

Michigan Register

Issue No. 12 – 2024 (Published July 15, 2024)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

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(This issue, published July 15, 2024, contains
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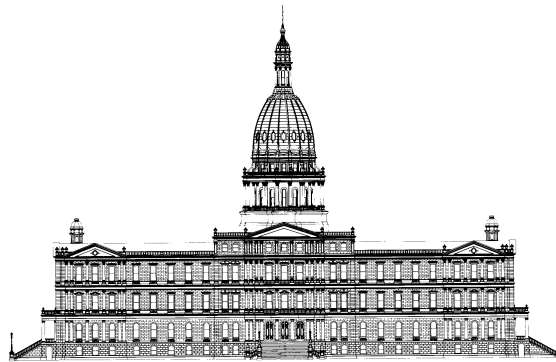
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Katie Wienczewski, Administrative Rules Division Director, Michigan Office of Administrative Hearings and Rules; Deidre O’Berry, Administrative Rules Specialist for Operations and Publications.

Gretchen Whitmer, Governor



Garlin Gilchrist, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Michigan Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2024 MR 1 refers to the year of issue (2024) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Michigan Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Michigan Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Michigan Office of Administrative Hearings and Rules, Ottawa Building –Second Floor, 611 W. Ottawa Street, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Michigan Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the website of the Michigan Office of Administrative Hearings and Rules – Administrative Rules Division: www.michigan.gov/ard.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Michigan Office of Administrative Hearings and Rules website. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Executive Director,
Michigan Office of Administrative Hearings and Rules

2024 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 1	February 1
2	January 15	February 15
3	February 1	March 1
4	February 15	March 15
5	March 1	April 1
6	March 15	April 15
7	April 1	May 1
8	April 15	May 15
9	May 1	June 1
10	May 15	June 15
11	June 1	July 1
12	June 15	July 15
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17	September 1	October 1
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20	October 15	November 15
21	November 1	December 1
22	November 15	December 15
23	December 1	January 1
24	December 15	January 15

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**ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE**

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

DEBT MANAGEMENT

Filed with the secretary of state on July 1, 2024

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of insurance and financial services by section 22 of the debt management act, 1975 PA 148, MCL 451.432)

R 451.1227, R 451.1237, and R 451.1239 of the Michigan Administrative Code are amended, as follows:

R 451.1227 Books and records.

Rule 7. The firm shall make and keep current the following books and records relating to its business:

(a) Journals or other records of original entry containing an itemized daily record of all payments and receipts for, or on behalf of, debtors of the firm, all receipts and disbursements of cash, and all other debits and credits.

(b) Ledgers or other records reflecting all assets, liabilities, income, expense, and capital accounts. The books and records included in this subdivision are not current unless the firm updates and posts to the books and records at least monthly.

(c) Ledger accounts or other records, itemizing separately as to each debtor all receipts from the debtor, payments to the firm, and disbursements on behalf of the debtor, the creditor's representative contacted, the response obtained or whether there has been a response within 14 days after the mailing of the creditor consent form, any revised or special conditions or arrangements conditioning the consent, and the date the required consents were secured.

(d) A complaint file containing copies of all written complaints made to the firm by debtors.

(e) Personnel files for all employees, listing the employee's name, current home address, home phone number, social security number, and a record of all compensation.

R 451.1237 Procedures; review.

Rule 17. (1) Each firm shall prepare and maintain written policies and procedures for compliance with the act.

(2) Each firm shall provide each certified counselor of the firm with the written policies and procedures.

R 451.1239 Budget analysis.

Rule 19. (1) A copy of the budget analysis required under section 12 of the act, MCL 451.422, must be retained in the debtor's file for a period of 6 years after the last transaction.

(2) The budget analysis must be signed by a certified counselor of the firm who participated in the preparation of the analysis.

(3) The budget analysis must identify the type and amount of each debtor's obligation by providing an adequate general description. Adequate general descriptions include "credit card," "unsecured loan," "vehicle loan," "mortgage loan," or other terms similarly identifying the type of debtor's obligation. The terms "other," "miscellaneous," or "generic" are not adequate general descriptions.

ADMINISTRATIVE RULES

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the secretary of state on June 27, 2024

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the superintendent of public instruction by sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703, and Executive Reorganization Order No. 1996-7, MCL 388.994)

R 340.1721b, R 340.1723c, and R 340.1733 of the Michigan Administrative Code are amended, as follows:

R 340.1721b Public agency responsibilities and timelines.

Rule 21b. (1) When a written request for an evaluation is made for a student attending a public school, all of the following apply:

(a) Within 10 school days of receipt of the written request, the public agency shall provide the parent with written notice consistent with 34 CFR 300.503 and request written parental consent to evaluate. The time from receipt of parental consent for an evaluation to the notice of an offer of a free appropriate public education or the determination of ineligibility must not be more than 30 school days. This timeline begins on receipt of the signed parental consent by the public agency requesting the consent. The parent and the public agency may agree to extend this timeline. Any extension must comply with both of the following:

(i) Be in writing.

(ii) Be measured in school days.

(b) The parent has 10 school days after receipt of the notice of an initial offer of a free appropriate public education to provide the public agency with written parental consent to provide initial special education programs and services.

(c) Within 7 school days of the date of the individualized education program team meeting, the public agency shall provide the parent with the notice of an offer of a free appropriate public education or determination of ineligibility. The public agency shall document the mode and date of delivery of the notice. The notice must identify where the programs and services will be provided and when the individualized education program will begin.

(d) Unless a parent has filed a due process complaint to request a hearing under R 340.1724f, the public agency, as defined in 34 CFR 300.33, shall initiate a proposed special education individualized education program as soon as possible and within 15 school days of the parent's receipt of written notification under subdivision (c) of this subrule, or within 15 school days of receipt of written parental consent under subdivision (b) of this subrule. The parties may agree to a later initiation date if the

individualized education program clearly identifies the later date. A later initiation date must not be used to deny or delay programs or services because they are unavailable and must not be used for purposes of administrative convenience.

(e) For a student with an individualized education program effective at a public agency who transfers to a different public agency during the same school year, the new public agency shall immediately provide a free appropriate public education. A decision regarding implementation of an individualized education program in accordance with 34 CFR 300.323 must be made within 30 school days of enrollment.

(2) When a written request for an initial evaluation is made for a student who is parentally-placed in a private school, the public agency shall do all of the following:

(a) Within 10 school days of receipt of the written request, provide written notice consistent with 34 CFR 300.503 and request written parental consent to evaluate, when appropriate.

(b) Within 30 school days of receipt of written parental consent for an evaluation, determine eligibility and provide notice consistent with 34 CFR 300.503. The parent and the public agency may agree to extend this timeline. Any extension must comply with both of the following:

(i) Be in writing.

(ii) Be measured in school days.

(c) Comply with the requirements of 34 CFR 300.130 to 300.147.

R 340.1723c Right to independent educational evaluation.

Rule 23c. (1) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information must include all of the following:

(a) Criteria regarding credentials for qualified examiners.

(b) Suggested sources and locations.

(c) Procedures for reimbursement.

(d) Reasonable expected costs.

(e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.

(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. A parent is entitled to only 1 independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

(3) When a parent requests an independent educational evaluation at public expense, the public agency shall, without unnecessary delay, either provide an independent educational evaluation at public expense or initiate a hearing under R 340.1724f to show that its evaluation is appropriate.

(4) The public agency shall respond with written notice consistent with 34 CFR 300.503 to a request for an independent educational evaluation under this rule within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or initiate the hearing procedure under R 340.1724f. If there is a hearing under R 340.1724f and the hearing officer determines that the evaluation is appropriate, the parent retains the right to an independent educational evaluation, but not at public expense.

(5) The public agency shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent educational evaluation.

(6) Unless agreeable to the parent, an examiner who regularly contracts with the public agency to provide services shall not conduct an independent educational evaluation.

R 340.1733 Program and service requirements.

Rule 33. An intermediate school district, local school district, public school academy, and any other agency shall comply with all of the following general requirements for all programs and services for students with disabilities:

(a) Special education classrooms or areas where related services are provided must have at least the same average number of square feet per student and the same light, ventilation, and heat conditions as provided for general education students in the school district.

(b) Programs for students with severe cognitive impairment and severe multiple impairments that have students under 16 years of age must not exceed a 6-year age span at any 1 time.

(c) All other special education programs that have students under 16 years of age and are operated in separate facilities must not exceed a 4-year age span at any 1 time.

(d) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in elementary buildings attended by children who are nondisabled must not exceed, at any 1 time, the age span of the students who are nondisabled in the building.

(e) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in secondary buildings attended by students who are nondisabled must not exceed, at any 1 time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. As used in this subdivision, "nondisabled" does not include individuals participating in adult education programs.

(f) Programs for students with severe cognitive impairment, severe multiple impairments, and moderate cognitive impairment must comply with subdivisions (b), (c), (d), and (e) of this rule unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.

(g) Students with disabilities qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in general education programs, in addition to those supplies and equipment necessary to implement the students' individualized education programs.

(h) Intermediate school districts, local school districts, public school academies, or a combination of these agencies in cooperation with public and private entities, shall provide or contract for the provision of transition services. Special education teachers shall be assigned to supervise these services. Professional special education personnel, a transition coordinator, or both, shall coordinate transition services.

(i) For worksite-based learning, there must be a written agreement signed by the student, parent, school representative, and worksite representative that includes all of the following information:

(i) Expectations and standards of attainment.

(ii) Job activities.

(iii) Time and duration of the program.

(iv) Wages to be paid to the student, if applicable.

(v) Related instruction, if applicable.

(vi) The name of a staff member designated by the superintendent or chief administrator of the public agency to visit the student's worksite at least once every 30 calendar days for the duration of the program to check attendance and student progress and assess the placement in terms of health, safety, and welfare of the student.

(j) When an assigned instructional aide or teacher aide required by R 340.1738, R 340.1739, or R 340.1748 is absent, an instructional aide or teacher aide, as appropriate, shall be provided. In addition, when an assigned aide required by R 340.1740 is absent, an appropriate aide shall be provided.

ADMINISTRATIVE RULES

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

TEACHER AND SCHOOL ADMINISTRATOR EVALUATION TOOLS

Filed with the secretary of state on June 27, 2024

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the superintendent of public instruction by sections 1249 and 1249b of the revised school code, 1976 PA 451, MCL 380.1249 and 380.1249b, and Executive Reorganization Order No. 1996-6, MCL 388.993)

R 380.21 and R 380.22 of the Michigan Administrative Code are amended, as follows:

R 380.21 Definitions.

Rule 1. As used in these rules:

- (a) “Act” means the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.
- (b) “Department” means the department of education.
- (c) “District” means a school district, intermediate school district, or public school academy as defined in the act.
- (d) “Educator” means a teacher or school administrator whose performance is evaluated as required by the act.
- (e) “Efficacy” means the extent to which an evaluation tool provides information that improves professional practice.
- (f) “Evaluation tool” means a written instrument used to assess the performance of educators as required by the act.
- (g) “List” means the compilation of evaluation tools by the department as required by the act and maintained on the department’s website.
- (h) “Reliability” means the extent to which an evaluation tool is consistent and stable in yielding similar results under varying conditions, including, but not limited to, different evaluators and observers or different observation windows.
- (i) “Scoring guide” means the scoring instrument developed by the department and reviewed by the department’s technical advisory committee before initial implementation and subsequent modification that is available on the department’s website and that defines the minimum requirements for placement of an evaluation tool on the list using the following criteria: research base, qualifications of the author or authors, reliability, validity, and efficacy.
- (j) “Validity” means the extent to which an evaluation tool measures what it is intended to measure.

R 380.22 Placement of evaluation tool on list.

Rule 2. (1) The department may place an evaluation tool on the list under this rule.

(2) A district may request placement of an evaluation tool that it has adopted for use on the list by submitting an online application available on the department's website and all of the following:

- (a) Evidence of the evaluation tool's research base.
- (b) The identity and qualifications of the author or authors of the evaluation tool.
- (c) Evidence of the evaluation tool's reliability, validity, and efficacy.
- (d) All frameworks and rubrics used with the evaluation tool, with detailed descriptors for each performance level on key summative indicators.
- (e) A description of the processes for conducting observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- (f) A description of the plan for providing evaluators and observers with training in the use of the evaluation tool.

(3) A public or private organization other than a district may request placement of an evaluation tool on the list by submitting an online application available on the department's website and all of the following:

- (a) One of the following:
 - (i) Evidence that at least 2 state education agencies have approved or adopted the evaluation tool.
 - (ii) Evidence that not less than 10 districts in this state will consider adopting the evaluation tool if the department adds it to the list.
- (b) Evidence of the evaluation tool's research base.
- (c) The identity and qualifications of the author or authors of the evaluation tool.
- (d) Evidence of the evaluation tool's reliability, validity, and efficacy.
- (e) All frameworks and rubrics used with the evaluation tool, with detailed descriptors for each performance level on key summative indicators.
- (f) A description of the processes for conducting observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- (g) A description of the plan for providing evaluators and observers with training in the use of the evaluation tool.

(4) The department shall review an evaluation tool submitted under this rule using the scoring guide and examining all information required under subrule (2) or (3) of this rule.

(5) After receiving a request under this rule, the department shall notify the district or organization if the department will place the evaluation tool on the list. If the department determines that it will not place the evaluation tool on the list, the notice must include the reasons for denial of the request.

(6) The department shall place an evaluation tool submitted under this rule on the list if it satisfies the minimum requirements set forth in the scoring guide.

ADMINISTRATIVE RULES

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

SCHOOL SOCIAL WORKER CERTIFICATION CODE

Filed with the secretary of state on June 27, 2024

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By the authority conferred on the superintendent of public instruction by sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703, and Executive Reorganization Order No. 1996-7, MCL 388.994)

R 340.1001, R 340.1002, R 340.1003, R 340.1004, R 340.1005, R 340.1006, R 340.1007, R 340.1008, R 340.1009, and R 340.1010 are added to the Michigan Administrative Code, R 340.1011, R 340.1012, R 340.1013, R 340.1014, R 340.1015, and R 340.1016 are amended, and R 340.1017 and R 340.1018 are rescinded, as follows:

R 340.1001 Definitions.

Rule 1. (1) As used in these rules:

(a) “Accredited” means accredited by an accreditation agency recognized by the Council for Higher Education Accreditation or by the United States Department of Education.

(b) “Act” means the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, unless otherwise indicated.

(c) “Approved school social worker preparation program” means a state-approved program in an institution that prepares school social workers, or their equivalent, in accordance with the state law of the program’s location.

(d) “Department” means the department of education, unless otherwise indicated.

(e) “Education-related professional learning” means an educational opportunity that improves a school social worker’s practice and capacity to perform the work within the profession of education that is 1 or more of the following:

(i) Satisfactory college semester credit hours at an accredited college or university, with 1 semester credit hour being equivalent to 25 education-related professional learning hours.

(ii) State continuing education clock hours.

(iii) Michigan annual district provided professional development hours.

(f) “Individualized education program” means a program described in R 340.1721e.

(g) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(h) “Michigan annual district provided professional development” means Michigan annual district provided professional development as required by sections 1526 and 1527 of the act, MCL 380.1526 and 380.1527.

(i) “Out-of-state” means of a political subdivision of the United States, other than this state, of a federally recognized Native American tribe, or of a foreign country or a political subdivision of a foreign country.

(j) “School social worker credential” means 1 of the following issued under these rules:

(i) Preliminary school social worker certificate.

(ii) Professional school social worker certificate.

(iii) School social worker permit.

(k) “State board” means the Michigan state board of education.

(l) “State continuing education clock hours” means hours of professional development issued through a process established and approved by the superintendent of public instruction.

(m) “Valid” means within the time period of the credential and not suspended, revoked, rescinded, or nullified.

(2) A term defined in the act has the same meaning when used in these rules.

R 340.1002 Individuals required to hold school social worker credential.

Rule 2. (1) An individual who provides social work services, either as an employee of a public school or on a contractual basis in a public school, to students with disabilities whose individualized education programs require social work services shall hold a valid school social worker credential issued under these rules.

(2) Issuance of a school social worker credential under these rules constitutes approval for purposes of R 340.1799f.

(3) Only an individual who holds a valid school social worker credential under these rules shall use the title of school social worker.

(4) A public school may support a social worker position with funds under the Individuals with Disabilities Education Act, 20 USC 1400 to 1482, and state statutes governing funding for special education programs and services only if the position is held by an individual who holds a valid school social worker credential issued under these rules and only for the portion of time the individual provides social work services to 1 or more students with disabilities whose individualized education programs require social work services.

(5) Except as provided in these rules regarding placement of individuals who provide social work services to students with disabilities whose individualized education programs require social work services, these rules do not prohibit a public school from employing, contracting with, or otherwise using the services of a licensed social worker who does not hold a valid school social worker credential issued under these rules.

R 340.1003 Preliminary school social worker certificate.

Rule 3. (1) The superintendent of public instruction may issue a preliminary school social worker certificate to an applicant who pays the applicable evaluation fee and who meets all of the following requirements at the time of application:

(a) Holds an earned master of social work degree, or its equivalent or higher, from an accredited college or university.

(b) Completed an approved school social worker preparation program.

(c) Completed a minimum of a 500-clock-hour supervised social work practice that reflects and supports state standards for the preparation and practice of school social workers.

(d) Holds a valid limited master’s social worker license (LLMSW) or valid master’s social worker license (LMSW) issued by the department of licensing and regulatory affairs.

(2) The superintendent of public instruction may issue 1 renewal of a preliminary school social worker certificate to an applicant who pays the applicable evaluation fee if both of the following requirements are satisfied at the time of application:

(a) The applicant holds a valid LLMSW or valid LMSW issued by the department of licensing and regulatory affairs.

(b) During the validity of the initial preliminary school social worker certificate, an individual who held a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012 supervised the applicant while the applicant provided social work services to students with disabilities whose individualized education programs required those services.

(3) The superintendent of public instruction shall issue no more than 1 renewal of a preliminary school social worker certificate.

R 340.1004 Professional school social worker certificate.

Rule 4. (1) The superintendent of public instruction may issue a professional school social worker certificate to an applicant who pays the applicable evaluation fee and who meets all of the following requirements at the time of application:

(a) Holds a valid LMSW issued by the department of licensing and regulatory affairs.

(b) Completed an approved school social worker preparation program.

(c) While holding a valid preliminary school social worker certificate issued under these rules or while working under a valid school social worker permit issued under R 340.1009, and while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, completed 1 full school year as a school social worker providing social work services to students with disabilities whose individualized education programs required those services.

(2) The superintendent of public instruction may issue a renewal of a professional school social worker certificate to an applicant who pays the applicable evaluation fee if both of the following requirements are satisfied at the time of application:

(a) The applicant holds a valid LMSW issued by the department of licensing and regulatory affairs.

(b) Since the issuance of the most recent professional school social worker certificate or renewal, the applicant completed 75 education-related professional learning hours.

R 340.1005 Preliminary and professional school social worker certificate issuance and expiration.

Rule 5. (1) The validity of a preliminary school social worker certificate or professional school social worker certificate, or renewal, is determined by its issue date and expiration date as set forth in this rule and by action taken under R 340.1010 to R 340.1016. An applicant for and the holder of a preliminary school social worker certificate or a professional school social worker certificate and the employer shall be familiar with the specific requirements and expiration date of the certificate.

(2) A preliminary school social worker certificate or renewal issued under these rules expires 3 years after June 30 of the calendar year of issuance.

(3) A professional school social worker certificate or renewal issued under these rules expires 5 years after June 30 of the calendar year of issuance.

(4) The superintendent of public instruction shall not issue a preliminary school social worker certificate or a professional school social worker certificate, or renewal, until the department receives the evaluation fee required by section 1538 of the act, MCL 380.1538.

R 340.1006 Members of the armed forces and uniformed services, veterans, and dependents.

Rule 6. (1) As used in this rule:

(a) “Armed forces” means the United States Army, Air Force, Navy, Marine Corps, Space Force, Coast Guard, or other military force designated by the United States Congress as a part of the Armed Forces of the United States, including the reserve components.

(b) “Dependent” means a spouse, surviving spouse, child who is less than 26 years of age, or surviving child who is less than 26 years of age.

(c) “Uniformed services” means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) “Veteran” means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

(2) If 1 of the following individuals serves a period of active duty during the time period of a certificate issued under these rules, the individual may file a request with the department that the superintendent of public instruction determine that all or part of the period of active duty satisfies some or all of the requirements for renewal of the certificate:

(a) A member of the armed forces or uniformed services.

(b) A veteran.

(3) The following individuals may apply to the department for refund of a fee paid pursuant to these rules under section 1538 of the act, MCL 380.1538:

(a) A member of the armed forces or uniformed services.

(b) A veteran.

(c) A dependent of a member of the armed forces or of the uniformed services.

(d) A dependent of a veteran.

R 340.1007 Out-of-state applicants.

Rule 7. (1) The superintendent of public instruction may issue a school social worker certificate under subrule (2) or (3) of this rule to an applicant who completed an out-of-state approved school social worker preparation program upon verification of the applicant’s satisfaction of the requirements, or their equivalent, established for issuance of a school social worker certificate to an individual who completes an approved school social worker preparation program in this state.

(2) The superintendent of public instruction may issue a preliminary school social worker certificate to an individual described in subrule (1) of this rule who pays the applicable evaluation fee and who satisfies the requirements of R 340.1003, or their equivalent, at the time of application.

(3) The superintendent of public instruction may issue a professional school social worker certificate to an individual described in subrule (1) of this rule who pays the applicable evaluation fee if, at the time of application, 1 of the following is satisfied:

(a) The individual satisfies the requirements of R 340.1004, or their equivalent.

(b) All of the following:

(i) The individual holds a valid LMSW issued by the department of licensing and regulatory affairs.

(ii) The individual holds a valid out-of-state certificate that is equivalent to a professional school social worker certificate issued by the department.

(iii) The individual completed 1 full school year as a social worker in a school setting providing social work services to students with disabilities whose individualized education programs required those services.

R 340.1008 Approval of school social worker preparation programs.

Rule 8. (1) The state board shall approve standards for reviewing school social worker preparation programs.

(2) The superintendent of public instruction shall approve school social worker preparation programs in accordance with the state board approved standards.

(3) Continued approval by the superintendent of public instruction requires that the school social worker preparation provider be accredited or that a state review process recommend approval by the superintendent of public instruction.

R 340.1009 School social worker permit.

Rule 9. (1) If a public school is unable to employ or contract with a certified school social worker, the public school may apply to the department for a school social worker permit under this rule.

(2) On application and payment of the applicable evaluation fee, the superintendent of public instruction may issue a school social worker permit to a public school that verifies all of the following:

(a) At the time of application, the individual holds an earned master of social work degree or higher, or equivalent, from an accredited college or university.

(b) At the time of application, the individual holds a valid LLMSW or valid LMSW issued by the department of licensing and regulatory affairs.

(c) At the time of application, the individual was accepted for enrollment in an approved school social worker preparation program.

(d) During the validity of the permit, while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, the individual will provide social work services to students with disabilities whose individualized education programs require those services.

(3) On application and payment of the applicable evaluation fee, the superintendent of public instruction may issue 1 renewal of a school social worker permit to a public school that verifies all of the following:

(a) One of the following at the time of application:

(i) The individual is enrolled in, and demonstrates progress toward completion of, an approved school social worker preparation program after issuance of the initial school social worker permit.

(ii) The individual holds a valid or expired preliminary school social worker certificate issued under these rules.

(b) At the time of application, the individual holds a valid LLMSW or valid LMSW issued by the department of licensing and regulatory affairs.

(c) During the validity of the initial permit, while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, the individual provided social work services to students with disabilities whose individualized education programs required those services.

(d) During the validity of the renewal, while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under

former R 340.1012, the individual will provide social work services to students with disabilities whose individualized education programs require those services.

(4) The superintendent of public instruction shall issue no more than 1 renewal of a school social worker permit under this rule.

(5) A school social worker permit issued under this rule is valid from the issue date through August 31 immediately following the academic year listed on the permit.

(6) Subject to subrule (8) of this rule, the superintendent of public instruction may revoke, refuse to grant, or refuse to renew a school social worker permit or renewal for any of the following reasons:

(a) Fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of the school social worker permit or renewal.

(b) Conviction of the individual for whom a public school requests a school social worker permit or renewal, or who is working under a school social worker permit or renewal, of a crime described in section 1535a of the act, MCL 380.1535a.

(c) Failure to meet the requirements for the school social worker permit or renewal.

(d) Action taken by an out-of-state certificating authority against an educator credential issued at any time to the individual by that authority.

(7) The superintendent of public instruction may rescind a school social worker permit or renewal at the request of the employing or contracting public school.

(8) The superintendent of public instruction shall revoke, refuse to grant, or refuse to renew a school social worker permit or renewal if the individual working under the permit or renewal, or if the individual for whom a public school requests the permit or renewal, was convicted of a listed offense.

R 340.1010 Suspension of, revocation of, imposition of conditions on, or denial of renewal of preliminary or professional school social worker certificate.

Rule 10. The superintendent of public instruction may suspend, revoke, impose reasonable conditions on, or deny renewal of a preliminary school social worker certificate or professional school social worker certificate for either of the following reasons:

(a) The holder of the preliminary school social worker certificate or professional school social worker certificate engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of any credential issued by the superintendent of public instruction.

(b) The holder of the preliminary school social worker certificate or professional school social worker certificate was convicted of a crime described in section 1539b of the act, MCL 380.1539b.

R 340.1011 Notice of basis for action; notice of right to hearing; informal conference; referral for hearing.

Rule 11. Subject to summary suspension under section 1539b(2) of the act, MCL 380.1539b, all of the following apply to action taken under R 340.1010:

(a) Not more than 7 calendar days after receiving notice that the criminal history of the holder of a preliminary school social worker certificate or professional school social worker certificate includes conviction of a crime described in section 1539b of the act, MCL 380.1539b, the department shall request from the court a certified copy of the judgment of conviction and sentence or other document regarding disposition of the case.

(b) On receipt of notice of a basis for action under R 340.1010(a), or not later than 10 business days after receiving documentation of a conviction under subdivision (a) of this rule, the department shall notify the holder of the preliminary school social worker certificate or professional school social worker certificate in writing of all of the following:

(i) Because of the conviction or because of the identified reason under R 340.1010(a), the superintendent of public instruction may suspend, revoke, impose conditions on, or deny renewal of the preliminary school social worker certificate or professional school social worker certificate.

(ii) The holder has the right to a hearing.

(iii) If the holder does not request a hearing within 15 business days after receipt of notice of the right to a hearing, the superintendent of public instruction shall suspend or deny renewal of the preliminary school social worker certificate or professional school social worker certificate.

(iv) If the holder requests a hearing within 15 business days after receipt of the notice, there must be an informal conference.

(c) The notice under subdivision (b) of this rule must include a copy of applicable statutes and rules.

(d) Not later than 15 business days after receipt of the notice under subdivision (b) of this rule, the holder of the preliminary school social worker certificate or professional school social worker certificate shall request a hearing. If the holder does not timely request a hearing, the superintendent of public instruction shall suspend or deny renewal of the preliminary school social worker certificate or professional school social worker certificate.

(e) If the holder of the preliminary school social worker certificate or professional school social worker certificate timely requests a hearing under subdivision (d) of this rule, the department shall immediately notify the holder of the date and time of an informal conference. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department may recommend that the superintendent of public instruction take no action against or grant renewal of the preliminary school social worker certificate or professional school social worker certificate or that there be a settlement or conditional agreement. The superintendent of public instruction shall approve, modify, or deny the recommendation of the department.

(g) If the superintendent of public instruction or designee decides to refer the case to the Michigan office of administrative hearings and rules for hearing following the informal conference, the department shall make the referral.

R 340.1012 Denial or rescission of preliminary or professional school social worker certificate.

Rule 12. (1) The superintendent of public instruction may deny an individual's application for a preliminary school social worker certificate or professional school social worker certificate for any of the following reasons:

(a) The applicant engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of any credential issued to the individual by the superintendent of public instruction.

(b) The applicant was convicted of a crime described in section 1539b of the act, MCL 380.1539b.

(c) The applicant does not meet the requirements for the certificate.

(d) An out-of-state certifying authority took action against an educator credential issued at any time to the applicant by that authority.

(2) After notice and an opportunity to show compliance, the superintendent of public instruction may rescind a preliminary school social worker certificate or professional school social worker certificate for failure of the holder to meet the requirements for the preliminary school social worker certificate or professional school social worker certificate.

R 340.1013 Investigation.

Rule 13. An authorized representative of the department shall perform the investigatory and prosecutorial functions regarding cases pertaining to school social worker certification. On receipt of information that may serve as the basis for suspension, revocation, denial, refusal to renew, or rescission of a preliminary school social worker certificate or professional school social worker certificate, the authorized representative shall initiate an investigation of that information.

R 340.1014 Reinstatement of suspended or revoked preliminary or professional school social worker certificate.

Rule 14. (1) Unless the superintendent of public instruction suspended or revoked an individual's preliminary school social worker certificate or professional school social worker certificate based on conviction of a listed offense, the individual may file with the department a request for reinstatement of the preliminary school social worker certificate or professional school social worker certificate that was suspended or revoked under these rules.

(2) If the superintendent of public instruction suspended or revoked the preliminary school social worker certificate or professional school social worker certificate under R 340.1010(a), all of the following apply:

(a) The individual shall provide to the department documentation and other information that demonstrates that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the individual's preliminary school social worker certificate or professional school social worker certificate will not adversely affect the health, safety, and welfare of pupils.

(b) If the superintendent of public instruction suspended the preliminary school social worker certificate or professional school social worker certificate pursuant to an agreement between the department and the individual, the individual shall provide to the department documentation and other information that establishes satisfaction of the conditions set forth in the agreement.

(c) Not more than 30 calendar days after receipt of the request for reinstatement, the department shall notify the individual in writing of all of the following:

(i) The individual has the right to a hearing.

(ii) If the individual does not request a hearing within 30 calendar days after receipt of notice of the right to a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the preliminary school social worker certificate or professional school social worker certificate.

(iii) If the individual requests a hearing within 30 calendar days after receipt of the notice, there must be an informal conference on the request for reinstatement.

(d) Not later than 30 calendar days after receipt of the notice, the individual shall request a hearing. If the individual does not timely request a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the preliminary school social worker certificate or professional school social worker certificate.

(e) If the individual timely requests a hearing, the department shall immediately notify the individual of the date and time of an informal conference on the request for reinstatement. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department shall recommend that the superintendent of public instruction reinstate or deny reinstatement of the preliminary school social worker certificate or professional school social worker certificate. Based on consideration of the recommendation and the documentation and other information presented, the superintendent of public instruction shall reinstate or deny reinstatement of the preliminary school social worker certificate or professional school social worker certificate. The superintendent of public instruction shall not reinstate the preliminary school social worker certificate or

professional school social worker certificate unless the superintendent of public instruction finds that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement will not adversely affect the health, safety, and welfare of pupils.

(g) If the superintendent of public instruction does not reinstate the preliminary school social worker certificate or professional school social worker certificate under subdivision (f) of this subrule, the department shall refer the request to the Michigan office of administrative hearings and rules for hearing.

(3) If the superintendent of public instruction suspended or revoked the preliminary school social worker certificate or professional school social worker certificate under R 340.1010(b), not more than 30 calendar days after receipt of a request for a hearing on reinstatement, the department shall refer the request to the Michigan office of administrative hearings and rules under section 1539b(5) of the act, MCL 380.1539b.

R 340.1015 Removal of suspension or revocation of preliminary or professional school social worker certificate after conviction set aside, expunged, or dismissed.

Rule 15. (1) The superintendent of public instruction shall remove the suspension or revocation of a preliminary school social worker certificate or professional school social worker certificate if all of the following requirements are met:

(a) The suspension or revocation was based solely on a criminal conviction under section 1539b of the act, MCL 380.1539b.

(b) The holder of the credential files with the department a request for removal of the suspension or removal that includes documentation satisfactory to the department that the conviction was set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged or dismissed by a court of competent jurisdiction.

(c) If the conviction was set aside under section 1g of 1965 PA 213, MCL 780.621g, and the judgment of sentence included an order of restitution, the request for removal includes verification that the individual has fully paid court-ordered restitution or has made a good faith effort to do so.

(2) Removal of a suspension or revocation under this rule does not relieve the holder of the preliminary school social worker certificate or professional school social worker certificate of the responsibility to comply with all legal requirements for renewal of the preliminary school social worker certificate or professional school social worker certificate.

(3) This rule does not preclude the superintendent of public instruction from taking action against a preliminary school social worker certificate or professional school social worker certificate under R 340.1010, or from denying or rescinding a preliminary school social worker certificate or professional school social worker certificate under R 340.1012, for a reason other than a conviction that was set aside or otherwise expunged or dismissed.

R 340.1016 Action of superintendent of public instruction on proposal for decision.

Rule 16. (1) The superintendent of public instruction may adopt, modify, or reverse a proposal for decision of the Michigan office of administrative hearings and rules or may remand a case to the Michigan office of administrative hearings and rules for further proceedings.

(2) A party shall not directly or indirectly communicate with the superintendent of public instruction or individuals involved in the review of a proposal for decision regarding issues of fact or law except on notice and opportunity for all parties to participate, unless provided by law.

R 340.1017 Rescinded.

R 340.1018 Rescinded.

ADMINISTRATIVE RULES

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

TEACHER CERTIFICATION CODE

Filed with the secretary of state on June 27, 2024

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the superintendent of public instruction by section 1 of article I of 1937 (Ex. Sess.) PA 4, MCL 38.71, and sections 1157, 1531, 1531i, 1535a, and 1539b of the revised school code, 1976 PA 451, MCL 380.1157, 380.1531, 380.1531i, 380.1535a, and 380.1539b, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994)

R 390.1101, R 390.1103, R 390.1105, R 390.1111, R 390.1115, R 390.1117, R 390.1118, R 390.1122a, R 390.1123, R 390.1125, R 390.1129, R 390.1129b, R 390.1130, R 390.1133, R 390.1135, R 390.1137, R 390.1138, R 390.1141, R 390.1142, R 390.1143, R 390.1145, R 390.1151, R 390.1152, R 390.1153, R 390.1161, R 390.1165, R 390.1167, R 390.1201, R 390.1203, and R 390.1204 of the Michigan Administrative Code are amended, R 390.1119, R 390.1144, R 390.1205, R 390.1208, and R 390.1211 are added, and R 390.1163 and R 390.1164a are rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 390.1101 Definitions.

Rule 1. As used in this code:

(a) “Accredited” means accredited by an accreditation agency recognized by the Council for Higher Education Accreditation or by the United States Department of Education.

(b) “Act” means the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(c) “Alternative route program provider” means an entity approved by the superintendent of public instruction to provide teacher certification alternative route programs under section 1531i of the act, MCL 380.1531i.

(d) “Appropriate placement” means placement within a grade level and discipline area as determined appropriate by the superintendent of public instruction.

(e) “Clinical experience” means structured, supervised activity in an instructional setting in which a teacher certification candidate may gain experience in the practice of teaching, as determined by the superintendent of public instruction.

(f) “Course of study” means a cohesive, standards-based planned program that provides knowledge and skill for specialization in a discipline area or areas and supports the practice of teaching or the professional career development of the teacher.

(g) “CTE” means career and technical education.

(h) “CTE classification of instructional programs (CIP) code” means the code of a career development area or a CTE program under the taxonomy published by the National Center for Education Statistics, or its successor agency, of the United States Department of Education.

(i) “Department” means the department of education unless otherwise indicated.

(j) “Discipline area” means a content area, a subject area, or an education field, including a CTE classification of instructional programs (CIP) code, for which endorsement is available.

(k) “Education-related professional learning” means an educational opportunity that improves a teacher’s practice and capacity to perform the work within the profession of education, including time spent engaging with local employers or technical centers, that is 1 or more of the following:

(i) Satisfactory college semester credit hours at an accredited college or university, with 1 semester credit hour being equivalent to 25 education-related professional learning hours.

(ii) State continuing education clock hours.

(iii) Michigan annual district provided professional development hours.

(iv) Valid certification by the National Board for Professional Teaching Standards (NBPTS) or its successor agency, with valid NBPTS certification being equivalent to 150 education-related professional learning hours.

(l) “Educator preparation institution” means a baccalaureate degree-, or higher, granting institution that is approved to recommend applicants for certificates and endorsements under this code.

(m) “Educator preparation provider” means an educator preparation institution or an alternative route program provider.

(n) “Elementary level endorsement” means an endorsement to teach a specified discipline area in a specified grade band from birth to grade 6.

(o) “Endorsement” means a discipline area that a teacher may teach, as specified on a certificate, in the specific grade band, if any, specified on the certificate, based on completion of an appropriate program and passing the appropriate available examination as required by section 1531 of the act, MCL 380.1531.

(p) “Listed offense” means that term as defined in section 1535a of the act, MCL 380.1535a.

(q) “Michigan annual district provided professional development” means Michigan annual district provided professional development as required by sections 1526 and 1527 of the act, MCL 380.1526 and 380.1527.

(r) “Michigan teaching certificate” means any of the following:

(i) An interim teaching certificate.

(ii) A standard teaching certificate.

(iii) A professional teaching certificate.

(iv) An advanced professional teaching certificate.

(v) A standard CTE certificate, formerly the temporary vocational authorization and the interim occupational certificate. (No longer issued.)

(vi) A professional CTE certificate, formerly the occupational education certificate. (No longer issued.)

(vii) A temporary teaching certificate.

(viii) A continuing certificate. (No longer issued.)

(ix) A life certificate. (No longer issued.)

(x) A permanent certificate. (No longer issued.)

(xi) A temporary or full vocational authorization. (No longer issued.)

- (xii) An initial certificate entitled “provisional certificate.” (No longer issued.)
- (xiii) A certificate entitled “interim occupational certificate.” (No longer issued.)
- (s) “Nonpublic school” means a private, denominational, or parochial school.
- (t) “Out-of-state” means of a political subdivision of the United States, other than this state, of a federally recognized Native American tribe, or of a foreign country or a political subdivision of a foreign country.
- (u) “PK-12 level endorsement” means an endorsement to teach a specified discipline area in the grade band of prekindergarten to grade 12.
- (v) “Satisfactory college semester credit hours” means a grade of C or better or the equivalent.
- (w) “School district” means a local school district established under the act, an intermediate school district established under part 7 of the act, MCL 380.601 to 380.705, a public school academy established under part 6a of the act, MCL 380.501 to 380.507, an urban high school academy established under part 6c of the act, MCL 380.521 to 380.529, a school of excellence established under part 6e of the act, MCL 380.551 to 380.561, and a strict discipline academy established under sections 1311b to 1311m of the act, MCL 380.1311b to 380.1311m.
- (x) “Secondary level endorsement” means an endorsement to teach a specified discipline area in a specified grade band from grade 5 to grade 12.
- (y) “Standard teaching certificate” means the provisional certificate that the superintendent of public instruction issues to an individual who holds at least a bachelor’s degree, has completed a state approved educator preparation program, and has met all requirements set forth in this code and the act.
- (z) “State board” means the Michigan state board of education.
- (aa) “State continuing education clock hours” means hours of professional development issued through a process established and approved by the superintendent of public instruction.
- (bb) “Valid” means within the time period of the credential and not suspended, revoked, rescinded, or nullified.

R 390.1103 Successful teaching.

Rule 3. (1) Successful teaching is teaching for 1 or more employers in an appropriate placement or appropriate placements with instructional responsibilities while holding a valid standard level teaching certificate.

(2) For purposes of determining successful teaching, 1 year of employment is a minimum of 150 instructional days and may be either an academic or a calendar year, but an individual may not earn more than 1 year of employment during an academic or a calendar year. An individual may accumulate 1 year of employment over a period of years.

(3) For purposes of determining successful teaching, an instructional day is 6 or more hours during which teachers provide instruction to or have contact with students. A combination of 2 partial instructional days of not less than 3 hours equals 1 day.

R 390.1105 Credential requirements.

Rule 5. (1) Unless otherwise provided in the act, a school district or nonpublic school shall not assign an individual as a teacher in any of grades K to 12 unless both of the following are satisfied:

- (a) One of the following:
 - (i) The individual holds a valid teaching certificate.
 - (ii) The school district or nonpublic school holds a valid permit allowing the individual’s placement.
 - (iii) The school district or nonpublic school holds a valid authorization allowing the individual’s placement.
- (b) The assignment is an appropriate placement.

(2) A teacher of a program reimbursed from CTE funds shall meet the minimum qualifications for endorsement or authorization in the particular occupational education field as the superintendent of public instruction specifies.

(3) A teacher in a reimbursed program in special education shall meet the minimum qualifications for certification, endorsements, or approvals when law requires in the particular special education field, as the superintendent of public instruction specifies.

R 390.1111 Fair opportunity.

Rule 11. All students in educational programs at any level and irrespective of their English language proficiency shall have fair access to opportunities to maximize their full development in a democratic society. Each educator preparation provider in this state shall provide prospective teachers access to theoretical knowledge and practical experiences supporting the vision and principles for universal education and for the appreciation, care, and respect needed to ensure fair opportunities regardless of the prospective educator's individual identities, including identities based on ethnicity, religion, national origin, age, gender identity, sexual orientation, marital status, and visible or invisible disability status.

R 390.1115 Examination scores.

Rule 15. For the purpose of initial certification or endorsement, passing scores on the examinations as required by section 1531 of the act, MCL 380.1531, are valid for 5 years after the date of testing.

R 390.1117 Certificate issuance, restrictions, and expiration.

Rule 17. (1) A Michigan teaching certificate has certain restrictions as to appropriate placement. The applicant or holder and the employer shall be familiar with these restrictions.

(2) Subject to subrules (3) and (4) of this rule, a Michigan teaching certificate expires 5 years after June 30 of the calendar year of issuance.

(3) A temporary teaching certificate expires 1 year after the date of issuance.

(4) Continuing, life, and permanent certificates and full vocational authorizations do not expire.

(5) The superintendent of public instruction shall not issue a Michigan teaching certificate until after payment of the applicable evaluation fee as required by section 1538 of the act, MCL 380.1538.

R 390.1118 Nullification of teaching certificate or endorsement.

Rule 18. The holder of a Michigan teaching certificate may request that the superintendent of public instruction nullify the teaching certificate or certificate endorsement or endorsements under section 1532 of the act, MCL 380.1532, by submitting a request to the department in the manner established by the department.

R 390.1119 Members of the armed forces and uniformed services, veterans, and dependents.

Rule 19. (1) As used in this rule:

(a) "Armed forces" means the United States Army, Air Force, Navy, Marine Corps, Space Force, Coast Guard, or other military force designated by the United States Congress as a part of the Armed Forces of the United States, including the reserve components.

(b) "Dependent" means a spouse, surviving spouse, child who is less than 26 years of age, or surviving child who is less than 26 years of age.

(c) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

(2) If 1 of the following individuals serves a period of active duty during the time period of a certificate issued under these rules, the individual may file a request with the department that the superintendent of

public instruction determine that all or part of the period of active duty satisfies some or all of the requirements for renewal of the certificate:

- (a) A member of the armed forces or uniformed services.
- (b) A veteran.

(3) The following individuals may file a request with the department for refund of an evaluation fee paid during the immediately preceding 1-year period under section 1538 of the act, MCL 380.1538, and for a voucher in the amount of the cost of an examination under section 1531 of the act, MCL 380.1531, to be presented at the time of registration for the examination:

- (a) A member of the armed forces or uniformed services.
- (b) A veteran.
- (c) A dependent of a member of the armed forces or of the uniformed services.
- (d) A dependent of a veteran.

PART 2. STANDARD TEACHING CERTIFICATE AND INTERIM TEACHING CERTIFICATE

R 390.1122a Interim teaching certificate.

Rule 22a. (1) The superintendent of public instruction may issue an interim teaching certificate with an appropriate endorsement or endorsements to an applicant who pays the applicable evaluation fee and meets all of the requirements under section 1531i(2) of the act, MCL 380.1531i.

(2) Subject to subrule (3) of this rule, an interim teaching certificate expires 5 years after June 30 of the calendar year of issuance.

(3) An interim teaching certificate expires if the candidate exits the program before completion. The superintendent of public instruction may reinstate an interim teaching certificate that expired under this subrule on request by the alternative route program provider if the candidate returns to the same program. On reinstatement under this subrule, an interim teaching certificate is valid for the amount of time that was left in the validity period under subrule (2) of this rule at the time of expiration under this subrule.

(4) On request by an alternative route program provider, the superintendent of public instruction may issue an endorsement on a valid interim teaching certificate held by an individual who meets the requirements of section 1531i of the act, MCL 380.1531i, in the discipline area and grade range of the alternative additional endorsement program in which the individual is participating.

(5) The superintendent of public instruction may issue an interim teaching certificate to an applicant who holds a Michigan teaching certificate other than an interim teaching certificate and is seeking an additional endorsement through an alternative route program under section 1531i of the act, MCL 380.1531i. The individual may hold the Michigan teaching certificate and the interim teaching certificate at the same time.

(6) An interim teaching certificate is nonrenewable.

R 390.1123 Standard teaching certificate; preparation program requirements.

Rule 23. (1) Subject to R 390.1161, the superintendent of public instruction may issue a standard teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received the recommendation of an educator preparation institution under R 390.1125 based on the applicant's satisfactory completion of an approved program in educator preparation that includes all of the following:

(a) At least 20 semester credit hours of instruction in theoretical and practical knowledge reflecting state board approved standards and related proficiencies required of entry level teachers.

(b) Supervised directed teaching. All of the following apply:

(i) Supervised directed teaching must engage applicants in practical experiences that reflect and support the standards and related proficiencies for entry level teachers.

(ii) Supervised directed teaching must engage a candidate in a minimum of 300 hours of student contact as defined by the department.

(iii) Supervised directed teaching must be in the grade range for which the superintendent of public instruction is to issue an endorsement.

(iv) Based on regular observation by the employer and review by the educator preparation institution, the educator preparation institution may substitute 3 years of teaching in an appropriate placement for the supervised directed teaching required by this subdivision for a standard teaching certificate or endorsement. For purposes of this paragraph, R 390.1103(2) and (3) apply.

(c) An approved course of study in a certificate endorsement area that includes preparation in discipline area knowledge, pedagogy, and clinical experiences appropriate to the grade level the applicant proposes to teach. All of the following apply:

(i) The approved course of study must include early and ongoing structured clinical experiences with diverse student populations and in diverse instructional settings.

(ii) The superintendent of public instruction may issue a standard teaching certificate with an elementary level endorsement on satisfaction of both of the following:

(A) Completion of an approved course of study in base knowledge appropriate for elementary education, methods coursework, and appropriate clinical experiences.

(B) A minimum of 6 semester credit hours in the teaching of literacy with appropriate clinical experiences.

(iii) The superintendent of public instruction may issue a standard teaching certificate with a secondary or PK-12 level endorsement on satisfaction of both of the following:

(A) Completion of an approved course of study in a discipline area appropriate to the secondary grade level, methods coursework appropriate to that area, and appropriate clinical experiences.

(B) A minimum of 3 semester credit hours in literacy instruction appropriate to the discipline area and appropriate clinical experiences.

(2) Subject to R 390.1161, the superintendent of public instruction may issue a standard teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received the recommendation of an alternative route program provider under R 390.1125 based on the applicant's satisfactory completion of a program offered by the alternative route program provider that includes a minimum of 12 weeks of teaching appropriate to each endorsement recommended by the alternative route program provider.

R 390.1125 Degree; recommendations; rules as minimum requirements.

Rule 25. (1) An applicant for a standard teaching certificate shall possess a bachelor's degree and have the recommendation of an educator preparation provider. A Michigan educator preparation institution may accept a degree from an accredited institution if the accepting Michigan educator preparation institution determines that the degree is equivalent to that awarded by that institution.

(2) An educator preparation provider that recommends candidates for teaching certificates shall establish selection criteria that ensure that it admits only qualified candidates to its approved educator preparation programs and recommends only qualified candidates for certification or additional certificate endorsements.

(3) An educator preparation provider shall not recommend candidates for certification or endorsement in discipline areas in which it does not have approved programs.

(4) An educator preparation provider shall make recommendations concerning all certificates for which the superintendent of public instruction approves the educator preparation provider. An educator

preparation provider shall not make a recommendation concerning a certificate before satisfaction of both of the following:

(a) The applicant's satisfactory completion of an approved program of the educator preparation provider.

(b) The applicant's passing of appropriate available examinations as required by section 1531 of the act, MCL 380.1531.

(5) The requirements in these rules are minimum requirements. An educator preparation provider may have additional requirements that exceed the requirements of these rules.

(6) The superintendent of public instruction may determine the criteria for evaluating certification of candidates prepared by out-of-state providers in accordance with the law of this state, including R 390.1130.

R 390.1129 Additional endorsements.

Rule 29. (1) Subject to R 390.1161, the superintendent of public instruction may issue an additional endorsement on a valid or expired Michigan teaching certificate, except an interim teaching certificate, to an applicant who has paid the applicable evaluation fee if both of the following are satisfied:

(a) The department has received the recommendation of an educator preparation institution under R 390.1125 based on the applicant's satisfactory completion of an approved additional endorsement program that included preparation in theoretical and practical knowledge, discipline area knowledge, pedagogy, and clinical experience, as defined in state board approved standards. If, for a particular additional endorsement program, state board approved standards do not specify pedagogy and clinical experience, the additional endorsement program must require pedagogy and clinical experience.

(b) The applicant passed the appropriate available examination as required by section 1531 of the act, MCL 380.1531.

(2) With the approval of a Michigan educator preparation institution, an individual who is already certified and who wishes to qualify for an additional endorsement may combine coursework to meet preparation standards in the discipline area with already earned semester credit hours to bring the total up to the minimum number of required credits as specified in this rule. When the candidate has completed the required credits and passed the appropriate available examinations as required by section 1531 of the act, MCL 380.1531, the educator preparation institution shall recommend the candidate for the additional endorsement.

(3) Subject to R 390.1161, the superintendent of public instruction may issue an additional endorsement on a Michigan teaching certificate, except an interim teaching certificate, to an applicant who has paid the applicable evaluation fee if both of the following are satisfied:

(a) The department has received the recommendation of an alternative route program provider based on the applicant's satisfactory completion of a program offered by the alternative route program provider that included both of the following:

(i) Satisfaction of all requirements in section 1531i of the act, MCL 380.1531i.

(ii) A minimum of 12 weeks of teaching appropriate to each endorsement recommended by the alternative route program provider.

(b) The applicant passed the appropriate available examination as required by section 1531 of the act, MCL 380.1531.

R 390.1129b Renewal of standard teaching certificate; progression to professional ..teaching certificate.

Rule 29b. (1) Subject to subrules (4) and (5) of this rule and subject to section 1233(6) to (8) of the act, MCL 380.1233, if an applicant who holds a standard teaching certificate does not qualify for the professional teaching certificate, the superintendent of public instruction may issue to the applicant a 5-year renewal of the standard teaching certificate if the applicant has paid the applicable evaluation fee

and the department has received documentation that, since the issue date of the most recent certificate, the applicant completed a combination of education-related professional learning hours totaling 150 hours.

(2) Additional hours beyond the 150 hours required under subrule (1) of this rule that a certificate holder earns during the time period of a certificate do not apply toward subsequent renewals.

(3) The superintendent of public instruction may issue additional 5-year renewals of a standard teaching certificate to an applicant under subrule (1) of this rule on or after January 1 of the year in which the certificate expires.

(4) Subject to section 1233(6) to (8) of the act, MCL 380.1233, the superintendent of public instruction may issue one 5-year renewal of a standard teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation that the applicant earned at any time an education-related master's or higher degree.

(5) Subject to section 1233(6) to (8) of the act, MCL 380.1233, the superintendent of public instruction may issue one 5-year renewal of a standard teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation that the applicant holds a valid out-of-state teaching certificate.

(6) An individual who holds a valid or expired standard teaching certificate may progress to the professional teaching certificate at any time after satisfaction of the requirements of R 390.1133.

R 390.1130 Out-of-state teaching certificate and program; temporary teaching certificate.

Rule 30. (1) Subject to subrule (5) of this rule and R 390.1204, the superintendent of public instruction may issue a standard teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation of both of the following:

(a) One of the following:

(i) An out-of-state certifying authority issued a standard level, or higher, teaching certificate to the applicant at any time based on satisfaction of requirements for certification the superintendent of public instruction considers equivalent to those in effect in this state.

(ii) The applicant satisfactorily completed an out-of-state program the requirements of which the superintendent of public instruction considers equivalent to those in effect in this state that lead to teacher certification.

(b) The applicant passed the appropriate available examinations as required by section 1531 of the act, MCL 380.1531.

(2) Subject to subrule (5) of this rule and R 390.1204, the superintendent of public instruction may issue a professional teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation of all of the following:

(a) An out-of-state certifying authority issued a standard level, or higher, teaching certificate to the applicant at any time based on satisfaction of requirements for certification the superintendent of public instruction considers equivalent to those in effect in this state.

(b) The applicant satisfies the requirements of R 390.1123(1)(c)(ii)(B) or (iii)(B).

(c) The applicant satisfies all requirements of section 1531(6) of the act, MCL 380.1531.

(3) Subject to subrule (5) of this rule, the superintendent of public instruction may issue an endorsement on a valid or expired Michigan teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation of both of the following:

(a) One of the following:

(i) The applicant holds a valid or expired out-of-state teaching certificate with the endorsement or its equivalent.

(ii) The applicant completed an out-of-state program with requirements the superintendent of public instruction considers equivalent to those in effect in this state that lead to the endorsement.

(b) The applicant passed appropriate available examinations as required by section 1531 of the act, MCL 380.1531.

(4) Subject to subrule (5) of this rule and R 390.1204, the superintendent of public instruction may issue a nonrenewable 1-year temporary teaching certificate to an applicant who has paid the applicable evaluation fee and satisfies the requirements of section 1531(13) of the act, MCL 380.1531.

(5) An application for a Michigan teaching certificate or endorsement based on a foreign teaching credential must include documentation of credential review by a current member in good standing of an international credential review association approved by the department.

(6) The superintendent of public instruction may enter into a written reciprocity agreement with an out-of-state certificating authority for the mutual acceptance of 1 or more types of teaching certificates.

PART 3. PROFESSIONAL TEACHING CERTIFICATE

R 390.1133. Professional teaching certificate.

Rule 33. (1) The superintendent of public instruction may issue a professional teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation of all of the following:

(a) The applicant successfully completed 3 full years of classroom teaching as described in R 390.1103.

(b) The applicant completed the reading requirements of section 1531(3) of the act, MCL 380.1531.

(c) The applicant completed a minimum of 6 satisfactory college semester credit hours of literacy instruction for a certificate with an elementary level endorsement or a minimum of 3 satisfactory college semester credit hours of literacy instruction as appropriate to the discipline area for a certificate with another endorsement. The applicant may have completed this course credit at any time before applying for the professional teaching certificate.

(d) Subject to section 1233(6) to (8) of the act, MCL 380.1233, since the issue date of the most recent standard teaching certificate, the applicant completed a combination of education-related professional learning hours totaling 150 hours.

(2) An individual who meets the requirements of this rule may apply for a professional teaching certificate at any time.

R 390.1135 Renewal of professional teaching certificate.

Rule 35. (1) Subject to subrule (3) of this rule and subject to section 1233(6) to (8) of the act, MCL 380.1233, the superintendent of public instruction may renew a professional teaching certificate that has expired or will expire within the calendar year of application if the applicant has paid the applicable evaluation fee and the department has received documentation that, since the issue date of the most recent teaching certificate, the applicant completed a combination of education-related professional learning hours totaling 150 hours.

(2) Additional hours beyond the 150 hours required under subrule (1) of this rule that a certificate holder earns during the time period of a certificate do not apply toward subsequent renewals.

(3) Subject to section 1233(6) to (8) of the act, MCL 380.1233, the superintendent of public instruction may issue one 5-year renewal of a valid or expired Michigan professional teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation that the applicant holds a valid out-of-state teaching certificate.

R 390.1137 Advanced professional teaching certificate.

Rule 37. The superintendent of public instruction may issue an advanced professional teaching certificate at any time to an applicant who has paid the applicable evaluation fee if the department has received documentation of both of the following:

- (a) The applicant holds a professional teaching certificate or a life, continuing, or permanent certificate.
- (b) One of the following:
 - (i) The applicant holds valid certification by the National Board for Professional Teaching Standards or its successor agency.
 - (ii) The applicant completed a teacher leader training or preparation program approved by the superintendent of public instruction, with such completion being indicated on the certificate required in subdivision (a) of this rule.
 - (iii) The applicant completed a successful term as Michigan teacher of the year as determined by the superintendent of public instruction.
 - (iv) The applicant completed a specialist preparation program approved by the superintendent of public instruction, with such completion being indicated on the certificate required in subdivision (a) of this rule.

R 390.1138 Advanced professional teaching certificate; renewal.

Rule 38. (1) The superintendent of public instruction may renew an advanced professional teaching certificate that has expired or expires within the calendar year of renewal application if the applicant has paid the applicable evaluation fee and the department has received documentation that, since the issue date of the most recent advanced professional teaching certificate, subject to section 1233(6) to (8) of the act, MCL 380.1233, the applicant completed a combination of education-related professional learning hours totaling 150 hours.

(2) Additional hours beyond the 150 hours required under subrule (1) of this rule that a certificate holder earns during the time period of a certificate do not apply toward subsequent renewals.

PART 4. SUBSTITUTE PERMITS

R 390.1141 Substitute permits; general provisions.

Rule 41. (1) On approval of an application and payment of the applicable evaluation fee, the superintendent of public instruction may issue to a school district or nonpublic school a substitute permit or renewal of a substitute permit to assign an individual who meets the requirements of statute and this part.

(2) Subject to subrule (9) of this rule, before assigning an individual who cannot be appropriately placed in the assignment, a school district or nonpublic school shall apply to the department for a substitute permit or renewal of a substitute permit under this part, pay the applicable evaluation fee, verify satisfaction of the requirements of statute and this part, and hold the substitute permit or renewal for placement of the individual. Subject to the act, the school district or nonpublic school shall verify that an individual with a valid certificate under which appropriate placement is possible is not available for the assignment in accordance with the established hiring practice of the school district or nonpublic school.

(3) An individual shall not apply for a substitute permit or renewal of a substitute permit on behalf of a school district or nonpublic school for the individual's own placement unless the board of the school district or the governing body of the nonpublic school approves the application in the manner directed by the department.

(4) A substitute permit issued under this part is valid from the issue date to August 31 immediately following the academic year listed on the permit.

(5) Subject to subrule (7) of this rule, the superintendent of public instruction may revoke, refuse to grant, refuse to renew, or refuse to extend a substitute permit under this part for any of the following reasons:

(a) Fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of the substitute permit.

(b) Conviction of the individual for a crime described in section 1535a of the act, MCL 380.1535a.

(c) Failure to meet the requirements for the substitute permit.

(d) Action taken by an out-of-state certificating authority against an educator credential issued at any time to the individual by that authority.

(6) The superintendent of public instruction may rescind a substitute permit at the request of the school district or nonpublic school.

(7) The superintendent of public instruction shall revoke, refuse to grant, refuse to renew, or refuse to extend a substitute permit if the criminal history of the individual for whom a school district or nonpublic school requests the permit includes conviction of a listed offense.

(8) Subject to subrule (9) of this rule, a school district employing an individual who is not appropriately placed under a valid certificate, valid substitute permit, valid authorization, or valid approval issued under rules promulgated by the department is subject to section 163 of the state school aid act of 1979, 1979 PA 94, MCL 388.1763.

(9) If an individual holds a valid Michigan teaching certificate, a school district or nonpublic school may place the individual outside the grade levels and discipline areas listed on the certificate for not more than 90 consecutive calendar days without obtaining a substitute permit.

R 390.1142 Daily substitute permit.

Rule 42. (1) The superintendent of public instruction may issue a daily substitute permit to a school district or nonpublic school for an individual who has satisfactorily completed the credit requirement of section 1233(5) of the act, MCL 380.1233.

(2) A daily substitute permit is valid for teaching on a substitute or intermittent basis when the certificated teacher regularly assigned to the classroom is temporarily absent. A daily substitute permit is valid for no more than 90 consecutive calendar days in the same assignment.

(3) A daily substitute permit is not renewable.

(4) On application by a school district or nonpublic school, the superintendent of public instruction may issue to the school district or nonpublic school an extension of a daily substitute permit as follows if the individual does not qualify for transition to a full-year substitute permit:

(a) The superintendent of public instruction may issue an extension of the daily substitute permit for 1 additional 90-consecutive-calendar-day period if the school district or nonpublic school verifies both of the following:

(i) There was a formal satisfactory observation of the individual by an administrator or designee during the period of the daily substitute permit.

(ii) The school district or nonpublic school assigned a mentor to the individual during the period of the daily substitute permit.

(b) In addition to an extension granted under subdivision (a) of this subrule, the superintendent of public instruction may, in the exercise of discretion, grant the application of a school district or

nonpublic school for 1 emergency extension of the daily substitute permit for another 90-consecutive-calendar-day period.

R 390.1143 Full-year basic substitute permit.

Rule 43. (1) The superintendent of public instruction may issue a full-year basic substitute permit under this rule to a school district or nonpublic school for the assignment of an individual, including but not limited to the assignment of an individual under section 505, 1233b, 1233c, or 1531f of the act, MCL 380.505, 380.1233b, 380.1233c, and 380.1531f.

(2) Subject to the act, all of the following apply to a full-year basic substitute permit:

(a) The individual for whom the school district or nonpublic school requests the full-year basic substitute permit has satisfactorily completed the credit requirement of section 1233(5) of the act, MCL 380.1233.

(b) The superintendent of public instruction shall not issue a full-year basic substitute permit to a school district or nonpublic school for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, unless the department has received documentation of 1 of the following:

(i) The individual completed an academic major or minor in the discipline area.

(ii) The individual earned 20 semester credit hours in the discipline area.

(iii) The individual obtained a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.

(c) The school district or nonpublic school shall assign a mentor to the individual.

(d) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.

(3) The superintendent of public instruction may renew a full-year basic substitute permit not more than 3 times to place the same individual in the permitted assignment on application by the school district or nonpublic school, and both of the following apply:

(a) For the first renewal, all of the following apply:

(i) At the time of the application for renewal by the school district or nonpublic school, the individual is enrolled in an educator preparation program that leads to either a teaching certificate or an additional endorsement on a teaching certificate.

(ii) The school district or nonpublic school shall assign a mentor to the individual.

(iii) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.

(b) For each subsequent renewal, all of the following apply:

(i) At the time of the application for renewal by the school district or nonpublic school, the individual demonstrates progress toward completion of an educator preparation program, as determined by the superintendent of public instruction, since the most recent renewal.

(ii) The school district or nonpublic school shall assign a mentor to the individual.

(iii) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.

R 390.1144 Full-year shortage substitute permit.

Rule 44. (1) The superintendent of public instruction may issue a full-year shortage substitute permit under this rule to a school district or nonpublic school for an individual who cannot be appropriately placed under a valid certificate or credential.

(2) Subject to the act, all of the following apply to a full-year shortage substitute permit:

(a) A school district or nonpublic school may apply for a full-year shortage substitute permit for assignment of an individual who holds a valid professional, advanced professional, continuing, life, or

permanent teaching certificate but who does not hold the appropriate endorsement for the assignment, including grade band endorsement.

(b) The superintendent of public instruction shall not issue a full-year shortage substitute permit to a school district or nonpublic school for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, unless the department has received documentation of 1 of the following:

(i) The individual completed an academic major or minor in the discipline area.

(ii) The individual earned 20 semester credit hours in the discipline area.

(iii) The individual obtained a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.

(c) The assignment does not exceed 1/2 of a full-time equivalency teaching position.

(3) The superintendent of public instruction may renew a full-year shortage substitute permit not more than 3 times to place the same individual in the permitted assignment on application by the school district or nonpublic school, and both of the following apply:

(a) During the year of the most recent full-year shortage substitute permit or renewal, the individual had 1 formal observation leading to a comprehensive evaluation rating of effective or highly effective under section 1249 of the act, MCL 380.1249.

(b) The assignment does not exceed 1/2 of a full-time equivalency teaching position.

R 390.1145 Full-year expert substitute permit.

Rule 45. (1) The superintendent of public instruction may issue a full-year expert substitute permit under this rule to a school district or nonpublic school for an individual who cannot be appropriately placed under a valid certificate or credential, and all of the following apply:

(a) The assignment for which the school district or nonpublic school requests a full-year expert substitute permit must not exceed 1/2 of a full-time equivalency teaching position.

(b) The individual for whom the school district or nonpublic school requests a full-year expert substitute permit shall have documented expertise in the area of the assignment or a similar area and at least 5 years of successful and documented work experience in the area of the assignment or a similar area. The work experience requirement does not apply to an individual assigned to teach a world language.

(c) The school district or nonpublic school shall assign a mentor to the individual.

(d) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.

(e) Subject to subdivision (f) of this subrule, the superintendent of public instruction shall not issue a full-year expert substitute permit to a school district or nonpublic school for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, unless the department has received documentation of both of the following:

(i) The individual holds a bachelor's degree, or higher, from an accredited college or university.

(ii) One of the following:

(A) The individual completed an academic major or minor in the discipline area.

(B) The individual earned 20 semester credit hours in the discipline area.

(C) The individual earned a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.

(f) Subject to section 1233(5) of the act, MCL 380.1233, the superintendent of public instruction shall not issue a full-year expert substitute permit to a school district or nonpublic school for an assignment to teach a world language unless the department has received documentation of all of the following:

(i) The individual holds a bachelor's degree, or higher, or equivalent, from an accredited college or university, or equivalent.

(ii) The individual demonstrates oral language proficiency by passing an oral examination, if available, approved by the superintendent of public instruction.

(iii) The individual demonstrates written language proficiency by passing a written examination, if available, approved by the superintendent of public instruction.

(g) The superintendent of public instruction shall not issue a full-year expert substitute permit to a school district or nonpublic school for an assignment to teach in a non-core discipline area unless the department has received documentation of 1 of the following:

(i) The individual satisfactorily completed the credit requirement of section 1233(5) of the act, MCL 380.1233, and holds a valid business or industry license or credential in the specific discipline area of the assignment, if one is available.

(ii) The individual holds a bachelor's or higher degree from an accredited college or university.

(2) The superintendent of public instruction may renew a full-year expert substitute permit on annual application by a school district or nonpublic school. All of the following apply:

(a) The school district or nonpublic school shall assign a mentor to the individual.

(b) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.

(c) If the assignment is in a non-core discipline area and the individual qualified for an initial full-year expert substitute permit under only subrule (1)(g)(i) of this rule, the applicant shall verify that the business or industry license or credential, if available, is valid at the time of the application for renewal or that the individual holds a bachelor's degree, or higher, at the time of the application for renewal.

PART 5. EDUCATOR PREPARATION PROVIDERS AND PROGRAMS

R 390.1151 Approval of educator preparation providers and programs.

Rule 51. (1) The state board approves standards for reviewing prospective educator preparation institutions to prepare and recommend candidates for initial certification. The superintendent of public instruction shall make recommendations to the state board for the initial approval of educator preparation institutions based on state board approved standards. This subrule does not apply to the approval of alternative route program providers, which are approved under section 1531i of the act, MCL 380.1531i.

(2) The superintendent of public instruction shall approve programs offered by educator preparation institutions in accordance with state board approved standards for educator preparation. The superintendent of public instruction shall approve alternative route programs in accordance with section 1531i of the act, MCL 380.1531i.

(3) Continued approval of an educator preparation provider by the superintendent of public instruction requires that the educator preparation provider be accredited or that a state review process recommend approval by the superintendent of public instruction.

(4) An educator preparation provider shall submit data required by the department for a determination of its annual educator preparation provider performance score as approved by the superintendent of public instruction.

(5) On request of the superintendent of public instruction, an educator preparation provider shall present a report of its educator preparation curricula and program offerings. The programs of an educator preparation provider are subject to periodic review by the superintendent of public instruction.

R 390.1152 Award or waiver of credit hours based on previous coursework or experience.

Rule 52. (1) An educator preparation provider may award or waive semester credit hours based on previously completed coursework or previous life learning experiences in fulfillment of the requirements of the provider's approved programs for certification or certificate endorsements.

(2) This rule does not allow an educator preparation provider to waive statutory requirements.

R 390.1153 Educator preparation institution experimental programs.

Rule 53. The superintendent of public instruction, at the request of an educator preparation institution, may waive, for a specific time, particular requirements of this code for an experimental educator preparation program. The request must provide sufficient detail to allow assessment of the proposed experimental program and comparison with the educator preparation institution's approved program. If the superintendent of public instruction grants the request, the educator preparation institution shall objectively evaluate and report to the department on the effectiveness of the experiment for the time period of the waiver. The superintendent of public instruction may renew the waiver if evaluation data provide evidence of value.

PART 6. CTE ENDORSEMENTS AND ANNUAL AUTHORIZATION

R 390.1161 CTE endorsements.

Rule 61. (1) Subject to R 390.1167, the superintendent of public instruction may issue a CTE endorsement on a standard, professional, or advanced professional teaching certificate if the applicant has paid the applicable evaluation fee and the department has received documentation of both of the following:

(a) An institution approved for the preparation of CTE teachers recommends the applicant based on the applicant's satisfactory completion of all program requirements, including a minimum of 6 semester credit hours or equivalent of CTE coursework.

(b) The applicant has 2 years of recent and relevant experience, as defined by the superintendent of public instruction, in the occupational area of the endorsement.

(2) Appropriate placement of an individual holding a teaching certificate with a CTE endorsement is in the specified occupational area in an approved CTE program, in an industrial technology education program, grades 6 to 12, or in career pathway courses, grades 6 to 12.

R 390.1163 Rescinded.

R 390.1164a Rescinded.

R 390.1165 Annual authorization.

Rule 65. (1) Subject to R 390.1167, on payment of the applicable evaluation fee and approval of an application, the superintendent of public instruction may issue to a school district or nonpublic school an annual authorization and renewals to assign an individual who cannot be appropriately placed under a valid certificate or other credential in industrial technology education, as defined by the superintendent of public instruction, or in a CTE program.

(2) All of the following apply to an annual authorization or renewal:

(a) Before assigning an individual who cannot be appropriately placed in industrial technology education, as defined by the superintendent of public instruction, or in a CTE program, a school district or nonpublic school shall apply to the department for an annual authorization or renewal under this part, pay the applicable evaluation fee, satisfy all requirements of this rule, and hold the annual authorization or renewal.

(b) The superintendent of public instruction shall not issue an annual authorization or renewal under this rule unless the department has received verification of satisfaction of the requirements of section 1233b(2)(b) and (5)(b) of the act, MCL 380.1233b.

(c) Appropriate placement of an individual for whom a school district or nonpublic school holds an annual authorization or renewal is in the occupational education field specified on the authorization.

(d) The school district or nonpublic school shall assign a mentor to an individual during every year of assignment of the individual under an annual authorization or renewal.

(e) An individual and the individual’s supervisor shall collaboratively develop and implement an individualized development plan during every year of placement of the individual under an annual authorization or renewal.

(f) Unless the superintendent of public instruction grants the request of a school district or nonpublic school for permission under section 1233b(6) of the act, MCL 380.1233b, to place an individual for more than 10 years under this rule, the school district or nonpublic school may apply no more than 9 times for renewal of an annual authorization allowing placement of the individual under this rule. A request for permission to place an individual for more than 10 years under this rule must be in the form and manner directed by the superintendent of public instruction.

(3) An annual authorization or renewal is valid from the issue date to August 31 immediately following the end of the academic year listed on the authorization or renewal.

(4) Subject to subrule (6) of this rule, the superintendent of public instruction may refuse to grant or may rescind or revoke an annual authorization or renewal for any of the following reasons:

(a) Fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of the annual authorization or renewal.

(b) Conviction of the individual for a crime described in section 1535a of the act, MCL 380.1535a.

(c) Failure to meet the requirements for the annual authorization or renewal.

(d) Action taken by an out-of-state certificating authority against an educator credential issued at any time to the individual by that authority.

(5) The superintendent of public instruction may rescind an annual authorization or renewal at the request of the school district or nonpublic school.

(6) The superintendent of public instruction shall refuse to grant or shall revoke an annual authorization or renewal if the criminal history of the individual for whom a school district or nonpublic school requests the authorization or renewal includes conviction of a listed offense.

(7) A school district employing an individual who is not appropriately placed under a valid certificate, valid substitute permit, valid authorization, or valid approval issued under rules promulgated by the department is subject to section 163 of the state school aid act of 1979, 1979 PA 94, MCL 388.1763.

R 390.1167 State or federal license.

Rule 67. If a school district or nonpublic school assigns instructional responsibility to an individual in a field for which state or federal law requires a license, the individual shall hold the appropriate license before the superintendent of public instruction may issue a CTE endorsement to the individual under this code or before the superintendent of public instruction may issue an annual authorization or renewal for the individual under this code.

PART 10. SUSPENSION, REVOCATION, DENIAL, RESCISSION, AND REINSTATEMENT OF CREDENTIALS

R 390.1201 Suspension of, revocation of, imposition of conditions on, or denial of renewal of a credential.

Rule 101. The superintendent of public instruction may suspend, revoke, impose reasonable conditions on, or deny renewal of a credential issued to an individual by the superintendent of public instruction for either of the following reasons:

(a) The holder of the credential engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of a credential issued to the individual by the superintendent of public instruction.

(b) The holder of the credential was convicted of a crime described in section 1535a or 1539b of the act, MCL 380.1535a and 380.1539b.

R 390.1203 Notice of basis for action; notice of right to hearing; informal conference; referral for hearing.

Rule 103. Subject to summary suspension under section 1535a(2) or 1539b(2) of the act, MCL 380.1535a and 380.1539b, all of the following apply to action taken under R 390.1201:

(a) Not more than 7 calendar days after receiving notice that the criminal history of the holder of a credential issued by the superintendent of public instruction includes conviction of a crime described in section 1535a or 1539b of the act, MCL 380.1535a and 380.1539b, the department shall request from the court a certified copy of the judgment of conviction and sentence or other document regarding disposition of the case.

(b) On receipt of notice of a basis for action under R 390.1201(a) or not more than 10 business days after receiving documentation of a conviction under subdivision (a) of this rule, the department shall notify the holder of the credential in writing of all of the following:

(i) Because of the conviction or because of the identified reason under R 390.1201(a), the superintendent of public instruction may suspend, revoke, impose conditions on, or deny renewal of the credential.

(ii) The holder has the right to a hearing.

(iii) If the holder does not request a hearing within 15 business days after receipt of notice of the right to a hearing, the superintendent of public instruction shall suspend or deny renewal of the credential.

(iv) If the holder requests a hearing within 15 business days after receipt of the notice, there must be an informal conference.

(c) The notice under subdivision (b) of this rule must include a copy of applicable statutes and rules.

(d) Not more than 15 business days after receipt of the notice under subdivision (b) of this rule, the holder of the credential shall request a hearing. If the holder does not timely request a hearing, the superintendent of public instruction shall suspend or deny renewal of the credential.

(e) If the holder of the credential timely requests a hearing under subdivision (d) of this rule, the department shall immediately notify the holder of the date and time of an informal conference. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department may recommend that the superintendent of public instruction take no action against or grant renewal of the credential or that there be a settlement or conditional agreement. The superintendent of public instruction shall approve, modify, or deny the recommendation of the department.

(g) If the superintendent of public instruction or designee decides to refer the case to the Michigan office of administrative hearings and rules for hearing following the informal conference, the department shall make the referral.

R 390.1204 Denial or rescission of credential.

Rule 104. (1) The superintendent of public instruction may deny an individual's application for a credential for any of the following reasons:

(a) The applicant engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of a credential issued to the individual by the superintendent of public instruction.

(b) The applicant was convicted of a crime described in section 1535a or 1539b of the act, MCL 380.1535a and 380.1539b.

(c) The applicant does not meet the requirements for the credential.

(d) An out-of-state certificating authority took action against an educator credential issued at any time to the applicant by that authority.

(2) After notice and an opportunity to show compliance, the superintendent of public instruction may rescind a credential issued to an individual by the superintendent of public instruction for failure of the individual to meet the requirements for the credential.

R 390.1205 Investigation.

Rule 105. An authorized representative of the department shall perform the investigatory and prosecutorial functions regarding cases pertaining to credentials issued by the superintendent of public instruction. On receipt of information that may serve as the basis for suspension, revocation, denial, refusal to renew, or rescission of a credential, the authorized representative shall initiate an investigation of that information.

R 390.1208 Reinstatement of suspended or revoked credential.

Rule 108. (1) Unless the superintendent of public instruction suspended or revoked an individual's credential based on conviction of a listed offense, the individual may file with the department a request for reinstatement of the credential that was suspended or revoked under these rules.

(2) If the superintendent suspended or revoked the credential under R 390.1201(a), all of the following apply:

(a) The individual shall provide to the department documentation and other information that demonstrates that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the credential will not adversely affect the health, safety, and welfare of pupils.

(b) If the superintendent of public instruction suspended or revoked the credential pursuant to an agreement between the department and the individual, the individual shall provide to the department documentation and other information that establishes satisfaction of the conditions set forth in the agreement.

(c) Not more than 30 calendar days after receipt of the request for reinstatement, the department shall notify the individual in writing of all of the following:

(i) The individual has the right to a hearing.

(ii) If the individual does not request a hearing within 30 calendar days after receipt of notice of the right to a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the credential.

(iii) If the individual requests a hearing within 30 calendar days after receipt of the notice, there must be an informal conference on the request for reinstatement.

(d) Not more than 30 calendar days after receipt of the notice described in subdivision (c) of this subrule, the individual shall request a hearing. If the individual does not timely request a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the credential.

(e) If the individual timely requests a hearing, the department shall immediately notify the individual of the date and time of an informal conference on the request for reinstatement. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department shall recommend that the superintendent of public instruction reinstate or deny reinstatement of the credential. Based on consideration of the recommendation and the documentation and other information presented, the superintendent of public instruction shall reinstate or deny reinstatement of the credential. The superintendent of public instruction shall not reinstate the credential unless the superintendent of public instruction finds that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement will not adversely affect the health, safety, and welfare of pupils.

(g) If the superintendent of public instruction does not reinstate the credential under subdivision (f) of this subrule, the department shall refer the request to the Michigan office of administrative hearings and rules for hearing.

(3) If the superintendent of public instruction suspended or revoked the credential under R 390.1201(b), not more than 30 calendar days after receipt of a request for a hearing on reinstatement, the department shall refer the request to the Michigan office of administrative hearings and rules under section 1535a(5) or section 1539b(5) of the act, MCL 380.1535a and 380.1539b.

R 390.1211 Removal of suspension or revocation of credential after conviction set aside, expunged, or dismissed.

Rule 111. (1) The superintendent of public instruction shall remove the suspension or revocation of a credential if all of the following requirements are met:

(a) The suspension or revocation was based solely on a criminal conviction under section 1535a or section 1539b of the act, MCL 380.1535a and 380.1539b.

(b) The holder of the credential files with the department a request for removal of the suspension or removal that includes documentation satisfactory to the department that the conviction was set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged or dismissed by a court of competent jurisdiction.

(c) If the conviction was set aside under section 1g of 1965 PA 213, MCL 780.621g, and the judgment of sentence included an order of restitution, the request for removal includes verification that the individual has fully paid court-ordered restitution or has made a good faith effort to do so.

(2) Removal of a suspension or revocation under this rule does not relieve the holder of the credential of the responsibility to comply with all legal requirements for renewal of the credential.

(3) This rule does not preclude the superintendent of public instruction from taking action against a credential under R 390.1201, or from denying or rescinding a credential under R 390.1204, for a reason other than a conviction that was set aside or otherwise expunged or dismissed.

**OPINIONS OF THE
ATTORNEY GENERAL**

MCL 14.32 states in part:

“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(j) Attorney general opinions. ”

OPINIONS OF THE ATTORNEY GENERAL

STATE OF MICHIGAN

DANA NESSEL, ATTORNEY GENERAL

Michigan Election Law:	Effect of conciliation agreements upon statements regarding the filing and
Michigan Campaign Finance Act:	payment of campaign finance statements and fees in candidate affidavits of identity.

Candidates who have satisfied the terms of their conciliation agreements and have otherwise complied with their filing and fee requirements under the Michigan Campaign Finance Act, MCL 169.201, *et seq.*, may be certified to the ballot upon proper completion and filing of their affidavit of identity under § 558 of the Michigan Election Law, MCL 168.558.

Opinion No. 7326

Date:

The Honorable Jocelyn Benson
Michigan Secretary of State
430 W. Allegan Street
Richard H. Austin Building, 4th Fl.
Lansing, MI 48918

You have asked how the Michigan Campaign Finance Act (MCFA), MCL 169.201, *et seq.*, and the Michigan Election Law (Election Law), MCL 168.1, *et seq.*, should be interpreted with respect to candidates filing affidavits of identity who previously entered into conciliation agreements to resolve past campaign finance matters.

BACKGROUND

Under the Election Law, MCL 168.1 *et seq.*, persons seeking to run as candidates for various offices must file with the appropriate filing official an affidavit of identity (affidavit), along with the candidate’s nominating petitions or filing fee, as applicable:

When filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a federal, county, state, city, township, village, metropolitan district, or school district office in any election, a candidate shall file with the officer with whom the petitions, fee, or affidavit is filed 2 copies of an *affidavit of identity*. A candidate nominated for a federal, state, county, city, township, or village office at a political party convention or caucus shall file an *affidavit of identity* within 1 business day after being nominated with the secretary of state. . . . [MCL 168.558(1) (emphases added).]

Section 558(4), of the Election Law requires certain information be included on an affidavit, and also provides for penalties, including disqualification, if those requirements are not met:

An affidavit of identity *must include a signed and notarized statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate’s election under the [MCFA] have been filed or paid; and a statement that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both. . . . An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section, or the name of a candidate who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section.* [MCL 168.558(4) (emphases added).]¹

Based on this statutory provision, filing officials cannot certify to the ballot any candidate who completes an affidavit that incorrectly attests that all campaign finance

¹ A copy of the affidavit form and instructions can be found online on the Secretary of State’s website at [Affidavit of Identity and Receipt of Filing \(michigan.gov\)](https://www.michigan.gov/affidavit) (accessed June 11, 2024.)

statements, reports, or fees have been filed or paid (including for prior committees and candidacies) at the time the affidavit is filed. *Burton-Harris v Wayne Co Clerk*, 337 Mich App 215, 233 (2021) (holding a candidate whose affidavit contains a false statement cannot be certified). For this reason, filing officials advise candidates to be sure that all fees, statements, and reports have been paid and filed prior to submitting an affidavit.¹

The MCFA imposes various reporting requirements on candidates and their committees, and the failure to file reports, correct errors or omissions in reports, or pay late fees may result in a determination that a violation has occurred. See, e.g., MCL 169.233. The Secretary of State is authorized to informally resolve certain MCFA violations through conciliation agreements:

If the secretary of state determines that there may be reason to believe that a violation of this act occurred, the secretary of state shall endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion, and may enter into a conciliation agreement with the person involved. Unless violated, a conciliation agreement is a complete bar to any further civil or criminal action with respect to matters covered in the conciliation agreement. [MCL 169.215(10).]

As noted in your request, conciliation agreements are used in a variety of scenarios. In some cases, there is no disagreement about whether a violation of the MCFA occurred and the only question is the extent of fees to be paid or reports to be filed. In other situations, the candidate or committee agreeing to conciliation may not necessarily agree that a violation of the MCFA occurred but agrees to the conciliation to resolve the uncertainty. Conciliation agreements may include provisions by which the candidate or

¹ The Secretary of State also recently promulgated administrative rules related to disqualification and the contents of affidavits. See AACCS, R. 168.1–168.4. [Link to Admin Rules 168.1 to 168.4](#) (accessed June 11, 2024.).

committee pays a lower amount in fees than that which would be assessed if a violation were found. Conciliation agreements may also include provisions requiring the candidate or committee to file reports, but they might not require the candidate or committee to file all reports owed over the period in question, as long as there is agreement to file reports that are sufficient to remedy the violation.

Analysis of the Question

Your request seeks to clarify whether a conciliation agreement that results in lower fees or fewer reports means that the affected candidate may then accurately state in a subsequent affidavit that “all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate’s election under the MCFA have been filed or paid.” MCL 168.558(4). Your request — and this opinion — presume that a conciliation agreement has already been executed and satisfied by the time of any subsequent affidavit and do not address conciliation agreements that are pending when an affidavit containing an allegedly false statement has been filed by the candidate.

There are no previous court decisions addressing the effect of conciliation agreements on whether a candidate has made a false statement on their affidavit concerning campaign finance reports or fees. But your request presents a straightforward issue of statutory interpretation.

The primary goal of statutory interpretation is to give effect to the Legislature’s intent. *Bank of America, NA v First American Title Ins Co*, 499 Mich 74, 85 (2016).

Statutory interpretation begins with examining the plain language of the statute. *Id.* When that language is clear and unambiguous, no further judicial construction is required or permitted, and it is presumed that the Legislature intended the meaning plainly expressed in the statute. *Gardner v Dep’t of Treasury*, 498 Mich 1, 6 (2015). Also, “[u]nless statutorily defined, every word or phrase of a statute should be accorded its plain and ordinary meaning, taking into account the context in which the words are used.” *Krohn v Home-Owners Ins Co*, 490 Mich 145, 156 (2011).

On its face, the language of § 558(4) of the Election Law is clear and unambiguous as to what candidates must aver: “that as of the date of the affidavit, all statements, reports, late filing fees, and fines *required of the candidate* or any candidate committee organized to support the candidate’s election under the Michigan campaign finance act . . . have been filed or paid.” MCL 168.558(4)(emphasis added). Similarly clear is the language of § 215(10) of the MCFA as to the effect a conciliation agreement has on potential civil or criminal actions: “[u]nless violated, a conciliation agreement is a complete bar to any further civil or criminal action with respect to matters covered in the conciliation agreement.” MCL 169.215(10) (emphasis added). But neither the language of § 558(4) nor the language of § 215(10) directly answers your question of whether a conciliation agreement that results in lower fees or fewer reports means that the affected candidate may then accurately state in a subsequent affidavit that “all statements, reports, late filing fees, and fines” that are “required” of the candidate or their committees have been filed or paid. However, when the intent behind the provisions is considered, the answer to your question becomes apparent.

As mentioned, § 215(10) of the MCFA provides that the Secretary of State can “correct [a] violation . . . by using informal methods such as . . . conciliation, . . . and may enter into a conciliation agreement with the person involved.” The statute goes on to provide that “[u]nless violated, a conciliation agreement is a complete bar to any further civil or criminal action with respect to matters covered in the conciliation agreement.” Reading these two sentences of § 215(10) together reveals an intent to allow the Secretary of State to informally address violations of the MCFA by entering into a conciliation agreement, which, by operation of law, fully and finally corrects violations of the MCFA as to the matters covered by the agreement.

As for the intent behind § 558(4) of the Election Law, a recent Attorney General opinion, OAG, 2023–2024, No. 7323 (October 4, 2023), addressed that issue. The question there was whether unpaid late fees that were assessed under the MCFA but were rendered uncollectible because of the expiration of the statute of limitations must be considered for purposes of the affidavit requirement in § 558(4). In analyzing the question, it was stated:

[I]t is apparent that the intent behind [§ 558(4)] is for a candidate to attest, under risk of criminal prosecution and not being placed on the ballot, that any prior noncompliance with the MCFA in regard to paying late filing fees and fines, or filing statements and reports, has been corrected, and no such fees, fines, statements, or reports remain outstanding. [OAG, 2023-2024, No. 7323.]

Considering that intent, my conclusion was that “a candidate who failed to pay all late fees that had been imposed under the MCFA is not in full compliance with the Act,” and

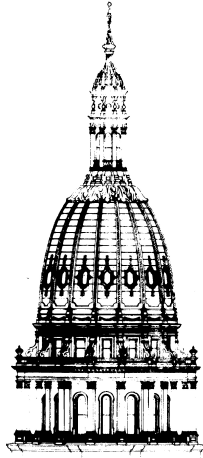
that “even if a late filing fee is not collectible,” it remains “outstanding” for purposes of § 558(4). *Id.*

Significantly, however, the unpaid late filing fees at issue in that opinion were not the subject of a conciliation agreement. Again, § 215(10) encourages informal resolution of MCFA violations, and a conciliation agreement is one of the tools the Secretary of State uses to reach a full and final resolution. In other words, by operation of law, entering into and complying with a conciliation agreement means that no obligations under the MCFA remain and any outstanding matters that were the subject of the conciliation agreement are no longer an obligation of the candidate or their committee. There would be little reason for candidates or their committees to enter into conciliation agreements if doing so would not fully and finally resolve all outstanding obligations and satisfy all requirements under the MCFA and would leave them potentially barred from qualifying for any future ballot. Therefore, interpreting § 558(4) of the Election Law to mean that any statements, reports, or fees that are subject to a conciliation agreement “have been filed or paid” for purposes of the affidavit requirement is consistent with OAG, No. 7323 and the intent behind both § 558(4) of the Election Law and § 215(10) of the MCFA. In terms of your question then, compliance with a conciliation agreement that results in lower fees or fewer reports means that the affected candidate may accurately state in a subsequent affidavit that “all statements, reports, late filing fees, and fines” that are “required” of the candidate or their committees have been filed or paid.

It is my opinion, therefore, that candidates who have satisfied the terms of their conciliation agreements and have otherwise complied with their filing and fee

requirements under the Michigan Campaign Finance Act, MCL 169.201, *et seq.*, may be certified to the ballot upon proper completion and filing of their affidavit of identity under § 558 of the Michigan Election Law, MCL 168.558.

DANA NESSEL
Attorney General



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Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

2024 Michigan Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

June 26, 2024
Compiled through PA 65 of 2024

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001	4416		Yes	2/21/2024	2/21/2024	2/21/2024	Probate; other ; general amendments to the estates and protected individuals code; provide for. <i>(Rep. Graham Filler)</i>
0002	4417		Yes	2/21/2024	2/21/2024	5/21/2024	Vehicles; title ; transfer of ownership of vehicle to surviving spouse or heir after owner's death; modify maximum value and adjust for cost of living. <i>(Rep. Graham Filler)</i>
0003	4418		Yes	2/21/2024	2/21/2024	2/21/2024	Probate; other ; uniform transfers to minors act; modify amount of transfer allowed. <i>(Rep. Kelly Breen)</i>
0004	4419		Yes	2/21/2024	2/21/2024	5/21/2024	Watercraft; other ; watercraft eligible for issuance of certificate of title transferring deceased owner's interest; increase maximum value of, subject to Consumer Price Index. <i>(Rep. Kelly Breen)</i>
0005	4845		Yes	2/21/2024	2/21/2024	2/21/2024	Highways; memorial ; portion of M-125; designate as the "Captain Joseph M. Liedel Memorial Highway". <i>(Rep. William Bruck)</i>
0006	4325		No	2/21/2024	2/21/2024	**	Environmental protection; other ; criminal penalties and civil fines for unlawful dumping of garbage; provide for. <i>(Rep. Helena Scott)</i>
0007	4824		No	2/27/2024	2/27/2024	** #	Administrative procedure; other ; cross-reference to administrative procedures act within the natural resources and environmental protection act; update. <i>(Rep. Donovan McKinney)</i>
0008	4825		No	2/27/2024	2/27/2024	** #	Administrative procedure; other ; cross-reference to administrative procedures act within the state police retirement act of 1986; update. <i>(Rep. Jenn Hill)</i>

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
- Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0009	4826		No	2/27/2024	2/27/2024	**	Environmental protection; other , environmental rules review committee; eliminate. (Rep. Sharon MacDonell)
0010	4677		No	2/27/2024	2/27/2024	**	Children; foster care , assessments of education facilities at child care institutions; require. (Rep. Stephanie A. Young)
0011	4678		No	2/27/2024	2/27/2024	**	Children; child care , assessments of education facilities at child care institutions; require. (Rep. Kimberly Edwards)
0012	4979		Yes	3/12/2024	3/12/2024	3/12/2024	Property tax; assessments , procedures related to appointing designated assessors; modify. (Rep. Jenn Hill)
0013	4857		No	3/12/2024	3/12/2024	**	Agriculture; plants , classification of milkweed as a noxious or exotic weed by local governments; prohibit. (Rep. Samantha Steckloff)
0014	4524		Yes	3/12/2024	3/12/2024	6/10/2024	Courts; drug court , termination procedure for drug treatment courts; modify. (Rep. Joey Andrews)
0015	4522		Yes	3/12/2024	3/12/2024	3/12/2024	Courts; other , family treatment court; create. (Rep. Kelly Breen)
0016	4190		No	3/12/2024	3/12/2024	**	Construction; asbestos , public contracts for asbestos abatement projects; require disclosure of environmental violations. (Rep. Curtis VanderWall)
0017	4185		No	3/12/2024	3/12/2024	**	Labor; health and safety provisions related to civil penalties; modify with respect to repeated violations and asbestos-related violations. (Rep. Denise Mentzer)
0018		0057	Yes	3/12/2024	3/12/2024	6/10/2024 #	Controlled substances; drug paraphernalia , sale of nitrous oxide devices; prohibit. (Sen. Stephanie Chang)

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0019		0058	Yes	3/12/2024	3/12/2024	6/10/2024 #	Controlled substances; drug paraphernalia penalties for sale of nitrous oxide devices; provide for. (Sen. Joseph Bellino)
0020		0721	Yes	3/28/2024	3/28/2024	3/28/2024	Property; recording; marketable record title; modify. (Sen. Jeremy Moss)
0021	4511		No	3/28/2024	3/28/2024	** #	Vehicles; equipment; child restraint safety seats; require positioning of car seats to depend on weight of child, and make other revisions. (Rep. Carrie Rheingans)
0022	4512		No	3/28/2024	3/28/2024	** #	Vehicles; equipment; waiver of civil fine and costs for a violation of section 710d; revise requirements. (Rep. John Fitzgerald)
0023	4676		No	3/28/2024	3/28/2024	**	Children; foster care; education requirements for children placed in foster care; provide for. (Rep. Stephanie A. Young)
0024	5207		No	4/1/2024	4/1/2024	** #	Family law; other; surrogate parenting act; repeal, and establish the assisted reproduction and surrogacy parentage act. (Rep. Samantha Steckloff)
0025	5208		No	4/1/2024	4/1/2024	** #	Records; birth; birth certificates issued for a child whose parentage is determined under the assisted reproduction and surrogacy parentage act; provide for. (Rep. Christine Morse)
0026	5209		No	4/1/2024	4/1/2024	** #	Criminal procedure; sentencing guidelines sentencing guidelines for surrogate parentage contracts involving minors or intellectually disabled and for compensation; remove. (Rep. Kelly Breen)
0027	5210		No	4/1/2024	4/1/2024	** #	Probate; wills and estates intestate succession; revise for children conceived by assisted reproduction or surrogacy. (Rep. Jason Hoskins)
0028	5211		No	4/1/2024	4/1/2024	**	Family law; paternity; determination under the paternity act; exclude children conceived by assisted reproduction or surrogacy. (Rep. Jennifer Conlin)

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	HB	SB					
0029	5212		No	4/1/2024	4/1/2024	** #	Family law; other ; reference to surrogate parenting act; eliminate, and refer to the assisted reproduction and surrogacy parentage act. (Rep. Jason Morgan)
0030	5213		No	4/1/2024	4/1/2024	** #	Family law; paternity ; determination under the summary support and paternity act; exclude children conceived by assisted reproduction or surrogacy. (Rep. Penelope Tsernoglou)
0031	5214		No	4/1/2024	4/1/2024	** #	Family law; paternity ; determination under the acknowledgment of parentage act; exclude children conceived by assisted reproduction or surrogacy. (Rep. Laurie Pohutsky)
0032	5215		No	4/1/2024	4/1/2024	** #	Family law; paternity ; determination under the genetic parentage act; exclude children conceived by assisted reproduction or surrogacy. (Rep. Amos O'Neal)
0033	4012		Yes	4/2/2024	4/2/2024	4/2/2024	Traffic control; speed restrictions ; procedure for establishing speed limits; modify. (Rep. Bradley Slagh)
0034	4183		Yes	4/2/2024	4/2/2024	4/2/2024	Vehicles; historic ; historic vehicle plates allowed driving time; expand. (Rep. John R. Roth)
0035	5048		Yes	4/2/2024	4/2/2024	4/2/2024	Taxation; hotel-motel ; local units to levy a hotel tax; allow and increase rate allowed to be levied by counties. (Rep. John Fitzgerald)
0036	5527		No	4/27/2024	4/29/2024	**	Education; safety ; cardiac emergency response plans; modify. (Rep. John Fitzgerald)
0037	5528		No	4/27/2024	4/29/2024	**	Education; athletics ; CPR and AED certification requirements for athletic coaches; provide for. (Rep. Tyrone Carter)
0038	5392		Yes	4/30/2024	4/30/2024	4/30/2024	Criminal procedure; sentencing ; sunset on certain costs that may be imposed upon criminal conviction; modify. (Rep. Sarah Lightner)

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	HB	SB					
0039	4608		No	4/30/2024	4/30/2024	**	Health occupations; dietitians and nutritionists licensure of dietitian nutritionists; provide for. (Rep. Laurie Pohutsky)
0040	5096		Yes	5/17/2024	5/17/2024	5/17/2024	Economic development; renaissance zones designation of renaissance zone; modify. (Rep. Kristian Grant)
0041		0027	No	5/21/2024	5/21/2024	**	Insurance; health insurers equitable coverage for behavioral health and substance use disorder treatment; provide for. (Sen. Sarah Anthony)
0042	5103		No	5/22/2024	5/22/2024	**	Traffic control; driver license certain requirements for obtaining a driver license; remove. (Rep. Donovan McKinney)
0043	4596		No	5/22/2024	5/22/2024	**	Environmental protection; sewage; labeling standards for disposable wipes products; provide for. (Rep. Denise Mentzer)
0044	4523		Yes	5/22/2024	5/22/2024	8/20/2024	Courts; other; violent offender eligibility for mental health court; modify. (Rep. Kara Hope)
0045	4525		Yes	5/22/2024	5/22/2024	8/20/2024	Courts; drug court; violent offender eligibility for drug treatment court; modify. (Rep. Graham Filler)
0046	4343		No	5/22/2024	5/22/2024	**	Financial institutions; payday lending legislative report requirement concerning deferred presentment service providers and transactions; revise. (Rep. Jennifer Conlin)
0047	5534		No	5/22/2024	5/22/2024	**	Criminal procedure; sentencing; supreme court to determine court operation costs and propose new funding system; require. (Rep. Kelly Breen)
0048		0249	No	5/22/2024	5/22/2024	**	Health occupations; emergency medical services personnel; examinations for certain emergency medical services personnel; modify, and require certain notices from education program sponsors. (Sen. Kevin Hertel)

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	HB	SB					
0049		0518	Yes	6/6/2024	6/6/2024	6/6/2024	Education; teachers and administrators interim teaching certification process; modify. (Sen. Darrin Camilleri)
0050		0227	Yes	6/6/2024	6/6/2024	6/6/2024	Children; child care , emergency safety intervention in a children's therapeutic group home; modify conditions for. (Sen. Dan Lauwers)
0051	4579		No	6/6/2024	6/6/2024	**	Insurance; health insurers reimbursement rate for telehealth visits; require to be the same as reimbursements for office visits. (Rep. Natalie Price)
0052	4131		No	6/6/2024	6/6/2024	**	Insurance; health insurers coverage for health care services provided through telemedicine; modify. (Rep. Tullio Liberati)
0053	4580		No	6/6/2024	6/6/2024	**	Human services; medical services reimbursement rate for telehealth visits; require to be the same as reimbursements for office visits. (Rep. Felicia Brabec)
0054	4213		No	6/6/2024	6/6/2024	**	Mental health; code ; definition of distant site for a telemedicine visit; provide for. (Rep. Christine Morse)
0055	4186		No	6/6/2024	6/6/2024	**	Construction; asbestos ; provision allowing the withholding of payment to asbestos abatement contractors or demolition contractors for environmental violations; require certain local government contracts to contain, and require certain disclosures by asbestos abatement contractors and demolition contractors. (Rep. Donovan McKinney)
0056	4188		No	6/6/2024	6/6/2024	**	Environmental protection; air pollution , asbestos emissions program; impose fee on notification of demolition or renovation and specify minimum rates of inspection. (Rep. Abraham Aiyash)
0057	4101		No	6/6/2024	6/6/2024	**	Health occupations; speech-language pathologists temporary licensing of speech-language pathologists; modify. (Rep. Curtis VanderWall)
0058		0226	No	6/20/2024	6/20/2024	** #	Environmental protection; air pollution , asbestos emissions program for demolition or renovation activity; require annual report on sufficiency of number of inspectors. (Sen. Erika Geiss)

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0059		0225	No	6/20/2024	6/20/2024	** #	Construction; asbestos ; public contracts for asbestos abatement projects; require under certain circumstances background investigation, public posting of certain information, and public hearings. (Sen. Stephanie Chang)
0060		0691	Yes	6/20/2024	6/20/2024	6/20/2024	Agriculture; associations and commissions growth assessments audit requirements; modify. (Sen. Sam Singh)
0061		0416	No	6/20/2024	6/20/2024	** #	Use tax; exemptions ; identifying information required for claiming exemption; include purchaser's license number issued by the Michigan liquor control commission to satisfy the requirements and add exemption for micro brewers. (Sen. Veronica Klinefelt)
0062	4154		No	6/20/2024	6/20/2024	**	Highways; memorial ; portion of M-3; designate as the "Senior Chief Petty Officer Jason P. May Memorial Highway". (Rep. Jay DeBoyer)
0063		0415	No	6/20/2024	6/20/2024	** #	Sales tax; exemptions ; identifying information required for claiming exemption; include purchaser's license number issued by the Michigan liquor control commission to satisfy the requirements, and add exemption for micro brewers. (Sen. Veronica Klinefelt)
0064	4360		No	6/20/2024	6/20/2024	**	Local government; authorities ; emergency services authorities; allow to serve partial municipalities. (Rep. Felicia Brabec)
0065	4519		No	6/19/2024	6/20/2024	**	Holidays; other ; "Negro Leagues Day"; designate as May 2 of each year. (Rep. Helena Scott)

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