurement and address the outcome of student growth measures in the end-of-year conference. This exceeds the parameters for the frequency of evaluation set by TEC Section 21.352(c). Additionally, this subsection is problematic for other reasons. **First, it’s very unclear what “participate in student growth measurement” means. Second, we question the focus on the student growth component as a particular area to be addressed in the off-years. Accordingly we recommend elimination of subsection 150.1003(l)(3).**
- **Section 150.1007 (a)(2)(A)** of the rules provide that the appraisal process shall include at least one appraisal each year. Again, this gives the Commissioner rulemaking authority over locally-developed and adopted teacher appraisal systems, which is authority he does not legally possess; additionally Texas Education Code section 21.352(c) expressly provides that teachers can be appraised less frequently than annually if the teacher agrees in writing and the teacher’s most recent evaluation rated the teacher

as at least proficient, or the equivalent, and did not identify any area of deficiency. **Accordingly, we recommend that this provision be eliminated from the rules.**

Section 150.1002(b) omits current rule language that “each domain shall be scored independently”, which TEC Section 21.351(d) requires. We believe this language should be included in the rules.

Section 150.1002(d): language should be included to prohibit use of unadjusted standardized student test scores to evaluate teachers.

Section 150.1003: Although we are pleased that the proposal maintains current rules regarding cumulative data (subsection(b)(6)), we note that the rules don’t have a requirement that teachers must be notified of and provided with documentation by the certified appraiser of *any information* that will influence the teacher’s summative annual appraisal report within 10 working days of the certified appraiser’s knowledge of the information. This is broader than cumulative data, which the rule says must be shared with the teacher within 10 working days, because cumulative data is defined as “third-party information”. Since TTESS includes a student growth component, which would not be considered “third- party” information, and because the student growth data could significantly impact a teacher’s appraisal, the rule language needs to be broadened to provide that teachers be provided with documentation of ANY information that will influence the teacher’s summative annual appraisal report within 10 working days of the certified appraiser’s knowledge of the information.

We recommend the inclusion of rule language to reflect the current practice in many districts, that if observations are unscheduled, teachers are given at least one opportunity to decline the observation for that particular day/time (in recognition of situations in which the class circumstances at that particular time don’t lend themselves to providing information that would be useful in informing an observation).

Section 150.1003(b)(7)(A) provides that an end-of-year conference reviews the appraisal data collected throughout the current year and previous school years. We are unclear as to what data from previous school years would be considered – student growth data? Also, what is the purpose of considering that information? We note that the Commissioner has specifically considered the issue of whether documentation from previous school years can be included in a teacher’s appraisal for the current year and ruled that such documentation cannot be included in a teacher’s current appraisal. See *Alex Durand v Hillsboro ISD*, DOCKET NO. 056-R10-1198, August, 1999. Accordingly, we recommend that the language regarding “previous school years” be struck.

Section 150.1003(l) provides that, in order to be eligible for less than annual appraisals, a teacher must be proficient on nine of the sixteen dimensions AND does not have a “Needs Improvement” rating on any of the sixteen dimensions OR the student growth

criteria. Compared to current rule language in PDAS, this more than doubles the chances of having to have an annual appraisal because under PDAS a teacher is only ineligible for less than annual appraisals if they have an area of deficiency in any of the 8 domains. In order to bring this more in parity with current rules, it should say “any two” of the sixteen dimensions.

Section 150.1004(a) separates out when a teacher can submit a response/rebuttal depending on whether it’s regarding Domains I, II, and III/after receiving a written observation summary/or any other written documentation related to the ratings of those three domains OR if it’s in response to Domain IV/student growth/after receiving a written summative annual appraisal report. **Of even more concern, in subsection (b), it restricts a teacher from submitting a response/rebuttal to a written summative annual appraisal report for the ratings in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year. It has those same restrictions in place for requesting a second appraisal in subsection (d). Not only is this an extremely overcomplicated way to structure the process but it unduly restricts teachers’ ability to submit rebuttals and responses.** We fail to see any compelling public policy reason to further curtail when a teacher can submit a rebuttal/response as is the case in subsections (b) and (d). For example, what if, in the written summative annual appraisal report, the dimension ratings have changed from what they were when the teacher received the observation summaries earlier, perhaps on the basis of cumulative data that was shared with the teacher but the teacher had no knowledge of how it would impact his/her ratings at the time? What public policy purpose would be served by restricting someone from submitting a rebuttal/response in that circumstance? Accordingly, we recommend that the entire complicated structure of this section be eliminated and replaced with the structure provided in current rule language.

Section 150.1004(b) and (d) omit current rule language allowing an appraiser, at his/her discretion, to extend the timeline by which a teacher must submit a response/rebuttal or request a second appraisal to 15 working days. We see no good reason not to maintain this language in the proposed rules and recommend that it be included.

Section 150.1004(f) omits including the Goal-Setting Professional Development plan as information that can be used by the second appraiser to evaluate other dimensions. Since the GSPD specifically impacts a teacher’s rating in Domain IV, it seems prudent to include it here.

Section 150.1005(b) provides that “supervisory staff whose job description includes the appraisal of teachers and who is not a classroom teacher” is included in the definition of “campus administrator” for purposes of eligibility to act as a certified appraiser. We object to this, as it not only greatly expands who can serve as certified appraisers, but also doesn’t maintain current rule language requiring that a campus administrator who is a certified appraiser and approved by the school district board of trustees shall conduct a teacher’s appraisal. Accordingly we recommend that this language be struck.

Section 150.1005(d) fails to maintain current rule language that individuals other than campus

administrators can act as certified appraisers only in circumstances in which the district lacks enough certified appraisers to be able to complete appraisals in a timely manner. We believe this restriction on using appraisers other than campus administrators is an important protection for the teachers who will be appraised and recommend that it be maintained in the proposed rules.

The rules fail to include provisions requiring observers to be TTESS- trained and certified before conducting informal or formal observations. We believe that requiring that observers be TTESS- trained before conducting observations is an extremely important requirement in order to ensure accurate and fair observations of teachers and recommend that such provisions be included in the proposed rules.

Section 150.1006(a) shortens the timeframe by which teachers must be provided with an orientation for the state-recommended appraisal systems from three weeks, as provided by current rule, to two weeks. We question the need for the shortened timeline and recommend that it be struck and the three-week timeline be reinstated in the proposed rules.

Additionally, this section omits current rule language requiring an orientation any time substantial changes occur in the state-recommended appraisal system. We question why this was eliminated, as it is good public policy, and recommend that it be reinstated in the proposed rules.

Thank you for this opportunity for input.
Holly Eaton