



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

GRETCHEN WHITMER  
GOVERNOR

MICHAEL F. RICE, Ph.D.  
STATE SUPERINTENDENT

**MEMORANDUM**

**DATE:** October 5, 2020

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

**FROM:** Michael F. Rice, Ph.D., State Superintendent 

**SUBJECT:** Update on Waivers Due to COVID-19 - MEMO #COVID-19-120

Due to the COVID-19 pandemic, on March 12, 2020 Governor Gretchen Whitmer ordered the closure of all schools for in-person instruction, effective March 16, 2020, initially for three weeks and subsequently for the remainder of the school year. In response to the challenges presented by the closure of school buildings, multiple flexibilities and waivers of state and federal laws and regulations were afforded to school districts.

On August 4, 2020, the Michigan Department of Education (MDE) provided a multiple-page summary of available state and federal waivers that had been issued since the pandemic began ([COVID-19-082](#)). The purpose of this memorandum is to provide an update to these state and federal waivers.

**Waivers to state laws and regulations**

Many of the waivers to state laws and regulations were enacted through executive orders issued by Governor Whitmer. In the absence of specific waivers or extensions of waivers (some of which are described below), the waivers enacted through or permitted by Executive Order 2020-142, and by reference Executive Order 2020-65, expired on September 30, 2020.

- Days/Hours/Attendance/Membership—New statutory language related to days/hours/attendance/membership has been addressed in the Return to Learn laws (Public Acts 147, 148, and 149 of 2020) with some modifications. The new language was communicated in MDE memoranda [COVID-19-092](#), [COVID-19-094](#), and [COVID-19-117](#) as well as through several [webinars](#) hosted by MDE. Amendments to the state school aid act, adopted by the legislature and signed by the governor on September 30, 2020 related to two-way communication, were also communicated in the COVID-19-117 memorandum.

**STATE BOARD OF EDUCATION**

CASANDRA E. ULBRICH – PRESIDENT • PAMELA PUGH – VICE PRESIDENT  
MICHELLE FECTEAU – SECRETARY • TOM MCMILLIN – TREASURER  
TIFFANY D. TILLEY – NASBE DELEGATE • JUDITH PRITCHETT  
LUPE RAMOS-MONTIGNY • NIKKI SNYDER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909  
[www.michigan.gov/mde](http://www.michigan.gov/mde) • 833-633-5788

- Alternative Education Programs—Waiver in the executive orders have expired. MDE has provided clarification ([COVID-19-111](#)) on potential hours and days waivers under existing statute for alternative education programs.
- Safety Drills—Waiver in the executive orders suspending certain requirements for safety drills (fire, tornado, and lockdown) have expired. MDE is working with the Department of Licensing and Regulatory Affairs (LARA) to provide guidance on safety and drill planning considerations for the 2020-21 school year under current law. The guidance will be issued in an upcoming MDE memorandum.
- Assessments—Waiver in the executive orders applied to the 2019-20 school year have expired. For the 2020-21 school year, MDE has provided guidance on statutory requirements for [benchmark assessments](#), [webinars](#) on benchmark assessments, [early literacy assessment guidance](#), and guidance on the [fall administration of PSAT and SAT](#).
- Special Education—Waivers to certain Michigan Administrative Rules for Special Education (MARSE) for the 2019-20 school year were issued through my authority ([COVID-19-063](#)) granted by the governor in executive orders. MDE is currently reviewing waivers to MARSE for the 2020-21 school year.
- Educator Evaluations, Professional Development, and Certification—Waivers in the executive orders, and issued through my authority granted by the executive orders ([COVID-19-079](#)), applied to the 2019-20 school year and have expired.

### **Waivers to federal laws and regulations**

Since the August 4, 2020 memorandum, MDE has communicated the status of additional federal waivers as noted below in the following areas:

- Assessments and Accountability—U.S. Secretary of Education Betsy DeVos notified me and other state school chiefs across the country on September 3, 2020 that states should not anticipate any waivers to the federal requirement to administer statewide summative assessments for the 2020-21 school year. Please see MDE memorandum [#COVID-19-104](#).
- Food and Nutrition Programs—While many of the federal food and nutrition waivers extend through December 31, MDE will be lobbying the U. S. Department of Agriculture hard to ensure that these federal waivers continue after December 31 so that Michigan children are fed without interruption during the pandemic. Please see the [MDE website](#) for detailed information on food and nutrition programs.

In the meantime, MDE is currently monitoring the status of potential extensions of federal waivers in the following areas and will provide further communication when additional information is available:

- ESEA Fiscal Flexibility—MDE issued a [memorandum](#) to local education agencies (LEAs), both traditional public and public school academies, on April 10, 2020 that provided information about the flexibilities available for federal Title funds. In addition to the typical ability to carry over funds from the preceding federal fiscal year (FY 2019), districts may also carry over funds, based on these flexibilities, associated with FY 2018. Districts are encouraged to work with

their local field consultants to identify funding for specific needs. LEAs can find their local consultant and contact information at this [link](#).

- Special Education—MDE has applied for a federal waiver and received a provisional approval of the waiver request that would apply to state grants authorized under the Individuals with Disabilities Act (IDEA), Part B Funds for federal fiscal year (FFY) 2018, specifically IDEA Part B grants to states (section 611) and IDEA Part B preschool (section 619) and would extend the period of availability of FFY 2018 IDEA Part B grant funds for which MDE participates as the eligible agency through September 30, 2021.

If you have reflections on the need for additional waivers as circumstances during the pandemic continue to change, please feel free to contact the following MDE staff members or offices in these respective areas:

- Special Education: The Office of Special Education information line via email at [mde-ose@michigan.gov](mailto:mde-ose@michigan.gov).
- Food and Nutrition Programs: The director of the Office of Health and Nutrition Services, Dr. Diane Golzynski, via email at [golzynskid@michigan.gov](mailto:golzynskid@michigan.gov).
- Assessment and Accountability: The Office of Educational Assessment and Accountability help desk via email at [MDE-OEAA@michigan.gov](mailto:MDE-OEAA@michigan.gov).
- ESEA Fiscal Flexibility: The Office of Educational Supports regional team manager, Fred Williams, via email at [WilliamsF3@michigan.gov](mailto:WilliamsF3@michigan.gov).
- Career and Technical Education: The Office of Career and Technical Education, fiscal specialist, Christine Black, via email at [BlackC11@michigan.gov](mailto:BlackC11@michigan.gov)
- Educator Permitting, Certification, and Evaluations: The Office of Educator Excellence help desk via email at [MDE-EducatorHelp@michigan.gov](mailto:MDE-EducatorHelp@michigan.gov).

Thank you for your continued partnership as we help you educate children in this very challenging time.

cc: Michigan Education Alliance  
Confederation of Michigan Tribal Education Directors