

Annual Regulatory Plan 2020-2021

Department of Education

1. Rule(s) to be **processed** between July 1, 2020 and June 30, 2021. [Give brief description.]

Auxiliary Services for Nonpublic Schoolchildren (R 340.291 to R 340.295)

These rules may be updated.

School Social Worker (R 340.1001 to R 340.1018)

The Department of Education is in the process of drafting amendments of these rules.

Special Education Programs and Services (R 340.1701 to R 340.1873)

Amendments of R 340.1708, R 340.1721e, and Part 4 (Qualifications of Directors and Supervisors) are under consideration, as are rules related to the provision of special education services in county jails.

School Administrator Certification Code (R 380.101 to R 380.136)

Amendments of this rule set may be proposed under MCL 24.244(1) and under the statutes governing the full rulemaking process.

School Psychologist Certification Code (R 380.201 to R 380.214)

Amendments of this rule set may be proposed under MCL 24.244(1) and under the statutes governing the full rulemaking process.

Teacher Certification Code (R 390.1101 to R 390.1216)

Amendments of this rule set will be proposed under MCL 24.244(1). Other amendments are under consideration for the full rulemaking process.

Certification and Licensure of School Counselors (R 390.1301 to R 390.1313)

Amendments of this rule set will be proposed under MCL 24.244(1) and may be proposed under the statutes governing the full rulemaking process.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2020 and June 30, 2021. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

Some rules in the rule sets listed in #1 above can be rescinded because they are obsolete or superseded. Those rule sets also include rules that are strong candidates for rescission for other reasons.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

Since 1976, section 1157(1) of the Revised School Code, MCL 380.1157, has required rules regarding the conduct of and participation in bilingual instruction in-service training programs. There have never been such rules and there is no need for them.

In addition, requirements set forth in several rules of the Department of Education have been temporarily waived in accordance with Executive Order Nos. 2020-35 and 2020-65, by which Governor Gretchen Whitmer ordered in part as follows as a result of the COVID-19 pandemic.

- Suspended in-person K-12 instruction and other in-person educational programs for the remainder of the 2019-2020 school year.

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- Temporarily suspended strict compliance with rules and procedures under several provisions of the Revised School Code, MCL 380.1 to 380.1853 (including rules and procedures under MCL 380.1281(3) regarding the waiver of administrative rules).
- Temporarily suspended strict compliance with rules and procedures under the following administrative rules:
 - R 390.1130(6) and (7) – to allow extension of a 1-year temporary teacher employment authorization by an additional year under certain circumstances.
 - R 390.1137(1)(c), R 390.1138(3), R 390.1142(d)(i), and R 390.1142(3)(d) – to allow renewal of certain teaching certificates and permits regardless of whether the individual received an annual year-end evaluation for the 2019-2020 school year.

Executive Order Nos. 2020-35 and 2020-65 also addressed the delivery of special education programs and services during the remainder of the 2019-2020 school year.

In furtherance of the executive orders, the Superintendent of Public Instruction temporarily waived some of the requirements set forth in administrative rules. Department of Education memoranda announcing waivers of rule requirements include the following.

- Memo #COVID-19-013 (March 18, 2020) – Waiver of 12-week student teaching requirement of R 390.1123(1)(b)(ii).
- Memo #COVID-19-027 (April 9, 2020) – Partial waiver of continuing education requirement for progression from standard to professional certification and for renewal of educator credentials that expire on June 30, 2020. The rules impacted by this waiver include R 380.109(1) (school administrator certificate), R 380.206(7) (school psychologist certificate), R 390.1129b(2) (standard teaching certificate), R 390.1133(1)(d) (progression from standard to professional teaching certificate), R 390.1135(1) (professional teaching certificate), R 390.1138(1)(b) (advanced professional teaching certificate), R 390.1163(5) (standard CTE certificate), R 390.1164a(1)(c) (progression from standard to professional CTE certificate), R 390.1164a(4) (professional CTE certificate), and R 390.1305(3) (school counselor license).
- Memo #COVID-19-028 (April 9, 2020) – Partial waiver of continuing education requirement under R 390.1305(3) for renewal of a school counselor license and a teaching certificate with a school counselor endorsement that expire on June 30, 2020.
- Memo #COVID-19-040 (April 21, 2020) – Waiver of the 90-calendar-day validity of daily substitute permits under R 390.1143(2)(b); extension of the validity of daily permit extensions under R 390.1143(2)(e) to August 31, 2020; waiver of the first aid and CPR certification requirements of R 390.1125(3) and R 390.1130(2)(b); waiver of the discipline area examination requirement of R 390.1130(2)(c); and waiver of the out-of-state credential requirement of R 380.205(2)(b). This memo also incorporated several waivers granted by Executive Order Nos. 2020-35 and 2020-65.
- Memo #COVID-19-060 (May 22, 2020) – Waiver of observation and evaluation requirements for renewal of expert substitute permits and school administrator permits under R 390.1145(8) and R 380.116(3)(a)(i) during the 2019-2020 school year.

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- Memo #COVID-19-063 (May 27, 2020) – Waivers of the following requirements set forth in rules related to special education for the remainder of the 2019-2020 school year.
 - R 340.1733(b) to (f) (age span requirements)
 - R 340.1738(b) (hours of instruction requirement)
 - R 340.1746(a) (Also Memo #COVID-19-001 (March 13, 2020)) (physician verification requirement)
 - R 340.1748(2) (hours of instruction requirement)
 - R 340.1754(2)(e) (clock hours requirement)
 - R 340.1755(2)(c) (clock hours requirement)
 - R 340.1862(4)(c) (clock hours requirement)

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

The rules of the Department of Education relate to school districts and are not problematic to industry.

- A. Whether there is a continued need for the rules.

- B. A summary of any complaints or comments received from the public concerning the rules.

- C. The complexity of complying with the rules.

- D. Whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

- E. The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

The link the department uses to access its administrative rules is:

<https://ars.apps.lara.state.mi.us/AdminCode/AdminCode>

6. Please provide a list of the items identified for action in the 2020 ARP that have been completed and those that remain outstanding.

Teacher Tenure General Rules (R 38.131 to R 38.179)

2018-053 ED

These rules were filed with the Office of the Great Seal on February 6, 2020.

School District Pupil Accounting for Distribution of State Aid (R 340.1 to R 340.18)

Amendments of these rules are not currently under consideration.

School Social Worker (R 340.1001 to R 340.1018)

These rules are being updated and will be processed in 2020-2021.

Special Education Programs and Services (R 340.1701 to R 340.1873)

2019-128 ED

Several rules were amended under MCL 24.244(1), were filed with the Office of the Great Seal on February 6, 2020, and took effect on February 13, 2020.

2020-32 ED

Amendments of R 340.1795 under MCL 24.244(1) were effective on May 27, 2020.

School Administrator Certification Code (R 380.101 to R 380.136)

Amendments of this rule set may be proposed.

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