

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.561 School of excellence; authorizing body; contract; agreement; fiscal agent; notice of certain conditions; decision to issue, not issue, or reconstitute contract, or terminate or revoke contract; corrective measures; transition of affected pupils; notice to superintendent of public instruction; reversion of property to state.

Sec. 561. (1) If an authorizing body issues a contract for a school of excellence under this part, the authorizing body 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) Establish the method of selection, length of term, and number of members of the board of directors of each school of excellence that it authorizes. The authorizing body shall ensure that the board of directors includes representation from the local community.
- (d) Oversee the operations of each school of excellence operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the school of excellence is in compliance with the terms of the contract and with applicable law. This subdivision does not relieve any other governmental entity of its enforcement or supervisory responsibility.
- (e) Develop and implement a process for holding a school of excellence board of directors accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for a school of excellence that does not meet those standards.
- (f) Take necessary measures to ensure that a school of excellence board of directors operates independently of any educational management organization involved in the operations of the school of excellence.
- (g) Oversee and ensure that the pupil admission process used by the school of excellence 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 school of excellence maintains and releases information as necessary to comply with applicable law.

(2) The authorizing body may enter into an agreement with 1 or more authorizing bodies, as defined under part 6a, to carry out any function of the authorizing body under subsection (1)(a) to (h).

(3) The authorizing body for a school of excellence is the fiscal agent for the school of excellence. A state school aid payment for a school of excellence must be paid to the authorizing body as the fiscal agent for that school of excellence, and the authorizing body shall then forward the payment to the school of excellence. Within 30 days after a contract is submitted to the department by the authorizing body under subsection (1), the department shall issue a district code to the school of excellence 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 school of excellence 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 if the authorizing body determines that 1 or more of the following have occurred:

- (a) Failure of the school of excellence 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 school of excellence to comply with all applicable law.
- (c) Failure of the school of excellence 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 a school of excellence that is an alternative school serving a special student population, if the department determines that a school of excellence 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 school of excellence'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 school of excellence and amend the school of excellence's contract to eliminate the school of excellence's authority to operate the existing age and grade levels at the site and the school of excellence 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 school of excellence operates at only 1 site or is a cyber school, and the authorizing body receives notice from the department under this subsection, the authorizing body shall notify the school of excellence and revoke the school of excellence's contract, effective at the end of the current school year.

(6) For a school of excellence 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 school of excellence or site who reside in the geographic area served by the school of excellence or site. If the department determines that closure of the school of excellence 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 a school of excellence or site to closure, the department shall do so before the end of the school year. If the department rescinds a notice subjecting a school of excellence or site to closure, the department shall require the school of excellence 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 for a contract issued by a school district pursuant to a vote by the school electors on a ballot question under section 553(2), and except as otherwise provided in section 552, the decision of the 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 other state agency. If the authorizing body issues, does not issue, or reconstitutes a contract under this part, or terminates or revokes a contract under this section, the authorizing body is not liable for that action to the school of excellence, the school of excellence corporation, a pupil of the school of excellence, the parent or guardian of a pupil of the school of excellence, or any other person.

(8) Except as otherwise provided in this section, before the authorizing body revokes a contract, the authorizing body may consider and take corrective measures to avoid revocation. The authorizing body may reconstitute the school of excellence in a final attempt to improve student educational performance or to avoid interruption of the educational process. The authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, canceling a contract with an educational management organization, if any, withdrawing approval to contract under section 560, or appointing a new board of directors or a trustee to take over operation of the school of excellence.

(9) If the 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 school of excellence 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 a school of excellence's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the school of excellence whose contract has terminated or been revoked and the date of contract termination or revocation.

(11) If a school of excellence'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 school of excellence reverts 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 a school of excellence shall hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the school of excellence corporation, all in accordance with chapter 8 of the nonprofit corporation act, 1982 PA 162, MCL 450.2801 to 450.2864.

(b) The school of excellence 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 school of excellence 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 school of excellence'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 school of excellence 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 school of excellence 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 a school of excellence fails to take any necessary action under this section, the state treasurer, or the state treasurer's designee, may suspend the school of excellence board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee shall have all the rights, powers, and privileges under law that the school of excellence 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 school of excellence debt secured by the property or interest in property, whether real or personal, the school of excellence 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. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—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. Feb. 13, 2024.

Compiler's note: 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