

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2003-2

388.997 Transfer of powers and duties of department of treasury related to administration of Michigan educational assessment to the superintendent of public instruction by type II transfer; transfer of powers and duties of Michigan assessment governing board to superintendent of public instruction by type III transfer; transfer of certain powers and duties of merit award board to superintendent of public instruction by type II transfer; rescission of Executive Order No. 2000-11.

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

WHEREAS, Article V, Section 2 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 the Governor considers necessary for efficient administration;

WHEREAS, the Department of Treasury was created as a principal department of state government under Section 75 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.175;

WHEREAS, the Department of Treasury is focused on the collection and investment of state revenue, managing state debt, and providing fiscal oversight of local governments;

WHEREAS, the Department of Education was created as a principal department of state government by Section 300 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.400;

WHEREAS, the Department of Education is focused on improving student achievement and administers state school aid payments and federal grants to Michigan public schools;

WHEREAS, the Michigan Educational Assessment Program was established to provide statewide assessment of the basic skills and educational progress of Michigan students using subject-based tests;

WHEREAS, administration of the Michigan Educational Assessment Program is a function requiring staff with educational content knowledge and expertise to measure and assess the educational progress of students, test development expertise, and other education-related skills conducive to measuring the educational progress of students;

WHEREAS, transferring primary responsibility for devising and administering statewide assessment testing programs to the Department of Education will lead to greater efficiency and accountability, foster greater coordination of educational functions, and result in more consistent programs and policies;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of state government;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

A. As used in this Order:

1. "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.

2. "Department of Treasury" means the principal department of state government created under Section 75 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.175.

3. "Merit Award Board" means the board created under Section 4 of the Michigan Merit Award Scholarship Act, 1999 PA 94, MCL 390.1454.

4. "Michigan Educational Assessment Program" or "MEAP" means the Michigan Educational Assessment Program for subject assessment of students, including but not limited to the statewide program of assessment of educational progress and remedial assistance in the basic skills of students in reading, mathematics, language arts, and/or other general subject areas, established under 1970 PA 38, MCL 388.1081 to 388.1086.

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

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

7. "Type II Transfer" means that type of transfer as defined in Section 3(b) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(b).

8. "Type III Transfer" means that type of transfer as defined in Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(c).

II. TRANSFER OF MICHIGAN EDUCATIONAL ASSESSMENT PROGRAM (MEAP)

A. All authority, powers, duties, functions, responsibilities, and rule-making authority of the Department of Treasury related to the administration of the Michigan Educational Assessment Program are transferred by Type II Transfer to the Superintendent of Public Instruction, including but not limited to any authority, powers, duties, functions, responsibilities, or rule-making authority under any of the following:

1. Section III of Executive Order 1999-12, MCL 388.995 (codified as Executive Reorganization Order 1999-7).
2. Section 1279a of the Revised School Code, 1976 PA 451, MCL 380.1279a (reporting of suspected MEAP test irregularities).
3. Section 1279c of the Revised School Code, 1976 PA 451, MCL 380.1279c (prohibitions on use of MEAP test).
4. Section 1279d of the Revised School Code, 1976 PA 451, MCL 380.1279d (reporting of suspected MEAP test irregularities).
5. Sections 1 to 6 of 1970 PA 38, MCL 388.1081 to 388.1086 (assessment of educational progress and remedial assistance).
6. Section 104a of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1704a (state assessments administered to high school pupils).
7. Section 951 of 2003 PA 161.

B. All authority, powers, duties, functions, responsibilities, or rule-making authority, if any, of the Michigan Assessment Governing Board, including but not limited to authority, powers, duties, functions, responsibilities, or rule-making authority under Section 104a of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1704a, are transferred by Type III Transfer to the Superintendent of Public Instruction. The Michigan Assessment Governing Board is abolished.

C. All authority, powers, duties, functions, responsibilities and rule-making authority of the Merit Award Board under Sections 4(8), 5(c), and 9(f) of the Michigan Merit Award Scholarship Act, 1999 PA 94, MCL 390.1454(8), 390.1455(c), and 390.1459(f), are transferred by Type II Transfer to the Superintendent of Public Instruction. The Department of Education shall assist the Merit Award Board in the performance of the Board's authority, powers, duties, functions, and responsibilities under the Michigan Merit Award Scholarship Act, 1999 PA 94, MCL 390.1451 to 390.1459.

D. The State Board of Education shall retain its policy-making authority with regard to any statutory authority, power, duty, function, or responsibility transferred under this Section II, if any, on which the administration of such statutory authority, power, duty, function, or responsibility shall be based.

III. IMPLEMENTATION

A. The Department of Information Technology shall provide the Department of Education with management and information processing services related to the authority, powers, duties, functions, and responsibilities transferred under this Order, including but not limited to application development and maintenance; desktop computer support and management; mainframe computer support and management; server support and management; local area network support and management; information technology procurement; information technology-related contract selection and oversight; information technology project management; information technology planning and budget management; and telecommunications services, infrastructure, and security.

B. Nothing in this Executive Order shall 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, to serve as the general planning and coordinating body for all public education, or to advise the Legislature as to the financial requirements in connection therewith.

C. The Superintendent of Public Instruction, in consultation with the State Treasurer, shall provide executive direction and supervision for the implementation of all transfers to the Department of Education under this Order. The functions transferred to the Department of Education under this Order shall be administered under the direction and supervision of the Superintendent of Public Instruction to the extent provided in this Order, including but not limited to, all prescribed functions of rule-making, licensing, registration, and the prescription of rules, regulations, standards, and adjudications.

D. All records, personnel, property, and funds used, held, employed, or to be made available to the Department of Treasury for the activities transferred to the Department of Education under this Order are transferred to the Department of Education.

E. Any authority, duties, powers, functions, and responsibilities transferred in this Order and not statutorily mandated may in the future be reorganized to promote efficient administration by the Superintendent of Public Instruction.

F. The Superintendent of Public Instruction, in addition to the other duties and responsibilities given to the Superintendent under this Order, shall be responsible for the oversight and supervision of the employees of the Department of Education and for the operations of the Department of Education. The Superintendent shall also perform other duties and exercise other powers as the Governor or the State Board of Education may prescribe.

G. The Superintendent of Public Instruction may perform a duty or exercise a power conferred by law or executive order upon the Superintendent at the time and to the extent the duty or power is delegated to the Superintendent by law or order.

H. The Superintendent of Public Instruction shall administer the assigned functions transferred by this Order 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.

I. The Superintendent of Public Instruction may by written instrument delegate a duty or power conferred by law or this Order and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent the duty or power is delegated by the Superintendent.

IV. RESCISSION OF EXECUTIVE ORDER 2000-11

A. The MEAP Subject Area Blue Ribbon Advisory Committee for Reading and Writing required and established within the Department of Treasury under Executive Order 2000-11 but never appointed is abolished.

B. The MEAP Subject Area Blue Ribbon Advisory Committee for Math required and established within the Department of Treasury under Executive Order 2000-11 but never appointed is abolished.

C. The MEAP Subject Area Blue Ribbon Advisory Committee for Science required and established within the Department of Treasury under Executive Order 2000-11 but never appointed is abolished.

D. The MEAP Subject Area Blue Ribbon Advisory Committee for Social Studies required and established within the Department of Treasury under Executive Order 2000-11 but never appointed is abolished.

E. Executive Order 2000-11 is rescinded in its entirety.

V. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary to implement this Order.

B. 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 repealed.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this 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.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2003, E.R.O. No. 2003-2, Eff. Dec. 21, 2003