

**SUBSTITUTE FOR
SENATE BILL NO. 122**

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:

7 (a) Evaluates the teacher's or school administrator's job
8 performance at least annually while providing timely and
9 constructive feedback.



1 (b) Establishes clear approaches to measuring student growth
2 and provides teachers and school administrators with relevant data
3 on student growth.

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

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

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

26 (ii) Promotion, retention, and development of teachers and
27 school administrators, including providing relevant coaching,
28 instruction support, or professional development.

29 (iii) Whether to grant tenure or full certification, or both, to



1 teachers and school administrators using rigorous standards and
2 streamlined, transparent, and fair procedures.

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

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

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

15 (i) For the ~~2015-2016, 2016-2017, and 2017-2018 school years,~~
16 **2018-2019 school year**, 25% of the annual year-end evaluation ~~shall~~
17 **must** be based on student growth and assessment data. Beginning with
18 the ~~2018-2019~~**2019-2020** school year, 40% of the annual year-end
19 evaluation ~~shall~~**must** be based on student growth and assessment
20 data.

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



1 nationally normed or locally adopted assessments that are aligned
2 to state standards, or based on achievement of individualized
3 education program goals.

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

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

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

26 (c) The annual year-end evaluation ~~shall~~ **must** include specific
27 performance goals that will assist in improving effectiveness for
28 the next school year and are developed by the school administrator
29 or his or her designee conducting the evaluation, in consultation



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

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

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

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

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



1 teacher to improve his or her rating.

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

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

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

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

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

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

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

27 (f) For the purposes of conducting annual year-end evaluations
28 under the performance evaluation system, by the beginning of the
29 2016-2017 school year, the school district, intermediate school



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

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

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

26 (i) The performance evaluation system may allow for exemption
27 of student growth data for a particular pupil for a school year
28 upon the recommendation of the school administrator conducting the
29 annual year-end evaluation or his or her designee and approval of



1 the school district superintendent or his or her designee,
2 intermediate superintendent or his or her designee, or chief
3 administrator of the public school academy, as applicable.

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

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

21 (l) The performance evaluation system ~~shall~~**must** provide that,
22 if a teacher who is not in a probationary period prescribed by
23 section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated
24 as ineffective on an annual year-end evaluation, the teacher may
25 request a review of the evaluation and the rating by the school
26 district superintendent, intermediate superintendent, or chief
27 administrator of the public school academy, as applicable. The
28 request for a review must be submitted in writing within 20 days
29 after the teacher is informed of the rating. Upon receipt of the



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

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

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

29 (3) ~~Beginning with the 2016-2017 school year, a~~**A** school



1 district, intermediate school district, or public school academy
2 shall post on its public website all of the following information
3 about the evaluation tool or tools it uses for its performance
4 evaluation system for teachers:

5 (a) The research base for the evaluation framework,
6 instrument, and process or, if the school district, intermediate
7 school district, or public school academy adapts or modifies an
8 evaluation tool from the list under subsection (5), the research
9 base for the listed evaluation tool and an assurance that the
10 adaptations or modifications do not compromise the validity of that
11 research base.

12 (b) The identity and qualifications of the author or authors
13 or, if the school district, intermediate school district, or public
14 school academy adapts or modifies an evaluation tool from the list
15 under subsection (5), the identity and qualifications of a person
16 with expertise in teacher evaluations who has reviewed the adapted
17 or modified evaluation tool.

18 (c) Either evidence of reliability, validity, and efficacy or
19 a plan for developing that evidence or, if the school district,
20 intermediate school district, or public school academy adapts or
21 modifies an evaluation tool from the list under subsection (5), an
22 assurance that the adaptations or modifications do not compromise
23 the reliability, validity, or efficacy of the evaluation tool or
24 the evaluation process.

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

27 (e) A description of the processes for conducting classroom
28 observations, collecting evidence, conducting evaluation
29 conferences, developing performance ratings, and developing



1 performance improvement plans.

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

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

14 (5) The department shall establish and maintain a list of
15 teacher evaluation tools that have demonstrated evidence of
16 efficacy and that may be used for the purposes of this section.
17 That list initially ~~shall~~ **must** include at least the evaluation
18 models recommended in the final recommendations released by the
19 Michigan council on educator effectiveness in July 2013. The list
20 ~~shall~~ **must** include a statement indicating that school districts,
21 intermediate school districts, and public school academies are not
22 limited to only using the evaluation tools that are included on the
23 list. A school district, intermediate school district, or public
24 school academy is not required to use an evaluation tool for
25 teacher evaluations that is the same as it uses for school
26 administrator evaluations or that has the same author or authors as
27 the evaluation tool it uses for school administrator evaluations.
28 The department shall promulgate rules establishing standards and
29 procedures for adding an evaluation tool to or removing an



1 evaluation tool from the list. These rules ~~shall~~**must** include a
2 process for a school district, intermediate school district, or
3 public school academy to submit its own evaluation tool for review
4 for placement on the list.

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

9 (7) This section does not affect the operation or
10 applicability of section 1248.

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

