

TEACHER AND ADMINISTRATOR PERFORMANCE EVALUATION

Phone: (517) 373-8080
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Senate Bill 103 as enacted
Public Act 173 of 2015
Sponsor: Sen. Phil Pavlov
House Committee: Education
Senate Committee: Education
Complete to 10-18-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Overall, Senate Bill 103 amends the Revised School Code to require teacher and school administrator performance evaluation systems beginning in the 2015-16 school year. The bill modifies the law in several ways, specifically to:

- Eliminate a requirement that a school district, intermediate school district, or charter school adopt a specific educator evaluation tool prescribed by the state.
- Authorize districts and charter schools to develop their own evaluation tools.
- Reduce the portion of teacher and administrator year-end evaluations that must be based on student growth and assessment data.
- Require districts and charter schools to post information online regarding their tools for teacher and administrator evaluations.
- Require the Department of Education (MDE) to establish and maintain a list of recommended evaluation tools.

In addition to modifying the statute concerning educator evaluation, Senate Bill 103 also:

- Prohibits school districts and charter schools from assigning students to be taught for two consecutive years by a teacher who was rated as ineffective, and requires parental or guardian notification if the school does not comply.
- Prohibits issuance of a professional teaching certificate to an individual who does not meet prescribed conditions, beginning July 1, 2018, and prohibits issuance of an advanced professional teaching certificate to an individual who does not meet prescribed conditions, beginning the effective date of the bill.

The bill took effect November 5, 2015. A more detailed description of the educator evaluation bill follows.

Educator Performance Evaluation Systems

Performance Evaluation System. The Revised School Code requires the board of a school district, intermediate school district, or charter school, with the involvement of teachers and school administrators, to adopt and implement for all teachers and administrators a rigorous, transparent, and fair performance evaluation system that does all of the following:

- Evaluates the teacher's or administrator's job performance at least annually while providing timely and constructive feedback.

- Establishes clear approaches to measuring student growth and provides teachers and administrators with relevant data on student growth.
- Evaluates a teacher’s or administrator’s job performance, using multiple rating categories that take into account data on student growth as a significant factor.
- Uses the evaluations to inform decisions regarding the effectiveness of teachers and administrators; promotion, retention, and development of teachers and administrators; whether to grant tenure and/or full certification; and removing ineffective tenured and untenured teachers and administrators.

Teacher Evaluation

Teacher Evaluation: Student Growth Assessment. Previously under the law, beginning with the 2015-16 school year, school district and charter school boards had to ensure that the performance evaluation system for teachers met certain criteria, including at least an annual year-end evaluation, 50% of which is based on student growth and assessment data.

Senate Bill 103 requires, instead, that beginning with the 2015-16 school year, and continuing during the 2016-17 and 2017-18 school years, an annual year-end evaluation must be based at least 25% on student growth and assessment data.

Beginning in the 2018-19 school year, 40% of the annual year-end evaluation is to be based on student growth and assessment data.

How would student growth be measured? The bill specifies that for core content areas in grades and subjects in which state assessments are administered, 50% of student growth must be measured using 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 (ISD), or public school academy (PSA, or charter school).

Student growth may also 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.

Teacher Evaluation: Performance. Beginning with the 2016-17 school year, the bill requires that the portion of a teacher’s annual year-end evaluation that is not based on student growth and assessment data must be based primarily on a teacher’s performance, as measured by the evaluation tool developed or adopted by the school districts (both local and ISD) or charter school. This portion of the teacher’s evaluation that is not measured by student growth and assessment or teacher performance using the evaluation tool must incorporate criteria enumerated in Section 1248(1)(b)(i) to (iii) of the Code.

Teacher Evaluation System Criteria; Observations. Under the Code, the evaluation system must include an annual year-end evaluation for all teachers; a mid-year progress report for a teacher who is in the first year of a five-year probationary period for new teachers or who received a rating of minimally effective or ineffective on the most recent annual evaluation; and classroom observations to assist in the evaluations. Senate Bill 103 retains these requirements. However, the bill reduces the requirement for “multiple evaluations” to at least

“two evaluations,” for those teachers who have not been rated effective or highly effective in the past two consecutive years. Further, beginning with the 2016-17 school year, at least one of those observations must be unscheduled.

The bill specifies that beginning with the 2016-17 school year, the school administrator must conduct at least one of the observations, while others can be conducted by other observers who are trained in the district’s evaluation tool, including teacher leaders.

Beginning with the 2016-17 school year, a school district, ISD, or charter school must ensure that within 30 days after each observation, the teacher is provided with feedback.

Previously, the manner in which a classroom observation was conducted had to be prescribed in the state evaluation tool. The bill deletes this requirement.

State Evaluation Tools; Local Option. Previously under the law, for the purposes of conducting the annual year-end evaluations, school districts and charter schools had to adopt and implement the state evaluation tool for teachers required under legislation enacted after a review of the recommendations contained in the report of the Michigan Council on Educator Effectiveness (MCEE), or a local tool that is consistent with the state evaluation tool. Senate Bill 103 eliminates this provision.

Instead, Senate Bill 103 requires that beginning with the 2016-17 school year, a district or charter school must adopt and implement one or more of the evaluation tools for teachers that are included on the list. However, if a school district, ISD, or charter school has one or more local evaluation tools or modifications of a listed evaluation tool, and the district complies with subsection (3), then they may conduct their evaluations using those tools or modifications.

The tool (or tools) used by a district, intermediate school district, or charter school must be used consistently across the schools it operated so that all similarly situated teachers were evaluated using the same tool.

Evaluation Training. Beginning with the 2016-17 school year, the school district, ISD, or charter school must provide training to teachers on the evaluation tool(s) it is using in its performance evaluation system, and on how each tool will be used. This training may be provided by the district, ISD, charter school, or a consortium comprising two or more of these.

Further, beginning with the 2016-17 school year, a district or charter school must ensure that training is provided (by an expert) for all evaluators and observers. The expert may be either a consultant, or a person trained to train others in the use of the evaluation tool.

This training will be paid for from the funds available in the Educator Evaluation Reserve Fund, a separate account within the State School Aid Fund.

Teacher Evaluation Online Information. Beginning with the 2016-17 school year, a school district or charter school must post on its public website all of the following information about the evaluation tool or tools it uses for its performance evaluation system for teachers:

- The research base for the evaluation framework, instrument, and process (or if the school adapted or modified an evaluation tool, then that tool's research base, and an assurance that the adaptations or modifications did not compromise the validity of that research base).
- The identity and qualification of the author or authors (or if using a modified evaluation tool, then the identity and qualifications of a person with expertise in teacher evaluations who had reviewed the modified evaluation tool).
- Either evidence of reliability, validity, and efficacy or a plan for developing that evidence (or if using a modified evaluation tool, then an assurance that the adaptation did not compromise the reliability, validity, or efficacy of the evaluation tool or the evaluation process.)
- The evaluation frameworks and rubrics with detailed descriptors for each performance level on key summative indicators.
- A description of the processes for conducting classroom observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- A description of the plan for providing evaluators and observers with training.

Evaluation Tool List and Administrative Rules. The bill requires MDE to establish and maintain a list of teacher evaluation tools that have demonstrated evidence of efficacy, to be used by school districts and charter schools to evaluate teachers. The list initially must include at least the evaluation models recommended in the final recommendations released by the MCEE in July 2013. Further, the list must include a statement indicating that school districts, ISDs, and charter schools are not limited to the evaluation tools included on the list.

The bill specifies that a school district is not required to use the same evaluation tools for teachers as it uses for school administrators, or an evaluation tool that has the same author(s).

Under the bill, MDE must promulgate rules establishing standards and procedures for adding or removing an evaluation tool from the list. These rules must include a process for the district, ISD, or charter school, to submit its own evaluation tool for review for placement on the list.

Instruction by Ineffective Teachers. Beginning with the 2018-19 school year, a school district or charter school is prohibited from assigning a student to be taught in the same subject area for two consecutive years by a teacher rated as ineffective on the two most recent annual year-end evaluations.

Previously under the law, beginning with the 2015-16 school year, if a pupil was assigned to be taught by a teacher who had been rated as ineffective on the two most recent annual evaluations, the board of the school district or ISD or the PSA board of directors had to notify the pupil's parent or legal guardian. The notice had to identify the teacher. The bill modifies these provisions.

Instead, under the bill, beginning with the 2018-19 school year, a school district or charter school cannot assign a student to be taught in the same subject area for two consecutive years by a teacher who has been rated as ineffective for two consecutive years. If the schools are

unable to comply with this provision, the board must notify the pupil's parent or legal guardian and include an explanation of why the board is unable to comply.

Administrator Evaluation

Administrator Evaluation. Senate Bill 103 establishes similar provisions with regard to tools for evaluating school administrators—those working at the building level, and those in the central office if they are regularly involved in instructional matters. That performance evaluation system must meet all of the following criteria.

First, the performance evaluation system must include at least an annual evaluation for all school administrators, completed by the local or ISD superintendent (or a designee), or chief administrator of a charter school. In turn, the superintendent and chief administrator must be evaluated by the school board or board of directors (or, if the superintendent or chief administrator is not employed directly by the board, then he or she is evaluated by a designee of the board or board of directors).

Second, Senate Bill 103 requires that, beginning with the 2015-16 school year, and continuing through the 2016-17 and 2017-18 school years, an administrator's annual evaluation must be based 25% on student growth and assessment data.

Further, beginning in 2018-19, 40% of the annual evaluation must be based on student growth and assessment data. (The bill specifies that the student growth and assessment data to be used for the school administrator evaluation are the aggregate year-end evaluations in each school in which the school administrator worked or, if the administrator is a central office administrator, for the entire school district or intermediate school district.)

Third, for the purpose of conducting annual evaluations under its performance evaluation system, a school district, ISD, or charter school must develop or adopt and implement an evaluation tool for school administrators. The portion of an administrator's annual evaluation that is not based on student growth must be based primarily on the administrator's performance as measured by the evaluation tool.

Fourth, the portion of the annual evaluation that is not based on student growth and assessment data must be based on at least the following for each school in which the administrator works (or for the entire school district in the case of a central office administrator):

- If the administrator conducted teacher performance evaluations, then the administrator's proficiency in using the evaluation tools. [If an administrator designated another person to conduct teacher evaluations, then the administrator's evaluation for this factor is based on the designee's proficiency in using the evaluation tool, with the designee's performance to be counted as if it were the school administrator personally conducting the teacher performance evaluations.]
- The progress made by the school (or school district) in meeting the goals set forth in the school improvement plan.
- Pupil attendance in the school (or school district).
- Student, parent, and teacher feedback, as available, and other information considered pertinent by the superintendent.

By the beginning of the 2016-17 school year, the school district, ISD, or charter school must adopt and implement one or more evaluation tools for school administrators that are included on the state list. However, if the district has one or more local evaluation tools, or modifications of a tool, it may conduct annual year-end evaluations for its administrators using those.

Senate Bill 103 specifies that the measures used in an administrators' performance evaluation system must be used consistently across the school district, so that all similarly situated school administrators are evaluated using the same measures.

Administrator Effectiveness Rating. The bill requires that the performance evaluation system assign an effectiveness rating to each school administrator of 1) highly effective, 2) effective, 3) minimally effective, or 4) ineffective.

Administrator Improvement Plan. The bill also requires that, when a school administrator is rated as minimally effective or ineffective, the person conducting the evaluation must develop, and the school administrator must implement, an improvement plan to correct the deficiencies. The improvement plan must recommend professional development opportunities and other actions designed to improve the rating of the administrator on his or her next annual evaluation.

If ineffective: An administrator rated as ineffective on three consecutive annual evaluations must be dismissed from employment. (However, this provision does not affect the ability of a school district or charter school to dismiss an ineffective administrator regardless of whether he or she was rated ineffective on three consecutive annual evaluations.)

If effective: Conversely, if a school administrator were rated as highly effective on three consecutive annual evaluations, the school district may choose to conduct an evaluation biennially instead of annually. However, annual evaluations must resume if the administrator is subsequently not rated as highly effective.

Training. Senate Bill 103 requires a school district or charter school to provide training to school administrators about the measures used in the performance evaluation system and how each measure is used. This training may be provided by a school district, ISD, or charter school or a consortium comprising two or more of these groups.

Beginning with the 2016-17 school year, school districts, ISD, and charter schools must provide training to all evaluators and observers. The training must be provided by an expert and may include either a consultant or a trainer of trainers who is knowledgeable about the evaluation tools or their frameworks.

This training will be paid for from the funds available in the Educator Evaluation Reserve Fund, a separate account within the State School Aid Fund.

Administrator Evaluation Online Information. Beginning with the 2016-17 school year, a school district or charter school must post on its public website all of the following information about the evaluation tool or tools it uses for its performance evaluation system for school administrators:

- The research base for the evaluation framework, instrument, and process.
- The identity and qualification of the author or authors.

- Either evidence of reliability, validity, and efficacy or a plan for developing that evidence.
- The evaluation frameworks and rubrics, with detailed descriptors for each performance level on key summative indicators.
- A description of the processes for conducting classroom observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- A description of the plan for providing evaluators and observers with training.

If the district, ISD, or charter school adapts or modifies an evaluation tool on the state list, these requirements must also be met.

Collective Bargaining Agreement. Previously under the Revised School Code, if a collective bargaining agreement preventing compliance with the requirement to adopt and implement a performance evaluation system was in effect for teachers or school administrators as of July 19, 2011, the requirement did not apply until after the agreement expired. Under Senate Bill 103, this exception applies only if the same agreement was still in effect on the bill's effective date.

State Evaluation Tool List. The bill requires MDE to establish and maintain a list of school administrator evaluation tools that have demonstrated evidence of efficacy to be used by school districts and charter schools to evaluate school administrators. The list initially must include at least the two evaluation models recommended in the final recommendations released by the MCEE in July 2013. Further, the list must include a statement indicating that school districts, ISDs, and charter schools are not limited to the evaluation tools included on the list.

Finally, the bill specifies that a school district is not required to use the same evaluation tools for school administrator as it uses for teachers, or an evaluation tool that has the same author(s).

Administrative Rules. Senate Bill 103 requires MDE to promulgate rules establishing standards and procedures for adding or removing an administrator evaluation tool from the state list. These rules must include a process for a district or charter school to submit its own administrator evaluation tool for placement on the list.

Teacher Certification

Professional Teaching Certificate. Beginning July 1, 2018, the bill prohibits the superintendent of public instruction from issuing an initial professional teaching certificate, unless presented with evidence to demonstrate that the applicant has successfully completed at least three full years of classroom teaching and meets either of the following criteria:

- Was rated as effective or highly effective on the annual year-end performance evaluation for the three consecutive school years immediately preceding application for the certificate.
- Was rated as effective or highly effective for at least three nonconsecutive school years before application, and submitted a recommendation from the chief school administrator of the school where currently employed.

Advanced Professional Teaching Certificate. Similarly, beginning on the effective date of the bill, the superintendent may not issue or renew an advanced professional teaching certificate unless presented with evidence that the individual to be certified meets all of the following:

- Has been rated as highly effective on the annual year-end evaluations for three of the previous five years,
- Has not been rated ineffective on those evaluations within the five most recent years.
- Meets additional criteria established by MDE.

MCL 380.1249 et seq.

FISCAL IMPACT:

Senate Bill 103 would create an indeterminate increase in administrative costs and teacher licensure revenue loss to the state, and would increase costs to local units of government including school districts, ISDs, and PSAs.

MDE could incur indeterminate revenue loss related to changes to the teacher certification process. Currently, the state receives revenue from awarding professional teacher certifications. SB 103 would change the requirements for receiving a professional certification from three years of satisfactory performance to three years of effective or highly effective performance. The increase in standards could lead to a decrease in number of certifications, reducing teacher certification fee revenues by an indeterminate amount.

MDE would incur costs related to monitoring and maintaining a list of accepted teacher and administrator evaluation tools that have demonstrated evidence of efficacy, as well as creating a process for adding and allowing modifications of accepted tools, and reviewing additional tools submitted by a district, ISD, or PSA. Initially, the list would include at least the evaluation models recommended by the MCEE.¹ Over time, the list could be expanded to include additional tools or modifications to tools that meet the MDE requirements.

The FY 2015-16 MDE budget included an appropriation of \$2.6 million for educator evaluations in the Office of Educational Improvement and Innovation Services that could offset costs related to educator evaluations. Of this, \$700,000 has been spent by MDE, and the remaining \$1.9 million has been requested as a work project to be carried forward into the following fiscal year.

School districts, ISDs, and PSAs also would see additional costs. At a minimum, districts, ISDs, and PSAs would have to spend time determining whether their current teacher and administrator evaluation tools meet the requirements under SB 103 and then describe and post online how their evaluation tools meet said requirements. If their evaluation tools did not meet the MDE requirements for an evaluation tool, they would need to modify their tool, develop another tool, or purchase a tool to meet statutory requirements, which could create additional costs.

There would also be an indeterminate cost associated with training all teachers and evaluation observers and conducting evaluations, for which the cost would be determined by the initial

¹ MCEE Final Recommendations, July 2013: <http://www.mcede.org/reports>

number of people needing training and future staff turnover. If districts, ISDs, and PSAs train and conduct their own evaluations, they would have to train teachers, building administrators, central office administrators, and school board members. If teachers are conducting observations of other teachers, there would be an added cost of providing a substitute for class time missed and added administrative duties borne by that teacher. Similarly, for administrator evaluations, there would be added costs for time committed to conducting evaluations and the administrative duties associated with tracking and reporting evaluations.

Previous fiscal estimates of a statewide framework that designated four different teacher evaluation tool options and two administrator evaluation tool options, estimated a total cost for tools and training ranging from \$16.0 million to \$42.0 million.² Costs are likely to be similar, even if some school districts were able to utilize already existing evaluation tools.

The FY 2014-15 School Aid budget included an appropriation of \$14.8 million for educator evaluations in Section 95a (MCL 388.1695a) that could offset a portion of the costs for evaluation tools and training, of which \$13.9 million has been awarded to districts and ISDs. The appropriation was set aside in the Educator Evaluation Reserve Fund within the School Aid fund, and the remaining \$900,000 is in the process of being expended through a work project.

Legislative Analyst: Jennifer McInerney
Fiscal Analysts: Bethany Wicksall
Samuel Christensen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

² See House Fiscal Agency Summary of House Bills 5223 and 5224 of the 97th Legislature:
<http://www.legislature.mi.gov/documents/2013-2014/billanalysis/House/pdf/2013-HLA-5223-15900F20.pdf>