

School Safety Legislation – Self-Reporting Requirements Q & A

Part I – ALL EMPLOYEES

1. What are the self-reporting requirements?

The legislation requires **ALL** school employees, applicants who have had an initial criminal history check, and persons who are “regularly and continuously working under contract” that are charged with ¹⁾ a crime listed in MCL 380.1535a(1) or ²⁾ a violation of a substantially similar law of ^{a)} another state, ^{b)} a political subdivision of this state or another state, or ^{c)} of the United States to report the charge to the Michigan Department of Education and the school district within **3 BUSINESS DAYS** after being arraigned. MCL 380.1230d(1).

2. What are the crimes listed in MCL 380.1535a(1) that school employees must report they have been charged with?

The crimes listed in MCL 380.1535a(1) are as follows:

- ANY FELONY.
- Any of the following MISDEMEANORS:
 - Criminal sexual conduct (CSC) or attempt to commit CSC – 4th degree;
 - Child abuse or attempt to commit child abuse – 3rd or 4th degree;
 - Cruelty, torture, or indecent exposure involving a child;
 - Delivery or distribution of a controlled substance (including marijuana) to a minor or within 1,000 feet of school property (MCL 333.7410);
 - Breaking and entering or entering without breaking, any building, tent, boat, or railroad car without permission to enter; entering without breaking any public place when entry has been expressly denied (MCL 750.115);
 - Allowing a minor to consume or possess alcohol or any individual to consume or possess a controlled substance on own property (MCL 750.141a);
 - Accosting, enticing, or soliciting a child for immoral purposes (MCL 750.145a);
 - 3rd (or subsequent) violation of any combination of engaging in obscene or indecent conduct in public or indecent exposure (MCL 750.335a);
 - Steal, remove, or damage any fixture, attachment, or other property belonging to, connected with, or used in construction of vacant structure or building (MCL 750.359);
 - Assault and assault and battery; domestic assault (MCL 750.81);
 - Assault and infliction of serious or aggravated injury (MCL 750.81a);
 - Internet use for the purpose of committing crime against minor (MCL 750.145d);
 - Selling or furnishing alcohol to minors (MCL 436.1701); and
 - Any listed offense under the Sex Offenders Registration Act (MCL 28.722).

3. What if I fail to report an arraignment within the 3-day time period?

If you fail to report your arraignment as required by law, you are guilty of a misdemeanor or felony, depending on the crime for which you were convicted. MCL 380.1230d(3)(a),(b). Additionally, if you are a tenured teacher, failure to report is considered to be reasonable and adversely related to your ability to serve in an elementary or secondary school and is sufficient grounds to support discharge or demotion. MCL 38.101a.

4. If I am ARRAIGNED on any crime listed in MCL 380.1535a(1) or MCL 380.1539b(1), what must I do?

You must complete and submit an **Arraignment Disclosure Form (ADF)** (see attached) to the Superintendent of the school district and to the Michigan Department of Education within **3 BUSINESS DAYS** of being arraigned for the crime.

5. What happens to the ADF once I submit it to the school district?

It will be kept in your personnel file.

6. Will the Form stay in my personnel file regardless of whether or not I am convicted?

If you submit the ADF as required and you are subsequently not convicted of any crime after the completion of the judicial proceedings resulting from that charge, you may request that the school district and the Michigan Department of Education remove the ADF from their records; MCL 380.1230d(5). To have the ADF removed from your personnel file, you must submit, in writing, a request along with documentation of the dismissal, to the Superintendent's office. Upon receipt of that paperwork, the Form will be removed from your personnel file.

7. If I am CONVICTED of any crime listed in MCL 380.1535a(1) or MCL 380.1539b(1), what must I do?

If you enter a plea of guilt or nolo contendere, or if there is a finding of guilt by judge or jury of any crime after having been initially charged with a crime as described in MCL 380.1535a(1) or MCL 380.1529b(1), you must immediately disclose to the court that you are employed by or working under contract for a school district on a form proscribed by the state court administrative office. In addition, you must immediately provide a copy of the form to the prosecuting attorney in charge of the case, the State Superintendent of Public Instruction, and the Superintendent of the school district. MCL 380.1230d(2).

8. What if I fail to disclose to the court, the prosecuting attorney, the State Superintendent of Public Instruction or the Superintendent of the school district that I have been convicted?

If you fail to report your conviction as required by law, you are guilty of a misdemeanor or felony, depending on the crime for which you were convicted. MCL 380.1230d(3)(a),(b).

9. What are the district's options if I fail to report as required?

If you are convicted and fail to report as required by law, you "may be discharged" from employment after being provided notice and an opportunity for a hearing. MCL 380.1230d(4).

Part II - TEACHERS AND EMPLOYEES WITH STATE BOARD APPROVAL

1. If I am convicted of a crime described in MCL 380.1535a(1) or MCL 380.1539b(1), what effect will that have on my teaching certificate or state board approval?

If you hold a teaching certificate or state board approval and are convicted of a crime described in MCL 380.1535a(1) or MCL 380.1539b(1), the State Superintendent of Public Instruction will notify you in writing within **10 WORKING DAYS** after receiving notice of the conviction that ¹⁾ your teaching certificate or state board approval may be suspended because of the conviction and ²⁾ you have a right to a hearing before the State Superintendent of Public Instruction. If you do not avail yourself of the right to a hearing within **15 WORKING DAYS** after receiving this notice, your teaching certificate or state board approval will be suspended. If a hearing takes place and the Superintendent of Public

Instruction finds the conviction is “reasonably and adversely related to the person’s present fitness to serve in an elementary or secondary school” or that person is “unfit” to teach, your teaching certificate or state board approval may be suspended. MCL 380.1535a(1); MCL 380.1539b(1)

2. Can my teaching certificate or state board approval be affected in any other way?

Yes – if you are convicted of the following crimes* the State Superintendent of Public Instruction **will** ¹⁾ **order summary suspension** of your teaching certificate or state board approval and ²⁾ provide you an opportunity for a hearing.

- CSC in any degree, assault with intent to commit CSC, or attempt to commit CSC in any degree;
- Felonious assault on a child, child abuse in the 1st degree, or attempt to commit child abuse in the 1st degree;
- Cruelty, torture, or indecent exposure involving a child;
- Manufacture, delivery, or possession of controlled substances (MCL 333.7401); delivery or distribution of a controlled substance (including marijuana) to a minor or within 1,000 feet of school property (MCL 333.7410); recruiting a minor to commit a felony (MCL 333.7416);
- Assault with intent to commit murder, assault with intent to rob or steal while armed, use of dangerous weapon, aggravated assault, attempt to murder, first degree murder, and second degree murder;
- Internet use for the purpose of committing crime against minor (MCL 750.145d);
- Accosting, enticing, or soliciting a child for immoral purposes (MCL 750.145a);
- Involvement in child sexually abusive activity or material (MCL 750.145c);
- Sodomy, if victim is a minor (MCL (750.158);
- 3rd (or subsequent) violation of any combination of engaging in obscene or indecent conduct in public or indecent exposure (MCL 750.335a);
- Gross indecency between males, females, or male and female, if victim is a minor (MCL 750.338, 750.338a, 750.338.b);
- Kidnapping (MCL 750.349); Leading, enticing , or carrying away a child under 14 years (MCL 750.350);
- Pandering (MCL 750.455); and
- Any offense committed by a sexually delinquent person (MCL 750.10a).

*NOTE: This list is not all inclusive.

3. I am a teacher or employee with a state board approval and I have entered a plea of guilt or nolo contendere, or I have been found guilty by a judge or jury of a crime described in MCL 1535a(1) or MCL 380.1529b(1), can I still work in the district?

The district can suspend you from active performance. If the district suspends you, your compensation must be discontinued during the teaching certificate or state board approval suspension/revocation proceedings until the State Superintendent of Public Instruction makes a final determination. If your teaching certificate or state board approval is ultimately not suspended/revoked, the district will make you whole for lost compensation, less interest. MCL 380.1535a(4); MCL 380.1539b(4).

4. I still have questions about this legislation - who can I talk with about my questions?

The Superintendent would be happy to talk with you.

West Branch-Rose City Area Schools
Arrest Disclosure Form

Name: _____ Date of Birth: _____

School Building _____

Position: _____

Date of Arrest: _____

Pursuant to Section 380.1230d of the Revised School Code, I hereby disclose that I was arrested 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 failure to disclose this information is a violation of Section 380.1230d and can result in action being taken relative to my certification and/or employment.

In signing this, I acknowledge that I understand that should I be convicted of or pled guilty or nolo contendere (no contest) nor am I the subject of a finding of guilt by a judge or jury, it is my responsibility to disclose to the court that I am employed by a school, public or non-public. I also understand that if I am subsequently not convicted of 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.

Employee Signature

Date

Send Form to:

Superintendent of Schools

West Branch-Rose City Area Schools
PO Box 308
West Branch, MI 48661

Attn: Director

Office of Professional Preparation Services
P.O. Box 30008
Lansing, Michigan 48909