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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1607 Session of  
2019

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INTRODUCED BY TOPPER, ROTHMAN, RYAN, ZIMMERMAN, BERNSTINE,  
GILLEN, WARNER, BIZZARRO, HAHN, SCHLOSSBERG, SCHWEYER, REESE,  
BROWN AND STEPHENS, JUNE 14, 2019

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REFERRED TO COMMITTEE ON EDUCATION, JUNE 14, 2019

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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; and providing for  
8 a study by the Legislative Budget and Finance Committee.

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

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

14 Section 1123. Rating System.--\* \* \*

15 (q) This section shall expire June 30, 2021.

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

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

1 professional employe's current position:

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

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

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

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

1 shall be suspended last.

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

13 \* \* \*

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

16 (c.1) Revised Rating System.

17 Section 1138.1. Definitions.

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

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

29 "Chief school administrator." Includes an individual who is  
30 employed as a school district superintendent, an executive

1 director of an intermediate unit or an administrative director  
2 of an area vocational-technical school.

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

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

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

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

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

1 "Differentiated supervision." A system of supervision of  
2 professional employees that:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 consider the documented input from the employee for inclusion  
2 in the plan.

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

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

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

14 Section 1138.2. State rating tool.

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

24 Section 1138.3. Classroom teachers.

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

30 (1) Comprehensive classroom observation and practice

1 models that are related to student achievement, which shall  
2 comprise 70% of the overall rating in each of the following  
3 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, which shall comprise 30% of the  
10 overall rating, and shall be based upon multiple measures of  
11 student achievement. The multiple measures shall be comprised  
12 of the following:

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

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

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

24 (III) Graduation rate.

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

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

30 (I) Calculate the regression coefficient of



1 determination, known as  $r^2$ , that estimates the  
2 proportion of the variance in school-level data  
3 that is predictable by the percentage of students  
4 that are economically disadvantaged in a school.

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

7 (III) Multiply the product produced in  
8 subclause (II) by the percentage of economically  
9 disadvantaged students 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 PDE-approved  
21 rating tool.

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 percentage of economically disadvantaged  
18 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) for each  
24 building in which the employee is assigned shall compose 10%  
25 of the overall rating of nonteaching professional employees.

26 (b) Evaluation without building-level data.--Beginning in  
27 the 2021-2022 school year, the evaluation of the effectiveness  
28 of a professional employee who is a nonteaching professional  
29 primarily assigned in a building or buildings within a school  
30 entity by which the nonteaching professional is not employed or

1 where building-level data is not made available by the  
2 department shall include the following:

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

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

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

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

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

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

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

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

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

17 (d) Rating tool.--

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

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

28 (3) After June 30, 2020, any subsequent changes to the  
29 rating tool developed under this subsection shall be made by  
30 the State Board of Education through regulations promulgated

1 under the Regulatory Review Act.

2 Section 1138.6. Local rating tools.

3 Notwithstanding sections 1138.2, 1138.3, 1138.4 and 1138.5,

4 professional employees and temporary professional employees

5 serving as classroom teachers, principals and nonteaching

6 professional employees may be evaluated through the use of a

7 rating tool developed by an individual school district,

8 intermediate unit or area vocational-technical school that the

9 department has approved as meeting or exceeding the measures of

10 effectiveness established under this subarticle.

11 Section 1138.7. Overall performance rating.

12 (a) Identification.--Each rating tool developed or approved

13 under this subarticle shall identify the overall performance

14 rating of the professional employees and temporary professional

15 employees serving as classroom teachers, principals and

16 nonteaching professional employees as one of the following:

17 (1) Distinguished.

18 (2) Proficient.

19 (3) Needs improvement.

20 (4) Failing.

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

22 (1) An overall performance rating of either

23 "distinguished" or "proficient" shall be considered

24 satisfactory.

25 (2) An overall performance rating of "needs improvement"

26 shall be considered satisfactory, except that any subsequent

27 overall rating of "needs improvement" issued by the same

28 employer within four years of the first overall performance

29 rating of "needs improvement" where the employee is in the

30 same certification shall be considered unsatisfactory.

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

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

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

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

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

30           (1) A classroom teacher shall provide documented input

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

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

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

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

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

22 Section 1138.8. Rating tool.

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

30 (b) Department duties.--

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

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

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

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

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

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

30           (4) The department shall develop a standard professional

1 development program to improve the consistency and quality of  
2 teacher-specific data measures across applicable schools.

3 (c) Professional development requirements.--

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

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

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

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

23 Section 1138.9. Operative provisions.

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

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

29 (2) Professional employees who are considered  
30 satisfactory under section 1138.7 shall be rated no more than



1 once annually. Professional employees who are considered  
2 unsatisfactory under section 1138.7 shall be rated at least  
3 annually. The first rating shall be calculated using the  
4 appropriate evaluation applicable to the employee. Any  
5 subsequent periodic rating shall be calculated as follows:

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

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

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

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

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

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

19 (A) Locally developed school district rubrics.

20 (B) District-designed measures and examinations.

21 (C) Nationally recognized standardized tests.

22 (D) Industry certification examinations.

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

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

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

29 (3) One hundred percent of the semiannual rating of a  
30 temporary professional employee who serves as a classroom

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

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

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

19 Section 1138.10. Reporting.

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

25 Section 1138.11. Exemption from other laws.

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

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

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

3           (3) The Regulatory Review Act.

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

8 Section 1138.12. State regulations.

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

11 Section 1138.13. Collective bargaining agreements.

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

23 Section 1138.14. Rating form not public record.

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

27 Section 1138.15. Applicability.

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

1 Section 1138.16. Report.

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

12 Section 4. The Legislative Budget and Finance Committee  
13 shall conduct a study on the effectiveness of this act and shall  
14 submit a report of the study to the General Assembly no later  
15 than December 31, 2025.

16 Section 5. Any regulation inconsistent with this act is  
17 abrogated to the extent of any inconsistency with this act.

18 Section 6. This act shall take effect immediately.