

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2015-2

18.445 Creation of state school reform/redesign office within department of technology, management, and budget; transfer of state school reform/redesign school district from department of education to state school reform/redesign office; transfer of state school reform/redesign officer from department of education to state school reform/redesign office; transfer of authority to hire officer from superintendent of public instruction to director of department of technology, management, and budget; transfer of powers and duties of department of education under MCL 380.1280c to state school reform/redesign office; transfer of certain powers and duties of superintendent of public instruction to state school reform/redesign office.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, Section 1 of Article VIII of the Michigan Constitution of 1963 provides in part that schools and the means of education shall forever be encouraged; and

WHEREAS, Section 2 of Article VIII of the Michigan Constitution of 1963 provides in part that the legislature shall maintain and support a system of free public elementary and secondary schools as defined by law; and

WHEREAS, Section 3 of Article VIII of the Michigan Constitution of 1963 vests 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, in the State Board of Education; and

WHEREAS, there is a continued need to reorganize functions among state departments to ensure efficient administration; and

WHEREAS, the economic success of our state is dependent on having an educated and skilled citizenry that begins with every student having a quality education that prepares them for career and college readiness and success; and

WHEREAS, the State School Reform/Redesign Officer and State School Reform/Redesign School District were created to advance dramatic improvement in Michigan's lowest achieving public schools, as defined under state law; and

WHEREAS, by September 1st of each year, the Superintendent of Public Instruction is required to publish a list identifying the public schools in this state that the Michigan Department of Education has determined to be among the lowest achieving 5% of all public schools in this state, as defined under state law; and

WHEREAS, except public schools under the supervision of an emergency manager, the Superintendent of Public Instruction is required to issue an order placing each public school included on the list under the supervision of the State School Reform/Redesign Officer, and the governing board of each identified public school is required to submit a redesign plan to the State School Reform/Redesign Officer implementing a school intervention model, as defined under state law; and

WHEREAS, if the State School Reform/Redesign Officer does not approve the redesign plan or determines that the redesign plan is not achieving satisfactory results, the State School Reform/Redesign Officer shall issue an order placing the public school in the State School Reform/Redesign School District, imposing for the public school implementation of a school intervention model, as defined under state law; and

WHEREAS, since the creation of the State School Reform Officer in 2010, the State School Reform/Redesign Officer has approved redesign plans for 212 public schools; and

WHEREAS, 54 public schools have operated under a redesign plan for more than 3 years; and

WHEREAS, despite not achieving satisfactory outcomes, the current structure has neither implemented the rigorous supports and processes needed to create positive academic outcomes nor placed any of the identified low achieving schools in the State School Reform/Redesign School District; and

WHEREAS, many schools continue to perform at levels that hamper the ability of students to receive an education that prepares them for career and college readiness and success; and

WHEREAS, the state's lowest performing schools are in the greatest need of rigorous support structures and interventions in order to prevent further academic decline; and

WHEREAS, there is an immediate need to bring together the necessary school improvement resources within this state and utilize all the necessary school improvement models and strategies available for schools, to ensure that all students are given the opportunity to success in the classroom;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Education" means the principal department of state government created under Section 300 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.400.

B. "Department of Technology, Management, and Budget" or "Department" means the principal department of state government created by Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121, and renamed the Department of Technology, Management, and Budget under Executive Order 2009-55, MCL 18.441.

C. "State" means the state of Michigan.

D. "State Board of Education" means the board created under Section 3, Article VIII, of the Michigan Constitution of 1963.

E. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321, and Executive Order 2009-55, MCL 18.441.

F. "State Budget Office" or "Office" means the office created under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

G. "State School Reform/Redesign School District" or "District" means the school district created under Section 1280c(6) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

H. "State School Reform/Redesign Office" means the office created within the Department of Technology, Management, and Budget under Section II of this Order.

I. "State School Reform/Redesign Officer" or "Officer" means the officer described in Section 1280c(9) of the Revised School Code, 1976 PA 451, MCL 380.1280c, and authorized to act as the superintendent of the State School Reform/Redesign District under Section 1280c(6)(b) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

J. "Superintendent of Public Instruction" means the principal executive officer of the Department of Education required under Section 3, Article VIII, of the Michigan Constitution of 1963.

II. CREATION OF STATE SCHOOL REFORM/REDESIGN OFFICE

A. The State School Reform/Redesign Office is created as an autonomous entity within the Department of Technology, Management, and Budget.

B. The Office shall exercise its statutory powers, duties, and functions, including but not limited to rule-making, licensing, and registration, including any prescription of rules, rates, regulations, and standards, and adjudication independently of the Director of the Department. All budgeting, procurement, and related management functions of the Office shall be performed under the direction and supervision of the Director of the Department.

C. The Director of the Department shall be the appointing authority for employees of the Office.

III. STATE SCHOOL REFORM/REDESIGN SCHOOL DISTRICT AND STATE SCHOOL REFORM/REDESIGN OFFICER

A. The State School Reform/Redesign School District is transferred from the Department of Education to the State School Reform/Redesign Office.

B. The State School Reform/Redesign Officer is transferred from the Department of Education to the State School Reform/Redesign Office. The Officer shall be the head of the Office and shall carry out the functions vested in the Officer in this Order and as otherwise prescribed by law, including, but not limited to, acting as the superintendent of the State School Reform/Redesign District and performing functions and responsibilities vested in the State School Reform/Redesign Officer under Section 15(5) of 1947 PA 336, MCL 423.215. The authority to hire the Officer is transferred from the Superintendent of Public Instruction to the Director of the Department of Technology, Management, and Budget, who shall be the appointing authority for the Officer. The Officer shall be chosen solely on the basis of his or her competence and experience in educational reform and redesign. The Officer shall be exempt from and not within the classified state civil service. The Department of Technology, Management, and Budget shall request the Civil Service Commission to establish the Officer's position as an exempt position of a policy-making nature within the Department.

C. All authority, powers, duties, functions, and responsibilities of the Department of Education under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c, are transferred to the State School Reform/Redesign Office, including, but not limited to, all of the following authority, powers, duties, functions, and responsibilities:

1. Determining under Section 1280c(1) of the Revised School Code, 1976 PA 451, MCL 380.1280c(1), which public schools in this state are among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the

American Recovery and Reinvestment Act of 2009, Public Law 111-5.

2. Posting on a website the federal work rules and formula for identifying the lowest achieving 5% of all public schools in this state for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, known as the "race to the top" grant program and a list of public schools in this state that have been identified for these purposes as being among the lowest achieving 5% of all public schools in this state, and updating the list as considered appropriate under Section 1280c(15) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

3. Except as prohibited by federal law, administration of any federal waivers granted by the United States Department of Education relating to the authority, powers, duties, functions, and responsibilities of the Department of Education, relating to the District, or the Officer under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c.

D. Except as provided in Section III.E, all authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c, and Section 15(6) of 1947 PA 336, MCL 423.215, are transferred to the State School Reform/Redesign Office, including, but not limited to, all of the following authority, powers, duties functions, and responsibilities::

1. Publication of a list identifying the public schools in this state that are determined to be among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, under Section 1280c(1) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

2. Issuance of orders placing each school that is included on the list under Section 1280c(1) of the Revised School Code, 1976 PA 451, MCL 380.1280c, under the supervision of the State School Reform/Redesign Officer.

3. Appointing a chief executive officer to take control over multiple public schools and directing the chief executive officer to exercise other powers or duties over the public schools under Section 1280c(7) of the Revised School Code, 1976 PA 451, MCL 380.1280c, and powers or duties under Section 15(5) of 1947 PA 336, MCL 423.215.

4. Releasing a public school from measures imposed under Section 1280c(6) or 1280c(7) of the Revised School Code, 1976 PA 451, MCL 380.1280c, under section 1280c(13) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

5. Except as prohibited by federal law, administration of any federal waivers granted by the United States Department of Education relating to the authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction relating to the District or the Officer under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c.

E. The Superintendent of Public Instruction shall retain the authority, powers, duties, functions, and responsibilities to hear and decide appeals from a school board or a board of directors under Section 1280c(4) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

F. All of the following authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction are transferred to the State School Reform/Redesign Office:

1. Determining that a public school academy that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, is in year 2 of restructuring sanctions under the No Child Left Behind Act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, and is not currently undergoing reconstitution under Section 507 of the Revised School Code, 1976 PA 451, MCL 380.507, and notifying the public school academy's authorizing body under Section 507(5) of the Revised School Code, 1976 PA 451, MCL 380.507, of that determination.

2. Determining that an urban high school academy that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, is in year 2 of restructuring sanctions under the No Child Left Behind Act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, and is not currently undergoing reconstitution under Section 528 of the Revised School Code, 1976 PA 451, MCL 380.528, and notifying the urban high school academy's authorizing body under Section 528(5) of the Revised School Code, 1976 PA 451, MCL 380.528, of that determination.

3. Determining that a school of excellence serving a special student population that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, is in year 2 of restructuring sanctions under the No Child Left Behind Act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, and is not currently undergoing reconstitution under Section 561 of the Revised School Code, 1976 PA 451, MCL 380.561, and notifying the school of excellence's authorizing body under Section 561 of the Revised School Code, 1976 PA

451, MCL 380.561, of that determination.

IV. IMPLEMENTATION

A. Nothing in this Order should be construed to diminish the role of the State Board of Education under Section 3 of Article VIII of the State Constitution of 1963 in providing 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, to serve as the general planning and coordinating body for all public education, including higher education, or to advise the Legislature as to the financial requirements in connection therewith.

B. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the State School Reform/Redesign School Office for the authority, powers, duties, functions, and responsibilities transferred under this Order are transferred to Office.

C. The State School Reform/Redesign Officer shall administer functions and responsibilities assigned under this Order in such a way as to promote efficient administration. The Director of the Department of Technology, Management, and Budget and the State School Reform/Redesign Officer shall make internal organizational changes as may be administratively necessary to complete the realignment of functions and responsibilities by this Order pursuant to MCL 16.107.

D. The Director of the Department of Technology, Management, and Budget shall provide executive direction and supervision for the implementation of the transfers under this Order.

E. The Director of the Department of Technology, Management, and Budget and the Superintendent of Public Instruction shall immediately initiate coordination to facilitate the transfers under this Order and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Education.

F. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

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

H. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced 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 requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective on 60 days after the filing of this Order.

History: 2015, E.R.O. No. 2015-2, Eff. May 12, 2015

Compiler's Notes: Executive Reorganization Order No. 2015-2 was promulgated March 12, 2015 as Executive Order No. 2015-9, Eff. May 12, 2015. For transfer of powers and duties under MCL 380.1280c that were transferred from department of education to state school reform/redesign office by E.O. No. 2015-9 back to the department of education with the transfer of school reform/redesign office from department of technology, management and budget to the department of education, see E.R.O. No. 2017-2, compiled at MCL 388.1282. For transfer of powers and duties under MCL 380.1283c and 423.215 that were transferred from superintendent of public instruction to state school reform /redesign office by E.O. No. 2015-9 back to superintendent of public instruction with transfer of state school reform/redesign office from department of technology, management, and budget to department of education, see E.R.O. No. 2017-2, compiled at MCL 388.1282. Comment: Paragraph III.B of E.O. 2015-9 is rescinded.