



SENATE BILL No. 547

March 30, 1993, Introduced by Senators GEAKE, CARL and
WELBORN and referred to the Committee on Education.

A bill to create the office of the legislative education ombudsman; to prescribe certain powers and duties of the office, the ombudsman, the legislative council, the department of education, school districts, and intermediate school districts; and to provide certain remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as "the
2 legislative education ombudsman act".

3 Sec. 2. As used in this act:

4 (a) "Administrative act" includes an action, omission, deci-
5 sion, recommendation, practice, or other procedure of the depart-
6 ment, a school district, or an intermediate school district.

7 (b) "Complainant" means a person who files a complaint with
8 the ombudsman.

1 (c) "Council" means the legislative council established
2 under section 15 of article IV of the state constitution of
3 1963.

4 (d) "Department" means the department of education.

5 (e) "Intermediate school district" means that term as
6 defined in the school code of 1976, Act No. 451 of the Public
7 Acts of 1976, being sections 380.1 to 380.1852 of the Michigan
8 Compiled Laws.

9 (f) "Official" means an official or employee of the depart-
10 ment, a school district, or an intermediate school district.

11 (g) "Ombudsman" means the person appointed as legislative
12 education ombudsman and the office of the legislative education
13 ombudsman.

14 (h) "Pupil" means a person enrolled in a school district or
15 intermediate school district.

16 (i) "School district" means that term as defined in Act
17 No. 451 of the Public Acts of 1976 or a local act school district
18 as defined in Act No. 451 of the Public Acts of 1976.

19 (j) "State board" means the state board of education.

20 Sec. 3. (1) The office of the legislative education ombuds-
21 man is created within the legislative council.

22 (2) The principal executive officer of the office of the
23 legislative education ombudsman is the person appointed as legis-
24 lative education ombudsman, who shall be appointed by and serve
25 at the pleasure of the council.

26 Sec. 4. The council shall establish procedures for
27 approving the budget of the office of the legislative education

1 ombudsman, for expending funds of the office of the legislative
2 education ombudsman, and for the employment of personnel for the
3 office of the legislative education ombudsman.

4 Sec. 5. (1) Upon receipt of a complaint or upon the
5 ombudsman's own initiative, the ombudsman may investigate an
6 administrative act that is alleged to be contrary to law, con-
7 trary to state board policy, unaccompanied by an adequate state-
8 ment of reason, or based on irrelevant, immaterial, or erroneous
9 grounds.

10 (2) Subject to approval of the council, the ombudsman shall
11 establish procedures for receiving and processing complaints,
12 conducting investigations, holding hearings, and reporting the
13 findings resulting from the investigations.

14 Sec. 6. (1) Upon reasonable request, the department, a
15 school district, or an intermediate school district shall give
16 the ombudsman access to all information, records, and documents
17 in the possession of the department, school district, or interme-
18 diate school district that the ombudsman considers to be neces-
19 sary in an investigation. The department shall assist the
20 ombudsman in obtaining for use by the ombudsman the necessary
21 releases of those documents that are specifically restricted or
22 privileged by state or federal law.

23 (2) Upon request and without the necessity of advance
24 notice, the department, a school district, or an intermediate
25 school district shall grant the ombudsman entrance to inspect at
26 any time any premises under the control of the department, the
27 school district, or the intermediate school district.

1 (3) The ombudsman may hold informal hearings and may request
2 any person to appear before the ombudsman, or at a hearing, and
3 to give testimony or produce documentary or other evidence that
4 the ombudsman considers relevant to a matter under
5 investigation.

6 Sec. 7. (1) The ombudsman shall advise a complainant to
7 pursue all administrative remedies or channels of complaint open
8 to the complainant and the ombudsman may request progress reports
9 concerning the administrative processing of any complaint from
10 the department, school district, or intermediate school district
11 and the complainant. Upon request of the ombudsman, the depart-
12 ment, a school district, and intermediate school district, or the
13 complainant shall supply those progress reports to the
14 ombudsman.

15 (2) After administrative action on a complaint, the ombuds-
16 man may conduct further investigations of any complaint upon
17 request of the complainant or upon the ombudsman's own
18 initiative.

19 (3) A complainant does not have a right to be heard by the
20 ombudsman and the ombudsman is not required to hold an investiga-
21 tion on a complaint filed with the ombudsman.

22 Sec. 8. Upon the receipt of a complaint and upon deciding
23 to investigate the complaint, the ombudsman shall notify the com-
24 plainant of the decision to investigate and shall notify the
25 department, school district, or intermediate school district of
26 the intention to investigate. If the ombudsman declines to
27 entertain an investigation of a complaint or to continue an

1 investigation, the ombudsman shall notify the complainant and the
2 department, school district, or intermediate school district of
3 the decision and of the reasons for the ombudsman's decision.

4 Sec. 9. Upon request of the ombudsman, the council may hold
5 a hearing. The council may administer oaths, subpoena witnesses,
6 and examine the books and records of the department, school dis-
7 trict, or intermediate school district or of a person, partner-
8 ship, or corporation involved in a matter that is or was a proper
9 subject of investigation by the ombudsman under this act, in
10 accordance with section 104 of the legislative council act, Act
11 No. 268 of the Public Acts of 1986, being section 4.1104 of the
12 Michigan Compiled Laws.

13 Sec. 10. (1) Correspondence between the ombudsman and a
14 complainant or pupil is confidential and shall be processed as
15 privileged correspondence.

16 (2) The ombudsman shall maintain confidentiality with
17 respect to all matters and the identities of the complainants or
18 persons from whom information is acquired, except so far as dis-
19 closures may be necessary to enable the ombudsman to perform the
20 duties of the ombudsman and to support any recommendations
21 resulting from an investigation.

22 Sec. 11. The ombudsman shall prepare a report of the find-
23 ings of an investigation and make recommendations to the council
24 if the ombudsman finds any of the following:

25 (a) A matter should be further considered by the department
26 or a school district or intermediate school district.

1 (b) An administrative act should be modified or canceled.

2 (c) A statute, rule, or policy on which an administrative
3 act is based should be altered.

4 (d) Reasons should be given for an administrative act.

5 (e) Other action should be taken by the department or a
6 school district or intermediate school district.

7 Sec. 12. (1) Before announcing a conclusion or recommenda-
8 tion that expressly or by implication criticizes a person, the
9 department, a school district, or an intermediate school dis-
10 trict, the ombudsman shall consult with the person, the depart-
11 ment, the school district, or the intermediate school district.
12 If the ombudsman publishes an opinion adverse to the department,
13 a school district, an intermediate school district, or any
14 person, the ombudsman, upon request, shall include in the publi-
15 cation a statement of reasonable length made to the ombudsman by
16 the department, school district, intermediate school district, or
17 person in defense or mitigation of the action.

18 (2) The ombudsman may request to be notified by the depart-
19 ment, a school district, or an intermediate school district,
20 within a specified time, of any action taken on any recommenda-
21 tion presented. The ombudsman shall notify the complainant of
22 the actions taken by the ombudsman and by the department, school
23 district, or intermediate school district.

24 Sec. 13. The ombudsman shall submit to the council and the
25 legislature an annual report on the conduct and activities of the
26 ombudsman.

1 Sec. 14. (1) An official, the department, a school
2 district, or an intermediate school district shall not penalize a
3 complainant in any way as a result of the complainant filing a
4 complaint or cooperating with the ombudsman in investigating a
5 complaint.

6 (2) A person, the department, a school district, or an
7 intermediate school district shall not hinder the lawful actions
8 of the ombudsman or employees of the ombudsman, or willfully
9 refuse to comply with lawful demands of the ombudsman.

10 Sec. 15. The authority granted the ombudsman is in addition
11 to the authority granted under the provisions of any other act or
12 rule under which a remedy or right of appeal or objection is pro-
13 vided for a person, or any procedure provided for the inquiry
14 into or investigation of any matter. The authority granted the
15 ombudsman does not limit or affect any other remedy or right of
16 appeal or objection and shall not be considered to be part of an
17 exclusive process.