



# National Education Association - New Mexico

*Great Public Schools Begin With Us!*

---

Betty Patterson  
*President*

Mary Parr-Sánchez  
*Vice President*

Charles Bowyer  
*Executive Director*

## COMMENTS FOR ATTRIBUTION

Charles Bowyer  
Executive Director - NEA New Mexico

Albuquerque  
NEA New Mexico Press Briefing  
September 29, 2014

I'm Charles Bowyer, Executive Director of NEA New Mexico.

It is no small thing for the teachers of New Mexico to file a lawsuit against the state's education secretary-designate. It will not be a universally popular action – even among some of our own members.

But sometimes, it's more important to do the right thing than the popular thing. And this is one of those times.

With the support of Governor Martinez, Education Secretary-Designate Hanna Skandera has unilaterally implemented a statewide teacher evaluation system. Her implementation of that system was done in violation of the New Mexico State Constitution – and – in violation of state statute.

It was also done in direct violation of the clear will of the state legislature – raising serious questions regarding the separation of powers of our state government.

In 2003, the New Mexico State Legislature passed a statute that directed the Public Education Department to create general 'criteria' for the annual performance evaluation of public school teachers.

That same law said – the local superintendent 'shall' adopt policies, guidelines, and procedures for the performance evaluation process.

That's specific and clear. Local superintendents – by state law – are required to develop and implement the local teacher evaluation process.

In the 2011 legislative session, Governor Martinez and Secretary-Designate Skandera promoted a statutory change to teacher evaluation. The legislature rejected their plan.

In 2012, The Governor, Secretary-Designate Skandera – and a bipartisan majority in the New Mexico House of Representatives supported a legislative overhaul that required appointment of an empowered ‘effectiveness evaluation council’ to develop recommendations for a teacher evaluation framework - and - a principal evaluation framework.

That statute also required that any measures of student achievement must be ‘valid and reliable measures of student growth and achievement that has a valid and reliable connection to teacher effectiveness.’

And that measurement of student achievement had to be ‘based on recommendations by the council.’

That legislative effort also failed – leaving in place the 2003 statute that outlines the teacher evaluation process.

Without missing a beat, Governor Martinez and Ms. Skandera moved immediately in a bureaucratic power-grab and in defiance of the state legislature to impose a new teacher evaluation plan on teachers and local school districts by regulatory fiat.

However, the new teacher evaluation regulations promulgated by Ms. Skandera and the PED did not include the requirement for an ‘empowered council’ to develop the measurements of student achievement.

And the protection that requires any measurement of student growth and achievement have a valid and reliable connection to teacher effectiveness was not in the new regulations.

The result has been the 2012 implementation of a regulatory scheme that imposes on all local school systems a one-size-fits-all teacher evaluation policy that bases one half of a teacher’s evaluation on students’ standardized test scores, and the other half on other state-dictated measures.

Standardized test scores are not a reliable indicator of teacher quality or effectiveness. And the new regulation’s blind reliance on them has led to a system that unfairly

evaluates good teachers, undermines teacher recruitment and retention, and takes away valuable classroom learning time necessary to help students succeed.

This action by the PED was done – not only without the legislative changes that would have been necessary to authorize it – but in direct contravention of the legislature’s explicit direction that local school districts retain the authority to create evaluation policies – and – that local school boards retain the authority to be the final hearing authority for personnel decisions involving teachers.

This lawsuit seeks to restore the balance of power that the legislature created between the PED and local school districts – and – to roll back the harmful policies created by the PED’s unilateral actions.

On two occasions, the state legislature was asked to change how teacher evaluation is done in this state – to provide more control to the state through the PED.

And both times – twice in two years – the state legislature rejected more state control of local schools. It’s quite obvious, the state legislature sees the hiring – evaluation – and retention or firing of local classroom teachers as a responsibility of the local school administration.

Our state constitution has an article that prohibits one branch of government from usurping the responsibilities of another branch of government. It’s called the separation of powers.

The Governor and Ms. Skandera do not have the right or the power to go around the legislature – ignore the laws it has passed – and implement their own programs that run contrary to the laws of this state.

It’s unfair – it’s not right – and it’s illegal.