

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, TRUITT AND MILLER, OCTOBER 31, 2011

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 16, 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 OF ←
24 SCHOOL-AGE CHILDREN ENROLLED IN A PUBLIC SCHOOL, teachers and
25 administrators, including research and collaboration conducted
26 by the department.

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

30 (1) Beginning in the ~~2012-2013~~ 2013-2014 school year, the ←

1 evaluation of the effectiveness of professional employes and
2 temporary professional employes serving as classroom teachers
3 shall give due consideration to the following:

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

6 (A) Planning and preparation.

7 (B) Classroom environment.

8 (C) Instruction.

9 (D) Professional responsibilities.

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

15 (A) Performance on assessments.

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

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

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

25 (II) Industry certification examinations.

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

28 (2) (i) No later than June 30, 2012 2013, the department ←
29 shall develop, issue and publish in the Pennsylvania Bulletin a
30 rating tool for professional employes and temporary professional

1 employees serving as classroom teachers that is consistent with
2 ~~clause (1)~~ THIS SUBSECTION. ←

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

7 (iii) After June 30, ~~2012~~ 2013, any changes to the rating ←
8 tool developed under this ~~clause~~ SUBSECTION shall be made by the ←
9 State Board of Education through regulations promulgated under
10 the act of June 25, 1982 (P.L.633, No.181), known as the
11 "Regulatory Review Act."

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

14 (1) Beginning in the ~~2013-2014~~ 2014-2015 school year, ←
15 principal effectiveness shall be measured using a rating tool
16 designed specifically for PROFESSIONAL EMPLOYES AND TEMPORARY ←
17 PROFESSIONAL EMPLOYES SERVING AS principals which shall give due
18 consideration to the following:

19 (i) Planning and preparation.

20 (ii) School environment.

21 (iii) Delivery of service.

22 (iv) Professional development.

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

27 (2) (i) No later than June 30, ~~2013~~ 2014, the department ←
28 shall develop, issue and publish in the Pennsylvania Bulletin a
29 rating tool for PROFESSIONAL EMPLOYES AND TEMPORARY PROFESSIONAL ←
30 EMPLOYES SERVING AS principals that is consistent with ~~clause~~ ←

1 ~~(1)~~ THIS SUBSECTION. ←

2 (ii) Following publication, the rating tool developed under
3 this ~~clause~~ SUBSECTION shall be used in the rating of all ←
4 principals superseding all other rating cards and forms used
5 previously.

6 (iii) After June 30, 2013 2014, any changes to the rating ←
7 tool developed under this ~~clause~~ SUBSECTION shall be made by the ←
8 State Board of Education through regulations promulgated under
9 the "Regulatory Review Act."

10 (d) For nonteaching professional employes, the following
11 shall apply:

12 (1) Beginning in the 2013-2014 2014-2015 school year, ←
13 nonteaching professional employes shall be evaluated using a
14 rating tool designed specifically for nonteaching professional
15 employes which shall give due consideration to the following:

16 (i) Planning and preparation.

17 (ii) ~~Environment~~ EDUCATIONAL ENVIRONMENT. ←

18 (iii) Delivery of service.

19 (iv) Professional development.

20 (v) Student performance of all students in the school
21 building in which the nonteaching professional employe is
22 employed, measured as provided for in subsection (b)(1)(ii), but
23 which shall comprise ~~not more than~~ twenty per centum (20%) of ←
24 the overall rating of nonteaching professional employes and
25 temporary professional employes.

26 (2) (i) No later than June 30, 2013 2014, the department ←
27 shall develop, issue and publish in the Pennsylvania Bulletin a
28 rating tool for nonteaching professional employes that is
29 consistent with ~~clause (1)~~ THIS SUBSECTION. ←

30 (ii) Following publication, the rating tool developed under

1 this ~~clause~~ SUBSECTION shall be used in the rating of all
2 nonteaching professional employes.

3 (iii) After June 30, 2013 2014, any subsequent changes to
4 the mandatory rating tool developed under this paragraph shall
5 be made by the State Board of Education through regulations
6 promulgated under the "Regulatory Review Act."

7 (e) Notwithstanding subsections (b), (c) and (d),
8 professional employes and temporary professional employes
9 serving as classroom teachers, principals and nonteaching
10 professional employes may be evaluated through the use of a
11 rating tool developed by an individual school district,
12 INTERMEDIATE UNIT, AREA VOCATIONAL-TECHNICAL SCHOOL, CHARTER
13 SCHOOL OR CYBER CHARTER SCHOOL that the department has approved
14 as meeting or exceeding the measures of effectiveness
15 established under this section.

16 (f) (1) Each rating tool developed or approved under this
17 section shall identify the overall performance rating of the
18 professional employes and temporary professional employes
19 serving as classroom teachers, principals and nonteaching
20 professional employes as one of the following:

21 (i) Distinguished.

22 (ii) Proficient.

23 (iii) Needs improvement.

24 (iv) Failing.

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

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

29 (g) Upon publication in the Pennsylvania Bulletin of a
30 rating tool developed under this section, the rating cards set

1 forth in 22 Pa. Code § 351.21 (relating to rating form) and any
2 alternative rating forms approved pursuant to 22 Pa. Code Ch.
3 351 (relating to teacher tenure hearings) prior to the
4 implementation of this section shall be null and void ←
5 DISCONTINUED FOR USE IN THE EVALUATION OF PROFESSIONAL AND ←
6 TEMPORARY PROFESSIONAL EMPLOYES.

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

9 (1) All ratings shall be completed using the rating tools
10 developed or approved under this section.

11 (2) Professional employes shall be rated at least annually
12 and temporary professional employes shall be rated at least
13 twice annually.

14 (3) Ratings shall be performed by or under the supervision
15 of the ~~district superintendent~~ CHIEF SCHOOL ADMINISTRATOR or, if ←
16 so directed by the ~~district superintendent~~ CHIEF SCHOOL ←
17 ADMINISTRATOR, by an assistant ~~district superintendent~~ ←
18 ADMINISTRATOR, a supervisor or a principal who has supervision ←
19 over the work of the professional employe or temporary
20 professional employe being rated, provided that no
21 unsatisfactory rating shall be valid unless approved by the
22 ~~district superintendent~~ CHIEF SCHOOL ADMINISTRATOR. ←

23 (i) All school districts, intermediate units and, area ←
24 vocational-technical schools, CHARTER SCHOOLS AND CYBER CHARTER ←
25 SCHOOLS shall provide to the department the aggregate results of
26 ALL professional employe and temporary professional employe, ←
27 principal and ~~education specialist~~ NONTEACHING PROFESSIONAL ←
28 EMPLOYE evaluations.

29 (J) (1) ANY RATING TOOL DEVELOPED BY THE DEPARTMENT OF ←
30 EDUCATION UNDER THIS SECTION SHALL BE EXEMPT FROM:

1 (I) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT OF JULY
2 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH
3 DOCUMENTS LAW.

4 (II) SECTION 204(B) OF THE ACT OF OCTOBER 15, 1980 (P.L.950,
5 NO.164), KNOWN AS THE "COMMONWEALTH ATTORNEYS ACT."

6 (III) THE "REGULATORY REVIEW ACT."

7 (2) THIS SUBSECTION SHALL NOT APPLY TO ANY CHANGES MADE TO A
8 RATING TOOL OR NEW RATING TOOL DEVELOPED BY THE STATE BOARD OF
9 EDUCATION PURSUANT TO SUBSECTIONS (B) (2) (III), (C) (2) (III) AND
10 (D) (2) (III).

11 ~~(j) (K) The State Board of Education may develop standards~~ ←
12 ~~or regulations as necessary for the implementation of the~~ ←
13 ~~provisions of this section~~ CONSISTENT WITH THIS SECTION. ←

14 ~~(k) (L) (1) The department's duty to develop a rating tool~~ ←
15 ~~under subsection (b) (2) shall expire on June 30, 2012~~ 2013. ←

16 (2) The department's duty to develop rating tools under
17 subsections (c) (2) and (d) (2) shall expire on June 30, 2013 ←
18 2014. ←

19 ~~(l) (M) (1) The provisions of this section shall not be~~ ←
20 ~~subject to a collective bargaining agreement entered into after~~
21 ~~the effective date of this subsection.~~

22 (2) Nothing contained in this section shall be construed to
23 supersede or preempt any provisions of an existing collective
24 bargaining agreement negotiated by a school district and an
25 exclusive representative of the employes in accordance with the
26 act of July 23, 1970 (P.L.563, No.195), known as the "Public
27 Employe Relations Act."

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

1 (N) THE REQUIREMENTS OF THIS SECTION SHALL APPLY TO ALL ←
2 SCHOOL DISTRICTS, INTERMEDIATE UNITS, AREA VOCATIONAL-TECHNICAL
3 SCHOOLS, CHARTER SCHOOLS AND CYBER CHARTER SCHOOLS.

4 ~~(m)~~ (O) For purposes of this section: ←

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

14 (2) THE TERM "CHIEF SCHOOL ADMINISTRATOR" SHALL INCLUDE ←
15 INDIVIDUALS WHO ARE EMPLOYED AS A SCHOOL DISTRICT
16 SUPERINTENDENT, AN EXECUTIVE DIRECTOR OF AN INTERMEDIATE UNIT, A
17 CHIEF SCHOOL ADMINISTRATOR OF AN AREA VOCATIONAL-TECHNICAL
18 SCHOOL AND A CHARTER SCHOOL OR CYBER CHARTER SCHOOL CHIEF
19 EXECUTIVE OFFICER.

20 ~~(2)~~ (3) The term "classroom teacher" shall mean a ←
21 professional employe or temporary professional employe who
22 provides direct instruction to students related to a specific
23 subject OR GRADE LEVEL. ←

24 ~~(3)~~ (4) The term "department" shall mean the Department of ←
25 Education of the Commonwealth. ←

26 ~~(4)~~ (5) The term "education specialist" shall have the ←
27 meaning given to it under the act of December 12, 1973 (P.L.397,
28 No.141), known as the "Professional Educator Discipline Act."

29 ~~(5)~~ (6) The term "nonteaching professional employe" shall ←
30 mean an education specialist or a professional employe or

1 temporary professional employe who provides services other than
2 classroom teaching INSTRUCTION.



3 ~~(6)~~ (7) The term "principal" shall include A BUILDING
4 PRINCIPAL, an assistant principal, vice-principal and director
5 of vocational education.



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