



# MEMO

To: Members of the House Committee on Education

From: MI Association of School Boards	Education Advocates of West MI
MI Association of Superintendents & Administrators	Calhoun ISD
MI Alliance for Student Opportunity	Oakland Schools
MI Association of Secondary School Principals	Genesee ISD
✖ MI Association of Intermediate School Administrators	School Equity Caucus
MI Association of Administrators of Special Education	Wayne RESA
MI Association of Elementary & Middle School Principals	Macomb ISD

Date: June 20, 2023

RE: Opposition to House Bill 4820

We write today to express our concerns with House Bill 4820. We represent school administrators and board members who are responsible for the education of students in their districts and are accountable to parents who expect the best for their children.

The current law was designed to preclude the use of seniority-based systems of layoff and recall (also known as last-in-first-out), which discriminate against new and younger teachers. This bill would change the purpose of the section by adding two new functions: filling vacancies and teacher placement. It appears to be aimed at ensuring that seniority is not the sole factor for either layoff or placement, but in making these changes it fails to address the underlying issues we have raised throughout the debate over changes to the Public Employee Relations Act (PERA) relative to prohibited subjects of collective bargaining and creates additional issues related to layoff and recall.

First, this bill would make drastic changes to MCL 380.1248 regarding layoff and recall of teachers. The current law ensures that individual teacher performance, as measured using a specific set of well-defined factors, is the majority factor in layoff and recall decisions. These factors are grounded in case law set down by the Michigan Supreme Court in 1979 in *Beebe v. Haslett Public Schools*. They outline specific, relevant considerations like pedagogical skill, subject area knowledge, and classroom management that make sure districts are able to retain the most effective and qualified teachers in the event of a layoff. This bill not only strikes the requirement that individual performance be the primary consideration, it also strikes the list of factors established by the Michigan Supreme Court.

Moreover, the bill changes the way seniority can be used in personnel decisions. Under current law, it can already be a tiebreaker factor in the event of a layoff or recall, but it cannot be the "primary or determining factor." Under this bill, districts would be prohibited from using seniority as the sole factor in personnel decisions, but the language would still allow seniority to serve as the primary or determining factor. When combined with other changes made by the proposed legislation and the changes to collective bargaining proposed in HB 4354, we are concerned that the result would be a return to a system of personnel decisions based in significant part on staff seniority rather than the needs of students and the skill of teachers.

We agree with what appears to be the intent of this legislation: ensuring that seniority is not the driving force in school personnel decisions. Such systems are not in the best interest of our students. However, removing factors such as a teacher's pedagogical skill, subject area knowledge, and classroom management from layoff and recall decisions, removes protections for our best

teachers. Additionally, school administrators need to be able to consider many factors, including student course selection, student needs (including special education needs), curriculum requirements, and teacher training and credentials when making placement decisions. This bill accounts for none of those issues.

Thank you for your consideration of our concerns. Attached is a memo from Thurn Law Firm, P.C. that further outlines the legal concerns with the proposed changes to this section of law.

If you have any questions, please do not hesitate to reach out to any of the organizations listed.

cc: Members of the Senate Committee on Education