

## Tips and Timelines on PDAS to Help you Meet Your Deadlines and Follow the Rules

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Appraisal season is HERE (or should be) and the scramble is on. Administrators are attempting to gather documentation on teacher performance while teachers are deciding which 45 minute lesson to present (at least teachers in districts that still schedule observations are). Teachers and administrators throughout Texas are familiar with the Professional Development and Appraisal System, better known as PDAS. The purpose of this article is to remind administrators of important timelines for the PDAS process and to highlight Commissioner's decisions that discuss districts' violations of the appraisal process.

Each year, the district develops an appraisal calendar.<sup>1</sup> The appraisal period includes all of the days of a teacher's contract.<sup>2</sup> In developing the appraisal calendar, there are several time periods that must be excluded. Observations cannot be conducted three weeks after the PDAS orientation.<sup>3</sup> In addition, observations cannot be conducted on the last day of instruction before any school holiday or on any day the board of trustees considers inappropriate.<sup>4</sup> The appraisal calendar also designates a period during which summative annual conferences will be held, but those conferences should be completed no later than 15 working days before the last day of student instruction.<sup>5</sup> However, it is possible for a teacher to execute a written waiver allowing the summative annual conference to occur during the last 15 days of instructions.<sup>6</sup> If a teacher wishes to exercise this option, but later calls foul for having the summative conference within the last 15 days of instruction, he/she will have to show harm.<sup>7</sup>

The appraisal process is conducted over one academic year. Generally, every year all teachers are appraised within his/her area of certification.<sup>8</sup> The district provides an orientation of the appraisal process within the first three weeks of the school year.<sup>9</sup> During the school year, the appraiser conducts at least one 45 minute observation of a teacher's performance.<sup>10</sup> However, the teacher and the appraiser can agree to break up

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<sup>1</sup> Tex. Admin. Code § 150.1003(d).

<sup>2</sup> *Id.*

<sup>3</sup> Tex. Admin. Code § 150.1003(d)(1), (2). If an orientation is not required, teacher observations cannot be conducted in the first three weeks of student instruction. Tex. Admin. Code § 150.1003(d)(3).

<sup>4</sup> Tex. Admin. Code § 150.1003(d)(4).

<sup>5</sup> Tex. Admin. Code § 150.1003(d)(5).

<sup>6</sup> Tex. Admin. Code § 150.1003(i); *Koehler v. La Grange Indep. Sch. Dist.* Docket No. 092-R10-801 (Comm'r Educ. 2002).

<sup>7</sup> *Koehler v. La Grange Indep. Sch. Dist.* Docket No. 092-R10-801 (Comm'r Educ. 2002).

<sup>8</sup> Tex. Admin. Code § 150.1003(a).

<sup>9</sup> Tex. Admin. Code § 150.1007(a). If the orientation is not provided by the first three weeks of school, an orientation must be provided before the first observation. *Id.* Teachers new to a district must have an orientation at least three weeks before the first observation. Tex. Admin. Code § 150.1007(a)(2).

<sup>10</sup> Tex. Admin. Code § 150.1003(b)(1).

the 45 minute observation into smaller timeframes over the course of the year.<sup>11</sup> The only stipulation is that the total time of these mini-observations sum to 45 minutes.<sup>12</sup> The appraiser does not have to provide notice of the date or time of the appraisal.<sup>13</sup> Moreover, the appraiser has the discretion to conduct several walk-throughs during the school year.<sup>14</sup> During the appraisal period, the appraiser collects documentation related to the teacher's performance.<sup>15</sup> Any documentation that the appraiser will use that influences the appraisal must be shared with the teacher, in writing, within 10 working days of learning of the occurrence of an event related to teacher performance.<sup>16</sup> Towards the end of the appraisal year, the appraiser then shares a written summative annual appraisal report with the teacher.<sup>17</sup> This report must be given to the teacher no later than five working days before the summative conference, but no later than 15 working days before the last day of student instruction.<sup>18</sup> Finally, a summative conference must be held between the appraiser and the teacher.<sup>19</sup> The summative conference must be held no later than 15 working days before the last day of student instruction.<sup>20</sup>

As you can imagine, the Commissioner has addressed several violations regarding PDAS. The violations usually have to do with not timely sharing documentation or not holding summative conferences. The usual relief for a PDAS violation is a declaration that the appraisal is void.<sup>21</sup> The following decisions address these issues.

In *Fowler v. La Porte Independent School District*,<sup>22</sup> the Commissioner concluded that the teacher's final summative annual appraisal was null and void because the appraiser failed to comply with rule 150.1003(f) by not timely notifying the teacher of the documentation to be used for the appraisal report. Although the teacher did receive some documentation that was used in her appraisal, the appraiser failed to give her the documentation within 10 days of the appraiser's knowledge of the occurrence of the incidents. By using the documentation to lower the teacher's appraisal rating, the PDAS rules were violated.

In *Koehler v. La Grange Independent School District*,<sup>23</sup> the Commissioner concluded that by using undocumented events for the appraisal report, the appraisal report was invalid. During a couple of informal observations the appraiser observed some incidents, but did not document the events. The appraiser used these events to give the teacher a low rating. Although these events occurred during informal observations, the Commissioner opined that "[t]here is no provision for undocumented incidents to form the basis of an

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<sup>11</sup> See Tex. Admin. Code § 150.1003(g).

<sup>12</sup> *Id.*

<sup>13</sup> Tex. Admin. Code § 150.1003(c).

<sup>14</sup> See Tex. Admin. Code § 150.1003(b).

<sup>15</sup> Tex. Admin. Code § 150.1003(b)(5).

<sup>16</sup> Tex. Admin. Code § 150.1003(f).

<sup>17</sup> Tex. Admin. Code § 150.1003(h).

<sup>18</sup> *Id.*

<sup>19</sup> Tex. Admin. Code § 150.1003(h).

<sup>20</sup> *Id.*

<sup>21</sup> *Durand v. Hillsboro Indep. Sch. Dist.*, Docket No. 056-R10-1198 (Comm'r Educ. 1999).

<sup>22</sup> Docket No. 014-R10-998 (Comm'r Educ. 1999)

<sup>23</sup> Docket No. 092-R10-801 (Comm'r Educ. 2002).

appraisal rating...All informal observations must be documented and shared with the teacher within 10 working days of the appraiser's knowledge of the occurrence." The failure to provide documentation to a teacher is such a serious failing, it can result in the appraisal being declared invalid.<sup>24</sup>

In *Durand v. Hillsboro Independent School District*,<sup>25</sup> the Commissioner ruled that the teacher's appraisal be null and void. There, the appraiser gave the teacher three ratings below expectations in Domain V. A second appraisal was conducted where the ratings were lowered to unsatisfactory. The teacher was placed on a Teacher in Need of Assistance plan and was subsequently non-renewed. The teacher alleged that the appraiser did not share the documents used in the evaluation. The appraiser used documents from the previous and current school year. There was no issue with the documents from the current school year because the documents were shared with the teacher within 10 days of the occurrence of the documentation. But, the Commissioner took issue with the documents from the previous school year. The Commissioner stated:

With respect to the documents written by three administrators the previous school year, [teacher] argues that documents from a previous school year cannot serve as documentation of deficiencies for an appraisal for the current school year. [Teacher's] argument is correct. Allowing an appraiser to rely on documentation from a previous school year is not consistent with the timelines imposed by rule 150.1003(f)"

Also in this case, the appraiser failed to hold a summative conference. The teacher argued that she did not have the opportunity to present her Teacher Self-Report because she did have an annual summative appraisal or a summative annual conference. Although the principal told the teacher to bring the report to the conference, a conference never occurred. This failure also added to the appraisal being null and void.

We talked about school districts not faring well before the Commissioner, but districts can prevail before the Commissioner. In *Miller v. Clyde Independent School District*,<sup>26</sup> the decision provides insight into third-party documentation. The teacher was required to teach phonics; however, she preferred the students reading. She received a memorandum from her appraiser regarding this concern. Although she acknowledged that the memorandum was received within the proper time, she argued that the documentation was not verified. In examining the memorandum, the Commissioner concluded that the district did not violate the PDAS rules because she verified the document by drafting a rebuttal to the appraiser's documentation. Moreover, the principal verified that the teacher failed to teach phonics by consulting with her, which was addressed in the memorandum.

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<sup>24</sup> *Id.* citing *Fowler v. La Porte Independent School District*, Docket No. 014-R10-998 (Comm'r Educ. 1999).

<sup>25</sup> Docket No. 056-R10-1198 (Comm'r Educ. 1999).

<sup>26</sup> Docket No. 096-R10-702 (Comm'r Educ. 2004).

The lesson to be learned? Meet your deadlines and follow the rules. Help yourself by creating check-lists that indicate when teacher annual summative conference should be held or by developing task codes to remind you to share a particular document with a teacher within 10 days. Remember, documentation is meaningless if it is not shared with the teacher.