

## EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1996-6

### **388.993 Transfer of administrative powers and duties of state board of education as administrative head of department of education to superintendent of public instruction by type II transfer; rescission of Executive Order No. 1965-9.**

WHEREAS, Article 5, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, pursuant to Article 8, Section 3 of the Michigan Constitution of 1963 the State Board of Education provides leadership and general supervision over public education, including adult education and instructional programs in state institutions, serves as the general planning and coordinating body for all public education, including higher education, and advises the legislature as to financial requests in connection therewith; and

WHEREAS, as explained in the Address to the People accompanying Article 8, Section 3, the State Board of Education was to provide its constitutional leadership by being a state level policy-making body which was to emphasize two fundamental principles: (1) the concern of all people in the educational processes as a safeguard for democracy, and (2) greater public participation in the operation of educational institutions; and

WHEREAS, the State Board of Education provides its constitutional general supervision by developing and creating general guidelines and standards by which public education is provided; and

WHEREAS, as reflected in the Address to the People accompanying Article 8, Section 3, the State Board of Education exercises its constitutional general planning and coordinating authority by being the unifying and coordinating force for education within the state, by receiving and considering information from all levels of public education, and by advising local school boards, governing boards of colleges and universities and the legislature as to the total needs of education in this state; and

WHEREAS, the Department of Education was created as an executive department of state government by section 300 of Act No. 380 of the Public Acts of 1965, being section 16.400 of the Michigan Compiled Laws; and

WHEREAS, Article 8, Section 3 of the Constitution of the State of Michigan of 1963 provides that the Superintendent of Public Instruction shall be the principal executive officer of the State Department of Education; and

WHEREAS, as reflected in the Address to the People accompanying Article VIII, Section 3 of the Constitution of the State of Michigan of 1963, Article VIII Section 3 intended for the Superintendent of Public Instruction to be the administrative head of the Department of Education; and

WHEREAS, Article 8, Section 3 of the Constitution of the State of Michigan of 1963, section 14 of Act No. 287 of the Public Acts of 1964, as amended, being section 388.1014 of the Michigan Compiled Laws, and section 305 of Act No. 380 of the Public Acts of 1965, as amended, being section 16.405 of the Michigan Compiled Laws, provide that the Superintendent of Public Instruction is the principal executive and administrative officer of the Department of Education; and

WHEREAS, Article 5, Section 3 of the Michigan Constitution of 1963 provides that the head of each principal department shall be a single executive unless otherwise provided by the constitution or by law; and

WHEREAS, it is in the interest of the efficient administration of government for an executive department to be headed by a single executive; and

WHEREAS, because staff reductions at the Department of Education resulting from implementation of the state early retirement program may equal 10% of the Department's total staff, it will be necessary for the Department to analyze its organizational structure and prioritize its functions, which may best be accomplished by a single executive; and

WHEREAS, through the effects of this Order the State Board of Education will be alleviated from many statutory administrative functions which unnecessarily burden the time of the Board, thereby allowing the Board to continue its esteemed and focused leadership, general supervision, planning and coordinating for public education.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All of the administrative statutory powers, duties, functions and responsibilities of the Board of Education as

administrative head of the Department of Education, including but not limited to those set forth in or pursuant to section 301 of Act No. 380 of the Public Acts of 1965, as amended, being section 16.401 of the Michigan Compiled Laws; section 7(a) of Act No. 380 of the Public Acts of 1965, being section 16.107(a) of the Michigan Compiled Laws; and section 9 of Act No. 380 of the Public Acts of 1965, being section 16.109 of the Michigan Compiled Laws, which includes the power to establish the internal organization of the Department and to allocate and reallocate duties and functions to promote the efficient administration and operation of resources of the Department, including the power to promulgate necessary rules and regulations to carry out such functions, are hereby transferred to the Superintendent of Public Instruction by a Type II transfer as defined by section 3 of Act No. 380 of the Public Acts of 1965, as amended, being section 16.103 of the Michigan Compiled Laws.

2. Nothing in this Executive Order should be construed to diminish the constitutional authority of the State Board of Education to provide leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, and its authority to serve as the general planning and coordinating body for all public education including higher education, and to advise the legislature as to the financial requirements in connection therewith.

3. Executive Order 1965-9 is hereby rescinded.

4. The Superintendent of Public Instruction, in cooperation with the State Board of Education, shall provide executive direction and supervision for the implementation of the transfer. The Superintendent of Public Instruction shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. All records, personnel, property and funds used, held, employed or to be made available to the State Board of Education for the activities transferred herein are, to the extent necessary, hereby transferred to the Superintendent of Public Instruction as administrative head of the Department of Education.

6. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or rescinded.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by the Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article 5, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective March 10, 1997.

**History:** 1996, E.R.O. No. 1996-6, Eff. Mar. 10, 1997