

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Education

Bureau name:

Superintendent of Public Instruction

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2023-79 ED

Title of proposed rule set:

Teacher Certification Code

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

The rules are mandated by sections 1157 and 1531 of the revised school code, 1976 PA 451, MCL 380.1157 and 380.1531, and Executive Reorganization Order No. 1996-7, MCL 388.994. Sections 1531i, 1535a, and 1539b of the revised school code, 1976 PA 451, MCL 380.1531i, 380.1535a, and 380.1539b, require rules as deemed necessary.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There is no applicable federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed rules are unique to Michigan, but they include some standards that are similar to those in similarly situated states. For example, while all neighboring states have teaching certificates, Wisconsin has a lifetime license that does not require renewal. Both Ohio and Illinois have tiered licensure for teacher certification and a system of permits for credentialing substitute teachers. Minnesota does not utilize permits but has an elaborate tiered licensure system that has varied requirements to allow for the same concept as permits.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The proposed rules are unique to Michigan and similar to standards in similarly situated midwestern states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

The proposed rules do not duplicate, overlap, or conflict with laws, other rules, or other legal requirements. The proposed rules seek to eliminate the restatement of statutory requirements.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

No federal or local laws apply to the certification of Michigan teachers. The proposed rules, many of which are required by the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, seek to eliminate the restatement of statutory requirements. The proposed rules seek to coordinate as necessary with the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(9) does not apply. There is no applicable federal standard.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

One of the purposes of the proposed rules is to align with the revised certification structure that is designed to prepare teachers to meet the unique learning needs of students at every grade level, particularly in early literacy. Another purpose of the proposed rules is to add flexibility to educator certification requirements, including requirements for individuals holding out-of-state credentials or trained in out-of-state programs and members of the military, veterans, and their dependents. The proposed rules provide a definition of “out-of-state” that includes federally recognized Native American tribes and all political subdivisions of foreign countries. The proposed rules increase opportunities to add endorsements to teaching certificates and expand eligibility for advanced professional teaching certification. The proposed rules align with the merger of standard, professional, and advanced professional teaching certificates with standard career and technical education (CTE) and professional CTE certificates so that the former will include CTE classification of instructional programs (CIP) codes as endorsements. The proposed rules clarify and expand the validity period of substitute permits, making all permits valid until August 31 of the year of issuance. Another purpose of the proposed rules is to remove the right to a hearing when the superintendent of public instruction denies an application for an initial teaching certificate because there is no statutory or constitutional right to a hearing under those circumstances. The proposed rules establish procedures for the reinstatement of teaching certificates following suspension or revocation and for the removal of suspensions following the expungement of convictions upon which the suspensions were based. In general, the proposed rules provide clarity about teacher certification.

Recently, the Department of Education processed an annual average of 75,432 educator applications. The Department of Education issues approximately 35,000 teaching certificates and 40,000 substitute credentials annually. Other data relevant to the proposed rules include the following from 2020-2021:

1. There were 86,587 teachers employed in Michigan public schools.
2. The Department of Education issued 4,302 initial teaching certificates (including 1,326 to out-of-state individuals).
3. There were 146,019 individuals who held valid Michigan teaching certificates.
4. There were 449,433 endorsements on Michigan teaching certificates, including CTE endorsements.
5. The Department of Education issued 974 additional endorsements on teaching certificates.
6. Over 1,600 individuals reported to the Department of Education that they had military backgrounds and were employed in Michigan K-12 schools.
7. The Department of Education’s Office of Educator Excellence received 64,188 inquiries from customers about certification and related matters.
8. There were 62 holders of valid Michigan advanced professional certificates.
9. The Department of Education suspended 43 educator certificates and withdrew 9 permits based on criminal convictions or related reasons.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The Department of Education issues approximately 35,000 teaching certificates annually. In 2020-2021, the Department of Education issued 4,302 initial teaching certificates. Under the proposed rules, teachers receiving initial teaching certificates will be more prepared to meet the unique learning needs of students at all grade levels. In 2020-2021, the Department of Education issued 974 additional endorsements on teaching certificates. It is estimated that the number of endorsements issued by the Department of Education will increase under the proposed rules. Also, in 2020-2021, the Department of Education received approximately 64,188 inquiries about educator certification. It is estimated that the proposed rules will clarify the certification requirements and that the Department of Education will therefore receive fewer inquiries about those requirements.

B. Describe the difference between current behavior/practice and desired behavior/practice.

In contrast to current practice, members of the military and veterans will be able to request that periods of active duty satisfy certificate renewal requirements and those individuals and their dependents will be able to request refunds of evaluation fees and waivers of examination fees. In addition, in contrast to current rules, individuals applying for initial teaching certification will not be entitled to a hearing if their applications are denied, and there will for the first time be prescribed processes for hearings in the event of requests for reinstatement of suspended teaching certificates and for removal of suspensions in the event of expungement of criminal convictions. Eligibility for advanced professional teaching certification will be expanded to include individuals who have completed specialist preparation programs approved by the superintendent of public instruction.

C. What is the desired outcome?

Desired outcomes include decreased financial burdens on members of the military, veterans, and their dependents; the elimination of hearings in the event of denial of initial teaching certificates; the elimination of confusion about procedures surrounding requests for reinstatement of suspended teaching certificates and for removal of suspensions of certificates based on conviction expungements; and an increase of the number of educators eligible for advanced professional teaching certification. In general, the desired outcomes include clarification of certification requirements for the benefit of stakeholders and for customers of the Department of Education Office of Educator Excellence.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The Teacher Certification Code was last amended in substantive ways in 2017. Since that time, the Department of Education has revised the teaching certification structure to align with developments in PK-12 education. The proposed rules align with the new certification structure and add and revise definitions to add clarity to the concepts of credential validity and appropriate placement of teachers. Currently, there is a right to a hearing when an application for initial teaching certification is denied notwithstanding that there is no statutory or constitutional right to a hearing in that circumstance. This has led to the needless expenditure of Department of Education and Michigan Office of Administrative Hearings and Rules time and resources.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Leaving the rules as currently written would preserve the unnecessary right to a hearing in the event of denial of an application for initial teaching certification and would prolong confusion about the processes for addressing requests for reinstatement of suspended teaching certificates and requests for removal of suspensions based on the expungement of criminal convictions. Leaving the rules as currently written would provide no specific benefit to military families and would deny eligibility for advanced professional teaching certification to individuals who complete specialist preparation programs. Leaving the rules as currently written would prolong the confusing and unnecessary separate system for the certification of CTE teachers and result in a lack of alignment between the rules and developments in PK-12 education.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

In general, the proposed rules protect the health, safety, and welfare of Michigan citizens by prescribing requirements for teacher certification, helping to ensure a quality educator work force that is well-prepared and appropriately placed in Michigan schools. The proposed rules protect the public welfare by providing a process for addressing requests for reinstatement of teaching certificates that have been suspended based on the holders' convictions of crimes enumerated in the revised school code. There is no alternative that is less burdensome to Michigan citizens.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The proposed rules include the rescission of R 390.1163 and R 390.1164a, which address standard CTE and professional CTE certification. Those rules are unnecessary because the revised certification structure no longer includes separate CTE teaching certificates. Rather, CTE classification of instructional programs (CIP) codes will be endorsements on standard, professional, and advanced professional teaching certificates.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

Promulgation of the proposed rules will require changes to the Michigan Online Educator Certification System (MOECS). It is estimated that the cost to the Department of Education for implementation of the proposed rules will be approximately \$100,000.00. The Department of Education will save costs in an undetermined amount that are associated with providing hearings to individuals whose applications for initial teaching certification are denied.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No appropriation has been made and no funding source has been provided for costs associated with the proposed rules. The Office of Educator Excellence of the Department of Education is funded by revenues from statutory fees.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules do not place additional burdens on individuals but expand opportunities for individuals related to teacher certification.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

No additional burdens on individuals are identified.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

No increase or decrease in revenues to other state or local governmental units as a result of the proposed rules is anticipated. No cost increases or reductions for other state or local governmental units as a result of the proposed rules is anticipated.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules do not impose programs, services, duties, or responsibilities on cities, counties, towns, or villages. The proposed rules do not impose new programs, services, duties, or responsibilities on school districts.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not impose additional responsibilities on school districts.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriation to state or local governmental units has been made and no funding source has been provided for additional expenditures associated with the proposed rules. No additional expenditures are anticipated.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The proposed rule will have no disproportionate impact on rural areas. The same requirements related to teacher certification apply throughout Michigan.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

Rural areas will be affected by the proposed rules to the same extent that other areas will be affected.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

It is not anticipated that the proposed rules will have any impact on the environment.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules do not apply to small businesses.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules do not apply to small businesses.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The proposed rules do not apply to small businesses.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The proposed rules do not apply to small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The proposed rules do not apply to small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed rules do not apply to small businesses.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules do not apply to small businesses.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

The proposed rules do not apply to small businesses.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rules do not apply to small businesses.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

The proposed rules do not apply to small businesses.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

The proposed rules do not apply to small businesses.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules do not apply to small businesses.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The proposed rules do not apply to small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The Department of Education did not involve small businesses in the development of the proposed rules. The proposed rules do not apply to small businesses.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved in the development of the proposed rules, which do not apply to small businesses.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The proposed rules do not impose actual statewide compliance costs on businesses or groups. Application evaluation fees for teaching certificates and substitute permits are established by the legislature in MCL 380.1538. Fees for statutorily required examinations are limited by MCL 380.1531(15).

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

School districts and educator preparation institutions will be directly affected by the proposed rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No additional costs for equipment, supplies, labor, accounting, or recordkeeping are anticipated as a result of the proposed rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

No actual statewide compliance costs are imposed by the proposed rules on individuals. Application evaluation fees for teaching certificates and substitute permits are established by the legislature in MCL 380.1538. Fees for statutorily required examinations are limited by MCL 380.1531(12).

A. How many and what category of individuals will be affected by the rules?

In general, the proposed rules will affect teachers. The Department of Education issues approximately 35,000 teaching certificates and about 40,000 substitute credentials annually. As of October 2021, there were 146,019 individuals who held valid Michigan teaching certificates. In 2020-2021, there were 86,587 teachers employed in Michigan public schools. There are currently approximately 1.4 million Michigan public schoolchildren.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The proposed rules do not impose costs on individuals. In general, the proposed rules expand opportunities for and provide clarity about teacher certification. The proposed rules align with the revised certification structure that is designed to prepare teachers to meet the unique learning needs of students at every grade level, particularly in early literacy. The proposed rules add flexibility to educator certification requirements, including requirements for individuals holding out-of-state credentials or trained in out-of-state programs and members of the military, veterans, and their dependents. The proposed rules increase opportunities for individuals to add endorsements to teaching certificates and expand the eligibility of individuals for advanced professional teaching certification. The proposed rules align with the merger of standard, professional, and advanced professional teaching certificates with standard career and technical education (CTE) and professional CTE certificates. The proposed rules clarify and expand the validity period of substitute permits, making all permits valid until August 31 of the year of issuance. The proposed rules remove the right to a hearing when the superintendent of public instruction denies an application for an initial teaching certificate and establish procedures for the reinstatement of teaching certificates following suspension or revocation and for the removal of suspensions following the expungement of convictions upon which the suspensions were based.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

The proposed rules do not result in cost reductions to businesses or governmental units. The proposed rules allow members of the military, veterans, and their dependents to request refunds of application evaluation fees, which are currently \$160.00 for initial certification applications under MCL 380.1538, and vouchers for examination fees, the amounts of which are limited by MCL 380.1531(12).

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary beneficiaries of the proposed rules will be Michigan public school teachers, who will have expanded opportunities for advanced professional certification and additional endorsements, more flexible options related to out-of-state certification, and preparation designed to meet the unique needs of students at all grade levels. The proposed rules provide financial benefits to members of the military and their dependents. The Department of Education issues approximately 35,000 teaching certificates and about 40,000 substitute credentials annually. In 2020-2021, there were 86,587 teachers employed in Michigan public schools. Because of the benefits to Michigan educators, the approximately 900 Michigan public school districts and approximately 1.4 million Michigan public schoolchildren will also benefit from the proposed rules.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules may impact job creation in Michigan by easing teacher certification requirements and creating greater flexibility for the employment of qualified candidates for teaching positions.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

It is not expected that individuals or businesses will be disproportionately affected by the proposed rules as a result of their industrial sector, business size, or geographic location. To the extent that Michigan K-12 teachers are considered a segment of the public, they will be disproportionately affected by the proposed rules, which set forth credential requirements for teachers. If Michigan K-12 teachers who are members of the military, veterans, and their dependents are considered a segment of the public, they will be disproportionately affected by the rules, which make financial benefits available to those individuals. Individuals who hold out-of-state educator credentials will be disproportionately affected by the rules, which include expanded opportunities for those individuals for Michigan educator certification.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The regulatory impact statement was compiled in reliance on the Department of Education's Office of Educator Excellence Educator 2022 Workforce Data Report.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The estimation of the cost of implementation of changes required by the proposed rules to the Michigan Online Educator Certification System (MOECS) was based on past changes to the MOECS, with the assumption that implementation costs will be related to past costs.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no reasonable alternatives to the proposed rules that would achieve the same or similar goals. The proposed rules comply with and, in some instances, are required by the revised school code.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rules.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Teacher certification is a state function. It would not be feasible to establish a uniform and effective system for regulation of teacher certification through private market-based mechanisms.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

No significant alternatives were considered during development of the proposed rules, which are the result of several years of internal discussion and feedback from stakeholders.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Compliance with the Teacher Certification Code is generally managed by the Michigan Online Educator Certification System (MOECS).