

# HOUSE BILL NO. 5051

June 16, 2021, Introduced by Reps. Weiss, Stone, Kuppa, Clemente, Brenda Carter, Hood, Aiyash, Breen, Hope, Koleszar, Haadsma, Sowerby and Young 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 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

1 performance evaluation system that does all of the following:

2 (a) ~~Evaluates~~ **Except as otherwise provided under this section,**  
3 **evaluates** the teacher's or school administrator's job performance  
4 at least annually while providing timely and constructive feedback.

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

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

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

29 (i) The effectiveness of teachers and school administrators,

1 ensuring that they are given ample opportunities for improvement.

2 (ii) Promotion, retention, and development of teachers and  
3 school administrators, including providing relevant coaching,  
4 instruction support, or professional development.

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

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

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

16 (a) ~~The~~ **Except as otherwise provided under this section, the**  
17 performance evaluation system must include at least an annual year-  
18 end evaluation for all teachers. An annual year-end evaluation must  
19 meet all of the following:

20 (i) ~~For the 2018-2019 school year, 25% of the annual year-end~~  
21 ~~evaluation must be based on student growth and assessment data.~~  
22 ~~Beginning with the 2019-2020 school year, Except as otherwise~~  
23 **provided in this subparagraph, 40% of the annual year-end**  
24 **evaluation must be based on student growth and assessment data. For**  
25 **the 2020-2021 school year, the annual year-end evaluation must not**  
26 **be based on student growth and assessment data.**

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

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

9 (iii) The portion of a teacher's annual year-end evaluation that  
10 is not based on student growth and assessment data, as described  
11 under subparagraph (i), must be based primarily on a teacher's  
12 performance as measured by the evaluation tool developed or adopted  
13 by the school district, intermediate school district, or public  
14 school academy under subdivision (f).

15 (iv) The portion of a teacher's evaluation that is not measured  
16 using student growth and assessment data, as described under  
17 subparagraph (i), or using the evaluation tool developed or adopted  
18 by the school district, intermediate school district, or public  
19 school academy, as described under subparagraph (iii), must  
20 incorporate criteria enumerated in section 1248(1)(b)(i) to (iii) **or,**  
21 **for the 2020-2021 school year, criteria enumerated in section**  
22 **1248(1)(b)(i)(B) to (D), (ii), and (iii),** that are not otherwise  
23 evaluated under subparagraph (i) or (iii).

24 (b) ~~If~~ **Except as otherwise provided under this section, if**  
25 there are student growth and assessment data available for a  
26 teacher for at least 3 school years, the annual year-end evaluation  
27 must be based on the student growth and assessment data for the  
28 most recent 3-consecutive-school-year period. ~~If~~ **Except as**  
29 **otherwise provided under this section, if** there are not student

1 growth and assessment data available for a teacher for at least 3  
2 school years, the annual year-end evaluation must be based on all  
3 student growth and assessment data that are available for the  
4 teacher.

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

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

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

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

29 (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 (e) The performance evaluation system must include classroom  
13 observations to assist in the performance evaluations. All of the  
14 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). These other observers may be teacher

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

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

28 (h) As part of the performance evaluation system, and in  
29 addition to the requirements of section 1526, a school district,

1 intermediate school district, or public school academy is  
2 encouraged to assign a mentor or coach to each teacher who is  
3 described in subdivision (d).

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

12 (j) The performance evaluation system must provide that, if a  
13 teacher is rated as ineffective on 3 consecutive annual year-end  
14 evaluations, the school district, intermediate school district, or  
15 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 (k) The performance evaluation system must provide that, if a  
22 teacher is rated as highly effective on 3 consecutive annual year-  
23 end evaluations, the school district, intermediate school district,  
24 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 (l) The performance evaluation system must provide that, if a

1 teacher who is not in a probationary period ~~prescribed by~~**under**  
2 section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated  
3 as 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 (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 (n) A school district, intermediate school district, or public  
25 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 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), the research  
16 base for the listed evaluation tool and an assurance that the  
17 adaptations or modifications do not compromise the validity of that  
18 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), the identity and qualifications of a person  
23 with expertise in teacher evaluations who has reviewed the adapted  
24 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), an  
29 assurance that the adaptations or modifications do not compromise

1 the reliability, validity, or efficacy of the evaluation tool or  
2 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 (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 (6) ~~(7)~~ This section does not affect the operation or  
 16 applicability of section 1248.

17 (7) ~~(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. \_\_\_\_ or House Bill No. 5052 (request no.  
 27 01967'21 \*\*) of the 101st Legislature is enacted into law.