

**DEPARTMENT OF EDUCATION**

**STATE BOARD OF EDUCATION**

**DRIVER EDUCATION**

(By authority conferred on the department of education by section 811 of Act No. 300 of the Public Acts of 1949, as amended, being S257.811 of the Michigan Compiled Laws)

**PART 1. GENERAL PROVISIONS**

**R 388.301** Applicability.

Rule 1. These rules apply to driver education programs provided by school districts, private and parochial schools, and organizations for youth under 18 years of age.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC.

**R 388.302** Definitions; A to D.

Rule 2. As used in these rules:

- (a) "Act" means Act No. 300 of the Public Acts of 1949, as amended, being S257.1 et seq. of the Michigan Compiled Laws.
- (b) "Behind-the-wheel experience" means that portion of the driving experience during which a student actually manipulates the controls of a motor vehicle at a multiple vehicle driving facility or on the public streets and highways.
- (c) "Classroom instruction" means group instruction in both segments 1 and 2, as specified in section 310e of the act, in all of the following areas:
  - (i) Traffic citizenship.
  - (ii) Michigan traffic laws and regulations.
  - (iii) Characteristics of drivers.
  - (iv) The role of government in controlling traffic and driving practices.
  - (v) Automobile use.
  - (vi) Traffic situations and problems.
  - (vii) Defensive driving.
- (d) "Consortium" means a partnership, association, or alliance of 2 or more school districts in a common venture.
- (e) "Department" means the Michigan Department of Education.
- (f) "Driver education instructor" means an individual who is approved by the department to provide driving instruction.
- (g) "Driver education program" means an organized system of instruction, including classroom instruction and laboratory experience, that is designed to enable a student to safely drive a motorized vehicle on the public streets and highways. Instruction shall include both segment 1 and segment 2 programs as provided in section 310e of the act.

(h) "Dual control vehicle" means a motor vehicle with an additional brake on the right front floorboard of the vehicle.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.303** Definitions; I to O.

Rule 3. As used in these rules:

- (a) "Integrated and correlated sequence" means a systematic structuring of classroom instruction and laboratory experience so that the instruction and experience augment and complement each other in meeting the goals and objectives of a driver education program.
- (b) "Laboratory experience" means activities that provide a student with driving practice under actual conditions.
- (c) "Multiple vehicle driving facility" means an off-street driving area at which a number of motor vehicles are operated simultaneously to provide behind-the-wheel experience under the supervision of 1 or more driver education instructors.
- (d) "Observation time in a vehicle" means that portion of the driver education program during which the student learns by observing the driving techniques of the driver education instructor or a fellow student.
- (e) "On-the-road driving experience" means the time during which a student actually manipulates the controls of a motor vehicle while driving on the public streets and highways including behind-the-wheel experience at a multiple vehicle driving facility.
- (f) "Organization" means a business enterprise which is conducted by a person, firm, partnership, association, or corporation and which provides instruction in the safe operation of a motor vehicle. A fee may be charged for the instruction.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.304** Definitions; P, S.

Rule 4. As used in these rules:

- (a) "Performance objective" means the knowledge and skill that a student is expected to acquire to successfully complete a driver education course.
- (b) "Private or parochial school" means a nonpublic school that provides instruction in the elementary or secondary grades, or both, to students who are regularly enrolled in compliance with the compulsory education laws in this state.
- (c) "Program provider" means any of the following:
  - (i) A local or intermediate school district.
  - (ii) A private or parochial school.
  - (iii) A consortium.
  - (iv) An organization.
- (d) "Regularly qualified licensing authority" means an agency that is designated pursuant to statute to issue drivers' licenses.

(e) "Safety restraining devices" means devices or equipment, such as seat belts, shoulder harnesses, and air bags, that are designed to minimize injury to a passenger or driver of a vehicle as a result of a sudden stop or collision.

(f) "Simulator devices" means electronic equipment that uses filmed driving situations or interactive computer generated driving environments to educate individuals in proper driver response procedures for real life situations. Simulation instruction may be used for up to 9 hours of classroom instruction in segment 1.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.304a** Terms used in the act.

Rule 4a. A term used in the act has the same meaning when used in these rules.

History: 1994 MR 6, Eff. June 29, 1994.

**R 388.305** Approval for new driver education programs.

Rule 5. A school district, private or parochial school, consortium, or an organization shall obtain written approval from the department for the operation of a new driver education program before its starting date.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.306** Withdrawal of program approval.

Rule 6. (1) Noncompliance with any of these rules shall be considered just cause for withdrawal of approval to provide a driver education program for persons who are less than 18 years of age. Before withdrawing approval, the department shall cause a copy of the written charges to be served upon a program provider.

(2) Within 10 days after being served a notice of charges, a program provider shall have an opportunity to show compliance with these rules. A program provider may request an informal conference to show compliance with these rules. The informal conference shall be conducted by an authorized representative of the department.

(3) After the informal conference, the department shall take 1 of the following actions:

- (a) Make a finding of compliance.
- (b) Enter into a written settlement of the issue without a hearing.
- (c) Direct the issuance of a hearing notice.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.306a** Notice of hearing; amendment of charges; failure to attend hearing; settlement.

Rule 6a. (1) If a program provider does not request an informal conference, or the department directs issuance of a hearing notice after an informal conference, then a notice of hearing and a copy of the written charges shall be served upon the program provider within 15 days after being served a notice of an opportunity to show compliance with these rules.

- (2) The written charges may be amended between the time of the notice of opportunity to show compliance and the notice of hearing.
- (3) If a program provider fails to attend the hearing, then the hearing may proceed and a decision shall be made.
- (4) The department, upon withdrawal of approval, shall provide a written notice to the program provider.

History: 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.306b** Reinstatement of program approval.

Rule 6b. After approval to conduct a driver education program for persons who are less than 18 years of age has been withdrawn, approval may be reinstated if all of the following conditions are met:

- (a) A period of 12 months or more has elapsed.
- (b) Application for reinstatement of approval is made.
- (c) The program sponsor meets the requirements of these rules.

History: 1994 MR 6, Eff. June 29, 1994.

**R 388.307** Rescinded.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; rescinded 1994 MR 6, Eff. June 29, 1994.

**R 388.308** Driver education instruction.

Rule 8. Classroom instruction shall be in compliance with all of the following provisions:

- (a) Not more than 2 clock hours of instruction per day shall be offered.
- (b) Driver education instruction shall consist of 2 separate curriculum segments consisting of not less than 30 hours of classroom instruction and 6 hours of on-the-road driving experience for each student.
- (c) The first segment of the driver education program shall provide for all of the following:
  - (i) Not less than 24 clock hours of classroom instruction.
  - (ii) Not less than 3 weeks of classroom instruction.
  - (iii) An integrated and correlated classroom/laboratory experience.
  - (iv) Limited classroom participation of not more than 36 students per class.
  - (v) Not less than 6 hours of on-the-road driving experience. Up to a maximum of 3 clock hours driving experience on a multiple vehicle driving facility may be counted toward meeting part of the 6 clock hours of the on-the-road driving experience.
  - (vi) Audio visual equipment, videos, and other interactive electronic devices may be utilized for home study. Home study time shall not be allowed as time earned toward the 24-hour classroom requirement of the segment 1 program.
- (d) The second segment of the driver education program shall be in compliance with all of the following provisions:
  - (i) Provide each student with not less than 6 clock hours of classroom instruction.
  - (ii) Be made available only to students who have successfully completed the first segment of driver education, have had an elapsed period of not less than 3 months since completion of the first segment, and have completed not less than 30 hours of driving

time, of which 2 hours shall be night driving, with a parent, legal guardian, or, with the permission of a parent or legal guardian, any licensed driver who is 21 years of age or older.

(iii) Classroom participation shall be limited to not more than 36 students per class. Class size may be exceeded for not more than 1 hour per day when justified by an educational presentation.

(iv) Audio visual equipment, videos, and other interactive electronic devices may be utilized for home study. Home study time shall not be allowed as time earned toward the 6-hour classroom requirement of the segment 2 program.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1979 ACS 11, Eff. Aug. 20, 1982; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.309** Driving experience.

Rule 9. (1) All of the following provisions apply to driving experience:

(a) Not less than 6 clock hours of on-the-road driving experience shall be offered.

(b) Student on-the-road driving experience shall not exceed 1 clock hour per day.

(c) Experience at a multiple vehicle driving facility may be substituted for up to a maximum of 3 clock hours of on-the-road experience on the public streets and highways.

(d) A minimum of 3 clock hours of on-the-road experience shall be provided on the public streets and highways.

(e) The maximum number of students in a driver education vehicle shall be limited to 4. Not more than 2 people shall occupy the front seat.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1979 ACS 11, Eff. Aug. 20, 1982; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.310** Textbooks.

Rule 10. Textbooks that are used for driver education shall be listed in accordance with the provisions of section 1431 of Act No. 451 of the Public Acts of 1976, as amended, being S380.1431 of the Michigan Compiled Laws.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.311** Qualifications for initial approval of driver education instructors.

Rule 11. Instructors teaching driver education to persons under 18 years of age shall:

(a) Possess a valid Michigan teaching certificate.

(b) Possess a valid driver's license.

(c) Be at least 21 years of age.

(d) Have a personal driving record with no more than 6 points, as assessed by the secretary of state, for moving traffic convictions during the 2 years prior to making application for approval as a driver education instructor.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC.

**R 388.312** Rescinded.

History: 1954 ACS 62, Eff. July 1, 1970; rescinded 1954 ACS 92, Eff. Sept. 8, 1977.

**R 388.313** Qualifications for initial approval of driver education instructors.

Rule 13. Beginning July 1, 1993, for initial approval to teach driver education, an instructor, in addition to meeting the requirements specified in R 388.311, shall have earned, through a college or university, the equivalent of 8 semester hours of college credit in driver education teacher preparation courses, as approved by the state board of education.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.313a** Driver education teacher preparation program; content.

Rule 13a. (1) A driver education instructor course shall consist of all of the following content areas:

- (a) The laws, administrative rules, and attorney general rulings governing driver education.
  - (b) The current driver education performance objectives, including the proper usage of classroom knowledge tests and in-car skill evaluation procedures.
  - (c) The methodologies for developing driver education program schedules and curriculum outlines.
  - (d) Instruction in the process and procedure for creating an objective evaluation of student driving skills. The instruction shall include all of the following:
    - (i) The procedures for selecting an evaluation route.
    - (ii) Creating an evaluation instrument that measures satisfactory driving behavior related to driver search patterns.
    - (iii) Using the proper speed under selected circumstances.
    - (iv) Directional control for the safe completion of a prescribed driving task.
- (2) Each potential driver education teacher shall have practice teaching experience in the classroom, on the range, and on the streets and highways with student drivers.

History: 1994 MR 6, Eff. June 29, 1994.

**R 388.313b** Course approval and periodic review.

Rule 13b. The department shall review each driver education teacher preparation program at least once every 3 years.

History: 1994 MR 6, Eff. June 29, 1994.

**R 388.313c** Temporary driver education instructor approval.

- Rule 13c. (1) If a program sponsor is unable to employ a qualified driver education instructor, the department may grant temporary approval to teach driver education to an individual who has successfully completed 6 semester hours of approved driver education coursework.
- (2) All requests for temporary approval to teach driver education shall be submitted in writing on a form provided by the department.
  - (3) A temporary approval shall not be granted for more than a 12-month period.

History: 1994 MR 6, Eff. June 29, 1994.

**R 388.314** Out-state credits and evidence of qualification.

Rule 14. (1) Driver education credit earned at a teacher education institution of collegiate level in another state, the standards of which are equivalent to those required of Michigan teacher education institutions, shall be accepted on the same basis as equivalent credit earned in Michigan teacher education institutions.

(2) The employing official shall present evidence to the department of education that the qualifications of an individual not previously approved by the department meet the requirements for initial approval. The department shall determine whether such qualifications meet the requirements and shall provide formal written notification to the employing official of the instructor's approval or denial. A driver education program shall not be eligible for certificates for issuance to students satisfactorily completing the course until all required evidence has been presented to the department of education and approved.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC.

**R 388.314a** Withdrawal of instructor approval.

Rule 14a. The department shall withdraw approval of an individual to teach driver education if notification is received from the department of state that an approved driver education instructor has accumulated 7 or more points for moving traffic violation convictions within a period of 2 years, has been convicted of a 6-point violation as defined in section 320a of the act, or has been convicted of impaired driving as defined in section 625a of the act.

History: 1954 ACS 92, Eff. Sept. 8, 1977; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.314b** Informal conference.

Rule 14b. (1) Prior to withdrawing approval, the department of education shall cause to be served upon the driver education instructor a copy of the written charges and notice of opportunity to show compliance.

(2) Within 10 days of service of the notice of opportunity to show compliance, the driver education instructor may request an informal conference to show compliance. The informal conference shall be with an authorized representative of the state board of education.

(3) After the informal conference, the department of education may, after considering the recommendation of the representative of the state board of education, make a finding of compliance, enter into a written settlement of the matter with the driver education instructor without a hearing, or direct that a notice of hearing issue.

History: 1954 ACS 92, Eff. Sept. 8, 1977; 1979 AC.

**R 388.314c** Notice of hearing; written charges settlement; absence of party.

Rule 14c. (1) Within 15 days of service of the notice of opportunity to show compliance, if the driver education instructor does not request an informal conference, then a notice of hearing and a copy of the written charges shall be served upon the instructor.

- (2) After an informal conference and a decision by the department to proceed to hearing, a notice of hearing and a copy of the written charges shall be served upon the driver education instructor.
- (3) The written charges may be amended between the time of the notice of opportunity to show compliance and the notice of hearing.
- (4) If the driver education instructor fails to attend the hearing, then the hearing may proceed and the decision be made in the absence of the instructor.
- (5) The driver education instructor and the department may agree in writing to a settlement of the matter without a hearing.

History: 1954 ACS 92, Eff. Sept. 8, 1977; 1979 AC; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.314d** Notification of approval withdrawal.

Rule 14d. The department of education, upon withdrawal of approval for an individual to teach driver education in this state, shall notify, in writing, the employing official and the driver education instructor that approval of the individual to teach is withdrawn.

History: 1954 ACS 92, Eff. Sept. 8, 1977; 1979 AC.

**R 388.314e** Reinstatement of approval.

Rule 14e. The department shall consider reinstatement of approval of an individual to teach driver education if all of the following conditions are met:

- (a) Application for reinstatement of approved status is made in writing by the employing official.
- (b) The individual for whom reinstatement of approval is requested meets the current criteria for initial approval specified in R 388.311 and R 388.313.
- (c) It has been 12 or more months since the instructor received a violation under section 320a of the act.

History: 1954 ACS 92, Eff. Sept. 8, 1977; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.315** Student selection for program enrollment.

Rule 15. (1) When selecting students for enrollment in a driver education program, school officials shall give the oldest students first priority. A student who is under the age of 14 years and 8 months shall not be admitted to the driver education program, except as provided in R 388.316.

(2) Before participating in the driving experience, students shall be screened to determine, or evidence shall be presented, that they meet the physical requirements that are necessary for the issuance of a motor vehicle operator's license.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.316** Restricted license group.

Rule 16. Persons in the restricted age group, as provided by section 312 of Act No. 300 of the Public Acts of 1949, being S257.312 of the Michigan Compiled Laws, who may qualify for a

license under certain conditions, may receive the training only after the regularly qualified licensing authority has indicated that the person will be granted a license to drive, and after the parent or guardian has notified the school or organization that it is his desire that the student be given the course in driver education.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC.

**R 388.317** Rescinded.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; rescinded 1994 MR 6, Eff. June 29, 1994.

**R 388.318** Certificates.

Rule 18. (1) Before April 1, 1997, a student who passes an approved driver education course shall be granted a Michigan driver education certificate approved by department as official proof of having successfully completed a course as required by law. The department shall provide the official Michigan driver education certificate to be issued.

(2) Beginning April 1, 1997, a student shall receive a certificate approved by the department as official proof of having successfully completed each segment of the driver education program. The department shall make available to the providers the driver education certificate issued to the student.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.319** Dual control vehicles; identification.

Rule 19. (1) Dual control vehicles shall be used in all situations that involve on-the-street and highway driving experience.

(2) Vehicles that are used for driver education on the public streets and highways shall carry identification which is placed on the vehicle, and which is of a size and design that is prescribed by the department.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.320** Records and reports.

Rule 20. School districts, private and parochial schools, and organizations subject to the Michigan driver education law shall submit any reports required by the department and shall make available any records that pertain to any information relative to the operation of the driver education program.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1998 MR 3, Eff. Mar. 27, 1998.

## **PART 2. SCHOOL DISTRICT DRIVER EDUCATION**

**R 388.321** Rescinded.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; rescinded 1994 MR 6, Eff. June 29, 1994.

**R 388.322** Program reimbursement.

Rule 22. (1) A school district driver education program is not eligible for reimbursement until all required evidence has been presented and approved by the department.

(2) Reimbursement will be made to a school district based on the pro rata pupil cost up to the eligible amount established by law for all eligible resident driver education students who have completed an approved driver education program.

(3) Reimbursement shall be made to a school district based on the pro rata pupil cost of the driver education program. Reimbursement shall not exceed the substantiated program cost. A determination of the reimbursement amount shall be based on information that is presented in the annual driver education report by the school district as required by the department.

Reimbursement for driver education programs may be withheld from a school district due to noncompliance with these rules.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.323** Annual reports and local records.

Rule 23. (1) A school district that provides a driver education program shall report annually to the department. The report shall provide complete information as to the following:

(a) The number of students who participated in the course.

(b) The number of students who passed or failed the course.

(c) Substantiating information that is relative to the per pupil program cost.

(2) The names and certificate numbers of students for whom reimbursement is claimed and cost data of the driver education program shall be retained in a school's records for not less than 7 years and shall be available for audit purposes.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 3, Eff. Mar. 27, 1998.

**R 388.324** Cooperation required among public and private school officials to assure availability of driver education program.

Rule 24. Public school administrators shall cooperate with private and parochial school officials to assure that a driver education program is made available in compliance with the law and these rules.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

### **PART 3. DRIVER EDUCATION PROVIDED BY ORGANIZATIONS**

**R 388.331** Application for approval.

Rule 31. An application for approval by an organization to provide a driver education program for youth under 18 years of age shall be made on forms prescribed and furnished by the department. The department may appoint an examination committee to review the application and to make appropriate visits to the proposed facilities and programs. Driver education programs provided by an organization are subject to the supervision of the department.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1998 MR 2, Eff. Mar. 27, 1998.

**R 388.332** Rescinded.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; Rescinded 1998 MR 2, Eff. Mar. 27, 1998.

**R 388.333** Classroom facilities.

Rule 33. Classroom facilities that are used for driver education shall be inspected and approved, in accordance with state and local building code and public occupancy requirements, by the state fire marshal or his or her designated representative and by the local health department that has jurisdiction.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.334** Management of organization.

Rule 34. The management of an organization shall include the owner and all persons who have supervisory responsibility for the operation of the driver education program and shall be conducted in accordance with these rules and the act.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994; 1998 MR 2, Eff. Mar. 27, 1998.

**R 388.335** Records maintenance and access; tuition rates; statement of fees and refund policy.

Rule 35. (1) Adequate and complete registration, attendance, and achievement records shall be maintained for each individual student and shall be made available, upon request, to an authorized representative of the department.

(2) Tuition rates shall be filed annually with the department. Subsequent increases in tuition shall not be applied to a student for the term or course in which the student is currently enrolled. Rates that are published in school literature or any other media shall be consistent with rates on file with the department.

(3) The tuition fees and refund policy of the school shall be clearly stated on the registration, enrollment, or contract form that the student and parent sign.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC; 1994 MR 6, Eff. June 29, 1994.

**R 388.338** Rescission.

Rule 38. The rules of the state board of education entitled "Michigan Driver Education Program," as amended, being R 340.401 to R 340.412 of the Michigan Administrative Code and appearing on pages 243 and 245 of the 1956 Annual Supplement to the Code and pages 3683 to 3685 of the 1966 Annual Supplement to the Code, the rules entitled "Approval of Private Schools or Private Organizations Offering Driver Education Courses to Persons Under 18 Years of Age," being R 340.441 to R 340.452 of the Michigan Administrative Code and appearing on pages 1479 to 1481 of the 1960 Annual Supplement to the Code, and the rule entitled "Driver Education--Nonteachers," being R 390.651 of the Michigan Administrative Code and appearing on page 249 of the 1956 Annual Supplement to the Code, are rescinded.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC.

**R 388.339** Effective date.

Rule 39. These rules become effective July 1, 1970.

History: 1954 ACS 62, Eff. July 1, 1970; 1979 AC.