

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1980 Session of 2011

INTRODUCED BY AUMENT, CLYMER, BEAR, BLOOM, BOYD, CREIGHTON,
 CUTLER, DAY, DENLINGER, J. EVANS, FARRY, GINGRICH, GROVE,
 HARRIS, HELM, HICKERNELL, KILLION, LAWRENCE, MAHER, MALONEY,
 METCALFE, QUIGLEY, REICHLEY, ROCK, SCHRODER, SWANGER, TALLMAN
 AND TRUITT, OCTOBER 31, 2011

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 31, 2011

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.

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

9 Section 1. Section 1123 of the act of March 10, 1949
 10 (P.L.30, No.14), known as the Public School Code of 1949,
 11 amended March 29, 1996 (P.L.47, No.16), is amended to read:

12 Section 1123. Rating System.--(a) In determining whether a
 13 professional employe shall be dismissed for [incompetency or]
 14 unsatisfactory teaching performance as provided for in section
 15 1122(a) of this act, and in rating [the services of a temporary
 16 professional employe, the professional employe or temporary
 17 professional employe shall be rated by an approved rating system
 18 which shall give due consideration to personality, preparation,

1 technique, and pupil reaction, in accordance with standards and
2 regulations for such scoring as defined by rating cards to be
3 prepared by the Department of Education, and to be revised, from
4 time to time, by the Department of Education with the
5 cooperation and advice of a committee appointed by the Secretary
6 of Education, including representation from district
7 superintendents of schools, classroom teachers, school
8 directors, school supervisors, parents of school-age children
9 enrolled in a public school, a representative from a college or
10 department of education within a higher education institution
11 located within this Commonwealth, and such other groups or
12 interests as the Secretary of Education may deem appropriate.
13 Rating shall be done by or under the supervision of the
14 superintendent of schools or, if so directed by him, the same
15 may be done by an assistant superintendent, a supervisor, or a
16 principal, who has supervision over the work of the professional
17 employe or temporary professional employe who is being rated:
18 Provided, That no unsatisfactory rating shall be valid unless
19 approved by the district superintendent.] professional employes
20 and temporary professional employes, all professional employes
21 and temporary professional employes shall be rated through the
22 use of an approved rating tool developed by the Secretary of
23 Education in consultation with education experts, parents,
24 teachers and administrators, including research and
25 collaboration conducted by the department.

26 (b) For professional employes and temporary professional
27 employes who serve as classroom teachers, the following shall
28 apply:

29 (1) Beginning in the 2012-2013 school year, the evaluation
30 of the effectiveness of professional employes and temporary

1 professional employes serving as classroom teachers shall give
2 due consideration to the following:

3 (i) Classroom observation and practice models that are
4 related to student achievement in each of the following areas:

5 (A) Planning and preparation.

6 (B) Classroom environment.

7 (C) Instruction.

8 (D) Professional responsibilities.

9 (ii) Student performance, which shall comprise at least
10 fifty per centum (50%) of the overall rating of the professional
11 employe or temporary professional employe serving as a classroom
12 teacher and shall be based upon multiple measures of student
13 achievement, including, but not limited to all of the following:

14 (A) Performance on assessments.

15 (B) Value-added assessment system data made available by the
16 department under section 221.

17 (C) For subjects and grade levels not measured by
18 assessments, measures of student achievement that are approved
19 by the department, a list of which the department shall publish
20 in the Pennsylvania Bulletin by June 30 of each year, and which
21 may include, but need not be limited to:

22 (I) Other standardized tests, including nationally
23 recognized standardized tests.

24 (II) Industry certification examinations.

25 (III) Examinations that have been developed or selected by
26 the school district and approved by the department.

27 (2) (i) No later than June 30, 2012, the department shall
28 develop, issue and publish in the Pennsylvania Bulletin a rating
29 tool for professional employes and temporary professional
30 employes serving as classroom teachers that is consistent with

1 clause (1).

2 (ii) Following publication, the rating tool developed under
3 this clause shall be used in the rating of all professional
4 employees and temporary professional employees serving as
5 classroom teachers.

6 (iii) After June 30, 2012, any changes to the rating tool
7 developed under this clause shall be made by the State Board of
8 Education through regulations promulgated under the act of June
9 25, 1982 (P.L.633, No.181), known as the "Regulatory Review
10 Act."

11 (c) For professional employees and temporary professional
12 employees serving as principals, the following shall apply:

13 (1) Beginning in the 2013-2014 school year, principal
14 effectiveness shall be measured using a rating tool designed
15 specifically for principals which shall give due consideration
16 to the following:

17 (i) Planning and preparation.

18 (ii) School environment.

19 (iii) Delivery of service.

20 (iv) Professional development.

21 (v) Student performance, measured as provided in subsection
22 (b)(1)(ii) for professional employees and temporary professional
23 employees supervised by the principal, which shall comprise at
24 least fifty per centum (50%) of the principal's overall rating.

25 (2) (i) No later than June 30, 2013, the department shall
26 develop, issue and publish in the Pennsylvania Bulletin a rating
27 tool for principals that is consistent with clause (1).

28 (ii) Following publication, the rating tool developed under
29 this clause shall be used in the rating of all principals
30 superseding all other rating cards and forms used previously.

1 (iii) After June 30, 2013, any changes to the rating tool
2 developed under this clause shall be made by the State Board of
3 Education through regulations promulgated under the "Regulatory
4 Review Act."

5 (d) For nonteaching professional employes, the following
6 shall apply:

7 (1) Beginning in the 2013-2014 school year, nonteaching
8 professional employes shall be evaluated using a rating tool
9 designed specifically for nonteaching professional employes
10 which shall give due consideration to the following:

11 (i) Planning and preparation.

12 (ii) Environment.

13 (iii) Delivery of service.

14 (iv) Professional development.

15 (v) Student performance of all students in the school
16 building in which the nonteaching professional employe is
17 employed, measured as provided for in subsection (b)(1)(ii), but
18 which shall comprise not more than twenty per centum (20%) of
19 the overall rating of nonteaching professional employes and
20 temporary professional employes.

21 (2) (i) No later than June 30, 2013, the department shall
22 develop, issue and publish in the Pennsylvania Bulletin a rating
23 tool for nonteaching professional employes that is consistent
24 with clause (1).

25 (ii) Following publication, the rating tool developed under
26 this clause shall be used in the rating of all nonteaching
27 professional employes.

28 (iii) After June 30, 2013, any subsequent changes to the
29 mandatory rating tool developed under this paragraph shall be
30 made by the State Board of Education through regulations

1 promulgated under the "Regulatory Review Act."

2 (e) Notwithstanding subsections (b), (c) and (d),
3 professional employes and temporary professional employes
4 serving as classroom teachers, principals and nonteaching
5 professional employes may be evaluated through the use of a
6 rating tool developed by an individual school district that the
7 department has approved as meeting or exceeding the measures of
8 effectiveness established under this section.

9 (f) (1) Each rating tool developed or approved under this
10 section shall identify the overall performance rating of the
11 professional employes and temporary professional employes
12 serving as classroom teachers, principals and nonteaching
13 professional employes as one of the following:

14 (i) Distinguished.

15 (ii) Proficient.

16 (iii) Needs improvement.

17 (iv) Failing.

18 (2) An overall performance rating of either "distinguished"
19 or "proficient" shall be considered satisfactory.

20 (3) An overall performance rating of either "needs
21 improvement" or "failing" shall be considered unsatisfactory.

22 (g) Upon publication in the Pennsylvania Bulletin of a
23 rating tool developed under this section, the rating cards set
24 forth in 22 Pa. Code § 351.21 (relating to rating form) and any
25 alternative rating forms approved pursuant to 22 Pa. Code Ch.
26 351 (relating to teacher tenure hearings) prior to the
27 implementation of this section shall be null and void.

28 (h) The following shall apply to the ratings of all
29 professional employes and temporary professional employes:

30 (1) All ratings shall be completed using the rating tools

1 developed or approved under this section.

2 (2) Professional employes shall be rated at least annually
3 and temporary professional employes shall be rated at least
4 twice annually.

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

13 (i) All school districts, intermediate units and area
14 vocational-technical schools shall provide to the department the
15 aggregate results of professional employe and temporary
16 professional employe, principal and education specialist
17 evaluations.

18 (j) The State Board of Education may develop standards or
19 regulations as necessary for the implementation of the
20 provisions of this section.

21 (k) (1) The department's duty to develop a rating tool
22 under subsection (b) (2) shall expire on June 30, 2012.

23 (2) The department's duty to develop rating tools under
24 subsections (c) (2) and (d) (2) shall expire on June 30, 2013.

25 (1) (1) The provisions of this section shall not be subject
26 to a collective bargaining agreement entered into after the
27 effective date of this subsection.

28 (2) Nothing contained in this section shall be construed to
29 supersede or preempt any provisions of an existing collective
30 bargaining agreement negotiated by a school district and an

1 exclusive representative of the employes in accordance with the
2 act of July 23, 1970 (P.L.563, No.195), known as the "Public
3 Employe Relations Act."

4 (3) A provision in any contract in effect on the effective
5 date of this subsection that is in conflict with this section
6 shall be discontinued in any new or renewed contract.

7 (m) For purposes of this section:

8 (1) The term "assessment" shall mean the Pennsylvania System
9 of School Assessment test, the Keystone Exam, an equivalent
10 local assessment or another test established by the State Board
11 of Education to meet the requirements of section 2603-B(d)(10)
12 (i) and required under the No Child Left Behind Act of 2001 or
13 its successor statute or required to achieve other standards
14 established by the department for the school or school district
15 under 22 Pa. Code § 403.3 (relating to single accountability
16 system).

17 (2) The term "classroom teacher" shall mean a professional
18 employe or temporary professional employe who provides direct
19 instruction to students related to a specific subject.

20 (3) The term "department" shall mean the Department of
21 Education of the Commonwealth.

22 (4) The term "education specialist" shall have the meaning
23 given to it under the act of December 12, 1973 (P.L.397,
24 No.141), known as the "Professional Educator Discipline Act."

25 (5) The term "nonteaching professional employe" shall mean
26 an education specialist or a professional employe or temporary
27 professional employe who provides services other than classroom
28 teaching.

29 (6) The term "principal" shall include an assistant
30 principal, vice-principal and director of vocational education.

1 Section 2. This act shall take effect in 60 days.