

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Education

2. Bureau:

Superintendent of Public Instruction

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Teacher Certification Code

5. Rule numbers or rule set range of numbers:

R 390.1101 to R 390.1216

6. Estimated time frame:

3 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The general purposes of the rules are to align with recent amendments of the revised school code (e.g., 2018 PA 233, 235, 418), with other statutory language, with practice, and with Executive Order No. 2019-06; to reorganize subrules to add clarity and improve readability; to add a definition; to add and update statutory citations; to add clarity; to correct inadvertent omissions and errors; to replace confusing terminology; and to remove duplicative, unenforceable, unnecessary, and obsolete language. In addition to moving validity period provisions to R 390.1117 for clarity and improvement of organization, the amendments include:

R 390.1101(l), R 390.1130(6), (7): Two temporary teacher employment authorizations are combined into 1 temporary teaching certificate to eliminate the confusing use of the term “authorization” and to remove unnecessary complexity in the certification process. R 390.1101(l) is amended to correct inadvertent errors of omission. A standard teaching certificate was called a “provisional” certificate until 2017; the definition of “Michigan teaching certificate” must include a provisional certificate until all such certificates are renewed. Similarly, interim occupational certificate must be included.

R 390.1101(s): A definition of “satisfactory teaching performance” is added to align with R

390.1123.

R 390.1105: The obsolete reference to “day school” is deleted. The term dates back to at least the 1970s and likely refers to when it was necessary to clarify that evening adult and community education classes were not included.

R 390.1115: Subrules (1) and (2) are deleted as duplicative of other rules.

R 390.1121: This rule is rescinded. Subrule (1) is unnecessary and unenforceable; the required examination score (prerequisite to recommendation by teacher preparation institution) is only valid for 5 years, as stated in R 390.1115. Subrule (2) is moved to R 390.1125(5). Subrule (3) is unnecessary because other rules adequately set forth this requirement.

R 390.1122a: This rule is aligned with MCL 380.1531i(5) (satisfactory teaching performance).

390.1123: This rule is amended to make it clear that it sets forth the requirements for preparation programs. In subrule (1), the reference to presenting evidence is deleted as contrary to practice; applicants do not “present evidence.” In subrule (1)(b)(iii), “certificate” is changed to “endorsement” to correct an error. In subrule (2), the requirement of 3 years of satisfactory teaching performance is added to align with MCL 380.1531i(5).

R 390.1125: The obsolete final sentence of subrule (1) is deleted. For organizational purposes: 1) subrules (2) and (3) are amended to consolidate (in subrule (4)) the prerequisites to recommendations by teacher preparation institutions and approved alternative route programs, and 2) R 390.1121(2) and R 390.1151(6), (7) are moved to this rule.

R390.1137: This rule is clarified by adding “at any time,” consistent with practice and with the process for advancement from a standard to a professional teaching certificate.

R 340.1141: Subrule (3) is amended as requested by the Office of Auditor General and to align with practice about who may apply for a permit.

R 390.1142: Subrule (2) is clarified and aligned with practice regarding satisfactory completion of credits. See also R 390.1143(1) and R 390.1145(6)(a). Subrule (3) is amended to correct an oversight in that holders of continuing, life, and permanent certificates (no longer issued but still common) were inadvertently omitted from individuals for whom shortage full-year substitute permits may be issued.

R 390.1151(6), (7): These subrules are moved to R 390.1125.

R 390.1161(2): Effective March 20, 2019, 2018 PA 418 amended MCL 380.1233 to expand opportunities for noncertificated, nonendorsed individuals to be employed as substitute teachers in industrial technology education programs and career and technical education programs. See MCL 380.1233(5)(b). Similarly, effective September 25, 2018, 2018 PA 235 amended MCL 380.1233b to expand opportunities for noncertificated, nonendorsed individuals to be employed as regular classroom teachers in those programs. See MCL 380.1233b(1), (2)(b), (5)(b), and (6). Subrule (2) is amended to add clarity by specifically identifying the individuals who are properly certified and endorsed to teach in such programs and who thus may be employed to teach in them without resort to those statutory amendments.

R 390.1165: Subrule (1) is amended to add clarity and align with practice and with permit rules. Subrule (4) is added to correct the inadvertent omission of a description of the validity period of the authorization. Subrule (5), as amended, aligns with MCL 380.1233b(6), as amended by 2018 PA 235.

R 390.1204, R 390.1216: These rules are aligned with Executive Order No. 2019-06, which transferred rulemaking authority to the Michigan Office of Administrative Hearings and Rules.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Specific rule promulgation authority is conferred on the superintendent of public instruction.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Specific rule promulgation authority is conferred on the superintendent of public instruction by sections 1157, 1531, 1531i, 1531k, 1535a, and 1539b of the Revised School Code, 1976 PA 451, MCL 380.1157, 380.1531, 380.1531i, 380.1531k, 380.1535a, and 380.1539b, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Teacher certification rules are required by MCL 380.1157, 380.1531, 380.1531i, 380.1531k, 380.1535a, and 380.1539b.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The subject matter of the rules is currently contained in many documents available on the Department of Education web site at:

https://www.michigan.gov/mde/0,4615,7-140-5683_14795---,00.html

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes, the rules are listed on the department's annual regulatory plan as rules to be processed for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The rules will be promulgated under section 44(1) of the Administrative Procedures Act.

One purpose of the amendments is to align with recent amendments of the Revised School Code and with a recent executive order.

- 2018 PA 418, effective March 20, 2019, renumbered the subsections of section 1233 of the Revised School Code, MCL 380.1233. Several rules are amended to align with that renumbering.
- 2018 PA 418 also added a new category of noncertificated, nonendorsed individuals who qualify for employment as substitute teachers in industrial technology education programs and career and technical education programs. Similarly, 2018 PA 235, effective September 25, 2018, amended MCL 380.1233b to expand the list of noncertificated, nonendorsed individuals who may be employed to teach in industrial technology education programs and career and technical education programs. In line with those amendments, a rule is amended to clarify who is certified and endorsed for such programs.
- 2018 PA 233, effective September 25, 2018, amended MCL 380.1233b and 380.1531 to remove the basic skills examination. As proposed to be amended, several rules refer simply to examinations required by MCL 380.1531.
- Executive Order No. 2019-06, effective April 22, 2019, abolished the Michigan Administrative Hearings System and transferred its authority to the newly created Michigan Office on Administrative Hearings and Rules.

Additional amendments are for the purely formal, non-substantive purposes of aligning rules with statutory language and with practice; reorganizing rules to add clarity and improve readability; adding statutory citations; correcting inadvertent omissions; replacing confusing terminology; and removing duplicative, unenforceable, unnecessary, and obsolete language.