

THRUN'S EVALUATION TRACKER: TYING TOGETHER TEACHER EVALUATIONS AND LAYOFF/RECALL

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In November 2015, the Michigan Legislature amended Section 1249 of the Revised School Code and enacted language that tied Section 1248 (teacher layoff and recall) to Section 1249 (components in the year-end performance evaluation system used to assign a teacher an effectiveness rating). School officials should review their teacher performance evaluation systems to ensure compliance with these amendments. School officials also should review applicable board policy and Section 1248 before recommending teacher layoffs to the board of education.

Under Section 1249, the teacher performance evaluation system must include an annual year-end evaluation that contains three components. First, the year-end evaluation must be based on student growth and assessment data. For the 2015-16, 2016-17, and 2017-18 school years, 25% of the year-end evaluation must be based on student growth and assessment data.

Second, beginning with the 2016-17 school year, the portion of the teacher's annual year-end evaluation that is not based on student growth and assessment data must be based "primarily" on a teacher's performance as measured by the school's evaluation tool.

Third, the portion of the teacher's annual year-end evaluation that is not measured using student growth and assessment data, or using the evaluation tool developed or adopted by the school, must "incorporate" criteria enumerated in Section 1248 that are not otherwise evaluated within the student growth and assessment data or the evaluation tool.

Section 1248 enumerates three broad categories of criteria for retaining effective teachers, portions of which likely are already contained in the evaluation tool developed or adopted by your school. The first category is the teacher's individual performance, based on: (1) evidence of student growth (the predominant factor); (2) the teacher's demonstrated pedagogical skills; (3) the teacher's management of the classroom, manner and efficacy of disciplining pupils, rapport with parents and other teachers, and ability to withstand the strains of teaching; and (4) the teacher's attendance and disciplinary record, if any. When reviewing the teacher's demonstrated pedagogical skills, school officials must consider the teacher's knowledge of the subject area and the ability to impart that knowledge through planning, delivering rigorous content, checking for and building higher-level understanding, differentiating and managing a classroom, and consistent preparation to maximize instructional time.

The second category is the teacher's significant, relevant accomplishments and contributions. School officials should consider whether the teacher contributes to overall school performance by making clear, significant, and relevant contributions. These contributions must be "above the normal expectations for an individual in his or her peer group" and the teacher must have "demonstrated a record of exceptional performance."

The third category is relevant special training. School officials should consider only relevant training that is outside of any required professional development or continuing education requirement. Further, the special training must be integrated into instruction in a meaningful way.

School officials should review their teacher evaluation system under Section 1249 to ensure that each of the relevant criteria in Sections 1248 and 1249 is considered. If the evaluation tool developed or adopted by your school does not incorporate one or more of the Section 1248 criteria, school officials should consider those factors separate from the evaluation tool and incorporate them into the teacher's year-end performance evaluation.

For schools facing a potential reduction in teaching staff, a review of Section 1248 and your board policy on teacher reduction and recall is essential. Section 1248 prohibits schools from using seniority or tenure status as a primary or determining factor to lay off or recall teachers; rather, all layoff and recall

decisions must be based on retaining effective teachers. A teacher rated “ineffective” under Section 1249's performance evaluation system must not be given preference in a layoff or recall decision over a teacher rated “minimally effective, effective, or highly effective.”

Section 1248 permits, but does not require, that seniority or tenure status be used as a “tiebreaker” when all other distinguishing factors are equal.

To address the recent amendments to Section 1249, Thrun Law Firm has developed a Teacher Evaluation System Audit Checklist. We also have updated our teacher reduction and recall board policy. The audit checklist outlines the necessary information and requirements to comply with all components of Sections 1248 and 1249. Coupled with the audit checklist, the amended teacher reduction and recall policy establishes clear administrative procedures for implementing layoff and recall decisions.

If you are interested in purchasing these products for a modest fee, an Order Form is attached to this edition of *School Law Notes*. Because PSAs are not subject to Section 1248 of the Revised School Code (regarding teacher reduction/recall), a separate Order Form is available for PSAs upon request. Please use the contact information for Jill Walker provided on the attached Order Form to request the PSA materials, if desired.