

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

PART 29

SPECIAL EDUCATION PROGRAMS AND SERVICES; STATE BOARD

380.1701 Duties of superintendent of public instruction.

Sec. 1701. The superintendent of public instruction shall do all of the following:

(a) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with special education rules, to be approved by the superintendent of public instruction.

(b) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

Popular name: Act 451

Administrative rules: R 340.1701 et seq. and R 380.51 et seq. of the Michigan Administrative Code.

380.1701a Special education programs and services; public school academy as local school district.

Sec. 1701a. For the purposes of ensuring that a student with a disability enrolled in a public school academy is provided with special education programs and services, the public school academy is considered to be a local school district under this article.

History: Add. 1993, Act 284, Eff. Apr. 1, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

Popular name: Act 451

380.1702 Special education programs and services; application for approval of noncomplying programs and services; notice of noncompliance; proof of compliance or emergency; directing provision of complying programs or services; funding; contributing; unreimbursed cost.

Sec. 1702. (1) If a local school district board claims the existence of an emergency due to extreme financial conditions because of insufficient operating funds or due to a severe classroom shortage, which emergency the local school district claims renders it unable to provide special education programs and services in compliance with section 1751, the local school district board shall apply in writing to the state board before July 1 of the particular school year for approval to provide special education programs or services which do not comply with section 1751. The state board may extend the filing date for good cause.

(2) In its application the local school district board shall demonstrate the need to provide noncomplying special education programs and services and shall include the proposed programs and services it is able to provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for the school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions for those programs and services.

(3) If the state board determines that a local school district is not providing special education programs and services in compliance with section 1751, and the local school district has not obtained prior approval from the state board, the state board shall give the local school district board written notice of the noncompliance. Unless the local school district board submits proof of compliance or of an unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate school board of which the local school district is constituent to provide complying programs or services. The state board shall direct the intermediate school board to provide only those programs or services which the state board determines the local school district is not providing in compliance with section 1751.

(4) Special education programs or services which the state board directs an intermediate school district to provide shall be funded as if provided by the local school district and the local school district board shall contribute to the intermediate school district the unreimbursed cost of the programs or services.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

Popular name: Act 451

380.1703 Qualifications and requirements for special education personnel; rules relative to special education programs and services; review.

Sec. 1703. (1) Special education personnel shall meet the qualifications and requirements of rules promulgated by the state board.

(2) Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and length and content of school day shall be in accordance with rules promulgated by the state board relative to special education programs and services.

(3) Not later than September 30, 1996, the state board shall conduct a review of all rules promulgated by the state board or department pertaining to special education. The review shall consider at least all of the following:

(a) The need to eliminate unnecessary separation and duplication between regular education and special education facilities, staff, programs, services, and pupils.

(b) Potential benefits from coordination between all relevant federal, state, regional, and local organization services, including public and private organization services, for pupils with special needs, and encouragement of the provision of comprehensive necessary services delivered by the most appropriate organization or person in the most cost-effective and programmatically effective manner.

(c) The advisability of simplification of rules or regulations and processes relating to identification of need and provision of services to special needs pupils, avoidance of barriers and cost and other penalties or discouragements to effective programming, and avoidance of requirements as to staff or program criteria that are not research based; allowing and encouraging reasonably flexible, workable, and, if appropriate, cooperatively operated comprehensive services, including reasonable endorsement or other qualification categories for personnel, to be delivered to pupils with related or similar special needs, as may be consistent with research.

(d) A goal of providing educational and training services in a manner that maximizes for the benefit of the pupil the combination of the provisions of this act and federal law relating to inclusion, while avoiding, to the degree reasonably possible, requiring by rule an overall increase in a program or service beyond that required before December 23, 1978.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

Popular name: Act 451

Administrative rules: R 340.1011 et seq.; R 340.1701 et seq.; and R 380.51 et seq. of the Michigan Administrative Code.

380.1704 Short title of section; standards for teachers of blind and visually impaired pupils; providing information advocating braille instruction; electronic file format versions of textbooks or braille versions; pupil with some remaining vision; instruction consistent with other pupils; definitions.

Sec. 1704. (1) This section shall be known and may be cited as the "blind pupil's Braille literacy law".

(2) The department shall adopt Braille reading and writing standards for teachers of blind and visually impaired pupils and shall disseminate these standards to all school districts, intermediate school districts, and teacher preparation programs. These standards shall be included in the rules governing special education programs and services. In establishing these standards, the department shall consider the standards adopted by the national library service for the blind and physically handicapped of the United States library of congress.

(3) When a local or intermediate school district receives information from the department, or information that is approved by the department from a consumer organization that advocates for the blind, describing the benefits of instruction in Braille reading and writing, the local or intermediate school district shall provide this information to each person on the blind pupil's individualized educational planning committee.

(4) The department shall accept and respond to requests from local and intermediate school districts and shall work with textbook publishers to obtain electronic file format versions of textbooks or Braille versions of textbooks, or both. The department may also, on behalf of local and intermediate school districts, request and arrange for converting an electronic file format version of a textbook to a Braille version. The department shall process and make these requests in a timely manner.

(5) Upon request, a publisher of a textbook that is adopted for instructional use by a school district shall furnish the department with an electronic version of the textbook if the textbook is for a literary subject or, for a textbook for a nonliterary subject, if the technology is available to convert the textbook directly to a format compatible with Braille translation software. A publisher shall not charge a price for this electronic version that exceeds the price it charges for the print or electronic media version of the textbook.

(6) A local or intermediate school district or an individualized educational planning committee shall not deny a pupil the opportunity for instruction in Braille reading and writing solely because the pupil has some remaining vision.

(7) Instruction for blind pupils shall be consistent with the goals and standards established by this state for

all pupils.

(8) As used in this section:

(a) "Blind pupil" means a pupil who is determined to manifest 1 or more of the following:

(i) A visual acuity of 20/200 or less in the better eye after routine refractive correction.

(ii) A field of vision that is limited so that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(iii) A medically indicated expectation of visual deterioration that is expected to result in 1 or both of the conditions described in subparagraphs (i) and (ii).

(b) "Individualized education program" means that term as defined in section 614 of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1414, or in R 340.1701A of the Michigan administrative code.

(c) "Individualized educational planning committee" means that term as defined in R 340.1701A of the Michigan administrative code or an individualized education program team as defined in section 614 of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1414.

(d) "Textbook" includes a text published in electronic media that is used for instructional purposes.

History: Add. 2000, Act 129, Imd. Eff. May 30, 2000.

Popular name: Act 451

380.1705 English literacy; young children who are deaf or hard of hearing; resources to monitor and track development.

Sec. 1705. (1) By August 31, 2025, the department shall develop a resource for use by a parent or legal guardian of a child who is deaf or hard of hearing and is age 5 or younger that allows the parent or legal guardian to monitor and track the child's expressive and receptive language acquisition and developmental stages toward English literacy. The resource developed under this subsection must meet all of the following requirements:

(a) Include the language developmental milestones selected under subsection (7).

(b) Present the language developmental milestones described in subdivision (a) in terms of the typical development of all children by age range.

(c) Provide appropriate content and administration regarding language assessment and delivery of the assessment for children who are deaf or hard of hearing, are age 5 or younger, and who use American Sign Language, English, or both.

(d) Be written clearly for easy use by parents and legal guardians.

(e) Be aligned with any existing infant, toddler, and preschool department guidelines, be aligned with existing instruments used to assess the development of children with disabilities under federal law, and be aligned with state standards in English language arts.

(f) Subject to the individuals with disabilities education act, 20 USC 1400 to 1482, include a statement that the parent or legal guardian of a child who is deaf or hard of hearing has the right to all necessary resources in choosing American Sign Language, English, or both, and a mode of communication for the child's language acquisition and development milestones.

(g) Provide that the resource is not a formal assessment of language and literacy development.

(h) Provide that a parent's or legal guardian's observation of his or her child may differ from formal assessment data presented at an individualized family service plan or individualized education program meeting.

(i) Provide that a parent or legal guardian may bring the resource to an individualized family service plan or individualized education program meeting for purposes of sharing his or her observations about his or her child's development.

(j) Include fair, balanced, and comprehensive information about languages, modes of communication, and all services and programs.

(2) The department shall adopt existing tools or assessments to be used by local school districts, intermediate school districts, public school academies, and the Michigan School for the Deaf to assess the language and literacy development of a child who is deaf or hard of hearing and is age 5 or younger. The tools or assessments adopted by the department under this subsection must meet all of the following:

(a) Are in a format that shows stages of language development.

(b) Are used by local school districts, intermediate school districts, public school academies, and the Michigan School for the Deaf to track the development of the expressive and receptive language acquisition and developmental stages toward English literacy of a child who is deaf or hard of hearing at age 5 or younger.

(c) Are selected from existing instruments or assessments used to assess the development of all children

who are deaf or hard of hearing and are age 5 or younger.

(d) Are appropriate in content and administration for use with a child who is deaf or hard of hearing and is age 5 or younger.

(e) Are designed for use, in addition to any assessment required under federal law, by a child's individualized family service plan team or individualized education program team to track the progress of a child who is deaf or hard of hearing and to establish or modify an individualized family service plan or individualized education program.

(f) Are reflective of the recommendations of the advisory committee established under subsection (7).

(3) Subject to federal law, the department shall provide the resource developed under subsection (1) to parents and legal guardians of children who are deaf or hard of hearing, shall provide the tools and assessments adopted under subsection (2) to intermediate school districts for use in the development and modification of individualized family service plans or individualized education programs, and shall provide materials and training to parents and legal guardians of children who are deaf or hard of hearing on the use of the resource developed under subsection (1), to assist a child who is deaf or hard of hearing and is age 5 or younger to be linguistically ready for kindergarten using American Sign Language or English, or both. The intermediate school districts shall provide the tools and assessments provided by the department under this subsection to its local school districts, the public school academies located in the geographic boundaries of the intermediate school district, and to the Michigan School for the Deaf.

(4) By September 1, 2025, local school districts, intermediate school districts, public school academies, and the Michigan School for the Deaf shall implement the tools and assessments developed under subsection (2) to track the development of the expressive and receptive language acquisition and developmental stages toward English literacy of a child who is deaf or hard of hearing at age 5 or younger.

(5) A local school district, intermediate school district, public school academy, or the Michigan School for the Deaf shall administer the tools or assessments adopted under subsection (2) or any other assessment used to assess the development of children with disabilities as required by federal law to a child who is deaf or hard of hearing and is age 5 or younger, and, based on the assessment results, if the child does not meet the developmental milestones or demonstrate progress in expressive and receptive language skills necessary to meet the developmental milestones, the child's individualized family service plan team or individualized education program team, as applicable, shall, as part of the process required under the individuals with disabilities education act, 20 USC 1400 to 1482, provide both of the following to each service plan team member or program team member and the parent or legal guardian of the child:

(a) A written statement explaining in detail why the child is not meeting the developmental milestones or progressing toward them.

(b) A written recommendation including specific strategies, services, and programs that must be provided to the child to assist the child toward becoming linguistically prepared for kindergarten and English literacy.

(6) Subject to the individuals with disabilities education act, 20 USC 1400 to 1482, a child who is identified as deaf or hard of hearing must be provided a learning environment that includes services that utilize the family's choice for the child's language development and that are delivered by professionals with the background, training, and experience in and who use American Sign Language, English, or both.

(7) For the purposes of developing the parent resource described in subsection (1), all of the following apply:

(a) On or before March 1, 2025, the department shall provide the advisory committee established under subsection (8) with a list of language developmental milestones based on standardized norms, along with any relevant information held by the department regarding those language developmental milestones for possible inclusion in the parent resource developed under subsection (1). The language developmental milestones must be aligned with any applicable existing infant, toddler, and preschool department guidelines, existing instruments used to assess the development of children with disabilities under federal law, and state standards in English language arts.

(b) On or before May 1, 2025, the advisory committee established under subsection (8) shall recommend language developmental milestones selected for inclusion in the parent resource described under subsection (1).

(c) On or before June 30, 2025, the department shall inform the advisory committee established under subsection (8) of the language developmental milestones that were selected under subdivision (b) for inclusion in the parent resource described under subsection (1).

(d) On December 31, 2025, the advisory committee established under subsection (8) is dissolved and shall cease operations.

(8) On January 1, 2025, superintendent of public instruction shall appoint 15 volunteer members to an advisory committee within the department for a 1-year term. All of the following apply to the advisory

committee described in this subsection:

(a) The advisory committee shall solicit input from experts on the selection of language developmental milestones for children who are age 5 or younger and who are deaf or hard of hearing that are equivalent to those for children who are age 5 or younger and who are not deaf or hard of hearing, for inclusion in the resource described under subsection (1).

(b) The advisory committee may make recommendations on materials that are unbiased and comprehensive to add to the resource described under subsection (1).

(c) The advisory committee must be composed of advocates and professionals within the field of education for the deaf or hard of hearing and parents of children who are deaf or hard of hearing. The advisory committee must have both members who personally, professionally, or parentally use the dual languages of American Sign Language and English and members who personally, professionally, or parentally use only spoken English. The advisory committee must include all of the following:

(i) One parent or legal guardian of a child who is deaf or hard of hearing who uses the dual languages of American Sign Language and English.

(ii) One parent or legal guardian of a child who is deaf or hard of hearing who uses only spoken English and a mode of communication.

(iii) One certificated teacher of pupils who are deaf and hard of hearing who uses the dual languages of American Sign Language and English.

(iv) One certificated teacher of pupils who are deaf and hard of hearing from a spoken-English language program.

(v) One certificated teacher of pupils who are deaf and hard of hearing whose expertise is in curriculum and instruction in American Sign Language and English.

(vi) One certificated teacher of pupils who are deaf and hard of hearing whose expertise is in curriculum and instruction in spoken English and a mode of communication.

(vii) One certificated teacher of pupils who are deaf and hard of hearing whose expertise is in American Sign Language and English language assessments.

(viii) One American Sign Language expert, as determined by certification and an American Sign Language Proficiency Interview of 4.0 or higher, who researches language outcomes for children who are deaf and hard of hearing using American Sign Language and English.

(ix) One expert who researches language outcomes for children who are deaf and hard of hearing using spoken English and a mode of communication.

(x) One advocate for the teaching and use of the dual languages of American Sign Language and English.

(xi) One advocate for the teaching and use of spoken English and a mode of communication.

(xii) One early intervention specialist who works with infants and toddlers who are deaf and hard of hearing using the dual languages of American Sign Language and English.

(xiii) One early intervention specialist who works with infants and toddlers who are deaf and hard of hearing utilizing spoken language and a mode of communication.

(xiv) One speech language pathologist proficient in American Sign Language and English whose expertise is in assessment of and intervention with children who are deaf and hard of hearing.

(xv) One educational audiologist, licensed under part 168 of the public health code, 1978 PA 368, MCL 333.16801 to 333.16811, proficient in American Sign Language and English.

(9) The advisory committee established under subsection (8) may also advise the department on the content and administration of existing instruments used to assess the development of children with disabilities under federal law, as used to assess the language and literacy development of children who are deaf and hard of hearing to recommend the appropriate use of those instruments with those children, and may make recommendations regarding future research to improve the measurement of progress of children who are deaf and hard of hearing in language and literacy.

(10) By July 1, 2026, and by July 1 of each year thereafter, the department shall produce a report, using existing data reported in compliance with the federally required state performance plan, on students with disabilities that is specific to the language and literacy development of children who are deaf and hard of hearing and are age 5 or younger as compared to their peers. The department shall make this report available on its website homepage.

(11) All activities of the department in implementing this section must be consistent with federal law regarding the education of children with disabilities.

(12) This section applies only to children who are age 5 or younger.

(13) The legislature shall appropriate sufficient funding for the purposes of this section.

(14) As used in this section:

(a) "English" includes spoken English, written English, or English communicated with or without the use

of a mode of communication.

(b) "Individualized education program" means that term as defined in section 1414 of the individuals with disabilities education act, 20 USC 1414.

(c) "Individualized family service plan" means an individualized family service plan described under section 1436 of the individuals with disabilities education act, 20 USC 1436.

(d) "Language" includes, but is not limited to, American Sign Language and English.

(e) "Language developmental milestones" means milestones of development aligned with existing state instruments used to meet the requirements of federal law for the assessment of a child who is age 5 or younger.

(f) "Mode of communication" means the means through which language is acquired and used by a child who is deaf or hard of hearing including, but not limited to, the following:

(i) Augmentative and alternative communication.

(ii) Cued speech.

(iii) Listening and spoken language.

(iv) Tactile signing.

(v) Total communication.

(vi) Any other appropriate mode of communication.

(vii) A combination of any of the above.

History: Add. 2022, Act 256, Eff. Mar. 29, 2023.

Popular name: Act 451