

IN THE MATTER OF
COMAR 13A.07.04

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 02-46

OPINION

This matter involves requests for the interpretation of COMAR 13A.07.04, Evaluation of Professionally Certificated Personnel, from Dr. Iris T. Metts, Chief Executive Officer (CEO), Prince George's County Public Schools (PGCPS), and from the Association of Supervisory and Administrative School Personnel (ASASP), the organization representing PGCPS administrative and supervisory personnel for collective bargaining purposes. At issue is whether the requirements in COMAR 13A.07.04 for observations and evaluations of professionally certificated personnel apply to public school principals and vice principals.

The definitions and minimum requirements in COMAR 13A.07.04 that are at issue are as follows:

.01B

(1) "Evaluation" means a written appraisal of professional performance for a school year based on written criteria and procedures.

(2) "Professionally certificated personnel" means individuals holding a professional certificate as defined in COMAR 13A.12.01.02B.

.02 Minimum Requirements for Evaluation of Professionally Certificated Personnel

A. General Standards.

(1) An evaluation shall be based on written criteria established by the local board of education, including but not limited to scholarship, instructional effectiveness, management skills, professional ethics, and interpersonal relationships.

(2) An evaluation shall provide, at a minimum, for an overall rating.

(3) An overall rating that is not satisfactory or better is considered unsatisfactory.

(4) An evaluation shall be based on at least two observations during the school year.

(5) An unsatisfactory evaluation shall include at least one observation by an individual other than the immediate supervisor.

(6) The written evaluation report shall be shared with the certificated individual who is the subject of the evaluation.

(7) The certificated individual shall receive a copy of and sign the evaluation report.

(8) The signature of the certificated individual does not necessarily indicate agreement with the evaluation report.

(9) An evaluation shall provide for written comments and reactions by the individual being evaluated, which shall be attached to the evaluation report.

B. Frequency of Evaluations

(1) Standard Professional Certificate. An individual holding a Standard Professional Certificate shall be evaluated at least once annually.

(2) Advanced Professional Certificate

(a) An individual holding an Advanced Professional Certificate shall receive an evaluation at least twice during the validity period of each certificate. The first evaluation shall occur during the initial year of the certificate.

(b) An individual holding an Advanced Professional Certificate who receives an unsatisfactory overall rating shall be evaluated at least once annually until receiving a satisfactory rating.

(c) If an individual holding an Advanced Professional Certificate receives an overall rating of satisfactory or better, subsequent annual performance shall be considered satisfactory in the absence of an annual evaluation.

.03 Minimum Requirements for Observation of Professionally Certificated Personnel

A. An observation, announced or unannounced, shall be conducted with full knowledge of the certificated individual.

B. A written observation report shall be shared with the certificated individual within a reasonable period of time.

C. An observation shall provide for written comments and reactions by the individual being observed, which shall be attached to the observation report.

CEO'S POSITION

The CEO maintains that the provisions of COMAR 13A.07.04 do not apply to public school principals or vice principals. Specifically, the CEO questions whether such individuals are subject to the requirements that two observations be conducted during the school year and that at least one observation be conducted by an individual other than the immediate supervisor in the event of an unsatisfactory evaluation. The CEO argues that the work performance of principals and vice principals is not capable of being observed in the same manner as the work performance of teachers who teach discrete lessons within the classroom. Rather, the CEO maintains that the performance of a principal or vice principal is more properly assessed throughout the course of the entire year based on continuous informal observations, communications, and reviews. As stated in the CEO's memorandum:

A supervisor who observes a teacher walks into the classroom, sits in the back of the class, and watches as the teacher conducts the lesson. The observer watches [what] the teacher, the students, and the classroom [are] like. If COMAR 13A.07.04 were to require the same type of observation for a principal or vice principal, the supervisor would be required to spend days "shadowing" the

principal or vice principal in his or her office, and throughout the building to “observe” how that individual conducted his or her professional responsibilities and duties. It makes no logical or rational sense to require that degree of observation and surveillance.

CEO’s Memorandum at 3.

To bolster this position, the CEO sets forth the various categories included in the PGCPs evaluation forms for principals and vice principals, the elements of which she maintains are mostly incapable of being evaluated by the type of observation required by COMAR 13A.07.04. For principals, the categories are (1) Instructional Leadership; (2) Administrative Leadership; (3) School Environment and Climate; (4) Effective Communication and Public Relations; (5) Professional Development; and (6) Personal Qualities. For vice principals, the categories are (1) Planning and Organizing the Program; (2) Personnel Management and Services; (3) Administrative Functions; (4) Procuring and Allocating Resources; (5) Community-Public Relations; (6) Interacting with the School System and Meeting System Needs; (7) Evaluation Program and Personnel; (8) Interpersonal Leadership; and (9) Personal Traits. *See* PGCPs evaluation forms. Each of these categories is further broken down into subparts which the CEO asserts cannot be observed in the type of observation conducted for teachers.

ASASP’S POSITION

ASASP maintains that the requirements of COMAR 13A.07.04 which have the force of law are applicable to principals and vice principals who are “professionally certificated personnel” as defined by State Board regulation. *See* COMAR 13A.07.04.01B(2). ASASP argues that it is possible to observe a principal or vice principal in a manner which would disclose information concerning the effectiveness of the individual’s work performance. Additionally, ASASP indicates that section 3.05 of the negotiated agreement between the local board and ASASP requires that an administrator be given notice when the administrator’s performance is deficient so that the administrator has the opportunity to cure any problems. Scheduled observations are a method of determining and noting for all parties involved which areas need particular attention. As stated in ASASP’s memo:

The memorandum filed on behalf of the Chief Executive Officer of the Prince George’s County Public Schools attempts to distinguish principals and vice principals from teachers by suggesting that observation of a teacher in the classroom allows the observer to glean all that is necessary to evaluate the strengths and weaknesses of a teacher. This is, however, not the case, the CEO’s memorandum argues, with a principal or vice principal whose evaluation ‘cannot be based upon a formal observation, they are based on a school-year’s worth of informal observations, communications and reviews.’ The fact is a teacher too is generally evaluated on his/her overall performance for the school year. It is likewise true that a single visit to a school by a competent observer will reveal more about the effectiveness of the principal than a single observation of a teacher who may be having an off day. Furthermore, in Prince George’s County, where

the administrator's performance is seen as wanting, that administrator must be told what improvements are needed. Whoever thereafter observes the administrator knows exactly what areas need particular attention.

ANALYSIS

COMAR 13A.07.04 sets forth the requirements for the evaluation of professionally certificated personnel. Under regulation .01B(2), "professionally certificated personnel" means "individuals holding a professional certificate as defined in COMAR 13A.12.01.02B."¹ COMAR 13A.12.01.02B(22) defines a "professional certificate" as "a Standard Professional certificate or an Advanced Professional certificate." Because principals and vice principals are administrators who hold one of these types of certificates, the provisions of COMAR 13A.07.04 do apply to them. *See* COMAR 13A.12.01.02B(4)(c) and 13A.12.01.05.

We believe that some background on the stimulus for the regulations at issue is helpful. COMAR 13A.07.04 was initially generated when the certification regulations were revised to require a satisfactory experience component. For example, in order for an individual with a Standard Professional Certificate to advance to the next level, that individual must provide evidence of three years' satisfactory, professional school related experience. COMAR 13A.12.01.05C(4). In order for an individual to receive an Advanced Professional Certificate, that individual requires four years of satisfactory, full time, school related professional experience. COMAR 13A.12.01.05F(3). Further, an individual renewing an Advanced Professional Certificate needs 3 years of satisfactory school related experience. COMAR 13A.12.01.08B(5)(a)(iii).

The State Board thus adopted the COMAR regulations on Evaluation of Professionally Certificated Personnel in order to establish minimum observation and evaluation requirements applicable to all 24 public school systems. Having certain mandatory standards for observations and evaluations across the State provides a level of consistency for the measurement of the experience component required by the certification regulations for all professionally certificated individuals, not just teachers.

While we acknowledge that the typical notion of an observation is an observation of a teacher in the classroom by an individual seated in the rear watching the teacher and students, we believe that principals and vice principals may also be observed, although not necessarily in the same way. For example, an observer may glean valuable performance related information by conducting a site visit of a school or by shadowing a principal or vice principal engaged in his or her daily duties. In all likelihood some of the information gathered would not be ascertainable in any other manner. Concurrent with the observations or site visits, the observer may also review records, including student attendance and performance data, and speak with appropriate individuals concerning the principal's or vice principal's performance.

¹COMAR 13A.12.01.02 contains the definitions for the certification regulations.

We agree with the CEO's contention that there are some subcategories on the PGCPs evaluation forms that may not be satisfactorily evaluated by an observation alone, but it is equally clear that some of the items listed could not be properly assessed without some type of observation. Moreover, the PGCPs evaluation forms are not the same as those used in other school systems and are not dispositive of the final decision in this case.

We also note that no evaluation of a teacher or of a supervisor is based solely on observation. Rather, the observations provide one dimension of an annual evaluation which contains several elements and is based on a summation of an individual's performance over the course of a year. We believe that it is reasonable to conduct observations of principals and vice principals to assist with the overall evaluation of the professional.

CONCLUSION

For these reasons, we find that the observation and evaluation requirements of COMAR 13A.07.04 are applicable to principals and vice principals.

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