

Michigan Department of Education

FINAL REPORT AND DECISION  
OF  
THE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the matter of: Grand Rapids Public Schools  
Certification Penalty  
Docket No. CP 19-9

BACKGROUND FACTS

In a letter dated May 24, 2019, Leah C. Breen, director of the Office of Educator Excellence of the Michigan Department of Education (department), informed Grand Rapids Public Schools (Grand Rapids) that the department had determined that Grand Rapids employed Norma Corcoran in violation of state law in that she did not hold a valid Michigan teaching certificate and she was not working under a substitute permit during the period of August 20, 2018, to May 1, 2019. Pursuant to MCL 388.1763(2), the department assessed a state aid deduction against Grand Rapids in the amount of \$36,788.66, the amount of salary that the department determined Grand Rapids paid to Ms. Corcoran during the period of noncompliance.

Grand Rapids appealed the assessment to the superintendent of public instruction on June 4, 2019, and chose to present its appeal at a review conference at the department. Robert Taylor, designee of the superintendent of public instruction, convened the review conference on August 27, 2019.

DISCUSSION

Unless otherwise provided in the Revised School Code, a teacher shall hold a teaching certificate that is valid for the position to which an employing district assigns the teacher. MCL 380.1231(3); MCL 380.1233(1); MCL 388.1763(1); Mich

Admin Code, R 390.1105.<sup>1</sup> Employers are responsible for being familiar with the details of the validity of certificates held by their employees. Mich Admin Code, R 390.1117(1). A district may employ a noncertificated individual as a substitute teacher under certain circumstances and shall obtain a substitute permit for that employment. MCL 380.1233(6); Mich Admin Code, R 390.1141 et seq. A school administrator submits the application for a permit to the department and holds the permit on behalf of the individual whose substitute employment it concerns. Mich Admin Code, R 390.1141(3). As is the case with the certification process, the permit process plays an important role in the screening of school instructional employees for criminal convictions, a vital function of the department in its efforts to safeguard pupils' safety. See Mich Admin Code, R 390.1141(6)(b) (conviction of a crime described in section 1535a of the Revised School Code, MCL 380.1535a, is a sufficient ground for denial or revocation of a permit).

The assessment of a state aid deduction in this case was under section 163 of the State School Aid Act, MCL 388.1763, which provides in pertinent part as follows.

(1) Except as provided in the revised school code, the board of a district or intermediate district shall not permit any of the following:

(a) Except for an individual engaged to teach under section 1233b of the revised school code, MCL 380.1233b, an individual who does not hold a valid certificate or who is not working under a valid substitute permit, authorization, or approval issued under rules promulgated by the department to teach in an elementary or secondary school.

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<sup>1</sup> The administrative rules governing certification have the force and effect of law. *Detroit Base Coalition for Human Rights of Handicapped v Director, Department of Social Services*, 431 Mich 172, 177 (1988).

(2) Except as provided in the revised school code, a district or intermediate district employing individuals in violation of this section shall have deducted the sum equal to the amount paid the individuals for the period of employment.

In *Grand Rapids Education Association v Grand Rapids Board of Education*, 170 Mich App 644, 648 (1988), the Court of Appeals held that the plain words of MCL 388.1763 require the department to impose a state aid penalty when a district employs noncertified teachers.

Where statutory language is clear and unambiguous, judicial interpretation to vary the plain meaning of the statute is precluded; the Legislature must have intended the meaning it plainly expressed, and the statute must be enforced as written. [*Nerat v Swacker*, 150 Mich App 61, 64; 388 N.W.2d 305 (1986), lv den 426 Mich 857 (1986).]

MCL 388.1763; MSA 15.1919(1063) clearly and unambiguously states that a board of a school district shall not permit unqualified teachers to teach and that a district employing unqualified teachers shall be penalized. Unqualified teachers taught in Grand Rapids public schools. Therefore, the Grand Rapids School District must be penalized. There is really no need for further analysis in view of the clarity of the statutory pronouncements.

The facts in the instant case are as follows.

Norma Corcoran earned a bachelor's degree with a major in Spanish in 2009. In 2017, she began a master's program in education and she has thus far earned seven credits in that program. She does not currently hold, and she has never held, a valid Michigan teaching certificate.

For both the 2016-2017 and 2017-2018 school years, Grand Rapids obtained from the department a substitute permit to allow its employment of Ms. Corcoran

as a Spanish teacher. Grand Rapids did not apply for and obtain a substitute permit to allow her employment as an elementary Spanish teacher for the 2018-2019 school year until May 2, 2019. At issue in this appeal is the period beginning on August 20, 2018, and ending on May 1, 2019, during which Grand Rapids employed her notwithstanding her failure to hold a valid Michigan teaching certificate and Grand Rapids' failure to obtain a substitute permit to allow her employment. According to Grand Rapids, the district's failure to obtain a substitute permit covering Ms. Corcoran in a timely manner was the result of an oversight.

I commend Grand Rapids for taking immediate steps when, in May 2019, it realized its error in failing to obtain a substitute permit to allow its employment of Ms. Corcoran. I also acknowledge and appreciate that the oversight that occurred in this case was an aberration for Grand Rapids, which has taken steps to ensure that the oversight that occurred in this case does not recur. Moreover, I am not unsympathetic to the financial plight of school districts against which the department assesses state aid penalties based on their employment of uncertified educators. However, it is the ongoing responsibility of school districts to ensure compliance with legal requirements related to instructional employees' credentials, and it is the responsibility of the department, which is subject to monitoring by the auditor general, to follow the mandate of MCL 388.1763(2) as interpreted by the Court of Appeals in *Grand Rapids Education Association, supra*. I therefore uphold the assessment of a state aid penalty against Grand Rapids in this case. However, I note that the department calculated the penalty based on an out-of-compliance period totaling 183 days when, in fact, the out-of-compliance period totaled 171 days. The calculation of the penalty is therefore as follows.

171 days out of compliance/194 contracted days x \$39,000 total salary =  
\$34,376.29 salary during out-of-compliance period

ORDER

Based on my review of this matter and for the above reasons, I affirm the assessment of a state aid penalty against Grand Rapids Public Schools based on its employment of Norma Corcoran from August 20, 2018, to May 1, 2019, but I order that the total amount of the penalty shall be in the amount of \$34,376.29.

I am transmitting this decision to the Office of Educator Excellence for implementation.

A handwritten signature in cursive script, reading "Michael F. Rice", is written over a horizontal line.

Michael F. Rice, Ph.D.  
Superintendent of Public Instruction

Dated: October 9, 2019