

# **Florida Performance Pay Guidance**

## **2007-2008 and Beyond**

**This document provides guidance  
regarding the implementation of  
state-funded performance  
for the 2007-2008 school year and beyond.**



**Florida Department of Education**

# Merit Award Program Q & A

## Eligibility to Participate

### 1. Who is eligible to receive funding under the Merit Award Program?

All school districts which adopt a plan pursuant to § 1012.225, and charter schools as part of the district plan, are eligible. Charter schools may submit a plan independently if they do not follow the district salary schedule or if the district does not adopt a Merit Award Program plan. [1012.225(1)]

### 2. Is a Merit Award Program plan the only option for 2007- 08, or may a district revert to an old 1012.22 plan?

Senate Bill 1226 states that beginning in 2007-08, districts are not legislatively required to do performance pay; however, to receive an allocation based on the district's proportion of K-12 base funding a performance plan compliant with 1012.225 is required. [1012.225(1), (2)(a); SB 1226 Section 7]

### 3. Who is eligible to receive the award?

All instructional personnel and school-based administrators, with the exception of paraprofessionals and substitute teachers, are included. Personnel may be eligible as individuals or instructional teams. [1012.225(1)]

### 4. Are Voluntary Pre-K (VPK) teachers eligible to receive this award?

Exceptional Student Education (ESE) Pre-K teachers are eligible to receive the award. However, under the statutory definition of instructional personnel, VPK teachers would not be eligible to receive this award. Districts may choose to reward these individuals through use of district funds. [1012.225(1)]

### 5. Are Reading coaches eligible to receive this award?

Yes, reading coaches are eligible to receive the award. [1012.225(1)]

## Disbursement of Funding and Awards to Personnel

### 6. Are districts required to implement the program?

No. However, in order to be eligible to receive the funding a district is required to implement the program. [1012.225(1)]

**7. Must an individual apply in order to receive the award?**

A school board may not require personnel to apply or present any additional materials in order to be assessed for a merit award. [1012.225(1)]

**8. How much will each individual receive as an award?**

Each district will determine an amount equal to at least 5% and no more than 10% of that district's average teacher salary to be awarded to all of the top performing personnel in the district, regardless of years of experience. (See also #9 below) [1012.225(2)(a)]

**9. How is the average teacher salary calculated?**

While this bonus is available for instructional personnel and school-based administrators, this bonus is determined by computing the average salary of all teachers in the district. The State Board will adopt rules that describe the calculation. [1012.225(2)(a),(7)]

**10. What happens with undistributed funds?**

Funds not disbursed will be refunded to the Department by the district and will revert to the fund from which the appropriation was made. [1012.225(1)]

**11. Can an individual receive other bonuses?**

Awards for Merit Award Program personnel must not affect and must not be affected by other awards or supplements for which personnel may qualify. [1012.225(2)(c)]

## **Assessment of Personnel**

**12. How much of the assessment will be based on student achievement?**

Not less than 60% of the assessment of personnel must be based on the performance of the students assigned to the teacher, students within the sphere of responsibility of the team, or students assigned to the administrator's school.

- a. Evaluation is based on academic proficiency or gains in learning or both of these elements.
- b. Districts are required to balance academic proficiency and learning gains so that all top performing teachers have an opportunity to qualify.
- c. The district must use statewide standardized tests for personnel who teach those subjects for which there is a corresponding state assessment.
- d. The district must use national, state, or district-determined testing instruments that measure Sunshine State Standards, curriculum frameworks or course descriptions for the content area assigned and grade level taught for personnel who teach subjects and grades

not measured by the statewide assessment system. End-of-course examinations used for Merit Award Program purposes must be based on the Sunshine State Standards and measure a student's understanding and mastery of the entire course. End of course tests must be available for all grade groupings and subjects for any year in which the district participates in the program. The statewide standardized assessment, College Board Advanced Placement Examination, International Baccalaureate Examination, Advanced International Certificate of Education Examination, or examinations resulting in national industry certification recognized by the Agency for Workforce Innovation satisfy the requirements of this section for grade groups and subjects for which the examinations are applicable. [1012.225(3)(a)-(d); SB 1226 Section 2]

**13. The list of applicable examinations in §1012.255(2) does not cover all content areas. Can a district use assessments in addition to those listed in this section?**

Yes. A district must use a national, state, or district-determined testing instrument provided that it measures the Sunshine State Standards, curriculum frameworks, or course descriptions for the content area assigned and grade level taught [§1012.225(3)(c); SB 1226 Section 2].

**14. How can a district be in compliance with basing student performance on “academic proficiency, or gains in learning, or both,” and also “balance student performance based on academic proficiency and gains in learning”?**

Districts have flexibility in determining how to balance proficiency and achievement gains.

One method to accomplish this might be to recognize that certain courses and classroom settings lend themselves to using proficiency as a measure of student learning to determine the top performing teachers. Examples of this might include Advanced Placement or honors courses. On the other hand, it might be more appropriate to use gains in student learning as a measure of teacher effectiveness in remedial classes. And in some cases, a district might choose a combination of the two.

Another method would be to use a value table that weights both proficiency and gains.

When determining the top performing personnel, it is expected that a balance be struck between the number of teachers receiving a bonus measured using learning gains and those measured using proficiency. This would mean that not all teachers receiving the bonus would be those with high numbers of students making learning gains; and conversely not all teachers receiving the bonus would be those with high numbers of proficient students.

**15. For the purpose of this program, how can a district measure “gains in learning”?**

Generally speaking, “gains in learning” means a measure of growth as determined by a pretest and posttest. The movement from point A (pretest), to point B (posttest) is a learning gain. A district is free to select from a number of methods to determine “gains in learning.” This may include a methodology that considers the extent of the gains, or the percentage of students making significant gains, or other means as determined by the district.

**16. For the purposes of this program, how is academic proficiency defined?**

Proficiency is measured by determining if a student has met a set “bar” or standard. For example, a district may choose a grade of “3” on an AP exam as demonstrating proficiency.

**17. How is “instructional team” defined? Can a whole school be considered an “instructional team”?**

In §1012.225(1) the law states that “instructional teams” can receive merit awards, and §1012.225(3)(a) then states that a teacher’s assessment “must consider the performance of students...within his or her academic sphere of responsibility.” Therefore, “instructional teams” can be instructional personnel who are co-teaching a class, or a team of teachers who consistently work together and who regularly provide instruction to the same group of students. For purposes of this program, an entire school does not meet the definition of “instructional team.”

**18. How can a district address the issue of attendance as part of its performance pay plan?**

§1012.225(2)(b) states that “a Merit Award Program may include additional supplements under this section for employees who manifest exemplary work attendance.” If a district decides to address the issue of attendance, it must include, within its plan, criteria for the awarding of an *additional* supplement based upon attendance. Eligible employees must be those who qualify for the Merit Award Plan in the year the attendance supplement is given.

A district will not receive a separate allocation for this additional bonus, but may pay the bonus out of its state performance pay allocation or local funds. [1012.225(1)]

**19. If the district can administer end-of-course tests for most subject areas but not all, would they be eligible to receive the Merit Award Program funding?**

In §1012.225(3), and in section 2 of SB 1226 the law requires that districts “must be able to administer end-of-course exams based on Sunshine State Standards to measure the student’s understanding and mastery of the entire course content for all grade groupings and subjects” to participate in the Merit Award Program.

**20. How much of the assessment will be based on a professional practices component?**

Up to 40% of the assessment must be based on a professional practices component consisting of criteria adopted by the school board and administered through an evaluation by the principal for instructional personnel and by the superintendent or designee for the administrator. The criteria are:

- a. The ability to maintain appropriate discipline.
- b. 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.
- c. 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.
- d. The ability to establish and maintain a positive collaborative relationship with students' families for the purpose of increasing student achievement.
- e. 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.
- f. For school-based administrators, in addition to the above: 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 the ability to recruit and retain high-performing teachers.
- g. Other appropriate factors identified by the district school board. [1012.225(3)(e)]

**21. Can the information to assess each individual for the professional practices component be taken from results of the individual's annual appraisal that the district administers under section 1012.34?**

Yes, if the information received through the district's appraisal instrument assesses the criteria required by the Merit Award Program. If not, the district will have to assess these criteria separately. [1012.225(3)]

## **District Responsibilities**

**22. Is the plan subject to negotiation?**

Yes, each district's Merit Award Program plan is subject to negotiation pursuant to chapter 447. However, if an impasse is declared resulting from a dispute of the Merit Award Program plan pursuant to revisions to s. 447.403, FS made in Section 3 of SB 1226, this dispute is subject to an expedited impasse hearing with the following guidelines:

- o Both parties must agree on the name of a special magistrate within five days after the notice of impasse. If both parties cannot agree on a special magistrate, the commission will appoint one.
- o The special magistrate will set the hearing within fifteen days after appointment.

- Within five days after the date of appointment, each party will provide the special magistrate with a written list as to the matters of impasse.
- At the close of the hearing, both parties will summarize arguments and provide a written summary to the special magistrate.
- The special magistrate will provide a written decision to the parties within ten days.

**23. What information must a district provide to its employees?**

Districts must communicate established criteria and procedures associated with the Merit Award Program Plan. [1012.225(4)(a)]

**24. Upon completion of negotiating a district Merit Award Program Plan, what must a district do?**

A district school board must approve and adopt the negotiated plan and submit its plan to the Commissioner of Education by October 1 of each year. This plan will take effect the following year (see Appendix A). [1012.225(5)(a)]

**25. What happens with unused funds?**

The school district is required to remit to the Department any unused funds by October 1 of each year. [1012.225(1),(2)(a)]

## Commissioner Responsibilities

**26. When will the Commissioner provide feedback to the districts on their submitted plans?**

For each district whose plan does not comply with §1012.225, the Commissioner must provide written feedback by November 15 of each year outlining specific revisions that are required. [1012.225(5)(a)]

**27. When will the Commissioner review the districts' revised plans?**

The Commissioner must review revised plans by January 31. [1012.225(5)(a)]

**28. What happens if a district's plan is still not in compliance?**

The Commissioner certifies to the Governor, President of the Senate, and the Speaker of the House by February 15 of each year (for use in the following year) which plans do not comply with 1012.225. Districts may not receive funds under this section if they do not adopt an approved plan. [1012.225(1)]

**29. What verification is in place regarding disbursement of funds by the district?**

The Commissioner reports noncompliance with previous year's plans to the Governor, President of the Senate, and the Speaker of the House by December 1 of each year. [1012.225(5)(c)] See timelines, Appendix A.

## Department of Education Responsibilities

### 30. Will the Department be providing technical assistance?

Upon request by a district, the Department will provide technical assistance with plan development. [1012.225(4)(b)1]

### 31. Will there be further guidance by the Department?

The Department will collect and disseminate best practices for both district-determined testing instruments and Merit Award Program plans. [1012.225(4)(b)2]

## State Board of Education Responsibilities

### 32. What role will the State Board of Education have?

The State Board of Education must initiate the rulemaking process within 30 days of SB1226 becoming law relating to:

- a. Calculation of the average teacher salary for each district
- b. Format(s) for district reporting
- c. Procedures for review of Merit Award Program plans.

[§1012.225(1)(7)]

## Public Records Issues

### 33. Are the names of the recipients of the bonus awards public information?

Current law requires that payroll records and personnel records are public records.

## Amendments to District Plans

### 34. Can districts amend their plans?

Yes; however, it is advisable to allow enough time to communicate with all stakeholders, renegotiate the changes with the union, and receive local board approval so that the amended plan can be implemented in a timely manner.

[§1012.225(6)]

## Appendix A

### Timeline Through December 2008

September 1, 2007	Districts must distribute 2006-2007 bonuses before this date.
	Each district submits to the DOE a refund of undisbursed appropriations [§1012.225(5)(3)]
October 1, 2007	If undisbursed funds are not remitted, DOE shall withhold an equivalent amount from the district's allocations of appropriations made under §1011.62. [§1012.225(5)(3)]
	Each participating district shall submit a report to the Commissioner, along with supporting documentation, that will enable the Commissioner to verify the district's compliance during the prior school year. [§1012.225(5)(c)]
	A district that wants to participate in the program for 2007-2008 and 2008-2009 submits its plan to Commissioner. (For 2007 only, the plan submitted is a two year plan [§1012.225(5)(a)].) (It may subsequently be amended [§1012.225(6)].)
November 15, 2007	The Commissioner reviews plans and requests revisions as necessary [§1012.225(5)(a)]
December 1, 2007	The Commissioner submits a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives certifying those districts or charter school plans that do not comply with the law or that were not implemented in accordance with the law [§1012.225(5)(c)]
January 31, 2008	A district plan needing revisions is resubmitted by the district to the Commissioner [§1012.225(5)(a)]
February 15, 2008	The Commissioner certifies to Governor, President of the Senate, and Speaker of the House of Representatives those districts or charter schools with noncompliant plans [§1012.225(5)(a)]
October 1, 2008	Districts must distribute 2007-2008 bonuses before this date.
	Each participating district shall submit a report to the Commissioner, along with supporting documentation, that will enable the Commissioner to verify the district's compliance during the prior school year. [§1012.225(5)(c)]
	A district that wants to participate in the program for 2009-2010 submits its plan to Commissioner.
November 15, 2008	The Commissioner reviews plans and requests revisions as necessary [§1012.225(5)(a)]
December 1, 2008	The Commissioner submits a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives certifying those districts or charter school plans that did not comply with the law or that were not implemented in accordance with the law [§1012.225(5)(c)]