

## School Safety Legislation

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### Administrative Services

Booth Center  
7273 Wing Lake Road  
Bloomfield Hills, MI 48301

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Re: School Safety Legislation

To: All Bloomfield Hills School Employees

“School Safety” legislation (2005 PA 129-131 and 138) was enacted into law in 2005 and has an impact on your employment with the school/district. Cited below are the key provisions of the law and how it will affect you personally.

#### **Criminal History Record Check**

All school staff employed by the school or district are required to have a criminal history record check conducted by the Michigan State Police (MSP) and the Federal Bureau of Investigation (FBI). This means having your fingerprints scanned electronically and submitted to the MSP.

Once the criminal history check has been conducted by the MSP, a report will be sent to the Michigan Department of Education identifying all school employees with a recorded criminal conviction. The Department will in turn provide the names of individuals convicted of a crime to the district superintendent and school board of the employing district. The report will include convictions for any crime, misdemeanor or felony. If you have been convicted of a non-listed felony, the district superintendent and the school board are required, by law, to agree in writing to continue your employment with the district/school. If you have been convicted of an offense that requires you to register your name on the sex offender’s registry, your employment will be terminated and you will not be allowed employment (in any capacity) in a Michigan K-12 School, public or non-public.

#### **Self-Report of Arraignment/Charges**

The law also requires you, as an employee of the district/school to self-report to your employer and the Michigan Department of Education when you have been arraigned/charged with certain identified crimes. You must do so within three business days of arraignment or you will be guilty of an additional crime. The crimes are listed in MCL 380.1535a. You must also disclose if you have been convicted of certain crimes. Both forms are attached to this document.

Christine Barnett, JD  
Assistant Superintendent for Human  
Resources and Labor Relations

#### SEE INCLUDED:

- Arraignment Disclosure Form
- Conviction Disclosure Form
- School Safety Legislation Summary
- Michigan Compiled Laws (MCL)380.1535a

**Arraignment Disclosure Form**

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**ARRAIGNMENT DISCLOSURE FORM**

**Please Print**

**Employee Name** \_\_\_\_\_

**Date of Birth** \_\_\_\_\_

**Position** \_\_\_\_\_

**Location** \_\_\_\_\_

**Date of Arraignment** \_\_\_\_\_

Pursuant to Section 380.1230d of the Revised School code, I hereby disclose that I was arraigned on the aforementioned date for the criminal offense of \_\_\_\_\_ in \_\_\_\_\_ Court, located in the State of \_\_\_\_\_, County of \_\_\_\_\_

In signing this form, I acknowledge that I understand that should I be convicted of, or pled guilty or nolo contendere (no contest) or is the subject of finding of guilt by a judge or jury, it is my responsibility to disclose to the court that I am employed by a public school, public or non-public. I also understand that if I am subsequently not convicted or any crime after the completion of judicial proceedings resulting from that charge, I must request, in writing, that the Michigan Department of Education and the employing school district delete the report from my records.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Mail to:  
Assistant Superintendent for  
Human Resources and Labor Relations  
Bloomfield Hills Schools  
7273 Wing Lake Rd  
Bloomfield Hills, MI 48301

And:  
Director of Office of Professional  
Preparation Services  
Michigan Depart of Education  
608 West Allegan St.  
P.O BOX 3008  
Lansing, MI 48909

# Current Employee Subsequent Conviction Disclosure Form



## **Current Employee Subsequent Conviction Disclosure Form**

(for any convictions under Public Act 138 Subsequent to the initial disclosure and fingerprint check done after January 1, 2006)

\_\_\_\_\_  
Name: (please print)

\_\_\_\_\_  
School District: (please print)

\_\_\_\_\_  
Position: (please print)

In Accordance with the revised school code section of 380.1230b, I represent that:

1. This serves as disclosure of subsequent (after initial fingerprinting) convictions for which I have been convicted of, or pled guilty or nolo contendere (no contest) or am the subject of a finding of guilt by a judge or jury for the following crimes  
(attach a separate sheet of paper to explain the criminal offense, date, court, city/state, and circumstances surrounding the conviction):

Felony \_\_\_\_\_ Misdemeanor \_\_\_\_\_

Felony \_\_\_\_\_ Misdemeanor \_\_\_\_\_

Felony \_\_\_\_\_ Misdemeanor \_\_\_\_\_

2. In signing this form, I understand and agree that:  
If I have been convicted of a listed offense, my employment shall be terminated. I also understand that if I have been convicted of a felony, other than a listed offense, the superintendent, or chief administrator and the School Board must each approve, in writing, my employment or work assignment.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Mail to:  
Assistant Superintendent for  
Human Resources and Labor Relations  
Bloomfield Hills Schools  
7273 Wing Lake Rd  
Bloomfield Hills, MI 48301

And:  
Director of Office of Professional  
Preparation Services  
Michigan Depart of Education  
608 West Allegan St.  
P.O BOX 3008  
Lansing, MI 48909

## SCHOOL SAFETY LEGISLATION SUMMARY

*(2005 PA 129-131 and 138)*

Effective January 1, 2006

The following requirements apply to local and intermediate school districts, public school academies and nonpublic schools:

- **“School Safety Zone” prohibits individuals convicted of a “listed offense,” with some exceptions, from residing, working or loitering within 1,000 feet of school property**

**[MCL 28.733 – 28.736].**

- The district shall not employ, in any capacity, an individual who has been convicted of a listed offense (a crime that requires registration as a sex offender).
- A district may employ an individual who has been convicted of a non-listed offense felony only if the superintendent and school board each specifically approve the employment or work assignment in writing.
- Not later than July 1, 2008, each individual who, as of January 1, 2006, is either employed full-time or part-time or is assigned to regularly and continuously work under contract, shall to be fingerprinted for the purpose of performing a criminal history background check.
- If a person who is employed in any capacity by the district, or has applied for a position, or has had an initial criminal history check, or is regularly or continuously working under contract in a district, shall report to the Michigan Department of Education and the school district that he or she has been charged with certain crimes, within 3 business days after being arraigned for the crime.
- If the employee does not report the charge or conviction, he or she is guilty of an additional crime. If the non-reported charge or conviction is a felony or listed offense, the person is guilty of a felony. If the non-reported charge is a non-listed offense misdemeanor, the person is guilty of a misdemeanor.
- If the employee does not report the charge or conviction, the district may discharge the person from employment or termination of his or her contract, following notice and the opportunity of a hearing. If a collective bargaining agreement is in effect as of January 1, 2006, and the agreement is not in compliance with the requirement, the district may not discharge a person for failing to report the charge or conviction until after the expiration of that collective bargaining agreement.
- The Department of Information Technology (DIT) will work with the Department of Education (MDE) and State Police to develop and implement an automated program that will compare the list of Registered Educational Personnel (REP) with the conviction information database. If a person on the REP has been convicted of a crime, the MDE is required to notify the district indicated on the REP as the employing district. Convictions for listed offenses will require immediate dismissal of the employee.

## School Safety Legislation Summary

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### **SUSPENSIONS/REVOCATIONS**

- Upon notification, the Office of Professional Preparation Services will review the criminal conviction and initiate administrative proceedings as determined by either law or administrative rule.
- Certificate holders or those who hold State Board approval are notified of the proceedings and their right to a hearing.
- It is a criminal offense to attempt to obtain employment as a teacher using a fraudulent certificate. Upon application for employment, each certificate should be reviewed for authenticity. Any discrepancies should be reported to the MDE.

### **LISTED OFFENSE**

- **A "listed offense" is a crime that requires registration as a sex offender. "Listed offense" is defined in Section 2 of the Sex Offenders Registration Act. A "listed offense" includes any of the following:**
  - Accosting, enticing, or soliciting a child for immoral purposes.
  - Involvement in child sexually abusive activity or material.
  - A third or subsequent violation of any combination of engaging in obscene or indecent conduct in public, indecent exposure, or a local ordinance substantially corresponding to either offense.
  - First, second, third, or fourth degree Criminal Sexual Conduct (CSC).
  - Assault with intent to commit CSC.
  - If the victim is less than 18 years of age, the crime of gross indecency (except for a juvenile disposition or adjudication), kidnapping, sodomy, or soliciting another for prostitution.
  - Leading, enticing, or carrying away a child under 14 years of age.
  - Pandering.
  - Any other violation of a state law or local ordinance constituting a sexual offense against an individual less than 18 years of age.
  - An offense committed by a sexually delinquent person.
  - An attempt or conspiracy to commit one of the offenses listed above.
  - Any offense under the laws of the United States, any other state, or any other country or tribal or military law, that is substantially similar to a listed offense.

## Revised School Code Excerpt

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### THE REVISED SCHOOL CODE (EXCERPT) Act 451 of 1976

**380.1535a Conviction of teacher for certain crimes; notice of right to hearing; suspension of teaching certificate; summary suspension; findings for action under subsection (1) or (2); compensation; reinstatement, continued suspension, or permanent revocation of teaching certificate; effect of reversal of conviction on final appeal; notice of conviction; evidence of conviction; failure to make final decision and order; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions.**

Sec. 1535a. (1) Subject to subsection (2), if a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her teaching certificate may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's teaching certificate based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

- (a) Any felony.
- (b) Any of the following misdemeanors:
  - (i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.
  - (ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
  - (iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
  - (iv) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.
  - (v) A violation of section 115, 141a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.
  - (vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.
  - (vii) Any misdemeanor that is a listed offense.
- (c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) If a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's teaching certificate under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as provided under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's teaching certificate for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

- (a) Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree.
- (b) Felonious assault on a child, child abuse in the first degree, or an attempt to commit child abuse in the first degree.
- (c) Cruelty, torture, or indecent exposure involving a child.
- (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.
- (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

## Revised School Code Excerpt

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(f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(j) Any other crime that is a listed offense.

(k) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), (i), or (j).

(l) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(m) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) All of the following apply to any proceedings affecting a person's teaching certificate under this section:

(a) The superintendent of public instruction shall appoint a designee to perform the investigatory and prosecutorial functions involved in the proceedings. However, the superintendent of public instruction must approve any settlement, conditional agreement, or other decision not to proceed with charges.

(b) Any final action that affects the status of a person's teaching certificate shall be taken by the superintendent of public instruction.

(c) The superintendent of public instruction after a hearing shall not take action against a person's teaching certificate under subsection (1) or (2) 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 this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's teaching certificate under subsection (1) or (2) based on a conviction that occurred before April 1, 2004 if 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 this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. For the purposes of this section, conviction of a listed offense is reasonably and adversely related to the person's fitness to serve in an elementary or secondary school in this state and demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's teaching certificate. If the superintendent of public instruction does not suspend or revoke the person's teaching certificate, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of January 1, 2006 for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of a person's sentence, the person may request a hearing on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate. The superintendent of public instruction shall not reinstate a person's teaching 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. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's teaching certificate under this subsection.

## Revised School Code Excerpt

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(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's teaching certificate shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the person's teaching certificate under this section was the sole cause of his or her discharge from employment, the person shall be reinstated, upon his or her notification to the appropriate local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of sentencing, even if the court is maintaining the file as a nonpublic record.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds a teaching certificate has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

(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 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.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section 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.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's teaching certificate.

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's teaching certificate during the preceding quarter. The report shall contain at least all of the following with respect to each person whose teaching certificate has been affected:

(a) The person's name, as it appears on the teaching certificate.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the teaching certificate.

(13) This section does not do any of the following:

(a) Prohibit a person who holds a teaching certificate from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds a teaching certificate.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval, and of any other list maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(e) "Regularly and continuously work under contract" means that term as defined in section 1230d.

**History:** Add. 1987, Act 61, Eff. Mar. 30, 1988;—Am. 1990, Act 35, Imd. Eff. Mar. 22, 1990;—Am. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1994, Act 144, Imd. Eff. June 2, 1994;—Am. 1995, Act 97, Imd. Eff. June 22, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 51, Imd. Eff. Apr. 1, 2004;—Am. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007.

**Popular name:** Act 451