

Michigan Department of Education

FINAL REPORT AND DECISION  
OF  
THE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the matter of: Onaway Area Community School District  
Certification Penalty  
Docket No. CP 19-13

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 Onaway Area Community School District (Onaway) that the department had determined that the district employed Tracina Buczkowski 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 September 4, 2018, to February 18, 2019. Pursuant to MCL 388.1763(2), the department assessed a state aid deduction against Onaway in the amount of \$21,081.08, the amount of salary paid to Ms. Buczkowski during the period of noncompliance. Onaway appealed the assessment to the superintendent of public instruction on June 18, 2019, and requested to present its appeal in writing.

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> Among the credentials that are Michigan teaching certificates for purposes of the Teacher Certification Code is an interim teaching certificate, which the department issues to an applicant enrolled in an alternative route program approved by the superintendent of public instructions under MCL 380.1531i. Mich Admin Code, R 390.1101(l)(i); R 390.1122a. 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.

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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).

(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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(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.

Prior to the 2018-2019 school year, Onaway employed Tracina Buczkowski as a substitute teacher and paraprofessional. Beginning on September 4, 2018, the district employed her as a first grade teacher notwithstanding that she did not hold a valid Michigan teaching certificate and that, at that time, Onaway did not hold a substitute permit allowing her employment. It was not until February 19, 2019, that the district obtained a full year substitute permit to allow her employment. Mich Admin Code, R 390.1142.

Based on her enrollment in an approved alternative route program, the department issued to Ms. Buczkowski an interim teaching certificate on August 6, 2019. Onaway asserts that its failure to obtain a substitute permit in a timely manner to allow her employment during the 2018-2019 school year was the result of a lack of communication on the part of the alternative route program.

The facts related to Ms. Buczkowski's enrollment in the alternative route program are not fully documented in the instant record. In any event, any alleged miscommunication or lack of diligence on the part of the alternative route program did not relieve Onaway of its responsibility to ensure its compliance with legal requirements related to employee credentials, including its responsibility to ensure that its instructional employees held legally required certification at all times. Onaway was aware of Ms. Buczkowski's lack of certification at the time it placed her in her 2018-2019 assignment and the district's delay in obtaining a substitute permit to allow her employment was a clear violation of its legal obligations.

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 the state aid penalty against Onaway in this case.

ORDER

Based on my review of this matter and for the above reasons, I affirm the assessment of a state aid penalty against Onaway Area Community School District based on its employment of Tracina Buczkowski from September 4, 2018, to February 18, 2019, in the amount of \$21,081.08.

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

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

Dated: September 6, 2019