

HOUSE BILL No. 4221

February 21, 2019, Introduced by Reps. Alexander, Miller, VanSingel, Pagan, Sabo, Witwer, Elder, Cynthia Johnson, Warren, Camilleri, Shannon, Wozniak, Sowerby, Kuppa and Guerra 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:

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

10 (b) Establishes clear approaches to measuring student growth
11 and provides teachers and school administrators with relevant data

1 on student growth.

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

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

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

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

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

1 to 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 ~~25%~~ **TWENTY-FIVE PERCENT** of the annual year-end evaluation ~~shall~~
17 **MUST** be based on student growth and assessment data. ~~Beginning with~~
18 ~~the 2018-2019 school year, 40% of the annual year-end evaluation~~
19 ~~shall be based on student growth and assessment data.~~

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

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

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

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

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

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

21 (i) The midyear progress report ~~shall~~**MUST** be based at least
22 in part on student achievement.

23 (ii) The midyear progress report ~~shall~~**MUST** be aligned with
24 the teacher's individualized development plan under subdivision
25 (c).

26 (iii) The midyear progress report ~~shall~~**MUST** include specific
27 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 ~~shall~~**MUST** not take the place
10 of an annual year-end evaluation.

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

14 (i) A classroom observation ~~shall~~**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 ~~shall~~**MUST** be at least 2 classroom observations
22 of the teacher each school year. ~~Beginning with the 2016-2017~~
23 ~~school year, at~~**AT** least 1 observation must be unscheduled.

24 (iv) ~~Beginning with the 2016-2017 school year, the~~**THE** school
25 administrator responsible for the teacher's performance evaluation
26 shall conduct at least 1 of the observations. Other observations
27 may be conducted by other observers who are trained in the use of

1 the evaluation tool that is used under subdivision (f). These other
2 observers may be teacher leaders.

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

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

25 (g) The performance evaluation system ~~shall~~ **MUST** assign an
26 effectiveness rating to each teacher of highly effective,
27 effective, minimally effective, or ineffective, based on his or her

1 score on the annual year-end evaluation described in this
2 subsection.

3 (h) As part of the performance evaluation system, and in
4 addition to the requirements of section 1526, a school district,
5 intermediate school district, or public school academy is
6 encouraged to assign a mentor or coach to each teacher who is
7 described in subdivision (d).

8 (i) The performance evaluation system may allow for exemption
9 of student growth data for a particular pupil for a school year
10 upon the recommendation of the school administrator conducting the
11 annual year-end evaluation or his or her designee and approval of
12 the school district superintendent or his or her designee,
13 intermediate superintendent or his or her designee, or chief
14 administrator of the public school academy, as applicable.

15 (j) The performance evaluation system ~~shall~~**MUST** provide that,
16 if a teacher is rated as ineffective on 3 consecutive annual year-
17 end evaluations, the school district, ~~public school academy, or~~
18 intermediate school district, **OR PUBLIC SCHOOL ACADEMY** shall
19 dismiss the teacher from his or her employment. This subdivision
20 does not affect the ability of a school district, intermediate
21 school district, or public school academy to dismiss a teacher from
22 his or her employment regardless of whether the teacher is rated as
23 ineffective on 3 consecutive annual year-end evaluations.

24 (k) The performance evaluation system ~~shall~~**MUST** provide that,
25 if a teacher is rated as highly effective on 3 consecutive annual
26 year-end evaluations, the school district, intermediate school
27 district, or public school academy may choose to conduct a year-end

1 evaluation biennially instead of annually. However, if a teacher is
2 not rated as highly effective on 1 of these biennial year-end
3 evaluations, the teacher shall again be provided with annual year-
4 end evaluations.

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

21 (m) ~~Beginning with the 2016-2017 school year, the~~**THE** school
22 district, intermediate school district, or public school academy
23 shall provide training to teachers on the evaluation tool or tools
24 used by the school district, intermediate school district, or
25 public school academy in its performance evaluation system and on
26 how each evaluation tool is used. This training may be provided by
27 a school district, intermediate school district, or public school

1 academy, or by a consortium consisting of 2 or more of these.

2 (n) ~~Beginning with the 2016-2017 school year, a~~ **A** school
3 district, intermediate school district, or public school academy
4 shall ensure that training is provided to all evaluators and
5 observers. The training ~~shall~~ **MUST** be provided by an individual who
6 has expertise in the evaluation tool or tools used by the school
7 district, intermediate school district, or public school academy,
8 which may include either a consultant on that evaluation tool or
9 framework or an individual who has been trained to train others in
10 the use of the evaluation tool or tools. This subdivision does not
11 prohibit a school district, intermediate school district, public
12 school academy, or consortium consisting of 2 or more of these,
13 from providing the training in the use of the evaluation tool or
14 tools if the trainer has expertise in the evaluation tool or tools.

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

20 (a) The research base for the evaluation framework,
21 instrument, and process or, if the school district, intermediate
22 school district, or public school academy adapts or modifies an
23 evaluation tool from the list under subsection (5), the research
24 base for the listed evaluation tool and an assurance that the
25 adaptations or modifications do not compromise the validity of that
26 research base.

27 (b) The identity and qualifications of the author or authors

1 or, if the school district, intermediate school district, or public
2 school academy adapts or modifies an evaluation tool from the list
3 under subsection (5), the identity and qualifications of a person
4 with expertise in teacher evaluations who has reviewed the adapted
5 or modified evaluation tool.

6 (c) Either evidence of reliability, validity, and efficacy or
7 a plan for developing that evidence or, if the school district,
8 intermediate school district, or public school academy adapts or
9 modifies an evaluation tool from the list under subsection (5), an
10 assurance that the adaptations or modifications do not compromise
11 the reliability, validity, or efficacy of the evaluation tool or
12 the evaluation process.

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

15 (e) A description of the processes for conducting classroom
16 observations, collecting evidence, conducting evaluation
17 conferences, developing performance ratings, and developing
18 performance improvement plans.

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

21 (4) If a collective bargaining agreement was in effect for
22 teachers or school administrators of a school district, ~~public~~
23 ~~school academy, or~~ intermediate school district, **OR PUBLIC SCHOOL**
24 **ACADEMY** as of July 19, 2011, if that same collective bargaining
25 agreement is still in effect as of November 5, 2015, and if that
26 collective bargaining agreement prevents compliance with subsection
27 (1), then subsection (1) does not apply to that school district,

1 ~~public school academy, or intermediate school district, OR PUBLIC~~
2 **SCHOOL ACADEMY** until after the expiration of that collective
3 bargaining agreement.

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

24 (6) The training required under subsection (2) ~~shall~~**MUST** be
25 paid for from the funds available in the educator evaluation
26 reserve fund created under section 95a of the state school aid act
27 **OF 1979**, MCL 388.1695a.

1 (7) This section does not affect the operation or
2 applicability of section 1248.

3 (8) As used in this section, "teacher" means an individual who
4 has a valid Michigan teaching certificate or authorization or who
5 is engaged to teach under section 1233b; who is employed, or
6 contracted for, by a school district, intermediate school district,
7 or public school academy; and who is assigned by the school
8 district, intermediate school district, or public school academy to
9 deliver direct instruction to pupils in any of grades K to 12 as a
10 teacher of record.

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