
Best Practices

By Eric C. Griggs, Barbara A. Ruga / Jul 07, 2014

On June 24, 2014, Governor Snyder signed the 2014-15 State School Aid Act, 2014 Public Act 196, into law. The Act continues "Best Practice" revenues for fiscal year 2015, but at a reduced rate of \$50 instead of \$52 per pupil. In addition, the Legislature revised the criteria that must be satisfied to receive Best Practice funding; districts must now meet seven of nine criteria to qualify for the additional revenue. Three of the criteria are new, one of which (§22f(2)(f)) requires that a district demonstrate its compliance with section 1250 of the Michigan Revised School Code (MCL §380.1250). Section 1250 (sometimes referred to as "merit pay") states:

A school district . . . shall implement and maintain a method of compensation for its teachers and school administrators that includes job performance and job accomplishments as a significant factor in determining compensation and additional compensation. The assessment of job performance shall incorporate a rigorous, transparent, and fair evaluation system that evaluates a teacher's or school administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria.

We have received many inquiries from clients about what is necessary to satisfy this new component of Best Practice revenues. Unfortunately, the above language is the only guidance that exists. While we anticipate that the Michigan Department of Education will release its annual guidance letter regarding the Best Practice criteria in the coming weeks, that letter is unlikely to provide additional insight into the section 1250 requirement because there is no statutory authority, case law or Attorney General Opinion to guide the MDE.

In this environment, districts will continue to have flexibility to decide locally how to create a method of compensation for teachers and administrators that includes job performance and job accomplishments as a significant factor. Some districts have negotiated step increases being tied to annual effectiveness ratings; others offer off-schedule lump sum payments to highly effective teachers and administrators, without bargaining. Given that the decision is a prohibited subject of bargaining, a board may unilaterally develop this compensation system without input from the affected staff, or it may discuss it with those employees but does not need their agreement.

Many studies have been published on the subject of alternative compensation systems within K-12 schools; Clark Hill attorneys have assisted clients in the design and development of such approaches within the confines of their budget. If you would like assistance in implementing a merit pay system within your district, please contact a Clark Hill Education Practice Group attorney.