

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

***** 380.528.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2023 REGULAR SESSION SINE DIE *****

380.528.amended Urban high school academy; authorizing body; contract; agreement; fiscal agent; revocation; notice of certain conditions; decision to issue, not issue, or reconstitute contract, or terminate or revoke contract; transition of affected pupils upon revocation of contract; notice to superintendent of public instruction; reversion of property to state.

Sec. 528. (1) An authorizing body that issues a contract for an urban high school academy under this part shall do all of the following:

- (a) Ensure that the contract and the application for the contract comply with the requirements of this part.
- (b) Within 10 days after issuing the contract, submit to the department a copy of the contract.
- (c) Adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each urban high school academy that it authorizes. The resolution must be written or amended as necessary to include a requirement that each member of the board of directors must be a citizen of the United States.
- (d) Oversee the operations of each urban high school academy operating under a contract issued by the authorizing body. The oversight must be sufficient to ensure that the urban high school academy is in compliance with the terms of the contract and with applicable law. An authorizing body may enter into an agreement with 1 or more other authorizing bodies to oversee an urban high school academy operating under a contract issued by the authorizing body.
- (e) Develop and implement a process for holding an urban high school academy board of directors accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for an urban high school academy that does not meet those standards.
- (f) Take necessary measures to ensure that an urban high school academy board of directors operates independently of any educational management company involved in the operations of the urban high school academy.
- (g) Oversee and ensure that the pupil admission process used by the urban high school academy is operated in a fair and open manner and is in compliance with the contract and this part.
- (h) Ensure that the board of directors of the urban high school academy maintains and releases information as necessary to comply with applicable law.

(2) An authorizing body may enter into an agreement with 1 or more other authorizing bodies to carry out any function of an authorizing body under this act.

(3) The authorizing body for an urban high school academy is the fiscal agent for the urban high school academy. A state school aid payment for an urban high school academy must be paid to the authorizing body that is the fiscal agent for that urban high school academy that must then forward the payment to the urban high school academy. Within 30 days after a contract is submitted to the department by an authorizing body under subsection (1), the department shall issue a district code to the urban high school academy for which the contract was issued. If the department does not issue a district code within 30 days after a contract is filed, the state treasurer shall assign a temporary district code in order for the urban high school academy to receive funding under the state school aid act of 1979.

(4) A contract issued under this part may be revoked by the authorizing body that issued the contract if the authorizing body determines that 1 or more of the following have occurred:

- (a) Failure of the urban high school academy to demonstrate improved pupil academic achievement for all groups of pupils or meet the educational goals set forth in the contract.
- (b) Failure of the urban high school academy to comply with all applicable law.
- (c) Failure of the urban high school academy to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship.
- (d) The existence of 1 or more other grounds for revocation as specified in the contract.

(5) Except for an urban high school academy that is an alternative school serving a special student population, if the department determines that an urban high school academy site that has been operating for at least 4 years is among the lowest achieving 5% of public schools in this state for the immediately preceding 3 school years, as determined under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, not to include any individualized education plan subgroup, the department shall notify the urban high school academy's authorizing body. Subject to subsection (6), if an authorizing

body receives notice from the department under this subsection, the authorizing body shall notify the urban high school academy and amend the urban high school academy's contract to eliminate the urban high school academy's authority to operate the existing age and grade levels at the site and the urban high school academy shall cease operating the existing age and grade levels at the site, effective at the end of the current school year. Subject to subsection (6), if the urban high school academy operates at only 1 site, and the authorizing body receives notice from the department under this subsection, the authorizing body shall notify the urban high school academy and revoke the urban high school academy's contract, effective at the end of the current school year.

(6) For an urban high school academy or site that is subject to a notice to its authorizing body under subsection (5), the department shall consider other public school options available to pupils in the grade levels offered by the urban high school academy or site who reside in the geographic area served by the urban high school academy or site. If the department determines that closure of the urban high school academy or site would result in an unreasonable hardship to these pupils because there are insufficient other public school options reasonably available for these pupils, the department may rescind the notice. If the department rescinds a notice subjecting an urban high school academy or site to closure, the department shall do so before the end of the school year. If the department rescinds a notice subjecting an urban high school academy or site to closure, the department shall require the urban high school academy or site to implement a school improvement plan that includes measures to increase pupil growth and improve pupil proficiency, with growth and proficiency measured by performance on state assessments.

(7) Except as otherwise provided in section 522, the decision of an authorizing body to issue, not issue, or reconstitute a contract under this part, or to terminate or revoke a contract under this section, is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any state agency. An authorizing body that issues, does not issue, or reconstitutes a contract under this part, or that terminates or revokes a contract under this section, is not liable for that action to the urban high school academy, the urban high school academy corporation, a pupil of the urban high school academy, the parent or guardian of a pupil of the urban high school academy, or any other person.

(8) Except as otherwise provided in this section, before an authorizing body revokes a contract, the authorizing body may consider and take corrective measures to avoid revocation. An authorizing body may reconstitute the urban high school academy in a final attempt to improve student educational performance or to avoid interruption of the educational process. An authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, removing 1 or more members of the board of directors, withdrawing approval to contract under section 527, or appointing a new board of directors or a trustee to take over operation of the urban high school academy.

(9) If an authorizing body revokes a contract, the authorizing body shall work with a school district or another public school, or with a combination of these entities, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as the fiscal agent for the urban high school academy under this part, shall return any school aid funds held by the authorizing body that are attributable to the affected pupils to the state treasurer for deposit into the state school aid fund. The state treasurer shall distribute funds to the public school in which the pupils enroll after the revocation pursuant to a methodology established by the department and the center for educational performance and information.

(10) Not more than 10 days after an urban high school academy's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the urban high school academy whose contract has terminated or been revoked and the date of contract termination or revocation.

(11) If an urban high school academy's contract terminates or is revoked, title to all real and personal property, interest in real or personal property, and other assets owned by the urban high school academy shall revert to the state. This property must be distributed in accordance with the following:

(a) Within 30 days following the termination or revocation, the board of directors of an urban high school academy shall hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the urban high school academy corporation, all in accordance with chapter 8 of the nonprofit corporation act, 1982 PA 162, MCL 450.2801 to 450.2864.

(b) The urban high school academy shall file a certificate of dissolution with the department of licensing and regulatory affairs within 10 business days following board approval.

(c) Simultaneously with the filing of the certificate of dissolution under subdivision (b), the urban high school academy board of directors shall provide a copy of the board of directors' plan of distribution of assets to the state treasurer for approval. Within 30 days, the state treasurer, or the state treasurer's designee, shall review and approve the board of directors' plan of distribution of assets. If the proposed plan of distribution of assets is not approved within 30 days, the state treasurer, or the state treasurer's designee, shall provide the

board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or the state treasurer's designee, shall monitor the urban high school academy's winding up of the dissolved corporation in accordance with the plan of distribution of assets approved or provided under subdivision (c).

(e) As part of the plan of distribution of assets, the urban high school academy board of directors shall designate the director of the department of technology, management, and budget, or the director's designee, to dispose of all real property of the urban high school academy corporation in accordance with the directives developed for disposition of surplus land and facilities under section 251 of the management and budget act, 1984 PA 431, MCL 18.1251.

(f) If the board of directors of an urban high school academy fails to take any necessary action under this section, the state treasurer, or the state treasurer's designee, may suspend the urban high school academy board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee has all the rights, powers, and privileges under law that the urban high school academy board of directors had before being suspended.

(g) Following the sale of the real or personal property or interests in the real or personal property, and after payment of any urban high school academy debt secured by the property or interest in property, whether real or personal, the urban high school academy board of directors, or a trustee appointed under this section, shall forward any remaining money to the state treasurer. Following receipt, the state treasurer, or the state treasurer's designee, shall deposit this remaining money in the state school aid fund.

History: Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003;—Am. 2011, Act 277, Eff. Mar. 28, 2012;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 601, Eff. Mar. 29, 2019;—Am. 2023, Act 34, Eff. (sine die).

Compiler's note: Senate Bill 393 (SB 393) was enrolled on August 13, 2003, and presented to the governor for her approval on September 8, 2003, at 5:00 p.m. On September 18, 2003, the senate requested that the bill be returned to the senate. The governor granted the senate's request on that same date and returned the bill to that body (without objections), where a motion was made to vacate the enrollment and the motion prevailed. On September 23, 2003, the house of representatives approved a motion to send a letter to the senate agreeing with the senate's request that the governor return SB 393. Neither the Senate Journal nor the House Journal entries reveal any other action taken by the house of representatives regarding the return of SB 393.

In order to determine whether SB 393 had become law, as requested, the attorney general examined whether SB 393 was recalled by concurrent action of the house of representatives and the senate within the 14-day period afforded the governor for vetoing a bill under the last sentence of Const 1963, art 4, § 33: "SB 393 was presented to the Governor on September 8, 2003, at 5:00 p.m. The 14-day period afforded for consideration, measured in hours and minutes, therefore expired on September 22, 2003 at 5:00 p.m. While the Senate had acted to recall the bill within that 14-day period (on September 18, 2003), the House did not. Its action concurring in the request to recall SB 393 was not taken until September 23, 2003. In the absence of concurrent action by both houses of the Legislature within the 14-day period, SB 393 was not effectively recalled and 'further legislative action thereon' was not authorized." The attorney general declared that "in the absence of a return of the bill with objections, SB 393 therefore became law by operation of the last sentence of art 4, § 33." OAG, 2003, No. 7139 (October 2, 2003).

For transfer of certain powers and duties of department of education and superintendent of public instruction under MCL 380.1280c and 423.215 to state school reform/redesign office, see E.R.O. No. 2015-2, compiled at MCL 18.445.

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.

Popular name: Act 451