

TEACHER EVALUATION COLLOQUIUM
Q & A
OEA REPRESENTATIVE ASSEMBLY
December 2012

The Teacher Evaluation Colloquium at the December 2012 RA involved an overview of the teacher evaluation mandates affecting school districts, and included recommendations for local associations to influence school board policy and to bargain the particulars not addressed in state law. The following questions were posed at the RA, several of which could not be answered due to time constraints, and responses to those questions. Local leaders are encouraged to address further questions to OEA Labor Relations Consultants.

TEACHER EVALUATION - TECHNICAL QUESTIONS

- 1. Q: *I don't understand what is (student) growth – what is below, expected or above (projected student) growth? Based on what? What's the baseline? To compare to?***

Answer: Growth measures are defined as assessments of students' improvements in learning from one point in time to another point in time.

Value-added is marketed as a statistical approach to measuring the degree to which the teacher impacts student achievement. In Ohio, value-added results are reported as *above expected*, *expected*, and *below expected student growth*. Above expected growth is when the student has achieved more than one year of expected growth over the past year. Expected growth is when the student has achieved one year of expected growth over the past year. Below expected growth is when the student has achieved less than one year of expected growth.

When using locally determined measures of student growth, locally-developed student learning objectives can be used to create a pre-assessment to establish the students' baseline performance and a post-assessment to measure students' gains during the course of instruction.

The ODE has compiled a list of ODE-approved vendor assessments that have demonstrated the capability of measuring student growth. Additional information about student growth measures can be found on the following ODE website: <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=1230&ContentID=125742>

- 2. Q. *Is the Value Added % negotiable? Can we bargain only 10% Value Added? What % of students needs to score above projected growth to be accomplished? Is it 100%, 75%, 50%, etc.***

We have been hearing that NON Race to the Top does not have to implement the Student Growth Measure for 2013-14 but will need to be there by 2014-15. Is this true?

Answer: Beginning with the effective date of HB 555 (3/22/13), the majority [of 50% of the student academic growth factor of the teacher's evaluation must be based upon value-added data. Beginning July 1, 2014, for those teachers who have only value-added assessed subjects, the entire student academic growth factor will be based upon Value Added (all of the 50%).

Because the student assessment data is not available until the end of the school year, the value-added scores from the previous year will be brought into the teacher rating in the evaluation year. The OEA recommends that the local association bargain a contract that prevents the use of student scores from a year previous to the initial implementation of the evaluation system in a district.

3. Q. *May vendor assessments also be part of student growth measures if you are a 4-8 ELA or Math teacher? If using a vendor assessment in one grade - must it be used across the grades at the same percentage?*

Answer: Vendor assessments may be used for teachers who either teach no subjects with value-added assessments or who have a mix of value-added and non-value-added subjects. For additional explanation, please refer to question #2 above.

4. Q. *Is it true that the law doesn't give a minimum percent for using value-added - you could choose 1%? Was the 10% floor written by ODE?*

Answer: Prior to the enactment of HB 555, the answer to both would be yes, but that is no longer true. For additional explanation, please refer to question #2 above.

5. Q. *For a core Teacher that has value-added data available, can the 50% be value added 10% and vendor assessment 10% and LEA 30%? Like Quality Core (ACT) Explore test - 8th grade.*

Answer: Beginning 2014-2015, the use of a vendor assessment will be permitted (local decision which means *may be bargained*) when value-added is not available. For additional explanation, please refer to question #2 above.

6. Q. *Is there really going to be a 4th option for splitting the 50% student growth measures that combines Teacher Value-Added and LEA and Vendor assessments? We have been told by our leadership that this is definitely coming and the slide is wrong.*

Answer: It is a local decision if the vendor assessment will be treated as a local measure. Since the December 2012 signing of HB 555, districts implementing teacher evaluation during 2013-2014 may use SLOs or Vendor Assessments combined with the Value-Added percentage data (which must be a majority of the 50%) to achieve a student growth measure. From July 1, 2014 forward, in all districts those teachers who teach only those subjects for which there is value added data, will have it constitute the full 50% of the student growth measure rating. The OEA, in cooperation with other education stakeholders will be attempting to have this new requirement rescinded or amended, in order to once again permit the use of multiple student growth measures for all teachers.

7. Q. *How and why is Terra Nova Science scores used for Value Added Data? 3-8 grades Should teachers have been informed of this prior to 10/12?*

Answer: Student growth measures based on vendor assessments, such as Terra Nova, may be used (a local decision) for teachers who do not teach subjects for which value-added data is available, or in combination with value-added data, to constitute the student growth rating. Value-added data is only available for Reading (ELA) & Math, grades 4-8.

8. Q. *For High School teachers who teach multiple classes - will they be evaluated per area or just one? If one area, who decides (administration/ teacher) which student class data to evaluate?*

Answer: The OEA considers this to be a subject of collective bargaining, because the law leaves this decision to the local school district.

9. Q. *How are World Language Teachers going to be fairly evaluated in the school year 2013-2014 for using new state standards when model curricula will not be in place until the end of 2014?*

Answer: Your OEA Labor Relations Consultant can assist you in reinforcing the fairness of your evaluation process.

Locally determined student growth measures may be used for courses that do not have value-added or vendor assessments. The Ohio Department of Education has established guidance for developing student learning objectives (SLOs) for such courses. Additional information about developing SLOs can be found on the following ODE website:
<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=1230&ContentID=125742>

10. Q. Will all student growth measures require the use of tests? (Value-added/vendor produced/LEA produced)?

Answer: Measures of student learning based on locally-developed student learning objectives can be of many forms, including but not limited to performance-based assessments, project learning, portfolios, etc.

11. Q. Where can we get more information on SLO's Where do we sign up for those trainings?

Answer: To assist school districts in developing evaluation policies under sections 3319.02 and 3319.111 of the Revised Code, the Ohio Department of Education is required to serve as a clearinghouse of promising evaluation procedures and evaluation models that districts may use, and to provide technical assistance to districts in creating evaluation policies [RC 3319.112(D)].

SLO resources and training can be found on the following ODE Ohio Educator Evaluation Systems website:

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDedicatedPage.aspx?page=970>

The OEA advises that teachers participate in the ODE-sponsored training of trainers (SLOs) to build capacity and cohesion within their schools. Teachers can register for this training using STARS (System To Achieve Results for Students) which can be accessed from the ODE website. There currently is no charge for the training.

12. Q. Where does "shared accountability" fit into the multiple measure percentages? Is that a LEA? Is it negotiated?

Answer: This question appears to be in reference to "shared attribution," which has elements of shared accountability. Shared attribution involves the concept of "we all contribute to student learning," whether that be a classroom teacher and an intervention specialist, or all teachers at a grade level, e.g., self-contained classroom teachers and the "specials" teachers (e.g., art, music, physical education) who teach the same students. There are circumstances where it might be reasonable to do this (e.g., facilitates collaboration; acknowledges every teacher's contributions; eases the identification of multiple measures). The discretion to use shared attribution is left with the district, which means that the association should bargain either to adopt or not adopt the process, or to pilot the process with a limited group of volunteers.

13. Q. *Would the 3-year "rule" about student growth measure also come into play if a teacher is reassigned or transferred to a different grade level? Does the 3 years start over again?*

Answer: Based on ample research evidence, the OEA's policy is that student growth measures, including value-added data, should not be used for "high-stakes decisions" regarding students or teachers/employees. Because there now is a provision in law about forcing the use of evaluation results for retention decisions, the OEA recommends that the local association bargain a provision requiring that the use of student growth measures for employment (high-stakes) decisions be permitted only when there are *three consecutive years of student growth data*.

14. Q. *Why are we allowing the state to say that an "above average" rating in VA is still just proficient? What steps has OEA taken to stop Battelle VA being the only VA used?*

Answer: These 4-part ratings (accomplished, proficient, developing, and ineffective) were specified by the state legislature in HB 153. OEA policy states that OEA will work with the various partners to influence state policy and resource allocation as it relates to the use of value-added.

Battelle for Kids began its valued-added pilot (SOAR) in 2002 with support from then-Governor Taft. From the beginning, the OEA has maintained a respectful professional relationship with Battelle for Kids which has reciprocated with policies similar to the OEA's, particularly those which are skeptical of the use of value-added data for high-stakes decisions affecting teachers and principals.

15. Q. *Does this (Ohio law requiring teacher evaluation systems reflecting the OTES framework) also apply to charters, private for profit? Teach America? Gov. Kasich wants to class size and replace teachers with Teach America - cheaper, etc. Are they also held to this standard?*

Answer: The Ohio Teacher Evaluation System is required of all publicly funded schools. This includes Race to the Top community and public charter schools, but it is not applicable to private schools.

TEACHER EVALUATION – BARGAINING QUESTIONS

16. Q. *You mentioned 5 goals for MOU we should write down. Please repeat them. This is what OEA is telling us; what is OSBA telling them?*

Answer: Five goals should be considered when preparing MOUs regarding teacher evaluation:

1. Remind all parties of the greater good that the evaluation process is supposed to serve.
2. Affirm the duty to bargain teacher evaluation. Avoid any suggestion that the union has waived its right to bargain over teacher evaluation.
3. Require the ratification of any agreement that is reached.
4. Prohibit immediately using the new evaluation model for high stakes employment decisions.*
5. Establish a practice of using MOUs during the transition period for the new evaluation system.

*See # 13.

17. Q. Please explain/define what "...in consultation with..." means. Should the district involve us (the teachers) in adopting the new framework? What can we do if they refuse or choose not to include the teachers?

Answer: The OEA's legal analysis concludes that "in consultation with" means both participation on committees charged with developing, implementing, monitoring and improving local evaluation policies and practices and affirms the right to bargain teacher evaluation. If a school board refuses to bargain, the local association should inform the assigned Labor Relations Consultant and consider filing for a ULP.

HB 153 provided the following in R.C. 3319.11:

(A) Not later than July 1, 2013, the board of education of each school district, ***in consultation with teachers employed by the board***, shall adopt a standards-based teacher evaluation policy that conforms with the framework for evaluation of teachers developed under section 3319.12 of the Revised Code . . .
.[.] [emphasis added].

SB 316 did not amend, limit or repeal any provision in R.C. Ch. 4117 regarding the the scope of bargaining or effects bargaining. Evaluation remains a term and condition of employment subject to negotiation.

Chapter 4117, the duty to bargain and effects bargaining are still in place. Evaluations and the ways they affect terms and conditions of employment are still required subjects for bargaining.

R.C. 3319.111 acknowledges that the evaluation policy "shall" become part of the CBA. Terms do not go into a CBA unless they are negotiated. That is the essence of a contract: everything must be mutually agreed.

R.C. 3319.111 and .112's evaluation provisions do not "prevail over" the collective bargaining laws [4117.10(A)]. The General Assembly knows how to draft legislation that overrides collective bargaining laws—it did so repeatedly in SB 5, and did not do so in HB 153 of SB 316.

A committee can provide input and options, but to the extent the options involve or affect terms and conditions of employment, they must be negotiated before they can cross over into the CBA.

Many aspects of evaluations are not "requirements" of R.C. 3319.111 and are therefore subject to negotiation.

Only those aspects of evaluations that are requirements of R.C. 3319.111 will trump "conflicting" CBA provisions. The CBA prevails over all aspects of evaluations that are not requirements of R.C. 3319.111.

Use the S.B. 66 analogy: Even though financial reasons were added to R.C. 3319.17, the Board and Association still bargained the process and implementation, each contract has its own procedure to follow....this is no different.

Since compensation for and continued employment of teachers is tied to the evaluation, it will remain a mandatory subject of bargaining under Chapter 4117.

18. Q. *Where can we get the OEA Model Policy for OTES? What resources, specifically draft policy examples does OEA have or is OEA developing in order to assist locals in writing and influencing the teacher evaluation policy our local BOE will adopt? #17*

Q. Do we have a model minimalist policy?

Answer: Because the mandates for teacher evaluation will result in untested systems, and because the prospect for further legislation is unknowable, the OEA strongly recommends that all issues not presently in statute become matters of collective bargaining, not elements of a local board policy. The OEA Labor Relations Consultants are available to assist local associations regarding the content for board policies. OEA resources are being continuously updated, and they include the basic legal requirements for local board policy, critiques of sample policies advocated by other organizations, and guidance and sample language to protect members' opportunities and rights. Local leaders may consult the OEA website for additional information by signing into the "members only" area.

18. Q. *You mentioned OTES is a FRAMEWORK - does this mean we bargain (frame) parts of the formal observation section? i.e. No pre-conference for teachers on professional growth plan; how about number of walkthroughs?*

Answer: All aspects of teacher evaluation that are **NOT** statutory requirements may be bargained.

19. Q. Does OEA have an example of contract language for evaluations?

MOU's? Could you expand or give examples of the MOU referred to in the presentation?

Does OEA have sample/model contract language representing/reflecting on ideal teacher evaluation framework?

Answer: Local leaders should contact their Labor Relations Consultant for consultation regarding issue-appropriate considerations and possible language when bargaining teacher evaluation MOUs and contracts. Guidance for bargaining MOUs and contracts, including sample language for specific considerations, is continuously under development and revision in response to ongoing changes made by the General Assembly and the evolving administrative interpretations and guidance from the Ohio Department of Education. This includes the following: (1) Sample MOU language that addresses a range of district circumstance, e.g., RttT, not RttT, contract expiration June 30, 2013 vs. 2014 or later; and (2) Language development guidance with sample contract language.

20. Q. Why won't ODE increase the capacity for participation in student growth workshops?

Will OEA run workshops on the development of SLO's for special (non-tested) subjects? Does OEA have the capacity to train members on the development of SLO's.

Answer: ODE has consistently added SLO “training of trainer” dates, based on registration “wait list” data. For this reason, the OEA recommends that individuals not be deterred by “session full” messages and, instead, place their names on wait lists.

The OEA presently has a number of members and staff trained as trainers, and is in the process of scheduling SLO training, to augment the trainings scheduled by ODE.

21. Q. Should those Associations who are bargaining this Spring for a contract which expires in the summer still look at MOU's about OTES?

Answer: The OEA recommends that every local consider MOUs as a means for addressing the development and “testing” of aspects of the teacher evaluation system that are unknowable at

any time. This would allow for evidence-based experimentation and development, increase the prospect of fairness, and better inform the management of resources; therefore, agreeing to MOUs would seem to be a matter of mutual interest for both labor and management.

22. Q. *I want to make sure this is correct. Since my school district (Elgin Local Schools) didn't have teacher contracts signed before Sept. 22, 2012, we are not obligated to pilot a Teacher Evaluation System as of second semester this school year? We can work towards this next year?*

Answer: The evaluation system must become operative at the expiration of the current collective bargaining agreement. The OEA recommends, however, that the association bargain an MOU to reinforce the right to bargain teacher evaluation and to provide for a committee and process for the development and testing of the next evaluation system.

23. Q. *If we started bargaining in March of 2012 but have no agreement yet, are we covered till our contract ends? If we are not a RTTT school, will we get in trouble if we are not compliant next year?*

Answer: The Revised Code mandates that the board will have adopted a teacher evaluation policy by July 1, 2013. If the collective bargaining agreement has expired by June 30, 2013, yet negotiations toward a new contract continue, the local association's position should be that the Board may not implement the new policy until a new contract addressing teacher evaluation has been ratified. If impasse were to occur, the board might attempt unilateral implementation. If this appears to be a possibility, the association should begin immediate consultation with the OEA Labor Relations Consultant toward developing a legal strategy.

Regarding the implications of a school district's failure to comply with the teacher evaluation mandate, there appears to be no clear menu of legal sanctions. Of course, there could be considerable public relations fallout.

ISSUES NOT ADDRESSED BY STATUTE

Issues not addressed by statute may (should) be addressed in collective bargaining; however, if the school district adopts a policy addressing any such issue, the policy could limit the potential to bargain that issue. The OEA recommends that local leaders persuade administrators and boards of education to limit the extent to which the local school board policy on teacher evaluation includes provisions beyond restatement of statutory requirements, and that the policy include an affirmation of the duty to bargain teacher evaluation.

24. Q. *Will we have a say or protection against having outsiders (non-supervisors) evaluate us if the teacher/principal ratio is too high and other evaluators are needed to cover the load?*

Answer: The specification of who conducts the evaluation is a local decision for which the school district has a duty to bargain.

25. Q. *For those who do not see students 50% of the time, should details of those evaluations be detailed in the contract?*

Answer: This is a local decision for which the school district has a duty to bargain.

26. Q. *How can our local "factor out" student growth measures in the overall teacher rating? Especially decisions about employment (renewals, etc.)*

Answer: This question concerns the OEA's recommendation that local associations ensure through bargaining that high-stakes decisions will not be made with fewer than three consecutive years of student growth data. Although student growth measures are not considered by credible researchers to be valid for employment decisions, Ohio law requires their use. The OEA recommends that local associations gain the support of principals in the district, who also will have their evaluations and employment decisions based on the 50% student growth data, as one means toward bargaining fair use of student growth measure. Although the teacher effectiveness rating, consisting of 50% teacher performance and 50% student growth, must be reported to ODE by way of the Electronic Teacher and Principal Evaluation System (eTPES), the collective bargaining agreement should stipulate that the evidence used for the final evaluation report shall exclude the student growth half, if there are not three consecutive years of comparable data (see question #13) available.