

- The online interface does not allow a user to submit an incomplete application, including any required, but unattached, documents.
- Regular mail, email, and hand delivery are no longer valid methods of submitting the application.
- A payment voucher is provided upon completion of the online application, which must be printed and mailed along with a check for the application fee to:

Local Government Financial Services Division
P.O. Box 30728
Lansing, MI 48909-8228

- Approval and denial letters will be sent via email only with the letter attached as a .pdf document.

Users will need to create a user ID and password to access the new system. It is our understanding, however, that users may use the same ID and password for submitting the online qualifying statement.

Bulletin 9 continues LAFD's recent trend of moving municipal finance forms into a single, online interface. We expect LAFD will require prior approval applications for long-term securities to be submitted using this interface soon. Because a financial advisor may submit a prior approval application on behalf of a school, we encourage our clients to verify that their financial advisors are aware of the new requirements.

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Reminder: Upcoming 2016 Election Dates and Deadlines

School board elections take place on even-year November general election dates. Candidates who plan to run for their local school board at the November 2016 election must file an Affidavit of Identity and either a nonpartisan nominating petition or a nonrefundable fee with the County Clerk's office by **4:00 p.m. on Tuesday, July 26, 2016**. Failure to file an Affidavit of Identity and the petition or fee by this deadline will bar the candidate from appearing on the ballot.

School officials also should take note of the upcoming election dates and filing deadlines for millage or bond propositions:

Election Date	Filing Deadline
August 2, 2016	4:00 p.m. on May 10, 2016
November 8, 2016	4:00 p.m. on August 16, 2016

A certified copy of the resolution approving ballot language for millage or bond propositions must be filed with the election coordinator at least 84 days (12 weeks) before the election date. If your school is con-

sidering a millage or bond proposition for the upcoming August or November 2016 elections, please contact your Thrun Law Firm election attorney.

Additionally, registered electors in a school district may circulate petitions to place a millage or bond proposition on the ballot on a date other than the regular election dates. Such a petition requires the lesser of 3,000 signatures from voters who reside within the district or 10% of the district's electors who voted in the last gubernatorial election. For 2016, the remaining petition initiative (floater) election dates are:

June 14, 21, 28
September 13, 20, 27
October 4
December 20, 27

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Thrun's Evaluation Tracker: Tying Together Teacher Evaluations and Layoff/Recall

In November 2015, the Michigan Legislature amended Section 1249 of the Revised School Code and enacted language that tied Section 1248 (teacher layoff and recall) to Section 1249 (components in the year-end performance evaluation system used to assign a teacher an effectiveness rating). School officials should review their teacher performance evaluation systems to ensure compliance with these amendments. School officials also should review applicable board policy and Section 1248 before recommending teacher layoffs to the board of education.

Under Section 1249, the teacher performance evaluation system must include an annual year-end evaluation that contains three components. First, the year-end evaluation must be based on student growth and assessment data. For the 2015-16, 2016-17, and 2017-18 school years, 25% of the year-end evaluation must be based on student growth and assessment data.

Second, beginning with the 2016-17 school year, the portion of the teacher's annual year-end evaluation that is not based on student growth and assessment data must be based "primarily" on a teacher's

performance as measured by the school's evaluation tool.

Third, the portion of the teacher's annual year-end evaluation that is not measured using student growth and assessment data, or using the evaluation tool developed or adopted by the school, must "incorporate" criteria enumerated in Section 1248 that are not otherwise evaluated within the student growth and assessment data or the evaluation tool.

Section 1248 enumerates three broad categories of criteria for retaining effective teachers, portions of which likely are already contained in the evaluation tool developed or adopted by your school. The first category is the teacher's individual performance, based on: (1) evidence of student growth (the predominant factor); (2) the teacher's demonstrated pedagogical skills; (3) the teacher's management of the classroom, manner and efficacy of disciplining pupils, rapport with parents and other teachers, and ability to withstand the strains of teaching; and (4) the teacher's attendance and disciplinary record, if any. When reviewing the teacher's demonstrated pedagogical skills, school officials must consider the teacher's knowledge of the subject area and the ability to impart that knowledge through planning, delivering rigorous content, checking for and building higher-level understanding, differentiating and managing a classroom, and consistent preparation to maximize instructional time.

The second category is the teacher's significant, relevant accomplishments and contributions. School officials should consider whether the teacher contributes to overall school performance by making clear, significant, and relevant contributions. These contributions must be "above the normal expectations for an individual in his or her peer group" and the teacher must have "demonstrated a record of exceptional performance."

The third category is relevant special training. School officials should consider only relevant training that is outside of any required professional development or continuing education requirement. Further, the special training must be integrated into instruction in a meaningful way.

School officials should review their teacher evaluation system under Section 1249 to ensure that each of the relevant criteria in Sections 1248 and 1249 is considered. If the evaluation tool developed or adopted by your school does not incorporate one or more of the Section 1248 criteria, school officials should consider those factors separate from the evaluation tool and incorporate them into the teacher's year-end performance evaluation.

For schools facing a potential reduction in teaching staff, a review of Section 1248 and your

board policy on teacher reduction and recall is essential. Section 1248 prohibits schools from using seniority or tenure status as a primary or determining factor to lay off or recall teachers; rather, all layoff and recall decisions must be based on retaining effective teachers. A teacher rated "ineffective" under Section 1249's performance evaluation system must not be given preference in a layoff or recall decision over a teacher rated "minimally effective, effective, or highly effective."

Section 1248 permits, but does not require, that seniority or tenure status be used as a "tiebreaker" when all other distinguishing factors are equal.

To address the recent amendments to Section 1249, Thrun Law Firm has developed a Teacher Evaluation System Audit Checklist. We also have updated our teacher reduction and recall board policy. The audit checklist outlines the necessary information and requirements to comply with all components of Sections 1248 and 1249. Coupled with the audit checklist, the amended teacher reduction and recall policy establishes clear administrative procedures for implementing layoff and recall decisions.

If you are interested in purchasing these products for a modest fee, an Order Form is attached to this edition of *School Law Notes*. Because PSAs are not subject to Section 1248 of the Revised School Code (regarding teacher reduction/recall), a separate Order Form is available for PSAs upon request. Please use the contact information for Jill Walker provided on the attached Order Form to request the PSA materials, if desired.

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The Whistleblowers' Protection Act Does Not Protect Reporting a Suspected Future Violation of Law

The Michigan Supreme Court recently ruled that a public employee's report of a "suspected future violation of a law" was not a "protected activity" under Michigan's Whistleblowers' Protection Act ("WPA"). *Pace v Edel-Harrelson*, Docket No. 151374 (February 1, 2016). The Supreme Court's ruling reversed the Court of Appeals decision reported in the March 26, 2015 edition of *School Law Notes*.

Barbara Pace, a former employee of SIREN/Eaton Shelter, Inc., reported to her supervisors that SIREN's operations manager told her that the operations manager intended to use SIREN grant money to buy a stove for the operation manager's daughter. Pace told her supervisors that the operations manager implied that she should document the transaction in a manner concealing the unauthorized purchase.