

SENATE BILL NO. 56

January 27, 2021, Introduced by Senator HORN and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1248 and 1249 (MCL 380.1248 and 380.1249),
section 1248 as added by 2011 PA 102 and section 1249 as amended by
2019 PA 6.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1248. (1) For teachers, as **that term is** defined in
2 section 1 of article I of 1937 (Ex Sess) PA 4, MCL 38.71, all of
3 the following apply to policies regarding personnel decisions when
4 conducting a staffing or program reduction or any other personnel

determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position by a school district or intermediate school district:

(a) Subject to subdivision (c), the board of a school district or intermediate school district shall not adopt, implement, maintain, or comply with a policy that provides that length of service or tenure status is the primary or determining factor in personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position.

(b) Subject to subdivision (c), the board of a school district or intermediate school district shall ensure that the school district or intermediate school district adopts, implements, maintains, and complies with a policy that provides that all personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position, are based on retaining effective teachers. The policy ~~shall~~**must** ensure that a teacher who has been

rated as ineffective under the performance evaluation system under section 1249 is not given any preference that would result in that teacher being retained over a teacher who is evaluated as minimally effective, effective, or highly effective under the performance evaluation system under section 1249. Effectiveness ~~shall~~**must** be measured by the performance evaluation system under section 1249, and the personnel decisions ~~shall~~**must** be made based on the following factors:

(i) Individual performance ~~shall~~**must** be the majority factor in making the decision, and ~~shall~~**must** consist of but is not limited to all of the following:

~~(A) Evidence of student growth, which shall be the predominant factor in assessing an employee's individual performance.~~

(A) ~~(B)~~ The teacher's demonstrated pedagogical skills, including at least a special determination concerning the teacher's knowledge of his or her subject area and the ability to impart that knowledge through planning, delivering rigorous content, checking for and building higher-level understanding, differentiating, and managing a classroom ~~+~~ and consistent preparation to maximize instructional time.

(B) ~~(C)~~ The teacher's management of the classroom, manner and efficacy of disciplining pupils, rapport with parents and other teachers, and ability to withstand the strain of teaching.

(C) ~~(D)~~ The teacher's attendance and disciplinary record, if any.

(ii) Significant, relevant accomplishments and contributions. This factor ~~shall~~**must** be based on whether the individual contributes to the overall performance of the school by making clear, significant, relevant contributions above the normal

expectations for an individual in his or her peer group and having demonstrated a record of exceptional performance.

(iii) Relevant special training. This factor ~~shall~~**must** be based on completion of relevant training other than the professional development or continuing education that is required by the employer or by state law, and integration of that training into instruction in a meaningful way.

(c) Except as otherwise provided in this subdivision, length of service or tenure status ~~shall~~**must** not be a factor in a personnel decision described in subdivision (a) or (b). However, if that personnel decision involves 2 or more employees and all other factors distinguishing those employees from each other are equal, then length of service or tenure status may be considered as a tiebreaker.

~~(2) If a collective bargaining agreement is in effect for employees of a school district or intermediate school district as of the effective date of this section and if that collective bargaining agreement prevents compliance with subsection (1), then subsection (1) does not apply to that school district or intermediate school district until after the expiration of that collective bargaining agreement.~~

~~(2)~~ ~~(3)~~ If a teacher brings an action against a school district or intermediate school district based on this section, the teacher's sole and exclusive remedy ~~shall be~~**is** an order of reinstatement commencing 30 days after a decision by a court of competent jurisdiction. The remedy in an action brought by a teacher based on this section ~~shall~~**does** not include lost wages, lost benefits, or any other economic damages.

Sec. 1249. (1) ~~Subject to subsection (4), with~~**With** the

involvement 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 all of the following:

(a) ~~Evaluates~~ **Subject to section 1249b(1)(i) and subsection (2)(i), evaluates** the teacher's or school administrator's job performance at least annually 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.~~

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

1 effective, or ineffective.

2 (c) ~~(d)~~ Uses the evaluations, at a minimum, to inform
3 decisions regarding all of the following:

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

6 (ii) Promotion, retention, and development of teachers and
7 school administrators, including providing relevant coaching,
8 instruction support, or professional development.

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

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

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

20 (a) ~~The~~ **Subject to subdivision (i),** the performance evaluation
21 system must include at least an annual year-end evaluation for all
22 teachers. An annual year-end evaluation must meet ~~all~~ **both** of the
23 following:

24 (i) ~~For the 2018-2019 school year, 25% of the annual year-end~~
25 ~~evaluation must be based on student growth and assessment data.~~
26 ~~Beginning with the 2019-2020 school year, 40% of the annual year-~~
27 ~~end evaluation must be based on student growth and assessment data.~~

28 ~~(ii) For core content areas in grades and subjects in which~~
29 ~~state assessments are administered, 50% of student growth must be~~

~~measured using the state assessments, and the portion of student growth not measured using state assessments must be measured using multiple research-based growth measures or alternative assessments that are rigorous and comparable across schools within the school district, intermediate school district, or public school academy. Student growth also may be measured by student learning objectives or nationally normed or locally adopted assessments that are aligned to state standards, or based on achievement of individualized education program goals.~~

~~(iii) The portion of a~~ **A** ~~teacher's annual year-end evaluation that is not based on student growth and assessment data, 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~~ ~~(f)~~ **(e)** ~~.~~

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

~~(b) If there are student growth and assessment data available for a teacher for at least 3 school years, the annual year-end evaluation must be based on the student growth and assessment data for the most recent 3 consecutive school-year period. If there are not student growth and assessment data available for a teacher for at least 3 school years, the annual year-end evaluation must be~~

~~based on all student growth and assessment data that are available for the teacher.~~

(b) ~~(e)~~—The annual 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 his or her 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 ~~(d)~~, **(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 his or her effectiveness.

(c) ~~(d)~~—The performance evaluation system must include a midyear progress report for a teacher who is in the first year of the probationary period prescribed by section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally effective or ineffective in his or her most recent annual 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 based at least in part on student achievement.

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

(iii) The midyear progress report must include specific

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

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

12 (d) ~~(e)~~—The performance evaluation system must include
13 classroom observations to assist in the performance evaluations.
14 All of the following apply to these classroom observations:

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

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

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

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

1 teacher leaders.

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

6 (e) ~~(f)~~—For the purposes of conducting annual year-end
7 evaluations under the performance evaluation system, by the
8 beginning of the 2016-2017 school year, the school district,
9 intermediate school district, or public school academy shall adopt
10 and implement 1 or more of the evaluation tools for teachers that
11 are included on the list under subsection ~~(5)~~—(4). However, if a
12 school district, intermediate school district, or public school
13 academy has 1 or more local evaluation tools for teachers or
14 modifications of an evaluation tool on the list under subsection
15 ~~(5)~~—(4), and the school district, intermediate school district, or
16 public school academy complies with subsection (3), the school
17 district, intermediate school district, or public school academy
18 may conduct annual year-end evaluations for teachers using 1 or
19 more local evaluation tools or modifications. The evaluation tools
20 must be used consistently among the schools operated by a school
21 district, intermediate school district, or public school academy so
22 that all similarly situated teachers are evaluated using the same
23 evaluation tool.

24 (f) ~~(g)~~—The performance evaluation system must assign an
25 effectiveness rating to each teacher of highly effective,
26 effective, minimally effective, or ineffective, based on his or her
27 score on the annual year-end evaluation described in this
28 subsection.

29 (g) ~~(h)~~—As part of the performance evaluation system, and in

1 addition to the requirements of section 1526, a school district,
 2 intermediate school district, or public school academy is
 3 encouraged to assign a mentor or coach to each teacher who is
 4 described in subdivision ~~(d)~~. **(c)**.

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

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

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

29 **(j)** ~~(l)~~ The performance evaluation system must provide that, if

1 a teacher who is not in a probationary period prescribed by section
 2 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated as
 3 ineffective on an annual year-end evaluation, the teacher may
 4 request a review of the evaluation and the rating by the school
 5 district superintendent, intermediate superintendent, or chief
 6 administrator of the public school academy, as applicable. The
 7 request for a review must be submitted in writing within 20 days
 8 after the teacher is informed of the rating. Upon receipt of the
 9 request, the school district superintendent, intermediate
 10 superintendent, or chief administrator of the public school
 11 academy, as applicable, shall review the evaluation and rating and
 12 may make any modifications as appropriate based on his or her
 13 review. However, the performance evaluation system must not allow
 14 for a review as described in this subdivision more than twice in a
 15 3-school-year period.

16 (k) ~~(m)~~—The school district, intermediate school district, or
 17 public school academy shall provide training to teachers on the
 18 evaluation tool or tools used by the school district, intermediate
 19 school district, or public school academy in its performance
 20 evaluation system and on how each evaluation tool is used. This
 21 training may be provided by a school district, intermediate school
 22 district, or public school academy, or by a consortium consisting
 23 of 2 or more of these.

24 (l) ~~(n)~~—A school district, intermediate school district, or
 25 public school academy shall ensure that training is provided to all
 26 evaluators and observers. The training must be provided by an
 27 individual who has expertise in the evaluation tool or tools used
 28 by the school district, intermediate school district, or public
 29 school academy ~~which~~ **that** may include either a consultant on that

1 evaluation tool or framework or an individual who has been trained
2 to train others in the use of the evaluation tool or tools. This
3 subdivision does not prohibit a school district, intermediate
4 school district, public school academy, or consortium consisting of
5 2 or more of these, from providing the training in the use of the
6 evaluation tool or tools if the trainer has expertise in the
7 evaluation tool or tools.

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

12 (a) The research base for the evaluation framework,
13 instrument, and process or, if the school district, intermediate
14 school district, or public school academy adapts or modifies an
15 evaluation tool from the list under subsection ~~(5)~~, **(4)**, the
16 research base for the listed evaluation tool and an assurance that
17 the adaptations or modifications do not compromise the validity of
18 that research base.

19 (b) The identity and qualifications of the author or authors
20 or, if the school district, intermediate school district, or public
21 school academy adapts or modifies an evaluation tool from the list
22 under subsection ~~(5)~~, **(4)**, the identity and qualifications of a
23 person with expertise in teacher evaluations who has reviewed the
24 adapted or modified evaluation tool.

25 (c) Either evidence of reliability, validity, and efficacy or
26 a plan for developing that evidence or, if the school district,
27 intermediate school district, or public school academy adapts or
28 modifies an evaluation tool from the list under subsection ~~(5)~~,
29 **(4)**, an assurance that the adaptations or modifications do not

1 compromise the reliability, validity, or efficacy of the evaluation
2 tool or the evaluation process.

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

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

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

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

20 **(4)** ~~(5)~~ The department shall establish and maintain a list of
21 teacher evaluation tools that have demonstrated evidence of
22 efficacy and that may be used for the purposes of this section.
23 That list initially must include at least the evaluation models
24 recommended in the final recommendations released by the Michigan
25 council on educator effectiveness in July 2013. The list must
26 include a statement indicating that school districts, intermediate
27 school districts, and public school academies are not limited to
28 only using the evaluation tools that are included on the list. A
29 school district, intermediate school district, or public school

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

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

15 (5) ~~(7)~~ This section does not affect the operation or
16 applicability of section 1248.

17 (6) ~~(8)~~ As used in this section, "teacher" means an individual
18 who has a valid Michigan teaching certificate or authorization or
19 who is engaged to teach under section 1233b; who is employed, or
20 contracted for, by a school district, intermediate school district,
21 or public school academy; and who is assigned by the school
22 district, intermediate school district, or public school academy to
23 deliver direct instruction to pupils in any of grades K to 12 as a
24 teacher of record.

25 Enacting section 1. This amendatory act does not take effect
26 unless Senate Bill No. 57 of the 101st Legislature is enacted into
27 law.