

FACT SHEET: PROPOSED COURT RULE AMENDMENT (Rule 7.2020 and 7.209)

Michigan Supreme Court Order (ADM File No. 2021-35)

- The Michigan Supreme Court is considering an amendment to Michigan Court Rules, which, if adopted, would negatively impact governmental entities and the court procedure surrounding a defense of governmental immunity.
- This change could have a substantial impact on school districts (as well as all public entities, public employees, including the State of Michigan).
- Governmental immunity means that you cannot sue a governmental entity for personal injury if the acts that led to your injury occurred while a government employee was performing a “governmental function,” unless one of the narrow exceptions to immunity applies.
- Today, if a motion to dismiss is denied by the trial court, a governmental party can immediately file an appeal and stop the lawsuit in the trial court. Adoption of this rule would no longer allow for that appeal to occur before the conclusion of a jury trial.
- If adopted, there is likely to be increased pressure on governmental parties to settle litigation and an increase in the number of claims filed against governmental entities.
- Another tangible impact would be that marginal lawsuits would be filed at a higher volume and likely weaken governmental immunity over time.
- If adopted, the rule would take effect once the court adopts it (which is almost immediately).
- The Michigan Supreme Court is accepting public comment on the matter, which is due by April 1, 2023. All public comment will be posted to their public website.