

**SUBSTITUTE FOR
HOUSE BILL NO. 4208**

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:

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 must include at least an
12 annual year-end evaluation for all teachers. An annual year-end
13 evaluation must meet all of the following:

14 (i) For the 2018-2019 school year, 25% of the annual year-end
15 evaluation must be based on student growth and assessment data.
16 Beginning with the 2019-2020 school year, 40% of the annual year-
17 end evaluation must be based on student growth and assessment data.

18 (ii) For core content areas in grades and subjects in which
19 state assessments are administered, 50% of student growth must be
20 measured using the state assessments, and the portion of student
21 growth not measured using state assessments must be measured using
22 multiple research-based growth measures or alternative assessments
23 that are rigorous and comparable across schools within the school
24 district, intermediate school district, or public school academy.
25 Student growth also may be measured by student learning objectives
26 or nationally normed or locally adopted assessments that are
27 aligned to state standards, or based on achievement of
28 individualized education program goals.

29 (iii) The portion of a teacher's annual year-end evaluation that



1 is not based on student growth and assessment data, as described
2 under subparagraph (i), must be based primarily on a teacher's
3 performance as measured by the evaluation tool developed or adopted
4 by the school district, intermediate school district, or public
5 school academy under subdivision (f).

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

13 (b) If there are student growth and assessment data available
14 for a teacher for at least 3 school years, the annual year-end
15 evaluation must be based on the student growth and assessment data
16 for the most recent 3-consecutive-school-year period. If there are
17 not student growth and assessment data available for a teacher for
18 at least 3 school years, the annual year-end evaluation must be
19 based on all student growth and assessment data that are available
20 for the teacher.

21 (c) The annual year-end evaluation must include specific
22 performance goals that will assist in improving effectiveness for
23 the next school year and are developed by the school administrator
24 or his or her designee conducting the evaluation, in consultation
25 with the teacher, and any recommended training identified by the
26 school administrator or designee, in consultation with the teacher,
27 that would assist the teacher in meeting these goals. For a teacher
28 described in subdivision (d), the school administrator or designee
29 shall develop, in consultation with the teacher, an individualized



1 development plan that includes these goals and training and is
2 designed to assist the teacher to improve his or her effectiveness.

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

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

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

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

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

28 (e) The performance evaluation system must include classroom
29 observations to assist in the performance evaluations. All of the



1 following apply to these classroom observations:

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

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

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

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

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

22 (f) For the purposes of conducting annual year-end evaluations
23 under the performance evaluation system, by the beginning of the
24 2016-2017 school year, the school district, intermediate school
25 district, or public school academy shall adopt and implement 1 or
26 more of the evaluation tools for teachers that are included on the
27 list under subsection (5). However, if a school district,
28 intermediate school district, or public school academy has 1 or
29 more local evaluation tools for teachers or modifications of an



1 evaluation tool on the list under subsection (5), and the school
2 district, intermediate school district, or public school academy
3 complies with subsection (3), the school district, intermediate
4 school district, or public school academy may conduct annual year-
5 end evaluations for teachers using 1 or more local evaluation tools
6 or modifications. The evaluation tools must be used consistently
7 among the schools operated by a school district, intermediate
8 school district, or public school academy so that all similarly
9 situated teachers are evaluated using the same evaluation tool.

10 (g) The performance evaluation system must assign an
11 effectiveness rating to each teacher of highly effective,
12 effective, minimally effective, or ineffective, based on his or her
13 score on the annual year-end evaluation described in this
14 subsection.

15 (h) As part of the performance evaluation system, and in
16 addition to the requirements of section 1526, a school district,
17 intermediate school district, or public school academy is
18 encouraged to assign a mentor or coach to each teacher who is
19 described in subdivision (d).

20 (i) The performance evaluation system may allow for exemption
21 of student growth data for a particular pupil for a school year
22 upon the recommendation of the school administrator conducting the
23 annual year-end evaluation or his or her designee and approval of
24 the school district superintendent or his or her designee,
25 intermediate superintendent or his or her designee, or chief
26 administrator of the public school academy, as applicable.

27 (j) The performance evaluation system must provide that, if a
28 teacher is rated as ineffective on 3 consecutive annual year-end
29 evaluations, the school district, intermediate school district, or



1 public school academy shall dismiss the teacher from his or her
2 employment. This subdivision does not affect the ability of a
3 school district, intermediate school district, or public school
4 academy to dismiss a teacher from his or her employment regardless
5 of whether the teacher is rated as ineffective on 3 consecutive
6 annual year-end evaluations.

7 (k) The performance evaluation system must provide that, if a
8 teacher is rated as highly effective on 3 consecutive annual year-
9 end evaluations, the school district, intermediate school district,
10 or public school academy may choose to conduct a year-end
11 evaluation biennially instead of annually. However, if a teacher is
12 not rated as highly effective on 1 of these biennial year-end
13 evaluations, the teacher shall again be provided with annual year-
14 end evaluations.

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



1 3-school-year period.

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

10 (n) A school district, intermediate school district, or public
11 school academy shall ensure that training is provided to all
12 evaluators and observers. The training must be provided by an
13 individual who has expertise in the evaluation tool or tools used
14 by the school district, intermediate school district, or public
15 school academy, which may include either a consultant on that
16 evaluation tool or framework or an individual who has been trained
17 to train others in the use of the evaluation tool or tools. This
18 subdivision does not prohibit a school district, intermediate
19 school district, public school academy, or consortium consisting of
20 2 or more of these, from providing the training in the use of the
21 evaluation tool or tools if the trainer has expertise in the
22 evaluation tool or tools.

23 (o) **The performance evaluation system must provide for both of**
24 **the following:**

25 (i) **A teacher's evaluation must not be conducted by a family**
26 **member of that teacher.**

27 (ii) **If an individual is unable to conduct an evaluation due to**
28 **the operation of subparagraph (i) and if a teacher who is similarly**
29 **situated to the teacher to whom the individual is a family member**



1 submits a request, in a form and manner prescribed by the board or
 2 board of directors, that his or her evaluation be conducted by
 3 another individual, the board or board of directors shall ensure
 4 that his or her evaluation is conducted by another individual.

5 (p) Upon application by a board or board of directors to the
 6 department, in a form and manner prescribed by the department, the
 7 department may exempt the board or board of directors from
 8 complying with subdivision (o) (ii) if the department determines that
 9 compliance is impractical due to demographic characteristics or a
 10 limitation in staff.

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

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

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

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



1 intermediate school district, or public school academy adapts or
2 modifies an evaluation tool from the list under subsection (5), an
3 assurance that the adaptations or modifications do not compromise
4 the reliability, validity, or efficacy of the evaluation tool or
5 the evaluation process.

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

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

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

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

23 (5) The department shall establish and maintain a list of
24 teacher evaluation tools that have demonstrated evidence of
25 efficacy and that may be used for the purposes of this section.
26 That list initially must include at least the evaluation models
27 recommended in the final recommendations released by the Michigan
28 council on educator effectiveness in July 2013. The list must
29 include a statement indicating that school districts, intermediate



1 school districts, and public school academies are not limited to
2 only using the evaluation tools that are included on the list. A
3 school district, intermediate school district, or public school
4 academy is not required to use an evaluation tool for teacher
5 evaluations that is the same as it uses for school administrator
6 evaluations or that has the same author or authors as the
7 evaluation tool it uses for school administrator evaluations. The
8 department shall promulgate rules establishing standards and
9 procedures for adding an evaluation tool to or removing an
10 evaluation tool from the list. These rules must include a process
11 for a school district, intermediate school district, or public
12 school academy to submit its own evaluation tool for review for
13 placement on the list.

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

18 (7) This section does not affect the operation or
19 applicability of section 1248.

20 (8) As used in this section: ~~"teacher"~~

21 (a) **"Family member" means an individual's spouse or spouse's**
22 **sibling or child, an individual's sibling or sibling's spouse or**
23 **child, an individual's child or child's spouse, or an individual's**
24 **parent or parent's spouse and includes these relationships as**
25 **created by adoption or marriage.**

26 (b) **"Teacher"** means an individual who has a valid Michigan
27 teaching certificate or authorization or who is engaged to teach
28 under section 1233b; who is employed, or contracted for, by a
29 school district, intermediate school district, or public school



1 academy; and who is assigned by the school district, intermediate
2 school district, or public school academy to deliver direct
3 instruction to pupils in any of grades K to 12 as a teacher of
4 record.

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