

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)
Act 94 of 1979

388.1763 Prohibited conduct; employing individuals; misdemeanor; penalty.

Sec. 163.

(1) Except as otherwise provided in the revised school code, the board of a district or intermediate district shall not permit any of the following:

(a) An individual who is not appropriately placed under a valid certificate, valid substitute permit, authorization, or approval issued under rules promulgated by the department to teach in an elementary or secondary school.

(b) An individual who does not satisfy the requirements of section 1233 of the revised school code, MCL 380.1233, and rules promulgated by the department to provide school counselor services to pupils in an elementary or secondary school.

(c) An individual who does not satisfy the requirements of section 1246 of the revised school code, MCL 380.1246, and rules promulgated by the department to be employed as a superintendent, principal, or assistant principal, or as an individual whose primary responsibility is to administer instructional programs in an elementary or secondary school or in a district or intermediate district, unless the individual is working under a valid substitute permit issued under rules promulgated by the department.

(2) Except as otherwise provided under subsection (4) or (5), a district or intermediate district employing an individual in violation of this section must have deducted an amount equal to 50% of the amount paid to the individual for the period of employment that is in violation of this section. Except as otherwise provided under subsection (4) or (5), if a district or intermediate district is notified by the department that it is employing an individual in violation of this section and it continues to employ the individual in violation of this section 10 business days after receiving the notification, both of the following apply:

(a) The district or intermediate district must have deducted an amount equal to 50% of the amount paid to the individual for the period of employment that is in violation of this section that occurs before the expiration of the 10-day period described in this subsection.

(b) The district or intermediate district must have deducted an amount equal to 100% of the amount paid to the individual for the period of employment that is in violation of this section that occurs after the 10-day period described in this subsection.

(3) For purposes of subsection (2), if a district or intermediate district on behalf of an individual or an individual successfully completes the credential application process through the department, including the submission of an appropriate application, required fees, and all required supporting documentation, the individual's employment with the district or intermediate district after this completion is not considered a period of employment that is in violation of this section.

(4) A deduction under subsection (2) for employment in violation of this section may be less than the amount required under that subsection if the superintendent of public instruction finds that the district or intermediate district was hindered in its ability to obtain a substitute credential to enable the district or intermediate district to employ the individual in compliance with this section due to unusual and extenuating circumstances resulting from conditions not within the control of school authorities, including, but not limited to, a natural disaster, death or serious illness of the individual or another employee, an emergency school closure, fraud or other intentional wrongdoing of the individual or another employee, or an emergency health condition as defined by city, county, or state health authorities.

(5) There must be no deduction under subsection (2) for employment of an individual if there is a membership adjustment under section 15 based on the same employment.

(6) If a school official is notified by the department that the school official is employing an individual in violation of this section and knowingly continues to employ that individual, the school official is guilty of a misdemeanor punishable by a fine of \$1,500.00 for each incident. This penalty is in addition to all other financial penalties otherwise specified in this article.

History: 1979, Act 94, Eff. Oct. 1, 1979 ;-- Am. 1990, Act 207, Eff. Oct. 1, 1990 ;-- Am. 1996, Act 300, Eff. Oct. 1, 1996 ;-- Am. 2000, Act 297, Imd. Eff. July 26, 2000 ;-- Am. 2004, Act 351, Eff. Oct. 1, 2004 ;-- Am. 2007, Act 137, Imd. Eff. Nov. 8, 2007 ;-- Am. 2014, Act 196, Eff. Oct. 1, 2014 ;-- Am. 2015, Act 85, Eff. Oct. 1, 2015 ;-- Am. 2018, Act 265, Eff. Oct. 1, 2018 ;-- Am. 2018, Act 266, Eff. Sept. 26, 2018 ;-- Am. 2020, Act 165, Eff. Oct. 1, 2020 ;-- Am. 2021, Act 15, Imd. Eff. May 19, 2021 ;-- Am. 2023, Act 103, Eff. Oct. 1, 2023 ;-- Am. 2024, Act 120, Imd. Eff. July 23, 2024

Compiler's Notes: Enacting section 1 of Act 351 of 2004 provides: "Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at \$11,173,900,000.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at

\$11,113,650,400.00."Enacting section 1 of Act 137 of 2007 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2007-2008 is estimated at \$11,527,973,800.00 and state appropriations to be paid to local units of government for fiscal year 2007-2008 are estimated at \$11,458,493,300.00."