



*A Union of Professionals*

**Illinois Federation of Teachers**

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**Fact Sheet for Public Act 101-591 (Senate Bill 1213)**

**IFT Achieves Changes to Teacher Performance Evaluation Requirements**

We are continuing our multi-year effort to improve the 2010 Performance Evaluation Reform Act (PERA). This work has been member-driven and founded in resolutions passed at IFT Convention ([2016 Resolution No. 22](#) and [2013 Resolution No. 29](#)) and multiple IFT focus groups since 2015. PERA reform continues to be an IFT legislative priority and our legislative successes include:

**2018**

**Stronger privacy protections for teacher evaluation data**

PERA Joint Committee meetings are not subject to the provisions of the Open Meetings Act [105 ILCS 5/24A-4(b)].

**Guaranteed ongoing union voice to address local implementation concerns**

School Code now requires all PERA Joint Committees to meet at least one time annually to assess and review the effectiveness of the district's evaluation plan for the purposes of continuous improvement of instruction and evaluation practices.

**2019**

**Statewide protections from unfair Unsatisfactory ratings**

A new section in School Code requires districts to bargain the development and implementation of an appeal process for teachers receiving a rating of Unsatisfactory.

**Understanding the Requirements for a New Appeal Process**

IFT worked with chief sponsors Senator Kimberly Lightford and Representative Katie Stuart to pass [Public Act 101-591 \(Senate Bill 1213\)](#), which created a new section of School Code, 105 ILCS 5/24A-5.5.

**Why IFT Introduced Senate Bill 1213**

Prior to Public Act 101-591, when a teacher received a rating of Unsatisfactory, the only remedy was to grieve procedural violations (e.g., the evaluator failing to meet timelines or pre/post conference requirements). Teachers could not dispute rating determinations or bring forward additional evidence once an Unsatisfactory rating was given unless a collective bargaining agreement allowed for it.

## New Requirements for A Local Appeal Process for Unsatisfactory ratings

Each school district must, through good faith bargaining with the union, develop and implement an appeal process for Unsatisfactory ratings. The appeal process must include, but is not limited to, an assessment of the original rating by a panel of qualified evaluators which has the power to revoke the Unsatisfactory rating it deems to be erroneous. The local appeal process must include specific roles for the PERA Joint Committee. The issuance of a rating to replace an Unsatisfactory rating must be determined through bargaining between the union and the school district.

## What My Union Needs to Know as We Prepare to Bargain a Local Appeal Process

### ***Long-standing bargaining rights related to performance evaluation remain intact.***

Unions maintain the right to bargain the evaluation process and to develop evaluation plans in cooperation with the district. Existing requirements for PERA Joint Committees remain in place [105 ILCS 5/24A-4]. In some places, districts and unions have historically bargained only process-related aspects of the evaluation plan, which is required under the [Illinois Educational Labor Relations Act](#) (IELRA). In other places, districts and unions have bargained the entire evaluation plan, including the tool, evaluative rating criteria, and standards.

### ***Unions retain the right to file a grievance when evaluation plan procedures have been violated.***

The new required appeal process for Unsatisfactory ratings is in addition to the local grievance procedure. Unions can still file grievances for teachers who receive an Unsatisfactory rating. While the grievance process addresses procedural errors, the new appeal process allows for a teacher who receives an Unsatisfactory rating to dispute the substance of the evaluation (e.g., the evidence and data which led to the rating itself).

### ***Unions that have already bargained an appeal process should not give up anything that exceeds the new requirements of Section 24A-5.5.***

Where the union and school district have already bargained an appeal process, unions should ensure that existing contract language meets all requirements of the new Section 24A-5.5. Because Section 24A-5.5 is silent on an appeal process bargained prior to passage of Public Act 101-591, the union is not required to give up any current rights bargained locally which exceed the requirements of the Act.

### ***Unions have flexibility to bargain an appeal process that works best for their local context, within specific statewide protections under Section 24A-5.5.***

With Public Act 101-591, all school districts are now required to bargain with the union a local appeal process that applies to all individuals receiving Unsatisfactory ratings. The appeal process must include, but is not limited to, an assessment of the original Unsatisfactory rating by a panel of qualified evaluators. This panel has the power to revoke an Unsatisfactory rating it deems to be erroneous. The issuance of a rating to replace an Unsatisfactory rating must be determined through bargaining between the union and the school district. Through bargaining, unions can attempt to broaden the appeal process to include Needs Improvement ratings. There are specific requirements as well for the local PERA Joint Committee, which plays two important roles: It must agree to the panel of qualified evaluators and establish the criteria for successful appeal.

*Together, the union bargaining team, its PERA Joint Committee members, and the Appeal Panel play critical roles in the local appeal process to combat possible bias and bolster every teacher's right to a fair evaluation.*

UNION BARGAINING TEAM	PERA JOINT COMMITTEE	APPEAL PANEL
<p>Bargain the appeals process and its related procedures</p> <p>Bargain to determine the issuance of a rating to replace an Unsatisfactory rating, if the Appeal Panel determines it should be revoked</p>	<p>Agree to who serves on the panel of qualified evaluators</p> <p>Establish the criteria for a successful appeal</p>	<p>Assess the original Unsatisfactory rating</p> <p>Determine if the original Unsatisfactory rating should be revoked</p>

## GENERAL Q & A

### Q1. What is the law's effective date?

The appeals process is to be implemented the first school year following August 27, 2019, the law's effective date. The appeals process can be implemented sooner, if the district and union agree.

### Q2. Why did groups representing school management oppose Senate Bill 1213?

School management unsuccessfully argued that an appeal process undermines and neutralizes principal authority. In fact, the new law provides an important check and balance on the evaluation process by a panel which includes school administrators. When the panel revokes an Unsatisfactory rating, it is acknowledging a mistake was made. In places already using an appeal process, data show it contributes to improvement in the overall evaluation process and the number of Unsatisfactory ratings steadily decreases. Thus, the appeal process not only serves to benefit the individual who has an unwarranted Unsatisfactory rating overturned, but creates a heightened sense of accountability among evaluators thereby increasing the accuracy and validity of their evaluation techniques and processes.

### Q3. Does Public Act 101-591 require the Illinois State Board of Education to create a state default model appeal process?

No. Districts and unions have a responsibility to bargain a local appeals process.

## Q&A FOR BARGAINING TEAMS

While Public 101-591 creates an appeals process for teachers receiving an Unsatisfactory rating and provides guidelines, much of the decision-making regarding the specific processes and procedures will be determined locally by the district and union. Below are several considerations and potential actions the Union can take to design an appeals process that is context-specific, efficient, and effective.

**Q1. What should our team consider regarding the appeal panel?**

The appeal process must include an assessment of the original Unsatisfactory rating by a panel of qualified evaluators. This panel has the power to revoke an Unsatisfactory rating. Things to consider when determining composition of this panel:

<b>Appeals Panel:</b>	<b>Things to Consider/Potential Union Bargaining Action</b>
<b>Size</b>	<p>Overall size – panel size should facilitate scheduling and conducting meetings while still providing for multiple perspectives and expertise to fairly assess the original rating. Consider whether or not to identify qualified alternate panel members.</p> <p>Even or odd number of members – this will affect the panel’s decision-making processes to consider revoking an original rating. If the appeals panel has an even number, consider how ties will be broken (e.g., the union president and district superintendent jointly serve as the tie-breaker).</p> <p>Majority interest - propose that the union has the majority interest on the panel.</p>
<b>Criteria/ Requirements for members of panel</b>	<p>Each member of the appeal panel must be a qualified evaluator. Qualified evaluators must have met <b>one</b> of the following requirements:</p> <ul style="list-style-type: none"> <li>• Completed all five Growth Through Learning (GTL) modules, prior to Jan. 1, 2019</li> <li>• Completed Administrator Academy #2001 on or after Jan. 1, 2019*</li> </ul> <p>If there are no members from the bargaining unit who are qualified, consider bargaining to have the evaluator prequalification and retraining fees paid so several members can receive the training needed to serve on the panel. (See “Additional Resources” for information on how to access the training).</p> <p>Consider if other local criteria are necessary. Should panel members be current employees of the district, or recently retired teachers and administrators? How familiar should panel members be with the local evaluation plan?</p>
<b>Term of service</b>	<p>Consider how long a panel member can/should serve on the panel. Should terms of service be staggered so there are always experienced members of the panel? Can panel members serve multiple terms of service? Are there term limits?</p>

<p><b>Appointment of members</b></p>	<p>While the PERA Joint Committee is required to agree to who serves on the panel, bargaining can help define how the Joint Committee makes the decision. Should the Joint Committee seek qualified volunteers to choose from? Should the panel be comprised of equal representation from union and district, or should the Joint Committee agree to every panel member? Should the union and district each submit potential panel members to the Joint Committee from which it must select a certain number?</p>
<p><b>Responsibilities</b></p>	<p>In addition to the authorities granted through Public Act 101-591, consider bargaining additional authority to the appeal panel, such as making recommendations to the PERA Joint Committee on how to improve local evaluation processes and training recommendations for evaluators.</p> <p>Consider what your local needs to include when bargaining this issue. Are panel members responsible for recusing themselves from a case if they cannot be impartial? Are all panel members responsible to attend every meeting?</p>
<p><b>Protocols and procedures to guide panel work</b></p>	<p>Public Act 101-591 charges the appeal panel with duties that include, but are not limited to, an assessment of the original Unsatisfactory rating. Unions should consider how best to define this assessment through the bargaining process. Is the panel assessing only the evidence collected by the evaluator? Can the teacher making the appeal provide additional information, evidence and/or artifacts? Will the panel hear statements from the teacher, the evaluator and/or someone else? Can the panel require an additional observation of the teacher prior to making a determination?</p>
<p><b>Additional time, resources &amp; training</b></p>	<p>Besides the required pre-qualification evaluator training and retraining, consider if panel members should receive additional local training, secretarial support for their work, access to materials and meeting space, and/or a stipend for their service on the panel. Consider what resources must be available to support convening the panel (e.g., posted meeting notices and/or agenda, a minimum number of participating panel members, electronic resources, etc.).</p>

**Q2. What other issues does our team need to consider?**

Here are some initial suggestions and considerations when designing your appeals process. This section will be updated with additional suggestions as we receive feedback from the field.

<b>Appeals Process:</b>	<b>Things to Consider/Potential Union Action</b>
<b>Timeframes</b>	<p>When determining appeal process timing, keep in mind: Districts are still required to develop and commence a remediation plan for tenured teachers within 30 school days after completion of the Unsatisfactory rating. Districts are also still required to create the RIF list at least 75 days before the end of the school term. There may be other, locally agreed-upon requirements to take into account.</p> <p>Therefore, the timing of the steps of the appeal process (e.g., teacher appeal, panel assessment and determination, notification to teacher and evaluator; actions to be taken if the panel revokes an original rating) should account for already-established timelines.</p>
<b>Required documents and data</b>	<p>Consider how teachers will document initiation of the appeal; what documents the panel will have available for assessing the original rating; and how the panel will document its decision on each appeal, including making a determination to revoke the original rating. Consider who will receive copies of each document and when.</p> <p>Consider data collection that tracks the panel’s decision on each appeal, as well as which criteria lead to successful appeals of the original rating. These types of data could inform the PERA Joint Committee as it contemplates improvements to the local evaluation processes over time.</p>
<b>Revocation of an “Unsatisfactory”</b>	<p>Consider bargaining the following: barring the district from using the revoked rating when determining RIF groupings; replacing the revoked rating with Proficient; issuing a replacement rating, as determined by recommendation of the appeals panel. In addition, consider bargaining that the teacher would be assigned a different evaluator for the next school year.</p>
<b>Extend appeals process</b>	<p>Consider bargaining to extend the appeal process for members receiving “Needs Improvement” rating.</p>

## PERA JOINT COMMITTEE Q & A

### Q1. What are examples of criteria for successful appeal of an Unsatisfactory rating?

There is no limit in Section 24A-5.5 regarding the number of criteria for successful appeal. Criteria must be established by the local PERA Joint Committee.

Examples of criteria for appeal to consider include:

1. Teacher receives an “Unsatisfactory” rating on any observation/evaluation component.
2. Teacher is rated but should not have been because the component(s) was/were not observed. (Example: No evidence is provided in my evaluation for component 3c, Engaging Students in Learning, but the evaluator rated it Unsatisfactory.)
3. Evidence used by evaluator does not match component scoring. (Example: My lesson plans include standards, are grade appropriate and structured to support learning objectives; however, I was given a score of Unsatisfactory on component 1d, Designing Coherent Instruction.)
4. Evidence used by evaluator is missing or not considered. (Example: I used questions and prompts to evaluate learning at various times during the observation, but these assessment techniques were not noted during the observation. I was scored a 1 on component 3d, Using Assessment in Instruction.)
5. Teacher did not have opportunity to contribute during pre- or post-observation conferences. (Example: In the post-conference, I tried to talk to my evaluator about how I call home to talk with the family about an individual student concern, as well as how I send home a monthly email to families. I brought in the family contact log I keep and examples of emails; however, 4c, Communicating with Families was rated Unsatisfactory, and the evaluator did not document the examples I shared.)
6. Ratings are based on observation notes that reflect evaluator’s bias, subjectivity or misinterpretation of data or evidence. (Example: Observation notes state “the teacher needs to use best practices.” Teacher is given a score of 2 on component 3c, Engaging Students in Learning, with only the subjective comment as justification.)
7. Student particularities and/or classroom needs were not addressed by evaluator. (Example: In the pre-conference, I explained to the evaluator that the plan for Shawn, a student with an IEP, is to allow him to sit alone when he feels he needs to do so. The evaluator lowered my score on component 2b, Establishing a Culture for Learning, based on Shawn’s non-participation in a group activity.)
8. Evaluator is biased. (Example: The principal has said to the teacher and/or others, “I don’t like this teacher’s instructional style. She is too strict with her students.” Or, the principal has said to the teacher, “You don’t stay after school to help with activities. Plus, I don’t like the way you’ve arranged your classroom.”)
9. Teacher believes the day of any informal or formal observation occurred on an atypical day. (Examples: The evaluator observed me when I had just learned of a stressful personal circumstance or situation. There was adverse weather or unforeseen external circumstances that upset/agitated my students.)
10. Other evidence brought forth by the teacher which the local appeal panel deems credible.

**Q2. What other roles could the PERA Joint Committee have?**

By law, the PERA Joint Committee must convene at least once a year to consider the effectiveness of the evaluation plan. To support continuous improvement, data or other information and recommendations from the local appeal panel could be used to help inform the PERA Joint Committee’s annual meeting(s). In addition, the PERA Joint Committee could play a role in monitoring the appeal process to ensure it is working as intended.

**\* ADDITIONAL RESOURCES:**

Individuals may access the two-day evaluator pre-qualification training (Administrator Academy #2001) through some Regional Offices of Education/Intermediate Service Centers (calendar at the [Illinois Association of Regional Superintendents of Schools](#) website), the [Illinois Principals Association](#) (IPA) and the Illinois Association of School Administrators (IASA). Costs vary by provider, within a range of \$375-\$475. Several of these organizations have upcoming trainings scheduled.

The “evaluation qualifications” section of an individual’s Educator Licensure Information System (ELIS) account can verify if she/he has completed the [required training](#). This info is available via a public search of any individual.

Please reach out to your IFT Field Service Director for assistance.

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