



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

---

Legislative Document

No. 1338

---

H.P. 966

House of Representatives, March 21, 2019

### **An Act To Protect Teachers from Unfair Evaluations**

---

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative McCREA of Fort Fairfield.  
Cosponsored by Senator MILLETT of Cumberland and  
Representatives: AUSTIN of Skowhegan, BRYANT of Windham, CARDONE of Bangor,  
DODGE of Belfast, DOORE of Augusta, FARNSWORTH of Portland, MADIGAN of  
Waterville, MARTIN of Sinclair.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §13201, last ¶**, as amended by PL 2011, c. 635, Pt. A, §2, is  
3 further amended to read:

4 The right to terminate a contract, after due notice of 90 days, is reserved to the school  
5 board when changes in local conditions warrant the elimination of the teaching position  
6 for which the contract was made. The order of layoff and recall is a negotiable item in  
7 accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated  
8 agreement, the criteria negotiated by the school board and the bargaining agent to  
9 establish the order of layoff and recall ~~must include the teacher's effectiveness rating~~  
10 ~~pursuant to chapter 508 as a factor and may also include, but may not be limited to,~~  
11 seniority.

12 **Sec. 2. 20-A MRSA §13703**, as enacted by PL 2011, c. 635, Pt. A, §3, is amended  
13 to read:

14 **§13703. Use of effectiveness rating**

15 A superintendent ~~shall~~ may use effectiveness ratings of educators to inform strategic  
16 human capital decision making, including, but not limited to, decision making regarding  
17 recruitment, selection, induction, mentoring, professional development, compensation,  
18 assignment and dismissal.

19 ~~Receipt~~ Subject to an appeal and grievance filed under the terms of an applicable  
20 collective bargaining agreement, receipt of summative effectiveness ratings indicating  
21 that a teacher is ineffective for 2 consecutive years constitutes just cause for nonrenewal  
22 of a teacher's contract unless the ratings are the result of bad faith as long as there is a  
23 reasonable basis in fact for the effectiveness ratings, the evaluation process leading to the  
24 effectiveness ratings has been performed consistent with the approved system and  
25 department rules implementing this chapter and the effectiveness ratings were reached in  
26 good faith.

27 ~~Any appeal of, or grievance relating to, an evaluation conducted pursuant to this~~  
28 ~~chapter or an effectiveness rating resulting from implementation of a system is limited to~~  
29 ~~matters relating to the implementation of the system or the existence of bad faith in an~~  
30 ~~evaluation or the assignment of a rating. The professional judgment involved in an~~  
31 ~~evaluation or implementation of the system is not subject to appeal or grievance.~~

32 In accordance with the terms of an applicable collective bargaining agreement, a  
33 teacher may file an appeal of and grievance relating to an evaluation conducted pursuant  
34 to this chapter or an effectiveness rating issued pursuant to this chapter. When an appeal  
35 or grievance is filed, if there is a reasonable basis in fact for the effectiveness rating, the  
36 evaluation process leading to the effectiveness rating has been performed consistent with  
37 the approved system and department rules implementing this chapter and the  
38 effectiveness rating was reached in good faith, the person or entity authorized to  
39 determine the appeal or grievance under the applicable collective bargaining agreement  
40 shall determine that the effectiveness rating is supported and must be retained. If the

1 person or entity determines that one or more of the criteria are not met, the effectiveness  
2 rating must be rescinded.

3

### **SUMMARY**

4 This bill removes the requirement in current law that the criteria to establish the order  
5 of layoff and recall of teachers must include the teacher's effectiveness rating as a factor.  
6 It also amends the provisions in current law governing the use of teacher effectiveness  
7 ratings.