

1012.225 Merit Award Program for Instructional Personnel and School-Based Administrators.—

(1) ELIGIBILITY.—

(a) In order to be eligible for funding under this section, a district school board must adopt a Merit Award Program plan that provides for an assessment and a merit award based on the performance of students assigned to the employee's classroom or school pursuant to paragraph (3)(a) or paragraph (3)(b). Charter schools may participate in the program by using the district's Merit Award Program plan or may adopt an alternative Merit Award Program plan as provided in paragraph (5)(b). All instructional personnel, as defined in s. 1012.01(2)(a)-(d), and school-based administrators, as defined in s. 1012.01(3)(c), are eligible as individuals or as instructional teams to receive merit awards, with the exception of substitute teachers. In order to receive a merit award as an instructional team under this section, team members must be assessed on the performance of students assigned to the team members' classrooms or within the members' academic sphere of responsibility. The district school board may not require instructional personnel or school-based administrators to apply for an award, or make any presentation, in order to be assessed for or receive a merit award. A plan is subject to negotiation as provided in chapter 447. The Department of Education may not distribute any portion of pro rata funding to a district, or to a district for a charter school within the district, if the district or charter school chooses not to adopt a Merit Award Program plan under this section. Undistributed funds shall be considered unobligated and shall revert to the fund from which the appropriation was made in accordance with s. 216.301.

(b) Funds appropriated for the Merit Award Program shall be released and distributed to eligible school districts on or before July 31 for distribution to eligible recipients by October 1 pursuant to paragraph (2)(a).

(2) PAY SUPPLEMENTS STRUCTURE.—Merit Award Program plans shall provide for the annual disbursement of merit-based pay supplements to high-performing employees in the manner described in this subsection.

(a) Each Merit Award Program plan must designate the top instructional personnel and school-based administrators to be outstanding performers and pay to each such employee who remains employed by a Florida public school or who retired after qualifying for the award, by October 1 of the following school year, a merit-based pay supplement of at least 5 percent of the average teacher's salary for that school district not to exceed 10 percent of the average teacher's salary for that school district. The amount of a merit award may not be based on length of service or base salary. Pay supplements shall be funded from moneys appropriated by the Legislature under this section and from any additional funds that are designated by the district for the Merit Award Program. School districts are not required to implement this section unless the program is specifically funded by the Legislature. By November 1 of each year, each school district shall provide documentation to the Department of Education concerning the expenditure of legislative appropriations for merit-based pay, and shall refund undisbursed appropriations to the

department. If such undisbursed funds are not remitted to the department by November 1, the department shall withhold an equivalent amount from the district's allocation of appropriations made under s. 1011.62.

(b) A Merit Award Program plan may include additional pay supplements under this section for employees who manifest exemplary work attendance.

(c) Merit-based pay supplements shall be awarded in addition to any general increase or other adjustments to salaries which are made by a school district. An employee's eligibility for or receipt of merit-based pay supplements shall not adversely affect that employee's opportunity to qualify for or to receive any other compensation that is made generally available to other similarly situated district school board employees.

(3) ASSESSMENT.—

(a) The school district's assessment of an instructional personnel staff member must consider the performance of students assigned to his or her classroom or, in the case of co-teaching or team teaching, within his or her academic sphere of responsibility.

(b) The assessment of a school-based administrator must consider the performance of students assigned to his or her school.

(c) A district school board must evaluate student performance for purposes of this section based upon student academic proficiency or gains in learning or both, as measured by statewide standardized tests, or, for subjects and grades that are not measured by the statewide assessment program, by national, state, or district-determined testing instruments that measure the Sunshine State Standards, curriculum frameworks, or course descriptions for the content area assigned and grade level taught. This portion of the employee assessment shall be weighted at not less than 60 percent of the overall evaluation.

(d) For purposes of this section, measures adopted by the district school board to assess instructional personnel and school-based administrators must balance student performance based on academic proficiency and gains in learning so that top-performing eligible employees have an opportunity to receive an award under this section.

(e) Using assessment criteria adopted by the district school board, a professional practices component for the assessment of instructional personnel must be based on the principal's assessment of the instructional personnel and the assessment of school-based administrators must be based on the district superintendent's assessment of the administrator. This portion of the employee assessment shall be weighted at up to 40 percent of the overall evaluation. Performance-related assessment criteria adopted by the district school board for personnel assessments by principals and superintendents shall include:

1. The ability to maintain appropriate discipline.

2. The outstanding knowledge of subject matter, with the ability to plan and deliver high-quality instruction and the high-quality use of technology in the classroom.
3. The ability to use diagnostic and assessment data and design and to implement differentiated instructional strategies in order to meet individual student needs for remediation or acceleration.
4. The ability to establish and maintain a positive collaborative relationship with students' families for the purpose of increasing student achievement.
5. The Florida Educator Accomplished Practices and any other professional competencies, responsibilities, and requirements, as established by rules of the State Board of Education and policies of the district school board.
6. For school-based administrators, in addition to subparagraphs 1.-5.:
  - a. The ability to manage human, financial, and material resources so as to maximize the share of resources used for direct instruction, as opposed to overhead or other purposes; and
  - b. The ability to recruit and retain high-performing teachers.
7. Other appropriate factors identified by the district school board.

(4) DUTIES.—

- (a) Each district school board shall inform its employees of the criteria and procedures associated with the school district's Merit Award Program plan.
- (b)1. Upon request, the department shall provide technical assistance to school districts for the purpose of aiding the development of Merit Award Program plans. The advice and recommendations offered by the department under this paragraph are not subject to the requirements of chapter 120.
2. The department shall collect and disseminate best practices for district-determined testing instruments and Merit Award Program plans.

(5) REVIEW OF PERFORMANCE-BASED PAY PLANS.—

- (a) Each participating district school board must submit its Merit Award Program plan to the Commissioner of Education for review by October 1 of each year. The plan must include the negotiated, district-adopted plan or charter school adopted plan if the district does not submit a plan intended for use in the following year. The commissioner shall complete a review of each plan submitted and determine compliance with the requirements of this section by November 15 of each year. If a submitted plan fails to meet the requirements of this section, the commissioner must identify in writing the

specific revisions that are required. Revised plans must be finalized and resubmitted by a school district, or by a charter school if the district does not submit a plan, for the commissioner's review by January 31 of each year. The commissioner shall certify those school district or charter school plans that do not comply with this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15 of each year.

(b) Any charter school that does not follow the school district's salary schedule may adopt its own performance-based plan in accordance with this section. Charter school proposals shall be included with the school district plans or may be submitted independently if the district does not submit a plan.

(c) Each district school board shall establish a procedure to annually review both the assessment and compensation components of its plan in order to determine compliance with this section. After this review and by October 1 of each year, the district school board shall submit a report to the Commissioner of Education, along with supporting documentation that will enable the commissioner to verify the district's compliance with this section during the prior school year. The commissioner shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives certifying those school district or charter school plans that do not comply with this section or whose plans were not implemented in accordance with this section by December 1 of each year.

(d) For purposes of the 2007-2008 school year, the plan submitted as required in paragraph (a) applies to the 2007-2008 school year as well as the 2008-2009 school year. Thereafter, all plans submitted and approved within the timelines set forth in paragraph (a) apply to the following school year.

(6) **SUBSEQUENT REVISIONS OF APPROVED PLANS.**—Any revision to an approved Merit Award Program plan must be approved by the district school board and reviewed by the commissioner to determine compliance with this section.

(7) **RULEMAKING.**—The State Board of Education shall adopt rules relating to the calculation of average teacher salaries per district, reporting formats, and the review of plan procedures pursuant to ss. 120.536(1) and 120.54 for purposes of administering this section. The State Board of Education must initiate the rulemaking process within 30 days after this act becomes law.

History.—s. 1, ch. 2007-3; s. 9, ch. 2007-234; s. 6, ch. 2007-328.