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HOUSE AMENDED

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 751 Session of 2019

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

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 24, 2020

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in professional employees, further providing for rating system and for persons to be suspended and providing for a revised rating system; AND, IN TERMS AND COURSES OF STUDY, PROVIDING FOR PANDEMIC OF 2020. <--

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

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

Section 1123. Rating System.--* * *

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

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

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

professional employe's current position:

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

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

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

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

shall be suspended last.

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

* * *

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

(c.1) Revised Rating System.

Section 1138.1. Definitions.

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

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

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

director of an intermediate unit or an administrative director of an area ~~vocational-technical~~ CAREER AND TECHNICAL school. <--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Provides actionable feedback to an employee on the specific domain within the comprehensive classroom observation and practice models that prevented the employee

from achieving a proficient rating. The employer shall consider the documented input from the employee for inclusion in the plan.

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

"Principal." Includes a building principal, an assistant principal, a vice principal, a supervisor of special education or a director of ~~vocational~~ CAREER AND TECHNICAL education. <--

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

Section 1138.2. State rating tool.

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

Section 1138.3. Classroom teachers.

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

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

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

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

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

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

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

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

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

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

(III) Graduation rate.

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

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

(I) Calculate the regression coefficient of determination, known as r2, that estimates the proportion of the variance in school-level data that is predictable by the percentage of students that are economically disadvantaged in a school.

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

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

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

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

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

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

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

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

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

(b) Value-added assessment system data made available by the department under section 221 if the building administers assessments in grades for which annual value-added system data is made available by the department as applicable and attributable to the classroom teacher. The data shall be calculated using three consecutive years of data.

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

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

(a) Locally developed school district rubrics.

(b) District-designed measures and examinations.

(c) Nationally recognized standardized tests.

(d) Industry certification examinations.

(e) Student projects pursuant to local requirements.

(f) Student portfolios pursuant to local requirements.

(B) If the individual is not a data-available teacher, the teacher-specific data shall be comprised of the following measures:

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

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

(a) Locally developed school district rubrics.

(b) District-designed measures and examinations.

(c) Nationally recognized standardized tests.

(d) Industry certification examinations.

(e) Student projects pursuant to local requirements.

(f) Student portfolios pursuant to local requirements.

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

level data is not made available by the department shall be weighted and calculated as follows:

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

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

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

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

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

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

(i) (Reserved).

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

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

(A) Locally developed school district rubrics.

(B) District-designed measures and examinations.

(C) Nationally recognized standardized tests.

(D) Industry certification examinations.

(E) Student projects pursuant to local requirements.

(F) Student portfolios pursuant to local

requirements.

(c) Temporary professional employee.--Beginning in the 2021-2022 school year, the evaluation of the effectiveness of a temporary professional employee serving as a classroom teacher shall be based on comprehensive classroom observation and practice models that are related to student achievement, which shall comprise 100% of the overall rating in each of the following areas:

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

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

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

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

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

(1) No later than ~~June 30, 2020~~ MARCH 31, 2021, the department shall develop, issue and submit to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin a rating tool for professional employees and temporary professional employees serving as classroom teachers that is consistent with subsections (a), (b) and (c) and includes the multiple measures of student performance as specified under subsections (a), (b) and (c). <--

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

(3) After ~~June 30, 2020~~ MARCH 31, 2021, any changes to the rating tool developed under this section shall be made by the State Board of Education through regulations promulgated under the Regulatory Review Act. <--

(e) Classroom walk-throughs.--The classroom observation and

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

Section 1138.4. Principals.

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

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

(1) Student performance on assessments.

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

(3) Graduation rate.

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

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

(i) Calculate the regression coefficient of determination, known as r2, that estimates the proportion of the variance in school-level data that is predictable by the percentage of students that are economically disadvantaged in a school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Performance goals shall comprise 20% of the

principal's annual evaluation. Performance goals will be determined prior to the beginning of each school year between the principal and the principal's immediate supervisor. Performance goals may be district-specific or building-specific goals. The following shall apply:

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

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

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

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

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

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

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

(e) Rating tool.--

(1) No later than ~~June 30, 2020~~ MARCH 31, 2021, the department shall develop, issue and transmit to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin a rating tool for professional employees and temporary professional employees serving as <--

principals that is consistent with this section and includes the weights given to the multiple measures of student performance contained under subsection (b).

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

(3) After ~~June 30, 2020~~ MARCH 31, 2021, any changes to the rating tool developed under this section shall be made by the State Board of Education through regulations promulgated under the Regulatory Review Act. <--

Section 1138.5. Nonteaching professional employees.

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

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

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

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

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

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

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

(b) Evaluation without building-level data.--Beginning in the 2021-2022 school year, the evaluation of the effectiveness

of a professional employee who is a nonteaching professional primarily assigned in a building or buildings within a school entity by which the nonteaching professional is not employed or where building-level data is not made available by the department shall include the following:

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

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

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

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

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

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

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

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

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

(d) Rating tool.--

(1) No later than ~~June 30, 2020~~ MARCH 31, 2021, the department shall develop, issue and publish in the Pennsylvania Bulletin a rating tool for nonteaching professional and temporary professional employees that is consistent with this section and includes the weights given to the multiple measures of student performance contained under subsection (a). <--

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

employee.

(3) After ~~June 30, 2020~~ MARCH 31, 2021, any subsequent changes to the rating tool developed under this subsection shall be made by the State Board of Education through regulations promulgated under the Regulatory Review Act. <--

Section 1138.6. Local rating tools.

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

Section 1138.7. Overall performance rating.

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

(1) Distinguished.

(2) Proficient.

(3) Needs improvement.

(4) Failing.

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

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

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

shall be considered satisfactory, except that any subsequent overall rating of "needs improvement" issued by the same employer within four years of the first overall performance rating of "needs improvement" where the employee is in the same certification shall be considered unsatisfactory.

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

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

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

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

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

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

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

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

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

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

Section 1138.8. Rating tool.

(a) Discontinuation.--Beginning with the 2021-2022 school year, the rating form under 22 Pa. Code § 351.21 (relating to rating form) and any alternative rating forms approved under 22

Pa. Code Ch. 351 (relating to teacher tenure hearings) prior to the implementation of this subarticle shall be discontinued for use in the evaluation of professional and temporary professional employees.

(b) Department duties.--

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

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

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

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

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

(3) The department shall make the professional development programs established under this subsection available to all school districts, intermediate units and area ~~vocational-technical~~ CAREER AND TECHNICAL schools. The <--

department shall make the professional development programs established under this subsection available to all employees by posting the professional development programs on the department's publicly accessible Internet website.

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

(c) Professional development requirements.--

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

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

(3) Schools shall incorporate training on the teacher observation and evaluation model inclusive of the consistent use of quality teacher-specific data and building-level data within student performance measures into induction programs required under 22 Pa Code § 49.16 (relating to approval of induction plans).

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

Section 1138.9. Operative provisions.

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

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

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

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

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

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

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

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

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

(A) Locally developed school district rubrics.

(B) District-designed measures and examinations.

(C) Nationally recognized standardized tests.

(D) Industry certification examinations.

(E) Student project pursuant to local requirements.

(F) Student portfolios pursuant to local

requirements.

(iii) Temporary professional employes shall be rated at least twice annually.

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

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

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

Section 1138.10. Reporting.

Each school district, intermediate unit and area ~~vocational-technical~~ CAREER AND TECHNICAL school shall provide to the department the aggregate results of all evaluations of professional employees and temporary professional employees, principals and nonteaching professional employees. <--

Section 1138.11. Exemption from other laws.

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

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

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

(3) The Regulatory Review Act.

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

Section 1138.12. State regulations.

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

Section 1138.13. Collective bargaining agreements.

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

Section 1138.14. Rating form not public record.

An employee's individual rating form shall not be subject to disclosure under the act of February 14, 2008 (P.L.6, No.3),

known as the Right-to-Know Law.

Section 1138.15. Applicability.

The requirements of this subarticle shall apply to each school district, intermediate unit and area ~~vocational-technical~~ CAREER AND TECHNICAL school.

Section 1138.16. Report.

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

SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 1501.8. PANDEMIC OF 2020.--(A) THIS SECTION APPLIES ONLY TO THE SCHOOL YEAR 2019-2020 AS A RESULT OF THE GLOBAL PANDEMIC DECLARED BY THE WORLD HEALTH ORGANIZATION ON MARCH 11, 2020.

(B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE FOLLOWING SHALL APPLY:

(1) THE REQUIREMENT UNDER SECTION 1501 REQUIRING ALL SCHOOL ENTITIES TO BE KEPT OPEN EACH SCHOOL YEAR FOR AT LEAST ONE HUNDRED EIGHTY (180) INSTRUCTIONAL DAYS IS WAIVED IMMEDIATELY.

(2) THE SECRETARY MAY DO ANY OR ALL OF THE FOLLOWING:

(I) ORDER THE CLOSURE OF ALL SCHOOL ENTITIES UNTIL THE THREAT TO HEALTH AND SAFETY CAUSED BY THE PANDEMIC OF 2020 HAS ENDED.

(II) INCREASE THE NUMBER OF FLEXIBLE INSTRUCTIONAL DAYS THAT SCHOOL ENTITIES MAY INSTITUTE UNDER SECTION 1506 TO A NUMBER OF FLEXIBLE INSTRUCTIONAL DAYS DETERMINED BY THE SECRETARY DURING THE 2019-2020 SCHOOL YEAR AND WAIVE THE APPLICATION DEADLINE UNDER SECTION 1506(C)(1).

(III) WAIVE THE MINIMUM TOTAL NUMBER OF HOURS REQUIRED FOR A CAREER AND TECHNICAL EDUCATION PROGRAM UNDER 22 PA. CODE § 339.22(9)(I) (RELATING TO PROGRAM CONTENT).

(IV) WAIVE THE REQUIREMENT TO INCLUDE PERFORMANCE DATA OTHERWISE REQUIRED UNDER SECTION 1123(B)(1)(II) IN A PROFESSIONAL EMPLOYE'S PERFORMANCE RATING UNDER SECTION 1123.

(V) WAIVE THE MINIMUM NUMBER OF DAYS OF PREKINDERGARTEN INSTRUCTION REQUIRED UNDER 22 PA. CODE § 405.41 (RELATING TO SCHOOL TERM).

(VI) WAIVE THE TWELVE-WEEK STUDENT TEACHER REQUIREMENT UNDER 22 PA. CODE § 354.25(F) (RELATING TO PREPARATION PROGRAM CURRICULUM) FOR EDUCATOR PREPARATION PROGRAMS THAT ARE UNABLE TO MEET THE REGULATORY REQUIREMENT DUE TO THE PANDEMIC OF 2020.

(VII) WAIVE THE NIMS ASSESSMENT AND THE NOCTI EXAM.

(C) NOTWITHSTANDING THE PROVISIONS UNDER SUBSECTION (B), THE FOLLOWING SHALL APPLY:

(1) NO EMPLOYE OF ANY SCHOOL ENTITY WHO WAS EMPLOYED AS OF MARCH 13, 2020, SHALL RECEIVE MORE OR LESS COMPENSATION THAN THE EMPLOYE WOULD OTHERWISE HAVE BEEN ENTITLED TO RECEIVE FROM THE SCHOOL ENTITY HAD THE PANDEMIC OF 2020 NOT OCCURRED, HAD THE MINIMUM INSTRUCTIONAL DAY REQUIREMENT NOT BEEN WAIVED UNDER SUBSECTION (B)(1) OR HAD THE SECRETARY NOT TAKEN ACTION UNDER SUBSECTION (B)(2).

(2) NO EMPLOYE OF ANY SCHOOL ENTITY WHO WAS EMPLOYED AS OF MARCH 13, 2020, SHALL RECEIVE MORE OR LESS CREDIT OR CONTRIBUTE

MORE OR LESS THAN THE EMPLOYE WOULD OTHERWISE HAVE CONTRIBUTED PURSUANT TO THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT CODE UNDER 24 PA.C.S. PT. IV (RELATING TO RETIREMENT FOR SCHOOL EMPLOYEES) HAD THE PANDEMIC OF 2020 NOT OCCURRED, HAD THE MINIMUM INSTRUCTIONAL DAY REQUIREMENT NOT BEEN WAIVED UNDER SUBSECTION (B)(1) OR HAD THE SECRETARY NOT TAKEN ACTION UNDER SUBSECTION (B)(2).

(3) EACH SCHOOL ENTITY SHALL PROVIDE ANY EMPLOYE WHO IS RESPONSIBLE FOR CLEANING SCHOOL FACILITIES AS A RESULT OF, OR DURING THE THREAT TO HEALTH AND SAFETY CAUSED BY, THE PANDEMIC OF 2020, WITH APPROPRIATE CLEANING MATERIALS AND PROTECTIVE CLOTHING AND GEAR AS RECOMMENDED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(4) EACH SCHOOL ENTITY SHALL PROVIDE WRITTEN NOTICE TO THE PARENT OR GUARDIAN OF EACH STUDENT WHO RECEIVES SERVICES UNDER AN INDIVIDUALIZED EDUCATION PROGRAM UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PUBLIC LAW 91-230, 20 U.S.C. § 1400 ET SEQ.) (IDEA) OF THE SCHOOL ENTITY'S PLANS FOR ENSURING THE STUDENT RECEIVES A FREE AND APPROPRIATE PUBLIC EDUCATION AS REQUIRED UNDER IDEA.

(5) EACH SCHOOL ENTITY SHALL MAKE A GOOD FAITH EFFORT TO PLAN TO OFFER CONTINUITY OF EDUCATION TO STUDENTS USING ALTERNATIVE MEANS DURING THE PERIOD OF CLOSURE. THE DEPARTMENT OF EDUCATION SHALL PROVIDE GUIDANCE TO SCHOOL ENTITIES AND INTERMEDIATE UNITS MAY PROVIDE TECHNICAL ASSISTANCE. A SCHOOL ENTITY SHALL SUBMIT THE PLAN TO THE DEPARTMENT OF EDUCATION. THE SCHOOL ENTITY SHALL POST THE PLAN ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE.

(D) A SCHOOL ENTITY WHICH WAS CLOSED AS A RESULT OF THE PANDEMIC OF 2020 MAY NOT RECEIVE LESS SUBSIDY PAYMENTS,

REIMBURSEMENTS, ALLOCATIONS, TUITION OR OTHER PAYMENTS FROM THE DEPARTMENT OF EDUCATION OR ANOTHER SCHOOL ENTITY THAN THE SCHOOL ENTITY WOULD OTHERWISE BE ENTITLED TO RECEIVE FOR THE SCHOOL YEAR 2019-2020 HAD THE PANDEMIC OF 2020 NOT OCCURRED, HAD THE MINIMUM INSTRUCTIONAL DAY REQUIREMENT NOT BEEN WAIVED UNDER SUBSECTION (B)(1) OR HAD THE SECRETARY NOT TAKEN ACTION UNDER SUBSECTION (B)(2). FOR THE TIME PERIOD A CHARTER SCHOOL, REGIONAL CHARTER SCHOOL OR CYBER CHARTER SCHOOL IS CLOSED DUE TO THE 2020 PANDEMIC, THE CHARTER SCHOOL, REGIONAL CHARTER SCHOOL OR CYBER CHARTER SCHOOL SHALL RECEIVE TUITION PAYMENTS BASED UPON THE ENROLLMENT AS OF MARCH 13, 2020.

(E) THE SECRETARY SHALL APPLY TO THE UNITED STATES DEPARTMENT OF EDUCATION FOR A WAIVER OF THE TESTING AND ACCOUNTABILITY REQUIREMENTS OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (PUBLIC LAW 89-10, 20 U.S.C. § 6301 ET SEQ.), AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT (PUBLIC LAW 114-95, 129 STAT. 1802), TO ALLOW THE CANCELLATION OF TESTING FOR THE 2019-2020 SCHOOL YEAR.

(F) THE GOVERNING BODY OF A SCHOOL ENTITY MAY APPLY TO THE SECRETARY FOR A WAIVER, IN THE FORM AND MANNER PRESCRIBED BY THE SECRETARY, OF ANY PROVISION OF THIS ACT, THE REGULATION OF THE STATE BOARD OF EDUCATION OR THE STANDARDS OF THE DEPARTMENT OF EDUCATION, EXCLUDING SECTIONS 528, 1124 AND 1125.1, IF THE WAIVER IS DIRECTLY RELATED TO THE SCHOOL ENTITY'S STAFFING NEEDS OR IMPACTS THE SCHOOL ENTITY'S INSTRUCTIONAL PROGRAM OR OPERATIONS AS A RESULT OF THE PANDEMIC OF 2020. THE SECRETARY SHALL HAVE 30 DAYS FROM THE RECEIPT OF THE APPLICATION TO APPROVE OR DISAPPROVE THE REQUEST. THE SECRETARY'S DETERMINATION RELATED TO A WAIVER REQUEST UNDER THIS SUBSECTION SHALL NOT BE APPEALABLE UNDER 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND

PROCEDURE).

(G) BEGINNING ON THE EFFECTIVE DATE OF THIS SUBSECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, EACH PROFESSIONAL EDUCATOR'S CURRENT CONTINUING PROFESSIONAL EDUCATION COMPLIANCE PERIOD UNDER SECTION 1205.2 OR 1205.5 SHALL BE EXTENDED BY ONE YEAR. THIS SUBSECTION SHALL APPLY ONLY TO PROFESSIONAL EDUCATORS WITH AN ACTIVE CERTIFICATION AS OF THE EFFECTIVE DATE OF THIS SUBSECTION AND SHALL EXPIRE ONE YEAR FROM THE EFFECTIVE DATE OF THIS SUBSECTION.

(H) ANY WAIVER OF FEDERAL REQUIREMENTS SOUGHT AS A RESULT OF THE PANDEMIC OF 2020 SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF SECTION 126.

(I) THE FOLLOWING SHALL APPLY TO NONPUBLIC SCHOOLS FOR THE 2019-2020 SCHOOL YEAR:

(1) THE GOVERNING BODY OF A NONPUBLIC SCHOOL MAY CLOSE THE NONPUBLIC SCHOOL DUE TO THE THREAT TO HEALTH AND SAFETY CAUSED BY THE PANDEMIC OF 2020.

(2) THE MINIMUM INSTRUCTIONAL TIME REQUIREMENTS OF SECTION 1327(B) SHALL NOT APPLY.

(J) THE FOLLOWING SHALL APPLY:

(1) THE MINIMUM INSTRUCTIONAL TIME REQUIREMENTS OF SECTION 1327.1 SHALL NOT APPLY.

(2) THE REQUIREMENTS TO ADMINISTER A NATIONALLY NORMED STANDARDIZED ACHIEVEMENT TEST OR STATEWIDE TEST UNDER SECTION 1327.1(E)(1) AND CONDUCT THE ANNUAL EVALUATIONS UNDER SECTION 1327.1(E)(2) AND (H.1) SHALL NOT APPLY.

(K) A PRIVATE OR NONPUBLIC SCHOOL WHICH WAS CLOSED BECAUSE OF THE 2020 PANDEMIC MAY NOT RECEIVE MORE OR LESS PAYMENT FROM SCHOOL ENTITIES FOR ANY STUDENT PLACED BY A SCHOOL ENTITY AND ENROLLED AS OF MARCH 13, 2020, AS LONG AS THE PRIVATE OR

NONPUBLIC SCHOOL IS OFFERING CONTINUITY OF EDUCATION DURING THE PERIOD OF CLOSURE.

(L) THE FOLLOWING SHALL APPLY:

(1) EACH SCHOOL ENTITY MAY RENEGOTIATE A CONTRACT FOR SCHOOL BUS TRANSPORTATION SERVICES TO ENSURE CONTRACTED PERSONNEL AND FIXED COSTS, INCLUDING ADMINISTRATIVE AND EQUIPMENT, ARE MAINTAINED DURING THE PERIOD OF SCHOOL CLOSURE. DURING THE PERIOD OF SCHOOL CLOSURE, THE SCHOOL BUS TRANSPORTATION CONTRACTOR SHALL SUBMIT WEEKLY DOCUMENTATION TO THE SCHOOL ENTITY THAT ITS COMPLEMENT LEVELS REMAIN AT OR ABOVE THE LEVEL ON MARCH 13, 2020, IN ORDER TO CONTINUE BEING PAID.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A SCHOOL ENTITY CONTINUES TO PAY A SCHOOL BUS TRANSPORTATION CONTRACTOR OR OPERATES ITS OWN SCHOOL BUS TRANSPORTATION, THE SCHOOL ENTITY SHALL BE ELIGIBLE FOR REIMBURSEMENT FROM THE DEPARTMENT OF EDUCATION AT A RATE THE SCHOOL ENTITY WOULD HAVE RECEIVED HAD THE PANDEMIC OF 2020 NOT OCCURRED, HAD THE MINIMUM INSTRUCTION DAYS REQUIREMENT NOT BEEN WAIVED UNDER SUBSECTION (B)(1) OR HAD THE SECRETARY NOT TAKEN ACTION UNDER SUBSECTION (B)(2).

(M) A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION THAT WAS CLOSED BECAUSE OF THE 2020 PANDEMIC MAY NOT RECEIVE LESS PAYMENT FROM SCHOOL ENTITIES OR THE COMMONWEALTH FOR ANY STUDENT ENROLLED AS OF MARCH 13, 2020.

(N) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"NIMS ASSESSMENT." AN ASSESSMENT BASED ON THE NATIONAL INSTITUTE FOR METALWORKING SKILLS STANDARDS.

"NOCTI EXAM." A NATIONAL OCCUPATIONAL COMPETENCY TESTING INSTITUTE EXAM.

"SCHOOL ENTITY." ANY SCHOOL DISTRICT, INTERMEDIATE UNIT, AREA CAREER AND TECHNICAL SCHOOL, CHARTER SCHOOL, CYBER CHARTER SCHOOL OR REGIONAL CHARTER SCHOOL A CHILD ATTENDS IN ORDER TO FULFILL THE COMPULSORY ATTENDANCE REQUIREMENTS OF THIS ACT.

Section ~~4~~ 5. Any regulation inconsistent with this act is abrogated to the extent of any inconsistency with this act. <--

Section ~~5~~ 6. This act shall take effect immediately. <--