

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.1249 Performance evaluation system for teachers and school administrators; collective bargaining; requirements; posting information about evaluation tools on public website; establishment and maintenance of list of teacher evaluation tools; rules; rater reliability training; "student learning objectives" and "teacher" defined.

Sec. 1249.

(1) This section does not prohibit, impair, or limit the right or duty of a public school employer and a collective bargaining representative to engage in collective bargaining over the topic of performance evaluations under 1947 PA 336, MCL 423.201 to 423.217, subject to the requirements in this section and section 1249b. With the involvement of teachers and school administrators, and after collective bargaining, if applicable, with any collective bargaining representative of teachers and school administrators, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system that does at least all of the following:

(a) Evaluates the teacher's or school administrator's job performance while providing timely and constructive feedback.

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

(c) Evaluates a teacher's or school administrator's job performance, using multiple rating categories that take into account student growth and assessment data or student learning objectives metrics. Student growth, assessment data, and student learning objectives must be measured using metrics agreed upon through collective bargaining, if applicable. Before July 1, 2024, the performance evaluation system implemented by a school district, intermediate school district, or public school academy under this section must include the rating of teachers as highly effective, effective, minimally effective, and ineffective. Beginning July 1, 2024, the performance evaluation system implemented by a school district, intermediate school district, or public school academy under this section must include the rating of teachers as effective, developing, and needing support.

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

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

(ii) Development of teachers and school administrators, including providing relevant coaching, instruction support, or professional development.

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

(a) Except as otherwise provided under this subsection, the performance evaluation system must include at least a year-end evaluation for all teachers. The year-end evaluation must meet all of the following:

(i) Before the 2024-2025 school year, 40% of the year-end evaluation must be based on student growth and assessment data. Beginning in the 2024-2025 school year, the year-end evaluation must include locally agreed-on student growth and assessment data or student learning objectives metrics. The student growth and assessment data or student learning objectives metrics must be collectively bargained, if applicable, as determined under subsection (1)(c). Beginning in the 2024-2025 school year, 20% of the year-end evaluation must be based on student growth and assessment data or student learning objectives metrics.

(ii) The portion of a teacher's year-end evaluation that is not based on student growth and assessment data or student learning objectives metrics, as described under subparagraph (i), must be based primarily on a teacher's performance as measured by the evaluation tool developed or adopted by the school district, intermediate school district, or public school academy under subdivision (e).

(iii) The portion of a teacher's evaluation that is not measured using student growth and assessment data or student learning objectives metrics, as described under subparagraph (i), or using the evaluation tool developed or adopted by the school district, intermediate school district, or public school academy must be based on objective criteria.

(b) The year-end evaluation must include specific performance goals that will assist in improving effectiveness for the next school year and are developed by the school administrator or the school administrator's designee conducting the evaluation, in consultation with the teacher, and any recommended training identified by the school administrator or designee, in consultation with the teacher, that would assist the teacher in meeting these goals. For a teacher described in subdivision (c), the school administrator or designee shall develop, in consultation with the teacher, an individualized development plan that includes these goals and training and is designed to assist the teacher to improve the teacher's effectiveness.

(c) The performance evaluation system must include a midyear progress report for a teacher who is in the first year of the probationary period under section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally effective, ineffective, needing support, or developing in the teacher's most recent year-end evaluation. The midyear progress report must be used as a supplemental tool to gauge a teacher's improvement from the preceding school year and to assist a teacher to improve. All of the following apply to the midyear progress report:

(i) The midyear progress report must be aligned with the teacher's individualized development plan under subdivision (b).

(ii) The midyear progress report must include specific performance goals for the remainder of the school year that are developed by the school administrator conducting the year-end evaluation or the school administrator's designee and any recommended training identified by the school administrator or designee that would assist the teacher in meeting these goals. At the midyear progress report, the school administrator or designee shall develop, in consultation with the teacher, a written improvement plan that includes these goals and training and is designed to assist the teacher to improve the teacher's rating.

(iii) The midyear progress report must not take the place of a year-end evaluation.

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

(i) A classroom observation must include a review of the teacher's lesson plan and the state curriculum standard being used in the lesson and a review of pupil engagement in the lesson. The items described in this subparagraph must be discussed during a post-observation meeting between the school administrator conducting the observation and the teacher.

(ii) A classroom observation must be not less than 15 minutes but does not have to be for an entire class period.

(iii) There must be at least 2 classroom observations of a teacher in each school year that the teacher is evaluated. One observation may be unscheduled.

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

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

(e) For the purposes of conducting year-end evaluations under the performance evaluation system, the school district, intermediate school district, or public school academy shall adopt and implement 1 or more of the evaluation tools for teachers that are included on the list under subsection (4). However, if a school district, intermediate school district, or public school academy has 1 or more local evaluation tools for teachers or modifications of an evaluation tool on the list under subsection (4), and the school district, intermediate school district, or public school academy complies with subsection (3), the school district, intermediate school district, or public school academy may conduct year-end evaluations for teachers using 1 or more local evaluation tools or modifications. The evaluation tools must be used consistently among the schools operated by a school district, intermediate school district, or public school academy so that all similarly situated teachers are evaluated using the same evaluation tool.

(f) Before July 1, 2024, the performance evaluation system must assign a rating to each teacher of highly effective, effective, minimally effective, or ineffective, based on the teacher's year-end evaluation described in this subsection. Beginning July 1, 2024, the performance evaluation system must assign a rating to each teacher of effective, developing, or needing support based on the teacher's year-end evaluation described in this subsection. An evaluation and feedback concerning the evaluation must be provided, in writing, to the teacher being evaluated. However, if a written evaluation is not provided, the teacher is deemed effective.

(g) A teacher must not be assigned an evaluation rating and must be designated as unevaluated for a school year if any of the following apply to the teacher:

(i) The teacher worked less than 60 days in that school year.

(ii) The teacher's evaluation results were vacated through the grievance procedure described in subdivision (l).

(iii) There are extenuating circumstances and the teacher and the school district, intermediate school district, or public school academy agree to designate the teacher as unevaluated because of the extenuating circumstances.

(h) If a teacher receives a unevaluated designation under subdivision (g), the teacher's rating from the school year immediately before that designation must be used for consecutive purposes under this section.

(i) As part of the performance evaluation system, and in addition to the requirements of section 1526, a school district, intermediate school district, or public school academy shall assign a mentor or coach to each teacher who is described in subdivision (c).

(j) The performance evaluation system must provide that, if a teacher is rated as ineffective or needing support on 3 consecutive year-end evaluations, the school district, intermediate school district, or public school academy shall, subject to 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, dismiss the teacher from the teacher's employment. Subject to 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, this subdivision does not affect the ability of a school district, intermediate school district, or public school academy to dismiss a teacher from the teacher's employment

regardless of whether the teacher is rated as ineffective or needing support on 3 consecutive year-end evaluations.

(k) The performance evaluation system must provide that, if a teacher who is not in a probationary period under section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated as highly effective or effective on the 3 most recent consecutive year-end evaluations, the school district, intermediate school district, or public school academy may conduct a year-end evaluation biennially or triennially instead of annually. However, if a teacher who is not in a probationary period under section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is not rated as effective on 1 of these biennial or triennial year-end evaluations, the teacher must again be provided with year-end evaluations.

(l) As used in this subdivision, "teacher" means that term as defined in section 1 of article I of 1937 (Ex Sess) PA 4, MCL 38.71. The performance evaluation system must provide that, for a teacher who is not in a probationary period under section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, and is rated as needing support on a year-end evaluation, the following options must be made available to the teacher:

(i) The teacher may request a review of the evaluation and the rating by the school district superintendent or intermediate superintendent, as applicable. The request for a review must be submitted in writing within 30 calendar days after the teacher is informed of the rating. Upon receipt of the request, the school district superintendent or intermediate superintendent, as applicable, shall review the evaluation and rating and may make any modifications as appropriate based on the school district superintendent's or intermediate superintendent's review. A written response regarding the school district superintendent's or intermediate superintendent's findings must be provided to the teacher who requested the review by not later than 30 calendar days after receipt of the request for a review and before making any modifications under this section.

(ii) If the written response from the school district superintendent's or intermediate superintendent's review does not resolve the matter, the teacher or collective bargaining representative may request mediation as provided for in 1947 PA 336, 423.201 to 423.217. The request for mediation must be submitted in writing within 30 calendar days after the teacher receives the written response from the school district superintendent or intermediate superintendent. Within 15 days of receipt of the request, the school district superintendent or intermediate superintendent must provide a written response to the teacher or collective bargaining representative stating that the mediation will be scheduled as appropriate.

(iii) If a teacher receives 2 consecutive ratings of needing support, the teacher may demand to use the grievance procedure of an applicable collective bargaining agreement or employment contract that concerns the teacher's second evaluation rating and the evaluation process. If a collective bargaining agreement or employment contract does not contain a grievance procedure that ends in binding arbitration, the teacher may request binding arbitration by filing a demand for arbitration with the American Arbitration Association within 30 calendar days after the teacher receives the written response from the school district superintendent or intermediate superintendent. The arbitration is subject to the uniform arbitration act, 2012 PA 371, MCL 691.1681 to 691.1713. The arbitration described in this subparagraph must adhere to both of the following:

(A) The arbitrator must be selected through procedures administered by the American Arbitration Association in accordance with its rules.

(B) The arbitrator must have the authority to issue any appropriate remedy.

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

(n) A school district, intermediate school district, or public school academy shall ensure that training is provided to all evaluators and observers. The training must be provided by an individual who has expertise in the evaluation tool or tools used by the school district, intermediate school district, or public school academy that may include either a consultant on that evaluation tool or framework or an individual who has been trained to train others in the use of the evaluation tool or tools. This subdivision does not prohibit a school district, intermediate school district, public school academy, or consortium consisting of 2 or more of these, from providing the training in the use of the evaluation tool or tools if the trainer has expertise in the evaluation tool or tools.

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

(a) The research base for the evaluation framework, instrument, and process or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (4), the research base for the listed evaluation tool and an assurance that the adaptations or modifications do not compromise the validity of that research base.

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

(c) Either evidence of reliability, validity, and efficacy or a plan for developing that evidence or, if the school

district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (4), an assurance that the adaptations or modifications do not compromise the reliability, validity, or efficacy of the evaluation tool or the evaluation process.

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

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

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

(4) The department shall establish and maintain a list of teacher evaluation tools that have demonstrated evidence of efficacy and that may be used for the purposes of this section. The list must include a statement indicating that school districts, intermediate school districts, and public school academies are not limited to only using the evaluation tools that are included on the list. A school district, intermediate school district, or public school academy is not required to use an evaluation tool for teacher evaluations that is the same as it uses for school administrator evaluations or that has the same author or authors as the evaluation tool it uses for school administrator evaluations. The department shall promulgate rules establishing standards and procedures for adding an evaluation tool to or removing an evaluation tool from the list. These rules must include a process for a school district, intermediate school district, or public school academy to submit its own evaluation tool for review for placement on the list.

(5) By not later than September 1, 2024, and every 3 years thereafter, each individual who conducts an evaluation under this section or section 1249b shall complete a rater reliability training provided by the school district, intermediate school district, public school academy, or the entity that employs the individual. The training must include at least all of the following:

(a) A clear and consistent set of evaluation criteria that all evaluators can use when assessing teacher performance.

(b) Clear expectations for what evaluators should look for when assessing teacher performance, including identifying key behaviors and practices that are associated with effective teaching.

(c) Training on the evaluation process itself, including how to conduct classroom observations, collect data, and analyze results.

(d) Calibration exercises that help evaluators practice using the evaluation criteria and establish consistency in the evaluator's evaluations.

(e) Ongoing support for evaluators, including feedback and coaching to help the evaluators improve their skills and ensure they are consistently applying the evaluation criteria.

(6) As used in this section:

(a) "Student learning objectives" means measurable, long-term, academic goals, informed by available data, that a teacher or teacher team sets at the beginning of the year for all students.

(b) "Teacher" means, except as otherwise provided in this section, an individual who has a valid Michigan teaching certificate or authorization or who is engaged to teach under section 1233b; who is employed, or contracted for, by a school district, intermediate school district, or public school academy; and who is assigned by the school district, intermediate school district, or public school academy to deliver direct instruction to pupils in any of grades K to 12 as a teacher of record.

History: Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010 ;-- Am. 2010, Act 336, Imd. Eff. Dec. 21, 2010 ;-- Am. 2011, Act 102, Imd. Eff. July 19, 2011 ;-- Am. 2014, Act 257, Imd. Eff. June 30, 2014 ;-- Am. 2015, Act 173, Imd. Eff. Nov. 5, 2015 ;-- Am. 2016, Act 170, Imd. Eff. June 14, 2016 ;-- Am. 2018, Act 235, Eff. Sept. 25, 2018 ;-- Am. 2019, Act 6, Imd. Eff. Apr. 30, 2019 ;-- Am. 2023, Act 224, Eff. July 1, 2024

Compiler's Notes: Former MCL 380.1249, which pertained to review of official transcripts and procedures for changing grades, was repealed by Act 289 of 1995, Eff. July 1, 1996. For transfer of powers and duties of governor's council on educator effectiveness to department of technology, management and budget, and renaming to Michigan council for educator effectiveness, see E.R.O. No. 2012-2, compiled at MCL 18.444.

Popular Name: Act 451