

HOUSE BILL No. 5203

December 12, 2013, Introduced by Reps. Howrylak, McMillin, Lipton, McCready, Kesto, Callton, Robinson and Townsend 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 2011 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1249. (1) Not later than September 1, 2011, and subject
2 to subsection (9), with the involvement of teachers and school
3 administrators, the board of a school district or intermediate
4 school district or board of directors of a public school academy
5 shall adopt and implement for all teachers and school
6 administrators a rigorous, transparent, and fair performance
7 evaluation system that does all of the following:

8 (a) Evaluates the teacher's or school administrator's job
9 performance at least annually while providing timely and
10 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 data on student growth as a significant factor. For these
7 purposes, student growth shall be measured by national, state, or
8 local assessments and other objective criteria. If the performance
9 evaluation system implemented by a school district, intermediate
10 school district, or public school academy under this section does
11 not already include the rating of teachers as highly effective,
12 effective, minimally effective, and ineffective, then the school
13 district, intermediate school district, or public school academy
14 shall revise the performance evaluation system ~~within 60 days after~~
15 ~~the effective date of the amendatory act that added this sentence~~
16 **NOT LATER THAN SEPTEMBER 19, 2011** to ensure that it rates teachers
17 as highly effective, effective, minimally effective, or
18 ineffective.

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

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

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

26 (iii) Whether to grant tenure or full certification, or both, to
27 teachers and school administrators using rigorous standards and

streamlined, transparent, and fair procedures.

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

(2) Beginning with the ~~2013-2014~~**2014-2015** school year, 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 all of the following:

(a) The performance evaluation system shall include at least an annual year-end evaluation for all teachers. An annual year-end evaluation shall meet all of the following:

(i) For the annual year-end evaluation for the ~~2013-2014~~**2014-2015** school year, at least 25% of the annual year-end evaluation shall be based on student growth and assessment data. For the annual year-end evaluation for the ~~2014-2015~~**2015-2016** school year, at least 40% of the annual year-end evaluation shall be based on student growth and assessment data. Beginning with the annual year-end evaluation for the ~~2015-2016~~**2016-2017** school year, at least 50% of the annual year-end evaluation shall be based on student growth and assessment data. All student growth and assessment data shall be measured using the student growth assessment tool that is required under legislation enacted by the legislature under subsection (6) after review of the recommendations contained in the report of the ~~governor's council on~~**MICHIGAN COUNCIL FOR** educator effectiveness submitted under subsection (5).

1 (ii) If there are student growth and assessment data available
2 for a teacher for at least 3 school years, the annual year-end
3 evaluation shall be based on the student growth and assessment data
4 for the most recent 3-consecutive-school-year period. If there are
5 not student growth and assessment data available for a teacher for
6 at least 3 school years, the annual year-end evaluation shall be
7 based on all student growth and assessment data that are available
8 for the teacher.

9 (iii) The annual year-end evaluation shall include specific
10 performance goals that will assist in improving effectiveness for
11 the next school year and are developed by the school administrator
12 or his or her designee conducting the evaluation, in consultation
13 with the teacher, and any recommended training identified by the
14 school administrator or designee, in consultation with the teacher,
15 that would assist the teacher in meeting these goals. For a teacher
16 described in subdivision (b), the school administrator or designee
17 shall develop, in consultation with the teacher, an individualized
18 development plan that includes these goals and training and is
19 designed to assist the teacher to improve his or her effectiveness.

20 (b) The performance evaluation system shall include a midyear
21 progress report for a teacher who is in the first year of the
22 probationary period prescribed by section 1 of article II of 1937
23 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally
24 effective or ineffective in his or her most recent annual year-end
25 evaluation. The midyear progress report shall be used as a
26 supplemental tool to gauge a teacher's improvement from the
27 preceding school year and to assist a teacher to improve. All of

1 the following apply to the midyear progress report:

2 (i) The midyear progress report shall be based at least in part
3 on student achievement.

4 (ii) The midyear progress report shall be aligned with the
5 teacher's individualized development plan under subdivision (a) (iii).

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

16 (iv) The midyear progress report shall not take the place of an
17 annual year-end evaluation.

18 (c) The performance evaluation system shall include classroom
19 observations to assist in the performance evaluations. All of the
20 following apply to these classroom observations:

21 (i) Except as provided in this subdivision, the manner in which
22 a classroom observation is conducted shall be prescribed in the
23 evaluation tool for teachers described in subdivision (d).

24 (ii) A classroom observation shall include a review of the
25 teacher's lesson plan and the state curriculum standard being used
26 in the lesson and a review of pupil engagement in the lesson.

27 (iii) A classroom observation does not have to be for an entire

1 class period.

2 (iv) Unless a teacher has received a rating of effective or
3 highly effective on his or her 2 most recent annual year-end
4 evaluations, there shall be multiple classroom observations of the
5 teacher each school year.

6 (d) For the purposes of conducting annual year-end evaluations
7 under the performance evaluation system, the school district,
8 intermediate school district, or public school academy shall adopt
9 and implement the state evaluation tool for teachers that is
10 required under legislation enacted by the legislature under
11 subsection (6) after review of the recommendations contained in the
12 report of the ~~governor's council on~~ **MICHIGAN COUNCIL FOR** educator
13 effectiveness submitted under subsection (5). However, if a school
14 district, intermediate school district, or public school academy
15 has a local evaluation tool for teachers that is consistent with
16 the state evaluation tool, the school district, intermediate school
17 district, or public school academy may conduct annual year-end
18 evaluations for teachers using that local evaluation tool.

19 (e) The performance evaluation system shall assign an
20 effectiveness rating to each teacher of highly effective,
21 effective, minimally effective, or ineffective, based on his or her
22 score on the annual year-end evaluation described in this
23 subsection.

24 (f) As part of the performance evaluation system, and in
25 addition to the requirements of section 1526, a school district,
26 intermediate school district, or public school academy is
27 encouraged to assign a mentor or coach to each teacher who is

1 described in subdivision (b).

2 (g) The performance evaluation system may allow for exemption
3 of student growth data for a particular pupil for a school year
4 upon the recommendation of the school administrator conducting the
5 annual year-end evaluation or his or her designee and approval of
6 the school district superintendent or his or her designee,
7 intermediate superintendent or his or her designee, or chief
8 administrator of the public school academy, as applicable.

9 (h) The performance evaluation system shall provide that, if a
10 teacher is rated as ineffective on 3 consecutive annual year-end
11 evaluations, the school district, public school academy, or
12 intermediate school district shall dismiss the teacher from his or
13 her employment. This subdivision does not affect the ability of a
14 school district, intermediate school district, or public school
15 academy to dismiss an ineffective teacher from his or her
16 employment regardless of whether the teacher is rated as
17 ineffective on 3 consecutive annual year-end evaluations.

18 (i) The performance evaluation system shall provide that, if a
19 teacher is rated as highly effective on 3 consecutive annual year-
20 end evaluations, the school district, intermediate school district,
21 or public school academy may choose to conduct a year-end
22 evaluation biennially instead of annually. However, if a teacher is
23 not rated as highly effective on 1 of these biennial year-end
24 evaluations, the teacher shall again be provided with annual year-
25 end evaluations.

26 (j) The performance evaluation system shall provide that, if a
27 teacher who is not in a probationary period prescribed by section 1

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

15 (3) Beginning with the ~~2013-2014~~ **2014-2015** school year, the
16 board of a school district or intermediate school district or board
17 of directors of a public school academy shall ensure that the
18 performance evaluation system for building-level school
19 administrators and for central office-level school administrators
20 who are regularly involved in instructional matters meets all of
21 the following:

22 (a) The performance evaluation system shall include at least
23 an annual year-end evaluation for all school administrators
24 described in this subsection by the school district superintendent
25 or his or her designee, intermediate superintendent or his or her
26 designee, or chief administrator of the public school academy, as
27 applicable, except that a superintendent or chief administrator

1 shall be evaluated by the board or board of directors.

2 (b) For the annual year-end evaluation for the ~~2013-2014-2014-~~
3 ~~2015~~ school year, at least 25% of the annual year-end evaluation
4 shall be based on student growth and assessment data. For the
5 annual year-end evaluation for the ~~2014-2015-2015-2016~~ school year,
6 at least 40% of the annual year-end evaluation shall be based on
7 student growth and assessment data. Beginning with the annual year-
8 end evaluation for the ~~2015-2016-2016-2017~~ school year, at least
9 50% of the annual year-end evaluation shall be based on student
10 growth and assessment data. The student growth and assessment data
11 to be used for the school administrator annual year-end evaluation
12 are the aggregate student growth and assessment data that are used
13 in teacher annual year-end evaluations in each school in which the
14 school administrator works as an administrator or, for a central-
15 office level school administrator, for the entire school district
16 or intermediate school district.

17 (c) The portion of the annual year-end evaluation that is not
18 based on student growth and assessment data shall be based on at
19 least the following for each school in which the school
20 administrator works as an administrator or, for a central-office
21 level school administrator, for the entire school district or
22 intermediate school district:

23 (i) If the school administrator conducts teacher performance
24 evaluations, the school administrator's training and proficiency in
25 using the evaluation tool for teachers described in subsection
26 (2)(d), including a random sampling of his or her teacher
27 performance evaluations to assess the quality of the school

1 administrator's input in the teacher performance evaluation system.
2 If the school administrator designates another person to conduct
3 teacher performance evaluations, the evaluation of the school
4 administrator on this factor shall be based on the designee's
5 training and proficiency in using the evaluation tool for teachers
6 described in subsection (2)(d), including a random sampling of the
7 designee's teacher performance evaluations to assess the quality of
8 the designee's input in the teacher performance evaluation system,
9 with the designee's performance to be counted as if it were the
10 school administrator personally conducting the teacher performance
11 evaluations.

12 (ii) The progress made by the school or school district in
13 meeting the goals set forth in the school's school improvement plan
14 or the school district's school improvement plans.

15 (iii) Pupil attendance in the school or school district.

16 (iv) Student, parent, and teacher feedback, and other
17 information considered pertinent by the superintendent or other
18 school administrator conducting the performance evaluation or the
19 board or board of directors.

20 (d) For the purposes of conducting performance evaluations
21 under the performance evaluation system, the school district,
22 intermediate school district, or public school academy shall adopt
23 and implement the state evaluation tool for school administrators
24 described in this subsection that is required under legislation
25 enacted by the legislature under subsection (6) after review of the
26 recommendations contained in the report of the ~~governor's council~~
27 ~~on~~ **MICHIGAN COUNCIL FOR** educator effectiveness submitted under

1 subsection (5). However, if a school district, intermediate school
2 district, or public school academy has a local evaluation tool for
3 school administrators described in this subsection that is
4 consistent with the state evaluation tool, the school district,
5 intermediate school district, or public school academy may conduct
6 performance evaluations for school administrators using that local
7 evaluation tool.

8 (e) The performance evaluation system shall assign an
9 effectiveness rating to each school administrator described in this
10 subsection of highly effective, effective, minimally effective, or
11 ineffective, based on his or her score on the evaluation tool
12 described in subdivision (d).

13 (f) The performance evaluation system shall ensure that if a
14 school administrator described in this subsection is rated as
15 minimally effective or ineffective, the person or persons
16 conducting the evaluation shall develop and require the school
17 administrator to implement an improvement plan to correct the
18 deficiencies. The improvement plan shall recommend professional
19 development opportunities and other measures designed to improve
20 the rating of the school administrator on his or her next annual
21 year-end evaluation.

22 (g) The performance evaluation system shall provide that, if a
23 school administrator described in this subsection is rated as
24 ineffective on 3 consecutive annual year-end evaluations, the
25 school district, public school academy, or intermediate school
26 district shall dismiss the school administrator from his or her
27 employment. However, this subdivision applies only if the 3

1 consecutive annual year-end evaluations are conducted using the
2 same evaluation tool and under the same performance evaluation
3 system. This subdivision does not affect the ability of a school
4 district, intermediate school district, or public school academy to
5 dismiss an ineffective school administrator from his or her
6 employment regardless of whether the school administrator is rated
7 as ineffective on 3 consecutive annual year-end evaluations.

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

16 (4) The ~~governor's council on~~ **MICHIGAN COUNCIL FOR** educator
17 effectiveness is created ~~as a temporary commission described in~~
18 ~~section 4 of article V of the state constitution of 1963.~~ **IN THE**
19 **DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET.** All of the
20 following apply to the ~~governor's council on~~ **MICHIGAN COUNCIL FOR**
21 educator effectiveness:

22 (a) The ~~governor's council on~~ **MICHIGAN COUNCIL FOR** educator
23 effectiveness shall consist of the following 5 voting members:

24 (i) The governor shall appoint 3 members.

25 (ii) The senate majority leader shall appoint 1 member.

26 (iii) The speaker of the house of representatives shall appoint
27 1 member.

1 (b) In addition to the members appointed under subdivision
2 (a), the superintendent of public instruction or his or her
3 designee shall serve as a nonvoting member.

4 (c) The members appointed under subdivision (a), and the
5 designee of the superintendent of public instruction if he or she
6 appoints a designee, shall have expertise in 1 or more of the
7 following areas: psychometrics, measurement, performance-based
8 educator evaluation models, educator effectiveness, or development
9 of educator evaluation frameworks in other states.

10 (d) Not later than October 31, 2011, the ~~governor's council on~~
11 **MICHIGAN COUNCIL FOR** educator effectiveness shall contract with 1
12 or more additional experts in the areas described in subdivision
13 (c) as the council considers necessary.

14 (e) The governor shall appoint an advisory committee for the
15 ~~governor's council on~~ **MICHIGAN COUNCIL FOR** educator effectiveness
16 to provide input on the council's recommendations. The advisory
17 committee shall consist of public school teachers, public school
18 administrators, and parents of public school pupils.

19 ~~— (f) The governor's office shall provide staffing and support~~
20 ~~for the governor's council on educator effectiveness.~~

21 (5) Not later than April 30, 2012, the ~~governor's council on~~
22 **MICHIGAN COUNCIL FOR** educator effectiveness shall submit to the
23 state board, the governor, and the legislature a report that
24 identifies and recommends all of the following for the purposes of
25 this section and that includes recommendations on evaluation
26 processes and other matters related to the purposes of this
27 section:

1 (a) A student growth and assessment tool. The student growth
2 and assessment tool shall meet all of the following:

3 (i) Is a value-added model that takes into account student
4 achievement and assessment data, and is based on an assessment tool
5 that has been determined to be reliable and valid for the purposes
6 of measuring value-added data.

7 (ii) In addition to measuring student growth in the core
8 subject areas of mathematics, science, English language arts, and
9 social science, will measure student growth in other subject areas.

10 (iii) Complies with all current state and federal law for
11 students with a disability.

12 (iv) Has at least a pre- and post-test.

13 (v) Is able to be used for pupils of all achievement levels.

14 (b) A state evaluation tool for teachers. All of the following
15 apply to this recommendation:

16 (i) In addition to the student growth and assessment tool, the
17 recommended state evaluation tool for teachers may include, but is
18 not limited to, instructional leadership abilities, teacher and
19 pupil attendance, professional contributions, training, progress
20 report achievement, school improvement plan progress, peer input,
21 and pupil and parent feedback.

22 (ii) The **MICHIGAN** council **FOR EDUCATOR EFFECTIVENESS** shall
23 ensure that the recommended state evaluation tool for teachers will
24 allow all special education teachers to be rated.

25 (iii) The **MICHIGAN** council **FOR EDUCATOR EFFECTIVENESS** shall seek
26 input from school districts, intermediate school districts, and
27 public school academies that have already developed and implemented

1 successful, effective performance evaluation systems.

2 (c) A state evaluation tool for school administrators
3 described in subsection (3). In addition to the student growth and
4 assessment tool, the recommended state evaluation tool for these
5 school administrators may include, but is not limited to, teacher
6 and pupil attendance, graduation rates, professional contributions,
7 training, progress report achievement, school improvement plan
8 progress, peer input, and pupil and parent feedback.

9 (d) For the purposes of the recommended state evaluation tools
10 for teachers and school administrators under subdivisions (b) and
11 (c), recommended parameters for the effectiveness rating categories
12 for teachers under subsection (2)(e) and for school administrators
13 under subsection (3)(e).

14 (e) Recommended changes to be made in the requirements for a
15 professional education teaching certificate that will ensure that a
16 teacher is not required to complete additional postsecondary credit
17 hours beyond the credit hours required for a provisional teaching
18 certificate.

19 (f) A process for evaluating and approving local evaluation
20 tools for teachers under subsection (2)(d) and school
21 administrators under subsection (3)(d).

22 (6) It is the intent of the legislature to review the report
23 submitted by the ~~governor's council on~~ **MICHIGAN COUNCIL FOR**
24 educator effectiveness under subsection (5) and to enact
25 appropriate legislation to put into place a statewide performance
26 evaluation system taking into consideration the recommendations
27 contained in the report.

1 (7) If all of the following apply for a public school operated
2 by a school district, intermediate school district, or public
3 school academy, then the school district, intermediate school
4 district, or public school academy is not required to comply with
5 subsection (2) or (3) for that public school:

6 (a) As of ~~the effective date of this subsection,~~ **JULY 19,**
7 **2011,** the school district, intermediate school district, or public
8 school academy ~~has~~ **HAD** already implemented and is currently using a
9 performance evaluation system for that public school that meets all
10 of the following requirements:

11 (i) Under the system, the most significant portion of a
12 teacher's or school administrator's evaluation is based on student
13 growth and assessment data, which may include value-added measures.

14 (ii) The system uses research-based measures to determine
15 student growth, which may be measured by standards-based,
16 nationally normed assessments.

17 (iii) The system determines professional competence through
18 multiple direct observations of classroom practices and
19 professional practices throughout the school year.

20 (iv) Under the system, teacher effectiveness and ratings, as
21 measured by student achievement and growth data, are factored into
22 teacher retention, promotion, and termination decisions.

23 (v) Under the system, teacher and school administrator
24 performance evaluation results are used to inform teacher
25 professional development for the succeeding year.

26 (vi) The system ensures that teachers and school administrators
27 are evaluated at least annually.

1 (b) The school district, intermediate school district, or
2 public school academy ~~notifies~~ **NOTIFIED** the governor's council on
3 educator effectiveness by November 1, 2011 that it is exempt under
4 this subsection from the requirements of subsections (2) and (3).

5 (c) The school district, intermediate school district, or
6 public school academy posts a description of its evaluation system
7 on its website.

8 (8) If, after ~~the effective date of this subsection,~~ **JULY 19,**
9 **2011,** a school district, intermediate school district, or public
10 school academy begins operating a new public school, or implements
11 a new performance evaluation system for a public school it
12 operates, and all of the following apply, then the school district,
13 intermediate school district, or public school academy is not
14 required to comply with subsection (2) or (3) for that public
15 school:

16 (a) The performance evaluation system adopted and implemented
17 for that public school replicates and is identical to the
18 performance evaluation system of a public school that is exempt
19 under subsection (7).

20 (b) The school district, intermediate school district, or
21 public school academy posts a description of the performance
22 evaluation system on its website.

23 (9) If a collective bargaining agreement is in effect for
24 teachers or school administrators of a school district, public
25 school academy, or intermediate school district as of ~~the effective~~
26 ~~date of the 2011 amendatory act that amended this subsection,~~ **JULY**
27 **19, 2011,** and if that collective bargaining agreement prevents

1 compliance with subsection (1), then subsection (1) does not apply
2 to that school district, public school academy, or intermediate
3 school district until after the expiration of that collective
4 bargaining agreement.

5 ~~—— (10) A school district, intermediate school district, or~~
6 ~~public school academy shall continue to conduct the evaluations for~~
7 ~~school principals that are currently required by the department~~
8 ~~through the 2010-2011 school year. At the end of the 2010-2011~~
9 ~~school year, a school district, intermediate school district, or~~
10 ~~public school academy shall report the most recently completed or~~
11 ~~determined "effectiveness label" from that evaluation for each~~
12 ~~principal who is in place for 2010-2011, in a form and manner~~
13 ~~prescribed by the department.~~