



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 30, 2024

NOTICE OF FILING
ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rule #24-045-ED)
Legislative Service Bureau (Secretary of State Filing #24-10-01)
Department of Education

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2024-045-ED (Secretary of State Filing #24-10-01) on this date at 2:07 P.M. for the Department of Education entitled, "Declaratory Rulings and Promulgation of Rules".

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson
Secretary of State

Lashana Threlkeld, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

October 30, 2024

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

Dear Secretary Benson:

Re: Michigan Administrative Rules #: 2024-45 ED

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated October 21, 2024 for the Department of Education “**Declaratory Rulings and Promulgation of Rules**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

Michigan Office of Administrative Hearings and Rules



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated October 21, 2024, in which the Department of Education proposes to modify a portion of the Michigan Administrative Code entitled “**Declaratory Rulings and Promulgation of Rules**” by:

- ◆ Amending R 340.1352 and R 340.1353.
- ◆ Rescinding R 340.1354.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: October 23, 2024

Michigan Office of Administrative Hearings and Rules

By: 

Emily Leik,
Attorney



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

CERTIFICATE OF ADOPTION

2024-45 ED

DECLARATORY RULINGS AND PROMULGATION OF RULES

Pursuant to the authority conferred on the superintendent of public instruction by sections 33 and 63 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233 and 24.263, and Executive Reorganization Order No. 1996-6, MCL 388.993, the superintendent of public instruction adopts the amendments of R 340.1352 and R 340.1353 and the rescission of R 340.1354 of the rule set of the Michigan Administrative Code entitled:

Declaratory Rulings and Promulgation of Rules

Date: 10/29/24

Adopted By:

A handwritten signature in black ink that reads "Michael F. Rice".

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

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Legal Division

Timothy H. Shields, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Education dated October 21, 2024, amending R 340.1352 and R 340.1353, and rescinding R 340.1354 of the Department's rules entitled Declaratory Rulings and Promulgation of Rules." I approve the rules as to form, classification, and arrangement.

Pursuant to section 44(1) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.244(1), these rules are being processed without a public hearing.

Dated: October 23, 2024

LEGISLATIVE SERVICE BUREAU

By 

Rachel M. Hughart,
Legal Counsel

DEPARTMENT OF EDUCATION
SUPERINTENDENT OF PUBLIC INSTRUCTION
DECLARATORY RULINGS AND PROMULGATION OF RULES

Filed with the Secretary of State on October 30, 2024

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, and 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the superintendent of public instruction by sections 33 and 63 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233 and 24.263, and Executive Reorganization Order No. 1996-6, MCL 388.993)

R 340.1352 and R 340.1353 of the Michigan Administrative Code are amended, and R 340.1354 of the Code is rescinded, as follows:

R 340.1352 Request for declaratory ruling.

Rule 2. (1) An interested person may request that the superintendent issue a declaratory ruling on how a statute administered by the department or a rule or order of the department applies to an actual state of facts.

(2) A request for a declaratory ruling must be submitted by email to MDE-SuperintendentAppeals@michigan.gov or by mail to Office of the Superintendent, Department of Education, P.O. Box 30008, Lansing, Michigan 48933. The request must contain all of the following:

- (a) A clear and concise statement of the actual state of facts on which a ruling would be based.
- (b) A precise statement of the legal question or issue involved.
- (c) The legal authority of the department for administering the statute, rule, or order.
- (d) The signature, address, email address, and telephone number of the person making the request.

(3) Along with the request, the person may submit a brief of the legal authority on which the person believes the superintendent should base the declaratory ruling.

(4) The superintendent may require that the person making the request provide a copy of the request to a person known by the person making the request to have an interest in the matter.

(5) Not more than 60 calendar days after receiving a request for a declaratory ruling, the superintendent shall notify the person that made the request and interested parties described in this rule if the request is granted or denied by the superintendent.

(6) If the superintendent denies the request, the superintendent shall send by email or mail a concise written statement of the reasons for denial to the person that made the request and interested parties described in this rule.

(7) If the superintendent grants the request, the superintendent shall send by email or mail a declaratory ruling to the person who made the request and interested parties described in this rule, which must include all of the following:

October 21, 2024

- (a) The actual state of facts on which the superintendent based the ruling.
- (b) The conclusions of law and the legal authority on which the superintendent relied for the ruling.
- (c) The ruling.

R 340.1353 Request for promulgation of rule.

Rule 3. (1) A person may request that the department promulgate a rule. A request must contain all of the following:

- (a) The signature, address, email address, and telephone number of the person making the request.
- (b) A citation to the statute under which the department has the authority to promulgate the rule.
- (c) The reason for the request.

(2) A request for the promulgation of a rule must be submitted by email to MDE-SuperintendentAppeals@michigan.gov or by mail to Office of the Superintendent, Department of Education, P.O. Box 30008, Lansing, Michigan 48933.

(3) Not more than 90 calendar days after receiving a request that complies with subrule (1) of this rule, the department shall do 1 of the following:

- (a) Both of the following:
 - (i) Notify the person that made the request by email, mail, or telephone that the department is granting the request.
 - (ii) Initiate the processing of a rule.
- (b) Send a concise written statement of the principal reasons for denial of the request by email or mail to the person that made the request.

R 340.1354 Rescinded.