



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING


GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: August 10, 2023

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Dr. Michele A. Harmala, Deputy Superintendent 
P-20 System and Student Transitions

SUBJECT: Special Education Teacher Flexibility Waivers

In response to the state's ongoing critical shortage of special education teachers, the Michigan Department of Education (MDE) is continuing to provide intermediate school districts (ISDs) and local education agencies (LEAs), both traditional public school districts and public school academies (PSAs), flexibility regarding appropriately certified and endorsed special education teachers in specific special education programs. The flexibility is available through a waiver application.

Pursuant to [MCL 380.1281](#) and [Executive Order 1996-12](#), the Superintendent of Public Instruction is making available two waivers for ISDs and LEAs to continue to meet the unique needs of students with disabilities while addressing the critical personnel shortage. Specifically, the two waivers are designed to minimize special education program vacancies and help address the current critical teacher shortage, to provide flexibility with current and newly hired special education teachers and to reduce the use of substitute teachers in special education programs.

Waiver to R 390.1105(3) of the Teacher Certification Code

[MCL 380.1281](#) allows for this limited time waiver of state administrative rules governing teacher certification. The waiver to [R 390.1105\(3\)](#) of the teacher certification code allows an ISD or LEA to assign a certified teacher with a special education endorsement in any area to an eligible special education program that is different from the teacher's area of endorsement.

Eligible special education programs under the waiver for [R 390.1105\(3\)](#) include programs for students with cognitive impairment, emotional impairment, learning disabilities, physical and other health impairment, and severe multiple impairments.

STATE BOARD OF EDUCATION

PAMELA PUGH – PRESIDENT • ELLEN COGEN LIPTON / TIFFANY D. TILLEY – CO-VICE PRESIDENTS
JUDITH PRITCHETT – SECRETARY • MARSHALL BULLOCK II – TREASURER
MITCHELL ROBINSON – NASBE DELEGATE • TOM MCMILLIN • NIKKI SNYDER

Waiver to R 340.1758(a) Teacher Requirement of the Michigan Administrative Rules for Special Education (MARSE):

[MCL 380.1281](#) allows for a limited time waiver to [R 340.1758\(a\)](#) of the MARSE. The waiver allows an ISD or LEA to assign a teacher with a special education endorsement in cognitive impairment, emotional impairment, or specific learning disability to a program for students with autism spectrum disorder.

Waiver Requirements

Waivers to [R 390.1105\(3\)](#) of the teacher certification code and [R 340.1758\(a\)](#) of the MARSE may be approved for one academic year for any ISD or LEA that:

1. is able to demonstrate the intent of the rule can be addressed in a more effective, efficient, or economical manner, or that the waiver is necessary to stimulate improved pupil performance; and
2. is able to demonstrate unsuccessful attempts to fill an open special education position with an appropriately endorsed special education teacher, which includes but is not limited to:
 - a. posting the vacant position for a reasonable time, and
 - b. notifying the current teaching staff of the option for temporary approval for any teacher willing to enroll in an approved program to pursue the endorsement that matches the program, and
 - c. tuition reimbursement opportunities from the MDE Office of Special Education, the ISD, or the LEA, for working under temporary approval.

Waiver Renewals

Renewals of waivers to [R 390.1105\(3\)](#) of the teacher certification code and [R 340.1758\(a\)](#) of the MARSE may be obtained for one additional year for the same teacher in the same position by completing a renewal application.

The renewal for one additional year:

- requires satisfactory performance evaluations for the teacher, and
- does not require the ISD or LEA demonstrate additional unsuccessful attempts to fill the position with an appropriately endorsed special education teacher.

A new waiver application must be completed when the teacher has been in the same position for two academic years.

Waiver applications must be completed in Catamaran: [How to Complete a Waiver Application for Districts - Catamaran Training Site](#).

The information provided is directly aligned with and supports [Michigan's Top 10 Strategic Education Plan](#) Goal #7: Increase the number of certified teachers in areas of shortage.

Please direct questions pertaining to this waiver opportunity to the MDE Office of Special Education Information Desk at 1-888-320-8384 or MDE-OSE@Michigan.gov.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Departments