

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 751 Session of 2019

INTRODUCED BY AUMENT, BROWNE, MARTIN, MENSCH, KILLION AND BLAKE, JUNE 13, 2019

SENATOR BROWNE, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 24, 2019

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in professional employees, further
6 providing for rating system and for persons to be suspended
7 and providing for a revised rating system.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1123 of the act of March 10, 1949
11 (P.L.30, No.14), known as the Public School Code of 1949, is
12 amended by adding a subsection to read:

13 Section 1123. Rating System.--* * *
14 (q) This section shall expire June 30, 2021.

15 Section 2. Section 1125.1(a) and (a.1) of the act are
16 amended to read:

17 Section 1125.1. Persons to be Suspended.--(a) Professional
18 employes shall be suspended under section 1124 in the following
19 order, within the area of certification required by law for the
20 professional employe's current position:

1 (1) Each professional employe who received, on the
2 professional employe's two most recent annual performance
3 evaluations, consecutive ratings that are considered
4 unsatisfactory pursuant to section 1123 or subarticle (c.1)
5 shall be suspended first.

6 (2) After suspending professional employes under paragraph
7 (1), each professional employe who received, on the professional
8 employe's two most recent annual performance evaluations, one
9 rating that is considered unsatisfactory pursuant to section
10 1123 or subarticle (c.1) and one rating that is considered
11 satisfactory pursuant to section 1123 or subarticle (c.1) shall
12 be suspended second.

13 (3) After suspending professional employes pursuant to
14 paragraph (2), each professional employe who received, on the
15 professional employe's two most recent annual performance
16 evaluations, consecutive ratings which are considered
17 satisfactory pursuant to section 1123 or subarticle (c.1) and
18 which are either consecutive ratings of "proficient" or a
19 combination of one rating of "proficient" or "distinguished" and
20 one rating of "needs improvement" pursuant to section 1123 or
21 subarticle (c.1) shall be suspended third.

22 (4) After suspending professional employes pursuant to
23 paragraph (3), each professional employe who received, on the
24 professional employe's two most recent annual performance
25 evaluations, consecutive ratings which are considered
26 satisfactory pursuant to section 1123 or subarticle (c.1), and
27 which are consecutive ratings of "distinguished" or a
28 combination of one rating of "proficient" and one rating of
29 "distinguished" pursuant to section 1123 or subarticle (c.1)
30 shall be suspended last.

1 (a.1) When more professional employes receive the same
2 overall performance rating than there are suspensions, seniority
3 within the school entity and within the area of certification
4 required by law for the professional employe's current position
5 shall be used to determine suspensions among professional
6 employes with the same overall performance rating on the
7 professional employe's two most recent annual performance
8 evaluations pursuant to section 1123 or subarticle (c.1). An
9 approved leave of absence shall not constitute a break in
10 service for purposes of computing seniority for suspension
11 purposes.

12 * * *

13 Section 3. Article XI of the act is amended by adding a
14 subarticle to read:

15 (c.1) Revised Rating System.

16 Section 1138.1. Definitions.

17 The following words and phrases when used in this subarticle
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Assessment." The Pennsylvania System of School Assessment
21 test, the Keystone Exam or another test established by the State
22 Board of Education or approved by an act of the General Assembly
23 to meet the requirements of section 2603-B(d)(10)(i) and the
24 requirements of the Every Student Succeeds Act (Public Law 114-
25 95, 129 Stat. 1802) or its successor statute or required to
26 achieve other standards established by the department for the
27 school or school district.

28 "Chief school administrator." Includes an individual who is
29 employed as a school district superintendent, an executive
30 director of an intermediate unit or an administrative director

1 of an area vocational-technical school.

2 "Classroom teacher." A professional employee or temporary
3 professional employee who provides direct instruction to
4 students related to a specific subject or grade level.

5 "Classroom walk-through." An observational classroom visit
6 by an evaluator to observe an employee for the purpose of
7 gathering evidence and artifacts to inform the employee's
8 rating.

9 "Comprehensive classroom observation." An observational
10 classroom visit that includes a preconference and postconference
11 between an evaluator and an employee which may be conducted by
12 telephone or videoconferencing. Upon the mutual agreement of
13 both an evaluator and a professional employee, the requirement
14 of a postconference may be waived for extenuating circumstances,
15 if the evaluator places written documentation of the
16 comprehensive classroom observation in the professional
17 employee's file. If the extenuating circumstances are raised by
18 the evaluator, a professional employee who does not receive a
19 postconference shall not receive a rating of needs improvement
20 or failing on the comprehensive classroom observation component
21 of an evaluation. The requirement of a postconference shall not
22 be waived for a temporary professional employee.

23 "Data-available teacher." A classroom teacher who is a
24 professional employee teaching English, language arts,
25 mathematics, science or other content areas as assessed by an
26 assessment, including the Pennsylvania System of School
27 Assessment and Keystone Exams.

28 "Department." The Department of Education of the
29 Commonwealth.

30 "Differentiated supervision." A system of supervision of

1 professional employees that:

2 (1) Involves a multi-year cycle in which supervisors
3 complete a comprehensive classroom observation for one annual
4 rating in the professional employee's supervision cycle and
5 in the other years of the cycle collaborate with the
6 professional employee to differentiate supervision by
7 developing individualized goals, learning activities and
8 measures for the professional employee's growth in one or
9 more areas listed in section 1138.3(a) (1) or (b) (1) or a
10 nonteaching professional employee's growth in one or more
11 areas listed in section 1138.5(a) (1), (2), (3), (4) or (b).

12 (2) Is offered only to professional employees who
13 received a proficient or distinguished annual rating in both
14 of the two immediately preceding years and is not offered to
15 temporary professional employees.

16 (3) Is optional for the employer and the professional
17 employee.

18 (4) In any year in which the professional employee does
19 not receive a comprehensive classroom observation, uses data
20 sources and data collection strategies designed to measure a
21 professional employee's progress toward the professional
22 employee's individualized professional goals.

23 (5) Allows a supervisor to move a professional employee
24 out of individualized professional goals, activities and
25 measures and into comprehensive classroom observation at any
26 time.

27 (6) Allows a professional employee to move out of
28 individualized professional goals, activities and measures
29 and enter comprehensive classroom observation at any time.

30 "Economically disadvantaged." The economically disadvantaged

1 status of a student as reported by a school district,
2 intermediate unit or area vocational-technical school through
3 the Pennsylvania Information Management System (PIMS) and
4 determined based upon poverty data sources such as eligibility
5 for Temporary Assistance for Needy Families, Medicaid or free or
6 reduced-price lunch, census data, residence in an institution
7 for the neglected or delinquent or residence in a foster home.

8 "Education specialist." The term shall have the same meaning
9 given in section 1.2 of the act of December 12, 1973 (P.L.397,
10 No.141), known as the Educator Discipline Act.

11 "Evaluator." Includes the chief school administrator or the
12 chief school administrator's designee who is an assistant
13 administrator, supervisor or principal, has supervision over the
14 work of the professional employee or temporary professional
15 employee being rated and is directed by the chief school
16 administrator to perform the rating.

17 "Graduation rate." The rate submitted by the department
18 under the Every Student Succeeds Act State plan that represents
19 the percentage of students in a school who earn a high school
20 diploma within four years.

21 "Nonteaching professional employee." An education specialist
22 or a professional employee or temporary professional employee
23 who provides services and who is not a classroom teacher.

24 "Performance improvement plan." A plan, designed by an
25 employer with documented input from the employee, that:

26 (1) Provides actionable feedback to an employee on the
27 specific domain within the comprehensive classroom
28 observation and practice models that prevented the employee
29 from achieving a proficient rating. The employer shall
30 consider the documented input from the employee for inclusion

1 in the plan.

2 (2) Identifies employer resources that will be provided
3 to an employee to help the employee improve. Resources may
4 include, but shall not be limited to, mentoring, coaching,
5 recommendations for professional development and intensive
6 supervision based on the contents of the rating tool provided
7 for under this subarticle.

8 "Principal." Includes a building principal, an assistant
9 principal, a vice principal, a supervisor of special education
10 or a director of vocational education.

11 "Regulatory Review Act." The act of June 25, 1982 (P.L.633,
12 No.181), known as the Regulatory Review Act.

13 Section 1138.2. State rating tool.

14 In determining whether a professional employee shall be
15 dismissed for unsatisfactory teaching performance as provided
16 for in section 1122(a), and in rating professional employees and
17 temporary professional employees, each professional employee and
18 temporary professional employee shall be rated through the use
19 of a rating tool approved by the department in consultation with
20 education experts, parents of school-age children enrolled in a
21 public school, teachers and administrators, including research
22 and collaboration conducted by the department.

23 Section 1138.3. Classroom teachers.

24 (a) Evaluation with building-level data.--Beginning in the
25 2021-2022 school year, the evaluation of the effectiveness of a
26 professional employee serving as a classroom teacher in a
27 building where annual building-level data is made available by
28 the department shall be weighted and calculated accordingly:

29 (1) Comprehensive classroom observation and practice
30 models that are related to student achievement, which shall

1 comprise 70% of the overall rating in each of the following
2 areas:

3 (i) Planning and preparation, with a weight of 20%.

4 (ii) Classroom environment, with a weight of 30%.

5 (iii) Instruction, with a weight of 30%.

6 (iv) Professional responsibilities, with a weight of
7 20%.

8 (2) Student performance, which shall comprise 30% of the
9 overall rating, and shall be based upon multiple measures of
10 student achievement. The multiple measures shall be comprised
11 of the following:

12 (i) (A) Building-level data, which shall comprise
13 one-third of the student performance component
14 measure, including each of the following areas, if
15 applicable:

16 (I) Student performance on assessments
17 administered to the grade level in the building.

18 (II) Value-added assessment system data made
19 available by the department under section 221 if
20 the building administers assessments in grades
21 for which annual value-added system data is made
22 available by the department.

23 (III) Graduation rate.

24 (IV) Attendance rate as reported to the
25 department under section 2512.

26 (B) The total score for building-level data
27 shall be adjusted by a challenge multiplier for each
28 school building as follows:

29 (I) Calculate the regression coefficient of
30 determination, known as r^2 , that estimates the

1 proportion of the variance in school-level data
2 that is predictable by the percentage of students
3 that are economically disadvantaged in a school.

4 (II) Multiply the regression coefficient of
5 determination under subclause (I) by .1.

6 (III) Multiply the product produced in
7 subclause (II) by the most currently available
8 percentage of economically disadvantaged students
9 in the school.

10 (IV) Multiply the product produced in
11 subclause (III) by 100.

12 (V) Add the product produced in subclause
13 (IV) to the building level score.

14 (C) Buildings must have a minimum of two
15 measures in clause (A) in order to receive a
16 building-level score.

17 (ii) Teacher-specific data, which shall comprise
18 two-thirds of the student performance component measure,
19 including student achievement as measured by the
20 following scores:

21 (A) If the individual is a data-available
22 teacher, the following measures shall be weighted
23 accordingly:

24 (I) One-half of the score shall be comprised
25 of the following:

26 (a) Student performance on assessments
27 as applicable and attributable to the
28 classroom teacher.

29 (b) Value-added assessment system data
30 made available by the department under

1 section 221 if the building administers
2 assessments in grades for which annual value-
3 added system data is made available by the
4 department as applicable and attributable to
5 the classroom teacher. The data shall be
6 calculated using three consecutive years of
7 data.

8 (c) Progress in meeting the goals of
9 student individualized education plans
10 required under the Individuals with
11 Disabilities Education Act (Public Law 91-
12 230, 20 U.S.C. § 1400 et seq.) as applicable
13 and attributable to the classroom teacher.

14 (II) One-half of the score shall be
15 comprised of one or more measures as applicable
16 and attributable to the classroom teacher
17 selected by the employer from the following list:

18 (a) Locally developed school district
19 rubrics.

20 (b) District-designed measures and
21 examinations.

22 (c) Nationally recognized standardized
23 tests.

24 (d) Industry certification examinations.

25 (e) Student projects pursuant to local
26 requirements.

27 (f) Student portfolios pursuant to local
28 requirements.

29 (B) If the individual is not a data-available
30 teacher, the teacher-specific data shall be comprised

1 of the following measures:

2 (I) One-half of the score shall be comprised
3 of progress in meeting the goals of student
4 individualized education plans required under the
5 Individuals with Disabilities Education Act
6 (Public Law 91-230, 20 U.S.C. § 1400 et seq.) as
7 applicable and attributable to the classroom
8 teacher.

9 (II) One-half of the score shall be
10 comprised of one or more measures as applicable
11 and attributable to the classroom teacher
12 selected by the employer from the following list:

13 (a) Locally developed school district
14 rubrics.

15 (b) District-designed measures and
16 examinations.

17 (c) Nationally recognized standardized
18 tests.

19 (d) Industry certification examinations.

20 (e) Student projects pursuant to local
21 requirements.

22 (f) Student portfolios pursuant to local
23 requirements.

24 (b) Evaluation without building-level data.--Beginning in
25 the 2021-2022 school year, the evaluation of the effectiveness
26 of a professional employee who is a classroom teacher primarily
27 assigned in a building or buildings within a school entity by
28 which the classroom teacher is not employed or where building-
29 level data is not made available by the department shall be
30 weighted and calculated as follows:

1 (1) Classroom observation and practice models that are
2 related to student achievement, which shall comprise 80% of
3 the overall rating in each of the following areas:

4 (i) Planning and preparation, with a weight of 20%.

5 (ii) Classroom environment, with a weight of 30%.

6 (iii) Instruction, with a weight of 30%.

7 (iv) Professional responsibilities, with a weight of
8 20%.

9 (2) Student performance as applicable and attributable
10 to the classroom teacher, which shall comprise 20% of the
11 overall rating, and shall be comprised of the following
12 measures:

13 (i) (Reserved).

14 (ii) One-half of the score shall be comprised of
15 progress in meeting the goals for student individualized
16 education plans required under the Individuals with
17 Disabilities Education Act as applicable and attributable
18 to the classroom teacher.

19 (iii) One-half of the score shall be comprised of
20 one or more measures selected by the employer from the
21 following list:

22 (A) Locally developed school district rubrics.

23 (B) District-designed measures and examinations.

24 (C) Nationally recognized standardized tests.

25 (D) Industry certification examinations.

26 (E) Student projects pursuant to local
27 requirements.

28 (F) Student portfolios pursuant to local
29 requirements.

30 (c) Temporary professional employee.--Beginning in the 2021-

1 2022 school year, the evaluation of the effectiveness of a
2 temporary professional employee serving as a classroom teacher
3 shall be based on comprehensive classroom observation and
4 practice models that are related to student achievement, which
5 shall comprise 100% of the overall rating in each of the
6 following areas:

7 (1) Planning and preparation, with a weight of 20%.

8 (2) Classroom environment, with a weight of 30%.

9 (3) Instruction, with a weight of 30%.

10 (4) Professional responsibilities, with a weight of 20%.

11 (d) Rating tool.--The following shall apply:

12 (1) No later than June 30, 2020, the department shall
13 develop, issue and submit to the Legislative Reference Bureau
14 for publication in the Pennsylvania Bulletin a rating tool
15 for professional employees and temporary professional
16 employees serving as classroom teachers that is consistent
17 with subsections (a), (b) and (c) and includes the multiple
18 measures of student performance as specified under
19 subsections (a), (b) and (c).

20 (2) Beginning with the 2021-2022 school year, the rating
21 tool developed under this section shall be used in the rating
22 of each professional employee and temporary professional
23 employee serving as a classroom teacher.

24 (3) After June 30, 2020, any changes to the rating tool
25 developed under this section shall be made by the State Board
26 of Education through regulations promulgated under the
27 Regulatory Review Act.

28 (e) Classroom walk-throughs.--The classroom observation and
29 practice models component under subsections (a)(1), (b)(1) and
30 (c) may include the use of multiple classroom walk-throughs in

1 an academic year to gather evidence and artifacts to inform the
2 professional employee's or temporary professional employee's
3 ratings under subsections (a) (1) (ii) and (iii), (b) (1) (ii) and
4 (iii) and (c) (2) and (3). Classroom walk-throughs used to inform
5 the ratings for a professional employee or temporary
6 professional employee under this subarticle shall ensure that
7 specific observations are based only on factors that are present
8 or witnessed by the evaluator during the walk-through. Classroom
9 walk-throughs shall be used to gather evidence in addition to,
10 not in place of, data gathered during one or more comprehensive
11 classroom observations except when defined by a plan of
12 differentiated supervision.

13 Section 1138.4. Principals.

14 (a) Evaluation.--Beginning in the 2021-2022 school year, the
15 evaluation of the effectiveness of a professional employee
16 serving as a principal in a building where annual building-level
17 data is made available by the department shall be calculated
18 with 70% of the overall rating reflected in the areas of
19 planning and preparation, school environment, delivery of
20 service and professional development utilizing a rating tool
21 approved by the department.

22 (b) Student performance.--Student performance shall be
23 measured as provided in section 1138.3(a) (2) for professional
24 employees and temporary professional employees supervised by the
25 principal and shall comprise 10% of the principal's overall
26 rating. The 10% building-level data shall include, if available,
27 but not be limited to:

28 (1) Student performance on assessments.

29 (2) Value-added assessment system data made available by
30 the department under section 221 if the building administers

1 assessments in grades for which annual value-added system
2 data is made available by the department.

3 (3) Graduation rate.

4 (4) Attendance rate as reported to the department under
5 section 2512.

6 (5) The total score for building-level data shall be
7 adjusted by a challenge multiplier for each school building
8 as follows:

9 (i) Calculate the regression coefficient of
10 determination, known as r^2 , that estimates the proportion
11 of the variance in school-level data that is predictable
12 by the percentage of students that are economically
13 disadvantaged in a school.

14 (ii) Multiply the regression coefficient of
15 determination under subparagraph (i) by .1.

16 (iii) Multiply the product produced in subparagraph
17 (ii) by the most currently available percentage of
18 economically disadvantaged students in the school.

19 (iv) Multiply the product produced in subparagraph
20 (iii) by 100.

21 (v) Add the product produced in subparagraph (iv) to
22 the building level score.

23 (c) Performance goals.--Performance goals shall comprise 20%
24 of the principal's annual evaluation. Performance goals shall be
25 determined prior to the beginning of each school year between
26 the principal and the principal's immediate supervisor.
27 Performance goals may be district-specific or building-specific
28 goals. The following shall apply:

29 (1) Performance goals should include specific measurable
30 areas and the evidence to be collected during the year.

1 (2) After the initial meeting to determine the goals,
2 the principal and the principal's supervisor shall meet
3 midyear to monitor progress on established goals and to
4 modify goals.

5 (3) At the conclusion of the school year, the principal
6 and the principal's immediate supervisor shall meet to
7 evaluate the performance goals by providing an overall rating
8 of the attainment of the goals as follows:

9 (i) A score of 3, which indicates "distinguished"
10 goal performance.

11 (ii) A score of 2, which indicates "proficient" goal
12 performance.

13 (iii) A score of 1, which indicates "needs
14 improvement" goal performance.

15 (iv) A score of 0, which indicates "failing" goal
16 performance.

17 (d) Evaluation without building level-data.--Beginning in
18 the 2021-2022 school year, the evaluation of the effectiveness
19 of a professional employee who is a principal assigned in a
20 building or buildings where building-level data is not made
21 available by the department shall be weighed and calculated as
22 follows:

23 (1) The following areas shall comprise 80% of the
24 overall rating and are reflected in the areas of planning and
25 preparation, school environment, delivery of service and
26 professional development utilizing a department-approved
27 rating tool.

28 (2) Performance goals shall comprise 20% of the
29 principal's annual evaluation. Performance goals will be
30 determined prior to the beginning of each school year between

1 the principal and the principal's immediate supervisor.
2 Performance goals may be district-specific or building-
3 specific goals. The following shall apply:

4 (i) Performance goals may include specific
5 measurable areas and the evidence to be collected during
6 the year.

7 (ii) After the initial meeting to determine the
8 goals, the principal and the principal's supervisor shall
9 meet midyear to monitor progress on established goals and
10 to modify goals.

11 (iii) At the conclusion of the school year, the
12 principal and the principal's immediate supervisor shall
13 meet to evaluate the performance goals by providing an
14 overall rating of the attainment of the goals as follows:

15 (A) A score of 3, which indicates
16 "distinguished" goal performance.

17 (B) A score of 2, which indicates "proficient"
18 goal performance.

19 (C) A score of 1, which indicates "needs
20 improvement" goal performance.

21 (D) A score of 0, which indicates "failing" goal
22 performance.

23 (e) Rating tool.--

24 (1) No later than June 30, 2020, the department shall
25 develop, issue and transmit to the Legislative Reference
26 Bureau for publication in the Pennsylvania Bulletin a rating
27 tool for professional employees and temporary professional
28 employees serving as principals that is consistent with this
29 section and includes the weights given to the multiple
30 measures of student performance contained under subsection

1 (b).

2 (2) Beginning with the 2021-2022 school year, the rating
3 tool developed under this section shall be used in the rating
4 of each principal superseding all other rating cards and
5 forms used previously.

6 (3) After June 30, 2020, any changes to the rating tool
7 developed under this section shall be made by the State Board
8 of Education through regulations promulgated under the
9 Regulatory Review Act.

10 Section 1138.5. Nonteaching professional employees.

11 (a) Evaluation.--Beginning in the 2021-2022 school year,
12 professional employees employed as nonteaching professionals
13 shall be evaluated using a rating tool designed specifically for
14 nonteaching professional employees which shall be determined in
15 the following manner:

16 (1) The following shall compose 90% of the overall
17 rating of nonteaching professional employees:

18 (i) Planning and preparation, with a weight of 25%.

19 (ii) Educational environment, with a weight of 25%.

20 (iii) Delivery of service, with a weight of 25%.

21 (iv) Professional development, with a weight of 25%.

22 (2) Student performance as measured by building-level
23 data as described in section 1138.3(a)(2)(i)(A) and (B) for
24 each building in which the employee is assigned shall compose
25 10% of the overall rating of nonteaching professional
26 employees.

27 (b) Evaluation without building-level data.--Beginning in
28 the 2021-2022 school year, the evaluation of the effectiveness
29 of a professional employee who is a nonteaching professional
30 primarily assigned in a building or buildings within a school

1 entity by which the nonteaching professional is not employed or
2 where building-level data is not made available by the
3 department shall include the following:

4 (1) Planning and preparation, with a weight of 25%.

5 (2) Educational environment, with a weight of 25%.

6 (3) Delivery of service, with a weight of 25%.

7 (4) Professional development, with a weight of 25%.

8 (c) Temporary professional employee.--Beginning in the 2021-
9 2022 school year, the evaluation of the effectiveness of a
10 temporary professional employee who is a nonteaching
11 professional shall be evaluated using a rating tool designed
12 specifically for nonteaching temporary professional employees
13 which shall include the following:

14 (1) Planning and preparation, with a weight of 25%.

15 (2) Educational environment, with a weight of 25%.

16 (3) Delivery of service, with a weight of 25%.

17 (4) Professional development, with a weight of 25%.

18 (d) Rating tool.--

19 (1) No later than June 30, 2020, the department shall
20 develop, issue and publish in the Pennsylvania Bulletin a
21 rating tool for nonteaching professional and temporary
22 professional employees that is consistent with this section
23 and includes the weights given to the multiple measures of
24 student performance contained under subsection (a)(5).

25 (2) Beginning with the 2021-2022 school year, the rating
26 tool developed under this section shall be used in the rating
27 of each nonteaching professional and temporary professional
28 employee.

29 (3) After June 30, 2020, any subsequent changes to the
30 rating tool developed under this subsection shall be made by

1 the State Board of Education through regulations promulgated
2 under the Regulatory Review Act.

3 Section 1138.6. Local rating tools.

4 Notwithstanding sections 1138.2, 1138.3, 1138.4 and 1138.5,
5 professional employees and temporary professional employees
6 serving as classroom teachers, principals and nonteaching
7 professional employees may be evaluated through the use of a
8 rating tool developed by an individual school district,
9 intermediate unit or area vocational-technical school that the
10 department has approved as meeting or exceeding the measures of
11 effectiveness established under this subarticle.

12 Section 1138.7. Overall performance rating.

13 (a) Identification.--Each rating tool developed or approved
14 under this subarticle shall identify the overall performance
15 rating of the professional employees and temporary professional
16 employees serving as classroom teachers, principals and
17 nonteaching professional employees as one of the following:

18 (1) Distinguished.

19 (2) Proficient.

20 (3) Needs improvement.

21 (4) Failing.

22 (b) Actions.--The following shall apply:

23 (1) An overall performance rating of either
24 "distinguished" or "proficient" shall be considered
25 satisfactory.

26 (2) An overall performance rating of "needs improvement"
27 shall be considered satisfactory, except that any subsequent
28 overall rating of "needs improvement" issued by the same
29 employer within four years of the first overall performance
30 rating of "needs improvement" where the employee is in the

1 same certification shall be considered unsatisfactory.

2 (3) An overall performance rating of "failing" shall be
3 considered unsatisfactory.

4 (4) An overall performance rating of "needs improvement"
5 or "failing" shall require the employee to participate in a
6 performance improvement plan. No employee shall be rated
7 "needs improvement" or "failing" based solely upon student
8 test scores. Nothing in the definition of "performance
9 improvement plan" in section 1138.1 shall interfere with the
10 employer's authority to design a plan.

11 (c) Rating scale.--The department shall develop a rating
12 scale to reflect student performance measures and employee
13 observation results and establish overall score ranges for each
14 of the four rating categories under subsection (a).

15 (d) Evidence.--Observation and practice evaluation results
16 and ratings under sections 1138.3(a)(1), (b)(1) and (c) and
17 1138.5(a)(1) and (2) shall be based on evidence. A professional
18 employee or temporary professional employee may provide the
19 evaluator with evidence or documented artifacts demonstrating
20 the employee's performance during the most recent rating period
21 which directly pertain to the employee's observation and
22 practice evaluation results. Nothing in this subsection shall be
23 construed to interfere with the evaluator's authority to
24 determine whether the evidence or artifacts provided by the
25 employee are relevant to the employee's observation and practice
26 evaluation results.

27 (e) Teacher-specific data measures guidance.--The following
28 shall apply to teacher-specific data measures selected by the
29 employer as described in section 1138.3(a)(2)(ii)(A)(II) and (B)
30 (II):

1 (1) A classroom teacher shall provide documented input
2 to an evaluator on the development of teacher-specific data
3 measures and annual results of data. The documented input
4 shall be included with documentation of the classroom
5 teacher's overall annual rating.

6 (2) In the analysis of teacher-specific data, classroom
7 teachers shall have the opportunity to reflect on their
8 success, unanticipated barriers and any supports that could
9 have been useful to classroom teachers.

10 (3) Teacher-specific data measures may be revised mid-
11 academic year, if agreed upon by both the administrator and
12 the teacher.

13 (4) Teacher-specific data measures may be reused on an
14 annual basis if a classroom teacher's goals are updated and
15 continue to offer reflections on their goals for improvement
16 on an annual basis.

17 (f) Limits prohibited.--An employer may not limit the number
18 of professional employees or temporary professional employees
19 who may receive an overall performance rating of
20 "distinguished," through the employer's written or spoken
21 policies, guidelines or other communications or through the
22 employer's practices.

23 Section 1138.8. Rating tool.

24 (a) Discontinuation.--Beginning with the 2021-2022 school
25 year, the rating form under 22 Pa. Code § 351.21 (relating to
26 rating form) and any alternative rating forms approved under 22
27 Pa. Code Ch. 351 (relating to teacher tenure hearings) prior to
28 the implementation of this subarticle shall be discontinued for
29 use in the evaluation of professional and temporary professional
30 employees.

1 (b) Department duties.--

2 (1) The department shall establish professional
3 development programs for professional employees serving as
4 classroom teachers, temporary professional employees serving
5 as classroom teachers, nonteaching professional employees,
6 nonteaching temporary professional employees, principals and
7 chief school administrators and any other individuals
8 designated as evaluators.

9 (2) The professional development programs established
10 under this subsection shall be tailored to the specific
11 groups of employees listed in this subsection and shall be
12 differentiated for evaluators and individuals being
13 evaluated. The programs shall include the following:

14 (i) An overview of the purposes and rationales for
15 each component of the evaluation system.

16 (ii) Suggestions for appropriate collaboration,
17 timelines and communications between employee and
18 employer.

19 (iii) Suggested criteria to guide quality
20 implementation of this subarticle in both the content of
21 an evaluation and in the process of administering an
22 evaluation.

23 (3) The department shall make the professional
24 development programs established under this subsection
25 available to all school districts, intermediate units and
26 area vocational-technical schools. The department shall make
27 the professional development programs established under this
28 subsection available to all employees by posting the
29 professional development programs on the department's
30 publicly accessible Internet website.

1 (4) The department shall develop a standard professional
2 development program to improve the consistency and quality of
3 teacher-specific data measures across applicable schools.

4 (c) Professional development requirements.--

5 (1) Each temporary professional employee serving as a
6 classroom teacher and each nonteaching temporary professional
7 employee shall complete the appropriate professional
8 development program tailored to the evaluation system for
9 classroom teachers or nonteaching professionals during the
10 employee's probationary period.

11 (2) Each principal shall complete the professional
12 development programs tailored to evaluators and to the
13 principal evaluation system within the first six months of
14 the employee's appointment as a principal.

15 (3) Schools shall incorporate training on the teacher
16 observation and evaluation model inclusive of the consistent
17 use of quality teacher-specific data and building-level data
18 within student performance measures into induction programs
19 required under 22 Pa Code § ~~405.64~~ 49.16 (relating to teacher <--
20 induction plans and evaluations APPROVAL OF INDUCTION PLANS). <--

21 (4) Each professional employee and principal shall
22 complete a condensed version of the programs designed under
23 subsection (b) every seven years.

24 Section 1138.9. Operative provisions.

25 The following shall apply to the ratings of each professional
26 employee and temporary professional employee:

27 (1) Subject to paragraph (2), each rating shall be
28 completed using the rating tools developed or approved under
29 this subarticle.

30 (2) Professional employees who are considered

1 satisfactory under section 1138.7 shall be rated no more than
2 once annually. Professional employees who are considered
3 unsatisfactory under section 1138.7 shall be rated at least
4 annually. The first rating shall be calculated using the
5 appropriate evaluation applicable to the employee. Any
6 subsequent periodic rating shall be calculated as follows:

7 (i) Comprehensive classroom observation and practice
8 models that are related to student achievement, which
9 shall comprise 70% of the overall rating in each of the
10 following areas:

11 (A) Planning and preparation, with a weight of
12 20%.

13 (B) Classroom environment, with a weight of 30%.

14 (C) Instruction, with a weight of 30%.

15 (D) Professional responsibilities, with a weight
16 of 20%.

17 (ii) The remaining 30% shall be calculated using one
18 or more measures selected by the employer from the
19 following list:

20 (A) Locally developed school district rubrics.

21 (B) District-designed measures and examinations.

22 (C) Nationally recognized standardized tests.

23 (D) Industry certification examinations.

24 (E) Student project pursuant to local
25 requirements.

26 (F) Student portfolios pursuant to local
27 requirements.

28 (iii) Temporary professional employees shall be rated
29 at least twice annually.

30 (3) One hundred percent of the semiannual rating of a

1 temporary professional employee who serves as a classroom
2 teacher or nonteaching professional shall be based on
3 classroom observation and practice in the areas outlined
4 under section 1138.3(a)(1), (b)(1) and (c).

5 (4) Ratings shall be performed by or under the
6 supervision of the chief school administrator or, if so
7 directed by the chief school administrator, by an assistant
8 administrator, a supervisor or a principal who has
9 supervision over the work of the professional employee or
10 temporary professional employee being rated, except that no
11 unsatisfactory rating shall be valid unless approved by the
12 chief school administrator.

13 (5) No employee shall be dismissed for unsatisfactory
14 teaching performance under section 1122 unless the employee
15 has been provided a completed rating tool provided for under
16 this subarticle, which includes a description based upon
17 classroom observations of deficiencies in practice supported
18 by detailed anecdotal records that justify the unsatisfactory
19 rating.

20 Section 1138.10. Reporting.

21 Each school district, intermediate unit and area vocational-
22 technical school shall provide to the department the aggregate
23 results of all evaluations of professional employees and
24 temporary professional employees, principals and nonteaching
25 professional employees.

26 Section 1138.11. Exemption from other laws.

27 (a) Exemption.--Any rating tool developed by the department
28 under this subarticle shall be exempt from:

29 (1) Sections 201, 202, 203, 204 and 205 of the act of
30 July 31, 1968 (P.L.769, No.240), referred to as the

1 Commonwealth Documents Law.

2 (2) Section 204(b) of the act of October 15, 1980
3 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

4 (3) The Regulatory Review Act.

5 (b) Application.--This section shall not apply to any
6 changes made to a rating tool or new rating tool developed by
7 the State Board of Education under sections 1138.3(d)(3),
8 1138.4(e)(3) and 1138.5(d)(3).

9 Section 1138.12. State regulations.

10 The State Board of Education may develop regulations
11 consistent with this subarticle.

12 Section 1138.13. Collective bargaining agreements.

13 A collective bargaining agreement negotiated by a school
14 district and an exclusive representative of the employees in
15 accordance with the act of July 23, 1970 (P.L.563, No.195),
16 known as the Public Employe Relations Act, after the effective
17 date of this section may not provide for a rating system other
18 than as provided for under this subarticle. A provision in an
19 agreement or contract in effect on the effective date of this
20 section that provides for a rating system in conflict with this
21 subarticle shall be discontinued in a new or renewed agreement
22 or contract or during the period of status quo following an
23 expired contract.

24 Section 1138.14. Rating form not public record.

25 An employee's individual rating form shall not be subject to
26 disclosure under the act of February 14, 2008 (P.L.6, No.3),
27 known as the Right-to-Know Law.

28 Section 1138.15. Applicability.

29 The requirements of this subarticle shall apply to each
30 school district, intermediate unit and area vocational-technical

1 school.

2 Section 1138.16. Report.

3 The department shall review the revised rating system within
4 five years of the effective date of this section and shall
5 submit a report of its findings to the Education Committee of
6 the Senate and the Education Committee of the House of
7 Representatives. The report shall include a specific review of
8 the accuracy of data collected by the department for the
9 economically disadvantaged status of students as reported by a
10 school district, intermediate unit or area vocational-technical
11 school through the Pennsylvania Information Management System
12 (PIMS).

13 Section 4. Any regulation inconsistent with this act is
14 abrogated to the extent of any inconsistency with this act.

15 Section 5. This act shall take effect immediately.