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School Law Notes

August 28, 2025

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Section 504 and IDEA Back-to-School Reminders

The beginning of the school year is a great time to review your Section 504 and Individuals with Disabilities Education Act (IDEA) policies and procedures with faculty and staff to ensure compliance. Below are three back-to-school reminders about these important laws related to the education of students with disabilities.

Students New to Your School or Building

IDEA-eligible students who transfer to your school at the beginning of the year are entitled to a free appropriate public education (FAPE), including services comparable to the services in the student's previous IEP, until the school either:

(1) adopts the IEP from the previous school; or
(2) develops, adopts, and implements a new IEP within 30 school days.

If the student transfers from out-of-state, the school, at its option, may also choose to conduct an initial evaluation to ensure that the student meets Michigan special education eligibility criteria.

For a student who transfers with an existing Section 504 plan, the new school may either:

(1) adopt the previous school's Section 504 plan; or
(2) conduct an evaluation and develop a new Section 504 plan if the 504 team determines the student continues to meet eligibility criteria.

If appropriate, the school may implement the previous school's Section 504 plan during the pendency of the evaluation but it is not required to do so.

Relatedly, for those students with disabilities who are transitioning to a new building (e.g., from middle school to high school), staff should familiarize themselves with each incoming student's IEP or Section 504 plan. For Section 504 students, it is not unusual for Section 504 accommodations to be location- or personnel-specific or for the Section 504 plan to include supports that the new staff may not be accustomed to providing. A thorough review by relevant staff of a student's Section 504 plan *before* the start of school can minimize implementation problems for staff.

Child Find

Commonly referred to as the school's child find obligation, both the IDEA and Section 504 require schools to "identify, locate, and evaluate" students whom the school suspects may have a disability. Because child find is a school's affirmative duty, school officials may not wait for the student's parent or guardian to request a Section 504 or IDEA evaluation if staff suspect the student may have a disability requiring special education, related services, accommodations, or other supports. Similarly, school officials may not use the school's

Multi-Tiered System of Supports (MTSS) process as a required "first step" before a necessary special education or Section 504 evaluation.

Accordingly, school officials should remind staff at the beginning of the school year to look out for "red flags" that may indicate that a student may have a disability. Examples of child find "red flags" include, but are not limited to: the implementation of MTSS interventions for a student year after year with limited or no progress shown; a student with significant attendance or truancy issues; student behavioral issues that regularly result in the school calling parents to pick up their student early from school, sending the student to a time away, or repeated use of in-school suspension; or recommendations that a student's school day be shortened or the student be moved to virtual programming due to the student's behavior.

Additionally, the U.S. Department of Education's Office for Civil Rights, which is the enforcement agency for Section 504, opined that a student with an ADHD diagnosis is presumed to be a student with a disability under Section 504 unless there is evidence to the contrary. Staff who spot any of these types of "red flags" should promptly refer the matter to the school's special education department or Section 504 coordinator.

Discipline

When a student engages in behavior that violates the student code of conduct, the school's procedural requirements are numerous, especially for students with disabilities. The beginning of the school year marks a good time for administrators to review the disciplinary protections afforded to students with disabilities to ensure that your school has a solid process in place for identifying and tracking disciplinary removals.

Notably, a day of removal for IDEA disciplinary purposes is not limited to suspensions and expulsions. Rather, a removal is any action taken by school personnel in response to student behavior that excludes the student for at least part of the school day and the student does not:

(1) continue to participate or make progress in the general education curriculum;
(2) receive IEP-required instruction or services; and
(3) participate with the student's nondisabled peers as required by the student's IEP.

A disciplinary removal may also include a pattern of office referrals, repeatedly sending the student home early, or moving the student to virtual programming because of the student's behavior. Failure to keep track of both formal and "informal" disciplinary removals may result in untimely manifestation determinations and other compliance issues.

To learn more about these and other legal protections for students with disabilities, join Thrun's special education attorneys for our Special Education Law Boot Camp webinar series beginning September 23, 2025. To register, please visit www.ThrunLaw.com/calendar/list.

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Proceed with Caution: Applied Behavior Analysis Therapy for Students by Outside Providers

Increasingly, parents are either removing their students from school for all or part of the school day to receive Applied Behavior Analysis (ABA) therapy from outside providers or requesting that their student's outside ABA provider be allowed to work with the student at school during the school day. Considerations for such arrangements are discussed below.

MDE & MDHHS Guidance

In January 2025, MDE and MDHHS issued *Guidelines for the Provision of Applied Behavior Analysis (ABA) in Public Schools*, which addresses various issues encountered by schools related to the provision of ABA therapy at school. The Guidelines cover ABA fundamentals and the various ways ABA providers deliver their services.

The Guidelines also address what schools should consider when parents request that a private ABA therapist work with their student at school during the school day. Critically, schools are *not* required to allow a student's outside service provider into the school to provide ABA therapy.

For parents who choose to remove a student from school to participate in private ABA therapy, the Guidelines, consistent with MDE's September 2022 *Shortened School Day* guidance, remind school officials that a school day for a student with an IEP should be no shorter than a school day for a student without a disability. The Guidelines state that "a school district must never be expected to reduce a student's school day because of a physician statement, prescription, or parent request so the student can attend private ABA therapy." Further, the guidance reminds school officials to follow their school's attendance and truancy procedures for these students.

IDEA Considerations

The IDEA requires schools to provide eligible students with a FAPE, which includes the provision, supervision, and direction of needed special education and related services. Before deciding whether to allow a student's outside ABA provider to work with a student at school, school officials should consider whether the student requires ABA services to receive a FAPE. If ABA

services are necessary, or if a parent requests that ABA be provided for and paid by the school, the school should convene an IEP Team meeting to determine if the student requires school-based ABA therapy for FAPE. If the IEP Team determines that school-based ABA therapy is not necessary for FAPE, the parent should be provided prior written notice that reflects that the option was considered and rejected.

If school officials determine that a student needs school-based ABA therapy to receive FAPE, the school is responsible for providing and funding the service. The school may contract with or employ a qualified provider of its choice and is not required to contract with the student's outside service provider.

If contracting with an outside provider, the contract should address:

- student confidentiality/FERPA;
- liability insurance for the outside service provider;
- financial arrangements;
- job description, including an explicit description of the provider's role;
- school's supervisory structure and communication channels applicable to the provider;
- school's training requirements for the provider;
- adherence to school and district policies and procedures; and
- screening and background checks.

School officials should also review any applicable collective bargaining agreements to ensure that the third-party contract does not infringe on a bargaining unit's scope of work.

Unintended consequences for the student and the school may result from allowing an outside ABA provider to come into school and provide a student with services. We recommend that school officials review the above-referenced Guidelines and then consult with legal counsel before permitting such services at school during the school day.

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IEP Considerations: Implementation and Documentation

With the new school year, school officials should take the opportunity to remind staff of their role in implementing students' IEPs and maintaining adequate documentation to prove implementation. The IDEA and related rules and regulations require schools to implement IEPs with fidelity, and failure to do so may result in legal liability. Reminding staff of their IEP implementation responsibilities and providing them with the tools to efficiently track implementation can avoid issues and ensure students receive the required services and accommodations.

Building administrators, teachers, case managers, service providers, and other instructional staff should be mindful of the following legal requirements and best practices:

(1) Ensure that every IDEA-eligible student has a current IEP in place at the start of the school year and that all staff working with the student have access to the student's IEP and are informed of their specific IEP implementation responsibilities. Develop an efficient method to transmit IEPs (or specific information from IEPs) to staff who have implementation responsibilities. For example, case managers could send IEPs (or the "IEP At a Glance") to staff via email with the expectation that staff review all documents before the beginning of the school year and require an acknowledgment of receipt. Further procedures should be developed to address schedule changes, staff reassignment, and mid-year hires so that any staff member responsible for implementing a student's IEP receives a copy and understands their obligations. In the event of litigation, these procedures will help prove compliance.

(2) Before the school year starts (or as early in the school year as possible) and at any time there is a change in staffing, confirm that the providers assigned to deliver IEP services to a student are qualified to do so.

(3) Make sure that IEP services, including transportation, are implemented at the beginning of the school year. If a state or due process complaint is filed alleging a failure to provide FAPE, the school may be at a disadvantage if provider logs demonstrate that services were not provided at the start of the school year. Similarly, remind service providers that they are responsible for providing the service minutes established in the IEP regardless of staff absences and holidays. Staff should be reminded to pay close attention to the language of the IEP, including any designated ranges or explanations for how services will be delivered during shortened weeks and shortened months. The minimum amount of service reflected in the IEP must be provided and documented.

(4) Encourage questions from staff and build in training time to ensure that supplementary aids and services are properly implemented.

(5) Provide implementation checklists and logs to staff responsible for providing supplementary aids and supports so that periodic IEP compliance checks can be completed. Identified areas of non-compliance should be addressed by the IEP Team. Logs and checklists should be easy to use and should not create unnecessary burdens for staff. Early school staff training on use of these tools should emphasize the importance of tracking and maintaining this documentation.

(6) Encourage teachers and providers to communicate IEP and implementation concerns to the student's case manager or special education director or supervisor when concerns arise. Assure them that the school would rather learn of a problem as early as possible so that the situation can be addressed immediately, rather than waiting until the next annual IEP Team meeting after significant compensatory education may already be owed.

(7) If a student is transitioning to a new building, or staff has transferred between buildings, take the time to check in with the new provider to confirm their service lists are accurate and they are aware of every student who needs service in their building or is on their caseload.

(8) Ensure that all teachers include critical IEP implementation information in their substitute plans so that students receive their services and accommodations even during provider absences. A school may violate the IDEA if a substitute teacher is unaware of a student's specific needs and fails to provide the student's required services and accommodations.

Recent state complaints and due process hearing decisions demonstrate that MDE and administrative law judges expect to see written documentation of IEP implementation. Accordingly, we recommend that school officials start the year off strong by establishing clear IEP implementation and documentation expectations and providing helpful tools to make this important responsibility easier for all staff.

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Department of Justice Issues Diversity Initiatives Guidance

On July 29, 2025, the U.S. Department of Justice (DOJ) issued a memorandum that places restrictions on Diversity, Equity, and Inclusion (DEI) programs for federally funded entities, including educational institutions.

The DOJ memo initially identifies certain practices as "prohibited," but the memo subsequently clarifies that its purpose is to describe "best practices" and "non-binding suggestions" to help educational institutions "mitigate the legal, financial, and reputational risks associated with unlawful DEI practices and fulfill their civil rights obligations."

The memo highlights a "non-exhaustive" list of unlawful practices, such as offering race-based scholarships, as well as "internships, mentorship programs, or leadership initiatives that reserve spots for specific racial groups, regardless of intent to promote diversity." It further prohibits hiring and recruitment strategies that use racial proxies or euphemistic terms to promote diversity (e.g., prioritizing applicants from "underrepresented groups"). The DOJ instructs educational institutions to evaluate candidates based on "skills and qualifications" rather than "demographic-driven criteria."

DEI training is not expressly barred, but the memo warns against certain practices in diversity training that create a "hostile environment" for participants. Examples of prohibited practices include dividing participants into groups based on race or gender and stereotyping or demeaning individuals based on protected characteristics, including suggesting that certain groups are inherently privileged. Further, the memo states that employees and students must be permitted to opt out of any diversity training with no negative consequences.

According to the memo, educational institutions cannot restrict facility use based on protected characteristics (e.g., student study lounges or faculty lounges reserved for members of a particular race or gender). Yet, it clarifies that this restriction does not apply to single-sex facilities reserved for women or girls, such as bathrooms, showers, and locker rooms. Likewise, the memo expresses the general view that compelling women to share intimate spaces with men or allowing men to compete in women's sports "would typically be unlawful."

Again, the memo is *not* legally binding. Rather, it offers a set of "best practices" that align with the current administration's position on federal civil rights law. When considering the "best practices" outlined in the memo, school officials must also be sure that they follow state law. In particular, the Michigan Constitution, Article I, Section 26, expressly prohibits schools from discriminating against or granting preferential treatment to any individual or group based on race, sex, color, ethnicity, or national origin. Further, the Michigan Elliott-Larsen Civil Rights Act (ELCRA) prohibits schools from discriminating against employees, students, and others based on religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, familial status, or marital status. For those school officials who are unsure about the legality of any school policy or

practice in light of this DOJ memo, and its relation to both the Michigan Constitution and the ELCRA, we recommend that you contact a Thrun attorney for assistance.

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Potential Pitfalls of Misclassifying Employees as Independent Contractors

Although treating a worker as an independent contractor may appear to offer cost-savings, employee misclassification can expose employers, including schools, to significant financial liability and scrutiny from state and federal agencies. Before classifying a worker as an independent contractor, school officials should carefully review and understand the tests used to determine whether an independent contractor classification is appropriate.

Applicable Tests

Michigan courts apply a four-factor variation of the U.S. Department of Labor's (DOL) economic realities test to determine whether a worker is economically dependent on the employer. The test analyzes the totality of the parties' relationship, and no single factor is controlling. However, economic dependency suggests an employer-employee relationship. Michigan's economic realities test considers the following factors in determining whether a worker is properly classified as an independent contractor or an employee:

(1) *Control of a worker's duties.* If the employer sets the work schedule, supervises work performance, or limits the worker's ability to work for others, these factors weigh in favor of an employer-employee relationship. However, exercising control to ensure compliance with applicable federal, state, or local law does not lead to an inevitable conclusion that a school controls a worker's duties.

(2) *Payment of wages.* If an employer sets the worker's pay rate, determines pay intervals, withholds payroll taxes, and issues wage statements, these practices support that an employer-employee relationship exists.

(3) *Right to hire, fire, and discipline.* If an employer possesses the unilateral authority to recruit, terminate, or impose disciplinary measures on a worker, this factor weighs heavily in favor of an employer-employee relationship.

(4) *Extent to which the work performed is an integral part of the potential employer's business.* This factor considers whether the function the worker performs is critical, necessary, or central to the employer's principal business. If so, this factor weighs in favor of the worker being an employee.

Please note that different entities use different independent contractor tests. For example, the IRS uses a more comprehensive 20-factor test rather than the economic realities tests used by Michigan courts or the DOL. Regardless of the test, the more control that an employer exercises over a worker, the more likely that an employer-employee relationship exists with that worker.

Risks of Misclassification

Importantly, schools that misclassify employees as independent contractors risk being reported, among other places, to the IRS, the DOL, and the State of Michigan. Employee misclassification may also be discovered by an agency audit.

Misclassification poses significant risks, including potential federal tax liability, missed Office of Retirement Services contributions, and potential minimum wage and overtime liability under the Fair Labor Standards Act. Treating a worker as an independent contractor when the worker is in fact an employee may also trigger liability under various employee benefit statutes, including the Affordable Care Act, the Family and Medical Leave Act, the Americans with Disabilities Act, and the Michigan Earned Sick Time Act. To reduce the risk of incurring penalties for making a misclassification, school officials should exercise caution when designating a worker as an independent contractor. For example, an independent contractor who provides counseling services to students on a full-time basis could be classified as an employee if that contractor works the full school year and school officials direct the contractor on how and when to complete tasks. Likewise, coaches who are selected and supervised by a school official may not be true independent contractors under Michigan's economic realities test. If you are unclear about a worker's employee or independent contractor status, please contact your Thrun labor and employment attorney for assistance.

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Back to Basics: Teacher IDPs

Individualized development plans (IDPs) play a vital role in helping school officials evaluate probationary teachers and tenured teachers exhibiting disciplinary or performance deficiencies.

The Teachers' Tenure Act requires that all probationary teachers receive an IDP developed by an "appropriate" administrator in consultation with the teacher. Revised School Code Section 1249 also mandates that schools implement IDPs for all teachers in their first year of probation in the employing school

and for any teacher (tenured or probationary) who received a "developing" or "needing support" rating on their most recent year-end performance evaluation. Even an "effective" teacher may have an IDP to address performance deficiencies, unless a collective bargaining agreement limits the administration's authority to issue IDPs in such circumstances.

While the law does not provide a particular IDP form, Section 1249 requires that a school post on its website a description of the process used to create IDPs. The process must give the teacher a meaningful opportunity to provide input on the IDP's development. Because the school has final discretion over the IDP's contents, the school is not required to incorporate the teacher's input into the finalized IDP.

An IDP must include specific performance goals to assist the teacher with improving effectiveness and must identify training that helps the teacher meet those goals. A manageable IDP typically contains three to five goals, corresponding steps to meet those goals, and a description of the teacher's and administrator's responsibilities. The IDP must designate a specific time during which the teacher must make progress toward the goals that may not exceed 180 days. Administrators should document the teacher's progress toward meeting their IDP goals throughout the school year.

Section 1249 also requires a midyear progress report for teachers in their first year of probation and teachers who received a "developing" or "needing support" rating in their most recent year-end evaluation. The midyear progress report must align with the IDP.

Administrators should obtain the teacher's signature on the IDP and midyear progress report. If the teacher refuses to sign the document, we recommend that the administrator sign and date the document and write "refused to sign" on the teacher's signature line. The teacher should receive a copy of their IDP, and a copy should be placed in the teacher's personnel file.

At the end of the school year, or at least by September of the following school year, administrators should meet with each probationary teacher, as well as with each tenured teacher who received a "developing" or "needing support" rating on the most recent year-end performance evaluation, to develop an IDP.

A teacher's IDP is relevant to many other parts of the performance evaluation system, including the midyear progress report, professional development, coaching, and observations. The year-end evaluation for any teacher or administrator who has an IDP should clearly indicate whether IDP goals were met.

Because a collective bargaining agreement (CBA) is no longer prohibited from including provisions that address teacher evaluations, school officials should review the applicable CBA to ensure compliance with any terms that apply to IDPs. If the CBA is silent on teacher evaluation procedures, school officials should refer to board policy that has been updated to include RSC Section 1249's 2024 amendments. For Thrun Policy Service subscribers, Policy 4403 ("Performance Evaluation") addresses teacher evaluations, including IDPs and midyear progress reports.

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Construction Contract Foundations

Cracks in a school construction contract's foundation can lead to costly disputes, project delays, and unexpected financial burdens. This article highlights key construction contract pitfalls and offers recommendations for securing legally compliant, favorable contract terms.

Indemnification

For Michigan public schools, indemnification is typically a one-way street. Indemnification means reimbursing another party for losses, damages, or liabilities claimed by a third party. Although construction managers, architects, and contractors often seek to include mutual indemnification provisions in their contracts, Michigan case law makes clear that public schools lack explicit legal authority to indemnify third-party contractors in most circumstances.

On the flip side, a school should be indemnified for damages that arise from a contractor's or construction professional's negligence or contract breach. Because of litigation costs, we strongly recommend including indemnification provisions that allow the school to recover attorney fees in the event of a dispute. In the absence of such a provision, attorney fees are likely unrecoverable, which may dissuade a school from pursuing a valid claim.

Construction Supervision

Construction supervision is a critical, yet often overlooked, aspect of construction contracts. It is required by two Michigan laws: the Occupational Code and the School Building Construction Act (SBCA). The Occupational Code requires that materials and completed phases of construction be reviewed "under the direct supervision of a licensed architect or licensed professional engineer."

The SBCA, previously required an architect, engineer, or other "qualified person" (i.e., construction manager) to supervise school construction projects. Whether this requirement still applies, is less clear due to recent legislative amendments. As reported in our *July 2024 edition of School Law Notes*, Governor Whitmer signed into law Public Act 67 of 2024 (PA 67),

which amended the SBCA. PA 67 removed the SBCA's express requirement that an entity supervise a construction project, but the SBCA still refers to the responsibilities of the "person supervising construction." This suggests that the SBCA continues to require construction supervision.

The Michigan Attorney General previously issued opinions that an entity cannot both construct *and* supervise a project because it creates an inevitable conflict of interest (i.e., the entity is evaluating its own performance). In light of this concern, we continue to suggest that schools contract with independent project supervisors, such as construction managers or owner's representatives, to ensure the school's interests are adequately represented and protected.

Delay Damages

Standard-form construction contracts often include contractor-friendly delay damages, which allow a contractor to recover monetary damages from a project owner for delays. This poses a significant risk for public schools, as delays caused by the actions or inactions of a school's consultant or even another contractor could be attributed to the school.

For example, if one contractor delays the project, it could result in extra equipment rental costs and overtime expenses for other contractors. Without a "no-damages-for-delay" provision, a contractor may be able to recover those costs from the school. There may not be enough money in the project fund to cover those costs, particularly in a project's later stages, leaving a delayed contractor with a possible claim to other school funds.

Additional Services

Standard-form consultant contracts may include an "additional services" provision, which refers to any work that a consultant performs outside the base contract scope that entitles them to additional compensation beyond the base fee. Consultant contracts should be closely reviewed to determine when a consultant can charge extra fees.

Though some situations may warrant additional compensation via change order, school officials should understand when that would occur, a reasonable estimated cost, and require written authorization before any additional services are performed and charged. A good rule of thumb is that a consultant's base fee should cover all services necessary to complete the originally planned project (i.e., a project with no additional owner-directed work scope).

Drawings and Diagrams

It is crucial for an architect contract to expressly authorize a school's permission or license to use the drawings and specifications even after the architect stops providing services, either by project completion or termination, *without* paying an additional fee. Future consultants will need those documents to complete, modify, or add to the project. Because a school pays the architect to prepare the drawings and specifications for the project, the architect agreement should grant the school an irrevocable right to use them.

Procurement and Legal Counsel

Although not required by Michigan law, issuing a request for proposal to select construction consultants may allow a school to state its terms upfront, and have bids submitted under the condition of those terms. Additionally, school officials should review board policy, as it may in some cases require that consultant services be formally bid out. To protect the school's interests, school officials should contact legal counsel early in the project's planning stages to assist with both the selection process and contract preparation.

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2026 Election Dates and Deadlines

A school may place millage and bond proposals on the ballot for the three regular election dates each year (four in a presidential election year), as well as certain petition initiative election dates. The 2026 regular election dates available for voting on millage or bond proposals are:

May 5
August 4
November 3

A certified copy of the school board resolution approving ballot language for millage or bond proposals must be filed with the school's election coordinator (typically, the county clerk) at least 12 weeks before the chosen election date (e.g., for the May 5, 2026 election, the filing deadline is 4:00 p.m. on February 10, 2026).

School officials should note that the filing deadline is absolute. A resolution filed even a few minutes after the 4:00 p.m. deadline will be rejected by the election coordinator.

A school's registered electors may circulate petitions to place a millage or bond proposal on the ballot on a date other than the regular election dates listed above. Petitions bearing enough signatures must be filed at least 12 weeks before the applicable election date. For 2026, the available petition initiative "floater" election dates are the following Tuesdays:

January 6, 13, 20, 27
February 3, 10, 17, 24
March 3, 10, 17, 24, 31
June 16, 23, 30
September 15, 22, 29
December 15, 22, 29

The 2026 regular and "floater" election dates may be used to seek voter approval for any of the following:

- millage renewal;
- restoration/override of Headlee reduction to existing millage;
- new millage, such as sinking fund, recreational, special education, vocational education, or regional enhancement; or
- bonds.

For a new bond issue that a school would like qualified under the School Bond Qualification and Loan Program, school officials should contact their bond attorney at least six months before the selected election date to schedule a preliminary qualification (PQ) meeting with the Department of Treasury. For the May 2026 election, Treasury's availability for PQ meetings is filling up fast. We recommend that school officials plan accordingly and contact a Thrun attorney to schedule a PQ meeting as soon as possible.

Importantly, after the PQ meeting, Treasury requires 30 days to review a school's PQ application. Treasury has previously granted exceptions to the 30-day requirement on a case-by-case basis to enable a school board to approve its PQ application at a regularly scheduled board meeting. Treasury has indicated that exceptions put such a strain on its internal processes that, going forward, no further exceptions to the 30-day requirement will be granted. A PQ meeting should be scheduled as early as possible to accommodate Treasury's 30-day review window and coordinate with the board's regular meeting schedule. A school board should also be prepared to call special meetings when necessary to comply with the Treasury's timelines for the preliminary qualification process.

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Reminder: October 1 Is Fall Count Day

The student count days for the 2025-26 school year are October 1, 2025 and February 11, 2026. The October 1 count day is approaching quickly and 90% of a school's per-student state aid is based on that day's membership count.

MDE has not yet issued the 2025-26 Pupil Accounting Manual (PAM), but the most recent PAM requires school officials to ensure that:

- each student is enrolled on or before the count day;
- student schedules on count day and attendance records match;
- attendance records identify the teacher, class, hour, and dates of instruction;
- attendance records, including computer-generated records, are signed by the teacher of record;
- computer-generated records are verified, signed, and dated weekly by the teacher of record;
- attendance records, whether electronic or handwritten, are easily readable;
- the school maintains *one* official attendance record;
- attendance marks and excused/unexcused absences comply with school policy; and
- each instructor is certified and endorsed to teach the assigned content and grade or otherwise holds a substitute teaching permit or other MDE-issued authorization.

A school must demonstrate that it has satisfied *all* legal requirements to be eligible for state aid reimbursement for a counted student. Failure to follow pupil accounting rules and requirements may prompt MDE to reduce a school's student count, thereby reducing state aid.

Each year, several schools are faced with a potential state-aid reduction for failing to comply with the PAM. Those situations often involve simple and avoidable errors, such as students not being instructed by a properly certificated teacher (or by an individual with a substitute permit or other MDE authorization) or a teacher of record neglecting to sign attendance records. Other common mistakes include:

- counting students who do not meet Revised School Code Section 1147 age requirements (e.g., at least age 5 by September 1 of the school year of enrollment *or* at least age 5 by December 1 of the school year of enrollment if the student's parent or legal guardian provides the school with written notice of their intent to enroll the student);
- allowing shared-time students to take classes that are not available to all students, not taught by a certified teacher, or are "core classes" as interpreted by MDE; and
- failing to properly document student attendance.

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Reminder: School Safety Drill Requirements

Michigan's Fire Prevention Code (FPC) requires each general powers school district, intermediate school district, and public school academy operating any of grades K through 12 to conduct fire, tornado, and lockdown drills.

2025-26 Requirements

During the 2025-26 school year, a school must, at a minimum, conduct the following drills:

- 5 fire drills, with at least 3 held by December 1, and the other 2 conducted during the remainder of the school year with a reasonable interval between the drills;
- 2 tornado drills, with at least 1 held in March; and
- 3 lockdown drills, with at least 1 conducted by December 1, and at least 1 after January 1.

One of the drills listed (either fire, tornado, or lockdown) must take place "during either lunch or recess period, or at another time when a significant number of the students are gathered but not in a classroom." By September 15, the school's chief administrator (i.e., the superintendent) must provide a list of the scheduled drill days to the county emergency management coordinator.

Lockdown Drills

During a lockdown drill, students and staff must be restricted to the interior of the school building. The drill must include security measures that are appropriate to "an emergency," such as the release of a hazardous material or the presence of a potentially dangerous individual in or near the school building.

The school board must seek input from school administration and local public safety officials on the nature of the drills. State and local police may, but are not required to, participate.

Rescheduling Drills

The FPC allows a school's chief administrator to reschedule a safety drill due to conditions not within the control of school authorities (e.g., severe storms, fires, epidemics, utility power unavailability, water or sewer failure, or health conditions, as defined by public health authorities). A canceled safety drill must be rescheduled to occur within 10 school days after the original date, and the school's chief administrator must notify the county emergency management coordinator of the rescheduled date.

Posting

Within 30 school days after conducting a safety drill, school officials must post documentation on the school's website that the drill occurred. The school's website must display this information for at least three years. Documentation must include the:

- school name;
- school year;
- drill date, time, and type;
- number of completed drills to date for that drill type;
- school principal's or designee's signature acknowledging the drill; and
- name of the person who conducted the drill, if not the school principal.

Failing to conduct the required safety drills is a violation of the FPC and is punishable as a misdemeanor. The upcoming September 15 scheduling deadline is fast approaching. Be sure to also contact the county emergency management coordinator about recommended practices for conducting drills.

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Preamble & Pupils: Constitution and Citizenship Day in Michigan Public Schools

September 17 is federal Constitution Day and Citizenship Day, commemorating the signing of the U.S. Constitution. Educational institutions that receive federal funds are required to hold an educational program about the U.S. Constitution for their students on that date. While firework celebrations are not required, school officials should consider providing instruction on the Constitution and citizenship on September 17, or they may contact their county bar association to ask if local attorneys are available to present on these topics. Additionally, a variety of resources for schools are available online, including from the National Archives, the State Bar of Michigan, and the Smithsonian Museum of American History.

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THRUN LAW FIRM, P.C.

Schedule of Upcoming Speaking Engagements

Thrun Law Firm attorneys are scheduled to speak on the legal topics listed below.
For additional information, please contact the sponsoring organization.
www.thrunlaw.com/calendar/list

Date	Organization	Attorney(s)	Topic
September 5, 2025	Shiawassee RESD	Michele R. Eaddy	Section 504 Training
September 9, 2025	MASPA	Lisa L. Swem	Employee First Amendment Speech Rights
September 11 & 12, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Policy Implementation Meetings
September 12, 2025	SEAOC	Michele R. Eaddy	Special Education Law Update
September 17, 2025	MSBO	Mackenzie D. Flynn Kelly S. Bowman	Developing and Managing RFPs: Contracts
September 18, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Labor Webinar Series – Employee Evaluations: What You Need to Know
September 18, 2025	Calhoun ISD	Robert A. Dietzel	Hot Topics in Special Education
September 18, 2025	MASA	Michele R. Eaddy Ryan J. Nicholson	Effective Board Policies: Development, Adoption, Implementation
September 23, 2025	MASSP	MaryJo D. Banasik Austin W. Munroe	Probationary Pitfalls: Navigating Teacher Evaluations and Non-Renewals Webinar
September 23, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Boot Camp Webinar Series – Comprehensive Webinar
September 24, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	2020 Title IX Regulations Comprehensive Training Webinar
September 24, 2025	Muskegon Area ISD	Robert A. Dietzel	Student Discipline & Seclusion/Restraint
September 26, 2025	Ottawa Area ISD	Robert A. Dietzel	Legal Issues Related to Dyslexia
October 1, 2025	MNA	Lisa L. Swem	Keynote: Lessons Learned Over the Years of Bargaining
October 2, 2025	MNA	Katherine Broaddus	No Settlement in Sight – What Now?
October 3, 2025	MNA	Robert A. Dietzel	Legal Update
October 3, 2025	MNA	Timothy T. Gardner, Jr.	Salary Schedule Lane Changes – Parameters and Process
October 3, 2025	MNA	Raymond M. Davis	Reduction in Force

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Date	Organization	Attorney(s)	Topic
October 7, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Boot Camp Webinar Series – Maneuvering Through the Maze of Special Education Discipline
October 7, 2025	MSBO	Philip G. Clark	Prevailing Wage: What's Old is New Again
October 7, 2025	MSBO	Kirk C. Herald Mackenzie D. Flynn	Everything You Want (and Don't Want) to Know about Energy Improvement Projects
October 8, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Superintendent Survival Guide Webinar
October 10, 2025	Branch ISD	Robert A. Dietzel	Legal Update
October 21, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Boot Camp Webinar Series – Developing Legally Compliant IEPs = FAPE For Kids
October 22, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	2020 Title IX Regulations Comprehensive Training Webinar
October 22, 2025	Charlevoix-Emmett ISD	Robert A. Dietzel	Section 504
October 24, 2025	UP Special Education Conference	Robert A. Dietzel	Special Education Update
October 25, 2025	MASB	Cathleen M. Dooley	Effective Board Policies: Development, Adoption and Implementation
October 28, 2025	MASSP	Kelly S. Bowman Brian D. Baaki	Managing Information Requests: FERPA, Subpoenas, and Legal Best Practices
November 4, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Boot Camp Webinar Series – LRE and Placement: Considering the Full Continuum
November 6, 2025	#Talking AAC 2025	Michele R. Eaddy	Legal Update
November 18, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Special Education Law Boot Camp Webinar Series – The Devil's in the Docs and Data!

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Date	Organization	Attorney(s)	Topic
November 19, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	2020 Title IX Regulations Comprehensive Training Webinar
November 20, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Thrun Labor Webinar Series – CBA Summary: Grievances & Collective Bargaining
November 20, 2025	Mecosta-Osceola ISD	Michele R. Eaddy	Special Education Legal Update
December 4 & 5, 2025	Thrun Law Firm, P.C.	Thrun Attorneys	Policy Implementation Meetings