

HOUSE BILL NO. 5992

April 12, 2022, Introduced by Reps. Kahle, Kuppa, Brabec, Rogers, Breen, Sneller, Sowerby, Brixie, Stone, Hope, Weiss, Cavanagh, Brenda Carter, LaGrand and Young 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 2019 PA 6.

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

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

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

1 (ii) Promotion, retention, and development of teachers and
2 school administrators, including providing relevant coaching,
3 instruction support, or professional development.

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

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

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

15 (a) ~~The~~ **Except as otherwise provided under this section, the**
16 performance evaluation system must include at least an annual year-
17 end evaluation for all teachers. An annual year-end evaluation must
18 meet all of the following:

19 (i) ~~For the 2018-2019 school year, 25% of the annual year-end~~
20 ~~evaluation must be based on student growth and assessment data.~~
21 ~~Beginning with the 2019-2020 school year, **Except as otherwise**~~
22 **provided in this subparagraph, 40% of the annual year-end**
23 **evaluation must be based on student growth and assessment data. For**
24 **the 2021-2022 school year, the annual year-end evaluation must not**
25 **be based on student growth and assessment data.**

26 (ii) For core content areas in grades and subjects in which
27 state assessments are administered, 50% of student growth must be
28 measured using the state assessments, and the portion of student
29 growth not measured using state assessments must be measured using

1 multiple research-based growth measures or alternative assessments
2 that are rigorous and comparable across schools within the school
3 district, intermediate school district, or public school academy.
4 Student growth also may be measured by student learning objectives
5 or nationally normed or locally adopted assessments that are
6 aligned to state standards, or based on achievement of
7 individualized education program goals.

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

14 (iv) The portion of a teacher's evaluation that is not measured
15 using student growth and assessment data, as described under
16 subparagraph (i), or using the evaluation tool developed or adopted
17 by the school district, intermediate school district, or public
18 school academy, as described under subparagraph (iii), must
19 incorporate criteria enumerated in section 1248(1) (b) (i) to (iii) **or,**
20 **for the 2021-2022 school year, criteria enumerated in section**
21 **1248(1) (b) (i) (B) to (D), (ii), and (iii),** that are not otherwise
22 evaluated under subparagraph (i) or (iii).

23 (b) ~~If~~ **Except as otherwise provided under this section, if**
24 there are student growth and assessment data available for a
25 teacher for at least 3 school years, the annual year-end evaluation
26 must be based on the student growth and assessment data for the
27 most recent 3-consecutive-school-year period. ~~If~~ **Except as**
28 **otherwise provided under this section, if** there are not student
29 growth and assessment data available for a teacher for at least 3

1 school years, the annual year-end evaluation must be based on all
2 student growth and assessment data that are available for the
3 teacher.

4 (c) The annual year-end evaluation must include specific
5 performance goals that will assist in improving effectiveness for
6 the next school year and are developed by the school administrator
7 or his or her designee conducting the evaluation, in consultation
8 with the teacher, and any recommended training identified by the
9 school administrator or designee, in consultation with the teacher,
10 that would assist the teacher in meeting these goals. For a teacher
11 described in subdivision (d), the school administrator or designee
12 shall develop, in consultation with the teacher, an individualized
13 development plan that includes these goals and training and is
14 designed to assist the teacher to improve his or her effectiveness.

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

24 (i) The midyear progress report must be based at least in part
25 on student achievement.

26 (ii) The midyear progress report must be aligned with the
27 teacher's individualized development plan under subdivision (c).

28 (iii) The midyear progress report must include specific
29 performance goals for the remainder of the school year that are

1 developed by the school administrator conducting the annual year-
2 end evaluation or his or her designee and any recommended training
3 identified by the school administrator or designee that would
4 assist the teacher in meeting these goals. At the midyear progress
5 report, the school administrator or designee shall develop, in
6 consultation with the teacher, a written improvement plan that
7 includes these goals and training and is designed to assist the
8 teacher to improve his or her rating.

9 (iv) The midyear progress report must not take the place of an
10 annual year-end evaluation.

11 (e) The performance evaluation system must include classroom
12 observations to assist in the performance evaluations. All of the
13 following apply to these classroom observations:

14 (i) A classroom observation must include a review of the
15 teacher's lesson plan and the state curriculum standard being used
16 in the lesson and a review of pupil engagement in the lesson.

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

19 (iii) Unless a teacher has received a rating of effective or
20 highly effective on his or her 2 most recent annual year-end
21 evaluations, there must be at least 2 classroom observations of the
22 teacher each school year. At least 1 observation must be
23 unscheduled.

24 (iv) The school administrator responsible for the teacher's
25 performance evaluation shall conduct at least 1 of the
26 observations. Other observations may be conducted by other
27 observers who are trained in the use of the evaluation tool that is
28 used under subdivision (f). These other observers may be teacher
29 leaders.

1 (v) A school district, intermediate school district, or public
2 school academy shall ensure that, within 30 days after each
3 observation, the teacher is provided with feedback from the
4 observation.

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

22 (g) The performance evaluation system must assign an
23 effectiveness rating to each teacher of highly effective,
24 effective, minimally effective, or ineffective, based on his or her
25 score on the annual year-end evaluation described in this
26 subsection.

27 (h) As part of the performance evaluation system, and in
28 addition to the requirements of section 1526, a school district,
29 intermediate school district, or public school academy is

1 encouraged to assign a mentor or coach to each teacher who is
2 described in subdivision (d).

3 (i) ~~The~~ **Except as otherwise provided under this section, the**
4 performance evaluation system may allow for exemption of student
5 growth data for a particular pupil for a school year upon the
6 recommendation of the school administrator conducting the annual
7 year-end evaluation or his or her designee and approval of the
8 school district superintendent or his or her designee, intermediate
9 superintendent or his or her designee, or chief administrator of
10 the public school academy, as applicable.

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

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

28 (l) The performance evaluation system must provide that, if a
29 teacher who is not in a probationary period ~~prescribed by~~ **under**

1 section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated
2 as ineffective on an annual year-end evaluation, the teacher may
3 request a review of the evaluation and the rating by the school
4 district superintendent, intermediate superintendent, or chief
5 administrator of the public school academy, as applicable. The
6 request for a review must be submitted in writing within 20 days
7 after the teacher is informed of the rating. Upon receipt of the
8 request, the school district superintendent, intermediate
9 superintendent, or chief administrator of the public school
10 academy, as applicable, shall review the evaluation and rating and
11 may make any modifications as appropriate based on his or her
12 review. However, the performance evaluation system must not allow
13 for a review as described in this subdivision more than twice in a
14 3-school-year period.

15 (m) The school district, intermediate school district, or
16 public school academy shall provide training to teachers on the
17 evaluation tool or tools used by the school district, intermediate
18 school district, or public school academy in its performance
19 evaluation system and on how each evaluation tool is used. This
20 training may be provided by a school district, intermediate school
21 district, or public school academy, or by a consortium consisting
22 of 2 or more of these.

23 (n) A school district, intermediate school district, or public
24 school academy shall ensure that training is provided to all
25 evaluators and observers. The training must be provided by an
26 individual who has expertise in the evaluation tool or tools used
27 by the school district, intermediate school district, or public
28 school academy, which may include either a consultant on that
29 evaluation tool or framework or an individual who has been trained

1 to train others in the use of the evaluation tool or tools. This
2 subdivision does not prohibit a school district, intermediate
3 school district, public school academy, or consortium consisting of
4 2 or more of these, from providing the training in the use of the
5 evaluation tool or tools if the trainer has expertise in the
6 evaluation tool or tools.

7 (3) A school district, intermediate school district, or public
8 school academy shall post on its public website all of the
9 following information about the evaluation tool or tools it uses
10 for its performance evaluation system for teachers:

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

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

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

1 the evaluation process.

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

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

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

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

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

1 evaluations that is the same as it uses for school administrator
2 evaluations or that has the same author or authors as the
3 evaluation tool it uses for school administrator evaluations. The
4 department shall promulgate rules establishing standards and
5 procedures for adding an evaluation tool to or removing an
6 evaluation tool from the list. These rules must include a process
7 for a school district, intermediate school district, or public
8 school academy to submit its own evaluation tool for review for
9 placement on the list.

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

14 (6) ~~(7)~~ This section does not affect the operation or
15 applicability of section 1248.

16 (7) ~~(8)~~ As used in this section, "teacher" means an individual
17 who has a valid Michigan teaching certificate or authorization or
18 who is engaged to teach under section 1233b; who is employed, or
19 contracted for, by a school district, intermediate school district,
20 or public school academy; and who is assigned by the school
21 district, intermediate school district, or public school academy to
22 deliver direct instruction to pupils in any of grades K to 12 as a
23 teacher of record.

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 5994 (request no.
26 04522'21) of the 101st Legislature is enacted into law.