

**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.
- 10 (b) Establishes clear approaches to measuring student growth

1 and provides teachers and school administrators with relevant data
2 on student growth.

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

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

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

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

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

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

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

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

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

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

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

7 ~~(iii) Beginning with the 2016-2017 school year, the~~ **THE**
8 portion of a teacher's annual year-end evaluation that is not based
9 on student growth and assessment data, as described under
10 subparagraph (i), ~~shall~~ **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
15 measured using student growth and assessment data, as described
16 under subparagraph (i), or using the evaluation tool developed or
17 adopted by the school district, intermediate school district, or
18 public school academy, as described under subparagraph (iii), ~~shall~~
19 **MUST** incorporate criteria enumerated in section 1248(1)(b)(i) to
20 (iii) that are not otherwise evaluated under subparagraph (i) or
21 (iii).

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

1 **MUST** be based on all student growth and assessment data that are
2 available for the teacher.

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

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

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

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

1 (iii) The midyear progress report ~~shall~~**MUST** include specific
2 performance goals for the remainder of the school year that are
3 developed by the school administrator conducting the annual year-
4 end evaluation or his or her designee and any recommended training
5 identified by the school administrator or designee that would
6 assist the teacher in meeting these goals. At the midyear progress
7 report, the school administrator or designee shall develop, in
8 consultation with the teacher, a written improvement plan that
9 includes these goals and training and is designed to assist the
10 teacher to improve his or her rating.

11 (iv) The midyear progress report ~~shall~~**MUST** not take the place
12 of an annual year-end evaluation.

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

16 (i) A classroom observation ~~shall~~**MUST** include a review of the
17 teacher's lesson plan and the state curriculum standard being used
18 in the lesson and a review of pupil engagement in the lesson.

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

21 (iii) Unless a teacher has received a rating of effective or
22 highly effective on his or her 2 most recent annual year-end
23 evaluations, there ~~shall~~**MUST** be at least 2 classroom observations
24 of the teacher each school year. ~~Beginning with the 2016-2017~~
25 ~~school year, at~~**AT** least 1 observation must be unscheduled.

26 (iv) ~~Beginning with the 2016-2017 school year, the~~**THE** school
27 administrator responsible for the teacher's performance evaluation

1 shall conduct at least 1 of the observations. Other observations
2 may be conducted by other observers who are trained in the use of
3 the evaluation tool that is used under subdivision (f). These other
4 observers may be teacher leaders.

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

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

27 (g) The performance evaluation system ~~shall~~ **MUST** assign an

1 effectiveness rating to each teacher of highly effective,
2 effective, minimally effective, or ineffective, based on his or her
3 score on the annual year-end evaluation described in this
4 subsection.

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

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

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

26 (k) The performance evaluation system ~~shall~~**MUST** provide that,
27 if a teacher is rated as highly effective on 3 consecutive annual

1 year-end evaluations, the school district, intermediate school
2 district, or public school academy may choose to conduct a year-end
3 evaluation biennially instead of annually. However, if a teacher is
4 not rated as highly effective on 1 of these biennial year-end
5 evaluations, the teacher shall again be provided with annual year-
6 end evaluations.

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

23 (m) ~~Beginning with the 2016-2017 school year, the~~**THE** school
24 district, intermediate school district, or public school academy
25 shall provide training to teachers on the evaluation tool or tools
26 used by the school district, intermediate school district, or
27 public school academy in its performance evaluation system and on

1 how each evaluation tool is used. This training may be provided by
2 a school district, intermediate school district, or public school
3 academy, or by a consortium consisting of 2 or more of these.

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

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

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

1 research base.

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

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

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

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

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

23 (4) If a collective bargaining agreement was in effect for
24 teachers or school administrators of a school district, ~~public~~
25 ~~school academy, or intermediate school district, OR PUBLIC SCHOOL~~
26 **ACADEMY** as of July 19, 2011, if that same collective bargaining
27 agreement is still in effect as of November 5, 2015, and if that

1 collective bargaining agreement prevents compliance with subsection
2 (1), then subsection (1) does not apply to that school district,
3 ~~public school academy, or intermediate school district, OR PUBLIC~~
4 **SCHOOL ACADEMY** until after the expiration of that collective
5 bargaining agreement.

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

26 (6) The training required under subsection (2) ~~shall~~**MUST** be
27 paid for from the funds available in the educator evaluation

1 reserve fund created under section 95a of the state school aid act
2 **OF 1979**, MCL 388.1695a.

3 (7) This section does not affect the operation or
4 applicability of section 1248.

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