

SUPERINTENDENT OF PUBLIC INSTRUCTION

TEACHER CERTIFICATION CODE

(By authority conferred on the superintendent of public instruction by section 15 of 1964 PA 287, MCL 388.1015, sections 1531, 1531i, 1535a and 1539b of 1976 PA 451, MCL 380.1531, MCL 380.1531i, MCL 380.1535a, and MCL 380.1539b, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994)

PART 10. ADMINISTRATIVE HEARINGS

R 390.1201 Certificates; denial, suspension, or revocation; reinstatement.

Rule 101. (1) The superintendent of public instruction may refuse to grant or renew, or may suspend for a fixed term, or revoke, or may impose reasonable conditions on, a teaching certificate or state board approval granted pursuant to these Rules for the following reasons:

(a) Fraud, or material misrepresentation, concealment or omission of fact in the application for, or the use of, a teaching certificate or state board approval.

(b) Conviction of an offense listed in MCL 380.1535a or MCL 380.1539b.

(2) The superintendent of public instruction may refuse to grant or renew a teaching certificate or a state board approval for failure or ineligibility of the applicant to meet the criteria for the applicable certification or state board approval.

(3) A certificate or state board approval shall not be denied, suspended, or revoked solely on the basis of a conviction, unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in the state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) A certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime pursuant to MCL 380.1535a or MCL 380.1539b. A conviction of a crime listed in MCL 380.1535a or MCL 380.1539b, or of a substantially similar crime in another state, is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's teaching certificate or state board approval.

(5) After the completion of a person's sentence and upon application and a showing of good cause, the superintendent of public instruction may grant a new or renewed certificate, or reinstate a suspended or revoked certificate. The superintendent of public instruction shall not grant a new or renewed certificate or reinstate a person's certificate unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's teaching certificate will not adversely affect the health, safety, and welfare of pupils.

History: 1979 AC; 2006 AACs.

R 390.1202 Contested case; grounds.

Rule 102. A contested case may be instituted pursuant to 1969 PA 306, in the event of a refusal to grant or renew a teacher's certificate, or in the event of a suspension or revocation of a teacher's certificate.

History: 1979 AC; 2006 AACCS.

R 390.1203 Investigation.

Rule 103. The superintendent of public instruction shall designate an employee of the Michigan Department of Education to perform the investigatory and prosecutorial functions regarding contested cases pertaining to teacher certification or state board approval. Upon receipt of information which may serve as the basis for a refusal to grant, or renew, suspend or revoke a teaching certificate, or state board approval, the designee of the superintendent of public instruction shall initiate an investigation of that information.

History: 1979 AC; 2006 AACCS.

R 390.1204 Written charges; service; notice of opportunity to show compliance.

Rule 104. (1) The designee of the superintendent of public instruction shall prepare and file written charges and shall serve a letter copy of notice of opportunity to show compliance to the teacher in question and shall inform the teacher of hearing rights under these Rules, and pursuant to sections 71 to 92 of 1969, PA 306, MCL 24.271 to MCL 24.292. A complete copy of the applicable Rules and laws shall be furnished to the teacher.

(2) Within 15 business days of service of the notice of opportunity to show compliance, a teacher may file a request for an informal conference to show compliance. The informal conference shall be a telephone conference, unless otherwise specified, with an authorized representative of the superintendent of public instruction.

(3) After the informal conference, the superintendent's designee may, after considering the evidence presented, direct that a notice of hearing be issued. If, after considering the evidence presented, the superintendent's designee recommends making a finding of compliance or entering into a written settlement of the matter with the teacher without a formal hearing, the superintendent of public instruction shall approve, modify, or deny the recommended action.

History: 1979 AC; 2004 AACCS; 2006 AACCS.

R 390.1205 Rescinded.

History: 1979 AC; 2006 AACCS.

R 390.1206 Notice of hearing; written charges; settlement; absence of party.

Rule 106. (1) Following 15 working days of service of the notice of opportunity to show compliance, if the teacher does not request an informal conference, a notice of suspension of the teacher's certificate shall be served upon the teacher.

(2) After an informal conference, and a decision by the superintendent's designee to proceed to hearing, a copy of the written charges shall be served upon the teacher and a request for a hearing shall be submitted to the state office of administrative hearings and Rules.

(3) If the teacher fails to attend the hearing, then the hearing may proceed and the decision may be made in the absence of the teacher.

(4) The teacher and the superintendent of public instruction may agree in writing to a settlement of the matter without a hearing.

History: 1979 AC; 2004 AACCS; 2006 AACCS.

R 390.1207 Answer to formal charges; bill of particulars.

Rule 107. (1) A certified teacher or holder of a state board approval may file an answer to formal charges with the designee of the superintendent of public instruction. The answer shall be filed not less than 10 days before the hearing. The designee of the superintendent of public instruction shall file a copy of the answer upon receipt with the state office of administrative hearings and Rules.

History: 1979 AC; 2006 AACCS.

R 390.1208 Rescinded.

History: 1979 AC; 2006 AACCS.

R 390.1209 Filing.

Rule 109. In order to be timely received, any filing required under these Rules shall be received by the Michigan Department of Education before the close of business on the last day of the time limit for the filing. Filing may be by facsimile (fax).

History: 1979 AC; 2006 AACCS.

R 390.1210 Summary suspension.

Rule 110. If a person who holds a Michigan teaching certificate or state board approval has been convicted of a crime described in MCL 380.1535a (2) and 380.1539b (2), or if the superintendent of public instruction or his or her designee finds that the public health, safety or welfare otherwise requires emergency action, the superintendent of public instruction or his or her designee shall order summary suspension of the person's teaching certificate or state board approval, pursuant to MCL 24.292. The person subsequently shall be provided a prompt opportunity for a hearing as provided under that section. Rules 104 and 106 do not apply to this Rule.

History: 1979 AC; 2006 AACCS.

R 390.1211 Rescinded.

History: 1979 AC; 2006 AACCS.

R 390.1212 Transcript.

Rule 112. A verbatim record will be taken of the proceedings. A party may request a copy of the transcript at the party's expense.

History: 1979 AC; 2006 AACCS.

R 390.1213 Exceptions; cross exceptions; briefs.

Rule 113. (1) Within 20 days after service of the proposal for decision, a party may file a written statement with the superintendent of public instruction, setting forth exceptions thereto or to any other part of the record or proceeding, including rulings upon motions and objections. A brief in support of these exceptions may be filed with the superintendent of public instruction. A copy of the exceptions and any brief shall be served on each party to the proceedings.

(2) Within 10 days after service of an exception, a party may file a cross exception and a brief in support thereof, or a brief in support of the proposal for decision. A copy of the cross exceptions and any brief shall be served on each party to the proceedings.

History: 1979 AC; 2006 AACCS.

R 390.1214 Oral arguments.

Rule 114. If a party desires to present oral arguments to the superintendent of public instruction, a written request therefor shall be made to the superintendent of public instruction at the time an exception, cross exception, or brief is filed. The superintendent of public instruction on his or her own motion, may direct oral argument or grant or deny a request for oral argument.

History: 1979 AC; 2006 AACCS.

R 390.1215 Rescinded.

History: 1979 AC; 2006 AACCS.

R 390.1216 Proposal for decision; action by superintendent of public instruction.

Rule 116. (1) The superintendent of public instruction may adopt, modify, or reverse the proposal for decision or remand the case to the state office of administrative hearings and Rules for further findings of fact.

(2) A party shall not directly or indirectly communicate with the superintendent of public instruction or persons involved in the review of a proposal for decision, regarding issues

of fact or law, except on notice and opportunity for all parties to participate, unless provided by law.

History: 1979 AC; 2006 AAC.S.