



## **New Executive Order Issued for K-12 Education**

By Brad Banasik, J.D.  
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Gov. Gretchen Whitmer recently rescinded [Executive Order No. 2020-35](#) by issuing [Executive Order No. 2020-65](#). EO 2020-65 is essentially the same order as rescinded EO 2020-35, but it identifies additional sections from the Revised School Code, School Aid Act and other laws that are suspended and waived for the remainder of the 2019-2020 school year. EO 2020-65 also provides clarification on requirements for early childhood services and providing year-end performance evaluations under the Teachers' Tenure Act.

### **Suspended Laws**

The following laws and legal requirements are temporarily suspended and waived by EO 2020-65 for the remainder of the 2019-2020 school year:

- Conducting a minimum number of fire drills, lockdown drills and tornado drills during the school year under the Fire Prevention Code. [MCL 29.19\(2\)-\(6\)](#)
- Recording or publishing documentation pertaining to scheduled and completed fire and tornado drills. [MCL 29.19\(7\)](#)
- Rescheduling canceled drills and notifying emergency management coordinators and law enforcement agencies of the cancelled drills. [MCL 29.19\(8\)](#)
- The teaching of how dangerous communicable diseases are spread and the best methods for the restriction and prevention of the diseases, and the approval process for curriculum changes. [MCL 380.1169](#)
- Supervision of reproductive health instruction and providing the opportunity for students to opt out of classes in which the subject of reproductive health is discussed. [MCL 380.1506](#)
- Approval process for revising materials and methods of instruction in sex education classes. [MCL 380.1507\(6\)](#)
- Parent notifications and oversight associated with providing reproductive health and sex education instruction. [MCL 388.1766a\(1\)](#)
- Compulsory attendance requirements and enforcement measures. [MCL 380.1561](#) and [MCL 380.1577-1599](#)
- Cardiopulmonary resuscitation instruction. [MCL 380.1170a\(1\)](#)

### **Early Childhood Services and Great Start Readiness Program**

Under EO 2020-65, approved Continuity of Learning and COVID-19 Response Plans shall include a plan for early childhood services, including GSRP. If not included in the approved CoL Plan, the

Early Childhood Plan may be submitted for approval as an amendment or addendum to a school district's approved CoL Plan.

If an intermediate school district is an approved grantee of GSRP funding, it must maintain records of approved subrecipient plans for continuing the GSRP for the remainder of the 2019-2020 school year. The ISD is responsible for ensuring all subrecipients, including community-based providers, create a GSRP plan. If not included in the approved CoL Plan, the GSRP Plan may be submitted for approval as an amendment or addendum to a school district's approved CoL Plan. The GSRP plans must comply with [guidance](#) issued by the Michigan Department of Education and include the following:

- A description of plans to provide and document, at a minimum, how all members of the GSRP teaching team will engage on an ongoing basis with enrolled children and their families, and, as appropriate, provide children and their families plans for the transition from GSRP to kindergarten. This outreach must include a virtual conference with the family.
- A description of how GSRP funds and resources will be used to implement a modified program that is developmentally appropriate for the strengths, interests and needs of each individualized child.
- A best estimate of the date on which subrecipients will begin implementation of the GSRP plan, which must be no later than May 7, 2020.

### **Teachers' Tenure Act and Evaluations**

EO 2020-65 includes the following new evaluation requirements and clarifications for probationary and tenured teachers:

- Any teacher who has an individualized development plan required by the Teachers' Tenure Act shall receive an annual year-end performance evaluation by the employing school district. **This includes all probationary teachers.** The evaluation shall be based on the teacher's performance at least through March 13, 2020, but may account for the teacher's performance after that date through the end of the school year, including efforts made by the teacher to prepare and provide remote student instruction. The evaluation must be consistent with the requirements of [MCL 380.1249](#) and [Article II, Section 3a](#) or [Article III, Section 3](#) of the Teachers' Tenure Act.
- An annual year-end performance evaluation required by an IDP shall not give consideration to criteria-requiring data or other information unavailable because a school district, student, teacher or administrator acts in conformance with EO 2020-65 or other orders or response efforts prompted by the COVID-19 state of emergency and/or state of disaster.
- If a probationary teacher is rated as highly effective or effective on an annual year-end performance evaluation for the 2019-2020 school year, the teacher will accrue time toward completing his or her probationary period under the Teachers' Tenure Act.

- If a tenured teacher is rated as highly effective or effective on an annual year-end performance evaluation required by an IDP for the 2019-2020 school year, the teacher will maintain continuing tenure time under the Teachers' Tenure Act.
- Time periods specified for a tenured teacher to make progress toward IDP goals under [Article III, Section 3](#) of the Teachers' Tenure Act may be extended to allow the teacher sufficient time to make progress toward goals based on criteria-requiring data or other information unavailable because of COVID-19 executive orders or an IDP goal may be waived if it is based on the same unavailable data.
- School districts may complete an annual year-end performance evaluation for the 2019-2020 school year for tenured teachers who do not have an IDP. The evaluation, however, must be based on the same requirements and standards identified in EO 2020-65 for performance evaluations required by an IDP as noted in the first and second bullet points above.

### **Teacher Certification**

EO 2020-65 suspends multiple rules under the Michigan Teacher Certification Code to the extent necessary to permit MDE to renew an individual's teaching certificate or permit between now and the end of the individual's certificate or permit regardless of whether the individual received an annual year-end evaluation for the 2019-2020 school year.

If you have additional questions, please contact MASB Legal Counsel/Director of Labor Relations & Policy Brad Banasik, J.D., at [bbanasik@masb.org](mailto:bbanasik@masb.org) or 517.327.5929.