

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

MOAHR-Rules@michigan.gov

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:

Teachers' Tenure

5. Rule numbers or rule set range of numbers:

R 390.661 - R 390.661

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 rule are to delete obsolete language, to correct and update statutory citations, to add clarity with new formatting, to improve grammar, and to update language.

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

The superintendent of public instruction has promulgation authority for this rule.

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

The superintendent of public instruction has authority to promulgate this rule under section 2 of article I of 1937 (Ex. Sess.) PA 4, MCL 38.72, and Executive Reorganization Order No. 1996-7, MCL 388.994.

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

The rule is not mandated by any applicable constitutional or statutory provision.

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.

This rule does not conflict with or duplicate similar rules, compliance requirements, or other standards adopted 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 rule is not currently contained in any guidance, manual, instructional bulletin, form with instructions, or operational memoranda. The rule is included as Appendix II(C) of the Orientation Handbook for State Tenure Commissioners, Office of Administrative Law, Michigan Department of Education (2021).

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

The rule is listed on the Department of Education's 2023-2024 annual regulatory plan as 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 proposed rule will be promulgated under Section 44 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.244, because the amendments only delete obsolete language, correct and update statutory citations, change formatting, improve grammar, and update language. Obsolete language that is found in 2 places in the rule is: "but shall not include nondegreed persons who hold special certificates as teachers or teacher aides in training in experimental programs." In the Michigan Administrative Code of 1954, R 390.406 addressed "special certificates" for teacher aides employed by school districts cooperating with colleges and universities in experimental programs. In addition, the Michigan Administrative Code of 1954 included R 390.513, which addressed 1-year "special certificates" for teachers who were "slightly deficient for some certification." Those rules were rescinded decades ago and there have been no such special certificates for decades. The language is currently meaningless. In addition, "school guidance counselor" is changed to "school counselor" in the proposed rule to align with current nomenclature as reflected in the rule set entitled "Certification and Licensure of School Counselors," R 390.1301 to R 390.1313.

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.