

2016 Professional Practices Workshop

School Safety Legislation

(MCL 380.1230a-d)

Certificate Suspension and Revocation

(MCL 380.1535a)

Stephanie Whiteside

Staff Consultant

Objective

Gain understanding of statutory compliance relative to criminal conduct; proper reporting of felonies, convictions, and misdemeanors

Provide an understanding of criminal offenses and the potential impact to an educator's certificate or permit

Provide suggestions for better communication with contracted management companies

Documentation for reporting

Legislation

If a school employee has been convicted of a “listed” offense (a conviction requiring registration as a sex offender); verify conviction and upon verification, the employee shall immediately be dismissed and shall not be employed with a Michigan K–12 school in any capacity. MCL 380.1230a (10)



Legislation

Schools are required to report to MDE if they become aware of an employee who has been convicted of a felony or an enumerated offense and is an employee of the district or school (MCL 380.1535a(9)).

An enumerated offense is one that is specifically mentioned in the statute



Legislation

All school employees are required to disclose arraignment for offenses listed in Section 1535a to both the employer and the MDE within three (3) business days of arraignment.

Legislation

The legislation does permit the sharing of criminal background check results if the individual is making application to multiple districts during the same time period, or is employed by multiple districts, or when an employee has moved from one district to a new district with no interruption of service.

Legislation

An additional criminal history check is not required of the employee as long as the individual remains employed with no separation from service or continues to work under contract. If the employee is laid off or placed on leave and returns to active employment with the same employer within one year after being laid off or on leave or if the employee transfers to another district and remains continuously employed, the employee does not have to undergo an additional criminal history check. MCL 380.1230a (11)(a)(b)

Legislation

If the sub is considered an active sub, they would not require an additional fingerprint. While the sub may not work everyday, if it is the intention of the school to call upon the substitute during the course of the school year, it would not be seen as a separation of service.

Legislation

Individuals with a year to year contract with a school, intended to return every year, have not been asked to fingerprinted again. It is the MDE interpretation that schools have the ability to fingerprint again if they so desire.

Legislation

If the results are not received by the new school or school district, the criminal history must be completed as if they were an employee who has had a separation from service. MCL 380.1230(12)(b).

Responsibilities

It is the responsibility of the certificate holder to notify both the employer and the Michigan Department of Education when arraigned for an offense enumerated in MCL 380.1535a and MCL 380.1539b within three business days of arraignment. Failure to inform may have actionable consequences against the employee's continued employment.

Criminal History/Background Checks

Management Companies that provide substitutes to schools or school districts are prohibited from receiving the Fingerprint Search Response as provided by the Michigan State Police.

The use of Red Light/Green Light Letter is often used to communicate approval of individuals to serve as substitutes in the school or school district

Red Light/Green Light Letter

The management company should provide the school or school district with a conviction disclosure form and a Register of Action (for each conviction or civil infraction) for each employee being considered for employment.

Red Light/Green Light Letter

The school or school district should use the documents to compare with the Fingerprint Search Response. The school or school district would then use the Red Light/Green Light Letter to communicate with the Management Company/Staffing Agency.

Court Documents

Review the handouts

Employees with Criminal History

Arrestment

Conviction: Listed Offense...Felony...Enumerated Misdemeanor

To offer employment or continue Employment with conviction for Felony or Enumerated Misdemeanor

Is it appropriate to provide the MDE with a copy of the Fingerprint Search Response when applying for permit?

Suspension and Revocation of Educator Certificates

The Michigan School Code, Section 380.1535(a) gives authority to the State Superintendent to suspend or revoke a teaching certificate when a conviction for a felony or a certain enumerated misdemeanor can be shown to have an adverse effect on the person's present fitness to teach in an elementary or secondary school, public or nonpublic.

Suspension and Revocation of Educator Certificates

If the conviction is for an offense enumerated in Section 1535a(1) of the Revised School Code, the teacher will be given the opportunity to request a hearing; if a hearing is requested, an informal compliance conference will be scheduled to discuss the conviction and its impact on their ability to obtain or retain their Michigan teaching certificate.

Suspension and Revocation of Educator Certificates

The certificate will retain its current validity status until a final decision is rendered. (If certificate is invalid at the commencement of the proceedings, it will remain invalid until a final decision is rendered.)

Suspension and Revocation of Educator Certificates

If the conviction is for an offense enumerated in Section 1535a(2) of the Revised School Code, the offense is deemed serious enough to warrant the immediate suspension of the certificate. The teacher will have the opportunity to challenge the suspension but not while the certificate is valid.

Suspension and Revocation of Educator Certificates

In the case of summary suspension, suspension, or revocation, the teacher and the employer are both notified the certificate is suspended thus rendering the teacher ineligible to be assigned to a classroom.

An adverse final disposition can render the certificate or approval holder ineligible for employment in K-12 position requiring certification or state board approval

Suspension and Revocation of Educator Certificates

The process of suspending or revoking an educator certificate or state board approval is an action initiated by MDE against an individual's educator certificate or state board approval.

Suspension and Revocation of Educator Certificates

The action by the superintendent and the school board to continue employment is an employer decision. If the conviction is for a felony offense, both parties must agree, **in writing**, to employ or continue to employ the individual.

The employer cannot suspend or revoke an educator certificate or state board approval but can take action that may have an adverse effect on employment.

Question/Answer

Are there any questions?

2016 Professional Practices Workshop

Contact Information

Stephanie J. Whiteside, Staff Consultant

Professional Practices

(517) 335-1167 office

(517) 373-0542 fax

WhitesideS@michigan.gov

Attachments

- Offenses to be reported
- Legislation

Enumerated Convictions Requiring Disclosure

- Felonious assault on a child, child abuse in any degree, or an attempt to commit child abuse in any degree
- Cruelty, torture, or indecent exposure involving a child
- Delivery of a narcotic to a minor or student within 1,000 feet of school property (333.7410)
- Breaking and Entering (750.115)

Enumerated Convictions Requiring Disclosure (cont'd)

- Knowingly allowing a minor to consume or possess alcohol or a controlled substance at a social gathering (750.141a)
- Accosting, enticing, or soliciting a child for immoral purpose (750.145a)
- Larceny from a vacant building (750.359)

Enumerated Convictions Requiring Disclosure (cont'd)

- Assault; assault and battery (750.81)
- Assault; infliction of serious injury (750.81a)
- Selling or furnishing alcoholic liquor to a person less than 21 years of age (436.33)

Immediate Summary Suspension of Certificate Upon Verification of Conviction

- Manufacturing/Delivering Controlled Substance (7401(2)(a)(i))
- Possession of Controlled Substance (7403(2)(a)(i))
- Recruiting, inducing, soliciting or coercing a minor to commit a felony (333.7416)

Immediate Summary Suspension of Certificate Upon Verification of Conviction (cont'd)

- Assault with intent to commit murder (750.83)
- Assault with intent to rob and steal armed (750.89)
- Attempt to murder (750.91)
- First degree murder (750.316)

Immediate Summary Suspension of Certificate Upon Verification of Conviction (cont'd)

- Second degree murder (750.317)
- Armed robbery aggravated assault (750.529)
- Misdemeanor—Delivery of a narcotic to a minor or student or within 1,000 feet of school property (333.7410)

MCL 380.1535A(9)

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds a teaching certificate and who is

MCL 380.1535A(9) (cont'd)

employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.