



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING


GRETCHEN WHITMER  
GOVERNOR

MICHAEL F. RICE, Ph.D.  
STATE SUPERINTENDENT

**MEMORANDUM**

**DATE:** January 13, 2022

**TO:** Local and Intermediate School District Superintendents  
Public School Academy Directors

**FROM:** Delsa D. Chapman, Ed.D., Deputy Superintendent   
Division of Educator, Student, and School Supports

**SUBJECT:** New Substitute Teaching Legal Requirements

The state legislature passed, and Governor Whitmer signed in law, Public Act 149 of 2021 amending subsection 10 of [Michigan Compiled Laws \(MCL\) 380.1233](#), effective December 27, 2021 through June 30, 2022. The added subsection 10 provides new flexibilities for substitute teachers.

The act states: "Subject to subsection (12), beginning on the effective date of the amendatory act that added this subsection through June 30, 2022, the board of a school district or intermediate school district may employ an individual without a certificate or permit who does not meet the requirements under subsection (5) as a substitute teacher if both of the following are met:..."

1. The individual meets both:
  - a. "...has a high school diploma or high school equivalency certificate as that term is defined in section 4 of the state school aid act of 1979, MCL 388.1604."
  - b. "...is employed by or works at the school district or intermediate school district."
2. The board ensures that both of the following are met, as applicable:
  - a. "If the individual's existing salary as an employee of or worker at the school district or intermediate school district is higher than the salary of a substitute teacher who is employed at or works at the school district or intermediate school district, the individual's salary for his or her employment or work as a substitute teacher under this subsection must not be lower than his or her existing salary."

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- b. "If the individual's existing salary as an employee of or worker at the school district or intermediate school district is lower than the salary of a substitute teacher who is employed at or works at the school district or intermediate school district, the individual's salary for his or her employment or work as a substitute teacher under this subsection must be in an amount that is equal to or greater than the salary of a substitute teacher who is employed at or works at the school district or intermediate school district."

[MCL 380.1230\(15\)\(a\)](#) defines "at school" as "in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle" and should be considered an appropriate definition for implementation of the revised law.

Please note that [MCL 380.1233 \(11\)](#) describes that an individual who declines employment or assignment as a substitute teacher may not be terminated from their existing employment or assignment and must not be subject to retaliation solely for declining the employment or assignment.

According to [MCL 380.1233 \(12\)](#), the local school board may not apply the allowances of [MCL 380.1230\(2\)](#) or [MCL 380.1230a\(2\)](#) to an individual employed under this provision. Specifically, before employment, the local school board must receive a satisfactory criminal history check and the individual must sign a statement identifying all crimes for which they have been convicted, if any, and must agree that if the criminal history report is not the same as the individual's statement, the employment contract is voidable at the option of the board or governing body. As a reminder, pursuant to [MCL 380.1230\(9\)](#), to employ or continue employment of an individual who has been convicted of a felony other than a [listed offense](#), the superintendent or chief administrator and the governing board or governing body, if any, of the school district, intermediate school district, public school academy, or nonpublic school must approve the employment or work assignment in writing.

The district must report in the state's registry of educational personnel (REP) and the teacher student data link (TSDL) all teachers in their assigned content areas, including all substitute teachers acting as the teacher of record.

Additionally, all teachers, whether directly employed, utilized through a cooperative education agreement, or provided by another third-party, should be reported on the student registration/schedule, transcript, report card, and within school data systems for purposes of accountability, transparency, and school safety. Parents should be aware of the adults who have contact with their children and who are delivering instruction.

Questions may be directed to Leah Breen, director of the Michigan Department of Education's Office of Educator Excellence, at [BreenL1@Michigan.gov](mailto:BreenL1@Michigan.gov).

cc: Michigan Education Alliance  
Confederation of Michigan Tribal Education Directors