

HOUSE BILL NO. 4208

February 19, 2019, Introduced by Reps. Steven Johnson, VanSingel and Neeley and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1249 (MCL 380.1249), as amended by 2018 PA 235.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1249. (1) Subject to subsection (4), with the involvement
2 of teachers and school administrators, the board of a school
3 district or intermediate school district or board of directors of a
4 public school academy shall adopt and implement for all teachers
5 and school administrators a rigorous, transparent, and fair
6 performance evaluation system that does all of the following:



1 (a) Evaluates the teacher's or school administrator's job
2 performance at least annually while providing timely and
3 constructive feedback.

4 (b) Establishes clear approaches to measuring student growth
5 and provides teachers and school administrators with relevant data
6 on student growth.

7 (c) Evaluates a teacher's or school administrator's job
8 performance, using multiple rating categories that take into
9 account student growth and assessment data. Student growth must be
10 measured using multiple measures that may include student learning
11 objectives, achievement of individualized education program goals,
12 nationally normed or locally developed assessments that are aligned
13 to state standards, research-based growth measures, or alternative
14 assessments that are rigorous and comparable across schools within
15 the school district, intermediate school district, or public school
16 academy. If the performance evaluation system implemented by a
17 school district, intermediate school district, or public school
18 academy under this section does not already include the rating of
19 teachers as highly effective, effective, minimally effective, and
20 ineffective, then the school district, intermediate school
21 district, or public school academy shall revise the performance
22 evaluation system not later than September 19, 2011 to ensure that
23 it rates teachers as highly effective, effective, minimally
24 effective, or ineffective.

25 (d) Uses the evaluations, at a minimum, to inform decisions
26 regarding all of the following:

27 (i) The effectiveness of teachers and school administrators,
28 ensuring that they are given ample opportunities for improvement.

29 (ii) Promotion, retention, and development of teachers and



1 school administrators, including providing relevant coaching,
2 instruction support, or professional development.

3 (iii) Whether to grant tenure or full certification, or both, to
4 teachers and school administrators using rigorous standards and
5 streamlined, transparent, and fair procedures.

6 (iv) Removing ineffective tenured and untenured teachers and
7 school administrators after they have had ample opportunities to
8 improve, and ensuring that these decisions are made using rigorous
9 standards and streamlined, transparent, and fair procedures.

10 (2) The board of a school district or intermediate school
11 district or board of directors of a public school academy shall
12 ensure that the performance evaluation system for teachers meets
13 all of the following:

14 (a) The performance evaluation system ~~shall~~**must** include at
15 least an annual year-end evaluation for all teachers. ~~Beginning~~
16 ~~with the 2015-2016 school year, an~~**An** annual year-end evaluation
17 shall ~~shall~~**must** meet all of the following:

18 (i) ~~For the 2015-2016, 2016-2017, and 2017-2018 school years,~~
19 ~~25% of the annual year-end evaluation shall be based on student~~
20 ~~growth and assessment data. Beginning with the 2018-2019 school~~
21 ~~year, 40%~~**Forty percent** of the annual year-end evaluation shall
22 **must** be based on student growth and assessment data.

23 (ii) ~~Beginning with the 2018-2019 school year, for~~**For** core
24 content areas in grades and subjects in which state assessments are
25 administered, 50% of student growth must be measured using the
26 state assessments, and the portion of student growth not measured
27 using state assessments must be measured using multiple research-
28 based growth measures or alternative assessments that are rigorous
29 and comparable across schools within the school district,



1 intermediate school district, or public school academy. Student
2 growth also may be measured by student learning objectives or
3 nationally normed or locally adopted assessments that are aligned
4 to state standards, or based on achievement of individualized
5 education program goals.

6 ~~(iii) Beginning with the 2016-2017 school year, the~~ **The** portion
7 of a teacher's annual year-end evaluation that is not based on
8 student growth and assessment data, as described under subparagraph
9 ~~(i), shall~~ **must** be based primarily on a teacher's performance as
10 measured by the evaluation tool developed or adopted by the school
11 district, intermediate school district, or public school academy
12 under subdivision (f).

13 ~~(iv) The portion of a teacher's evaluation that is not measured~~
14 using student growth and assessment data, as described under
15 subparagraph ~~(i), or using the evaluation tool developed or adopted~~
16 by the school district, intermediate school district, or public
17 school academy, as described under subparagraph ~~(iii), shall~~ **must**
18 incorporate criteria enumerated in section 1248(1)(b)(i) to ~~(iii)~~
19 that are not otherwise evaluated under subparagraph ~~(i) or (iii)~~.

20 (b) If there are student growth and assessment data available
21 for a teacher for at least 3 school years, the annual year-end
22 evaluation ~~shall~~ **must** be based on the student growth and assessment
23 data for the most recent 3-consecutive-school-year period. If there
24 are not student growth and assessment data available for a teacher
25 for at least 3 school years, the annual year-end evaluation ~~shall~~
26 **must** be based on all student growth and assessment data that are
27 available for the teacher.

28 (c) The annual year-end evaluation ~~shall~~ **must** include specific
29 performance goals that will assist in improving effectiveness for



1 the next school year and are developed by the school administrator
2 or his or her designee conducting the evaluation, in consultation
3 with the teacher, and any recommended training identified by the
4 school administrator or designee, in consultation with the teacher,
5 that would assist the teacher in meeting these goals. For a teacher
6 described in subdivision (d), the school administrator or designee
7 shall develop, in consultation with the teacher, an individualized
8 development plan that includes these goals and training and is
9 designed to assist the teacher to improve his or her effectiveness.

10 (d) The performance evaluation system ~~shall~~**must** include a
11 midyear progress report for a teacher who is in the first year of
12 the probationary period prescribed by section 1 of article II of
13 1937 (Ex Sess) PA 4, MCL 38.81, or who received a rating of
14 minimally effective or ineffective in his or her most recent annual
15 year-end evaluation. The midyear progress report ~~shall~~**must** be used
16 as a supplemental tool to gauge a teacher's improvement from the
17 preceding school year and to assist a teacher to improve. All of
18 the following apply to the midyear progress report:

19 (i) The midyear progress report ~~shall~~**must** be based at least in
20 part on student achievement.

21 (ii) The midyear progress report ~~shall~~**must** be aligned with the
22 teacher's individualized development plan under subdivision (c).

23 (iii) The midyear progress report ~~shall~~**must** include specific
24 performance goals for the remainder of the school year that are
25 developed by the school administrator conducting the annual year-
26 end evaluation or his or her designee and any recommended training
27 identified by the school administrator or designee that would
28 assist the teacher in meeting these goals. At the midyear progress
29 report, the school administrator or designee shall develop, in



1 consultation with the teacher, a written improvement plan that
2 includes these goals and training and is designed to assist the
3 teacher to improve his or her rating.

4 (iv) The midyear progress report ~~shall~~**must** not take the place
5 of an annual year-end evaluation.

6 (e) The performance evaluation system ~~shall~~**must** include
7 classroom observations to assist in the performance evaluations.
8 All of the following apply to these classroom observations:

9 (i) A classroom observation ~~shall~~**must** include a review of the
10 teacher's lesson plan and the state curriculum standard being used
11 in the lesson and a review of pupil engagement in the lesson.

12 (ii) A classroom observation does not have to be for an entire
13 class period.

14 (iii) Unless a teacher has received a rating of effective or
15 highly effective on his or her 2 most recent annual year-end
16 evaluations, there ~~shall~~**must** be at least 2 classroom observations
17 of the teacher each school year. ~~Beginning with the 2016-2017~~
18 ~~school year, at~~ **At** least 1 observation must be unscheduled.

19 (iv) ~~Beginning with the 2016-2017 school year, the~~ **The** school
20 administrator responsible for the teacher's performance evaluation
21 shall conduct at least 1 of the observations. Other observations
22 may be conducted by other observers who are trained in the use of
23 the evaluation tool that is used under subdivision (f). These other
24 observers may be teacher leaders.

25 (v) ~~Beginning with the 2016-2017 school year, a~~ **A** school
26 district, intermediate school district, or public school academy
27 shall ensure that, within 30 days after each observation, the
28 teacher is provided with feedback from the observation.

29 (f) For the purposes of conducting annual year-end evaluations



1 under the performance evaluation system, by the beginning of the
2 2016-2017 school year, the school district, intermediate school
3 district, or public school academy shall adopt and implement 1 or
4 more of the evaluation tools for teachers that are included on the
5 list under subsection (5). However, if a school district,
6 intermediate school district, or public school academy has 1 or
7 more local evaluation tools for teachers or modifications of an
8 evaluation tool on the list under subsection (5), and the school
9 district, intermediate school district, or public school academy
10 complies with subsection (3), the school district, intermediate
11 school district, or public school academy may conduct annual year-
12 end evaluations for teachers using 1 or more local evaluation tools
13 or modifications. The evaluation tools ~~shall~~**must** be used
14 consistently among the schools operated by a school district,
15 intermediate school district, or public school academy so that all
16 similarly situated teachers are evaluated using the same evaluation
17 tool.

18 (g) The performance evaluation system ~~shall~~**must** assign an
19 effectiveness rating to each teacher of highly effective,
20 effective, minimally effective, or ineffective, based on his or her
21 score on the annual year-end evaluation described in this
22 subsection.

23 (h) As part of the performance evaluation system, and in
24 addition to the requirements of section 1526, a school district,
25 intermediate school district, or public school academy is
26 encouraged to assign a mentor or coach to each teacher who is
27 described in subdivision (d).

28 (i) The performance evaluation system may allow for exemption
29 of student growth data for a particular pupil for a school year



1 upon the recommendation of the school administrator conducting the
2 annual year-end evaluation or his or her designee and approval of
3 the school district superintendent or his or her designee,
4 intermediate superintendent or his or her designee, or chief
5 administrator of the public school academy, as applicable.

6 (j) The performance evaluation system ~~shall~~**must** provide that,
7 if a teacher is rated as ineffective on 3 consecutive annual year-
8 end evaluations, the school district, ~~public school academy, or~~
9 intermediate school district, **or public school academy** shall
10 dismiss the teacher from his or her employment. This subdivision
11 does not affect the ability of a school district, intermediate
12 school district, or public school academy to dismiss a teacher from
13 his or her employment regardless of whether the teacher is rated as
14 ineffective on 3 consecutive annual year-end evaluations.

15 (k) The performance evaluation system ~~shall~~**must** provide that,
16 if a teacher is rated as highly effective on 3 consecutive annual
17 year-end evaluations, the school district, intermediate school
18 district, or public school academy may choose to conduct a year-end
19 evaluation biennially instead of annually. However, if a teacher is
20 not rated as highly effective on 1 of these biennial year-end
21 evaluations, the teacher shall again be provided with annual year-
22 end evaluations.

23 (l) The performance evaluation system ~~shall~~**must** provide that,
24 if a teacher who is not in a probationary period prescribed by
25 section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated
26 as ineffective on an annual year-end evaluation, the teacher may
27 request a review of the evaluation and the rating by the school
28 district superintendent, intermediate superintendent, or chief
29 administrator of the public school academy, as applicable. The



1 request for a review must be submitted in writing within 20 days
 2 after the teacher is informed of the rating. Upon receipt of the
 3 request, the school district superintendent, intermediate
 4 superintendent, or chief administrator of the public school
 5 academy, as applicable, shall review the evaluation and rating and
 6 may make any modifications as appropriate based on his or her
 7 review. However, the performance evaluation system ~~shall~~**must** not
 8 allow for a review as described in this subdivision more than twice
 9 in a 3-school-year period.

10 (m) ~~Beginning with the 2016-2017 school year, the~~**The** school
 11 district, intermediate school district, or public school academy
 12 shall provide training to teachers on the evaluation tool or tools
 13 used by the school district, intermediate school district, or
 14 public school academy in its performance evaluation system and on
 15 how each evaluation tool is used. This training may be provided by
 16 a school district, intermediate school district, or public school
 17 academy, or by a consortium consisting of 2 or more of these.

18 (n) ~~Beginning with the 2016-2017 school year, a~~**A** school
 19 district, intermediate school district, or public school academy
 20 shall ensure that training is provided to all evaluators and
 21 observers. The training ~~shall~~**must** be provided by an individual who
 22 has expertise in the evaluation tool or tools used by the school
 23 district, intermediate school district, or public school academy,
 24 which may include either a consultant on that evaluation tool or
 25 framework or an individual who has been trained to train others in
 26 the use of the evaluation tool or tools. This subdivision does not
 27 prohibit a school district, intermediate school district, public
 28 school academy, or consortium consisting of 2 or more of these,
 29 from providing the training in the use of the evaluation tool or



1 tools if the trainer has expertise in the evaluation tool or tools.

2 (o) **The performance evaluation system must provide that a**
 3 **teacher's evaluation or the evaluation of any teacher who is**
 4 **similarly situated to that teacher must not be conducted by a**
 5 **family member of that teacher or of any other teacher who is**
 6 **similarly situated to that teacher.**

7 (3) ~~Beginning with the 2016-2017 school year, a~~ **A** school
 8 district, intermediate school district, or public school academy
 9 shall post on its public website all of the following information
 10 about the evaluation tool or tools it uses for its performance
 11 evaluation system for teachers:

12 (a) The research base for the evaluation framework,
 13 instrument, and process or, if the school district, intermediate
 14 school district, or public school academy adapts or modifies an
 15 evaluation tool from the list under subsection (5), the research
 16 base for the listed evaluation tool and an assurance that the
 17 adaptations or modifications do not compromise the validity of that
 18 research base.

19 (b) The identity and qualifications of the author or authors
 20 or, if the school district, intermediate school district, or public
 21 school academy adapts or modifies an evaluation tool from the list
 22 under subsection (5), the identity and qualifications of a person
 23 with expertise in teacher evaluations who has reviewed the adapted
 24 or modified evaluation tool.

25 (c) Either evidence of reliability, validity, and efficacy or
 26 a plan for developing that evidence or, if the school district,
 27 intermediate school district, or public school academy adapts or
 28 modifies an evaluation tool from the list under subsection (5), an
 29 assurance that the adaptations or modifications do not compromise



1 the reliability, validity, or efficacy of the evaluation tool or
2 the evaluation process.

3 (d) The evaluation frameworks and rubrics with detailed
4 descriptors for each performance level on key summative indicators.

5 (e) A description of the processes for conducting classroom
6 observations, collecting evidence, conducting evaluation
7 conferences, developing performance ratings, and developing
8 performance improvement plans.

9 (f) A description of the plan for providing evaluators and
10 observers with training.

11 (4) If a collective bargaining agreement was in effect for
12 teachers or school administrators of a school district, ~~public~~
13 ~~school academy, or intermediate school district, or public school~~
14 **academy** as of July 19, 2011, if that same collective bargaining
15 agreement is still in effect as of November 5, 2015, and if that
16 collective bargaining agreement prevents compliance with subsection
17 (1), then subsection (1) does not apply to that school district,
18 ~~public school academy, or intermediate school district, or public~~
19 **school academy** until after the expiration of that collective
20 bargaining agreement.

21 (5) The department shall establish and maintain a list of
22 teacher evaluation tools that have demonstrated evidence of
23 efficacy and that may be used for the purposes of this section.
24 That list initially ~~shall~~ **must** include at least the evaluation
25 models recommended in the final recommendations released by the
26 Michigan council on educator effectiveness in July 2013. The list
27 ~~shall~~ **must** include a statement indicating that school districts,
28 intermediate school districts, and public school academies are not
29 limited to only using the evaluation tools that are included on the



1 list. A school district, intermediate school district, or public
 2 school academy is not required to use an evaluation tool for
 3 teacher evaluations that is the same as it uses for school
 4 administrator evaluations or that has the same author or authors as
 5 the evaluation tool it uses for school administrator evaluations.
 6 The department shall promulgate rules establishing standards and
 7 procedures for adding an evaluation tool to or removing an
 8 evaluation tool from the list. These rules ~~shall~~**must** include a
 9 process for a school district, intermediate school district, or
 10 public school academy to submit its own evaluation tool for review
 11 for placement on the list.

12 (6) The training required under subsection (2) ~~shall~~**must** be
 13 paid for from the funds available in the educator evaluation
 14 reserve fund created under section 95a of the state school aid act
 15 **of 1979**, MCL 388.1695a.

16 (7) This section does not affect the operation or
 17 applicability of section 1248.

18 (8) As used in this section: ~~"teacher"~~

19 (a) **"Family member" means an individual's spouse or spouse's**
 20 **sibling or child, an individual's sibling or sibling's spouse or**
 21 **child, an individual's child or child's spouse, or an individual's**
 22 **parent or parent's spouse and includes these relationships as**
 23 **created by adoption or marriage.**

24 (b) **"Teacher"** means an individual who has a valid Michigan
 25 teaching certificate or authorization or who is engaged to teach
 26 under section 1233b; who is employed, or contracted for, by a
 27 school district, intermediate school district, or public school
 28 academy; and who is assigned by the school district, intermediate
 29 school district, or public school academy to deliver direct



1 instruction to pupils in any of grades K to 12 as a teacher of
2 record.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.

