# THE REVISED SCHOOL CODE
# Act 451 of 1976

AN ACT to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to make appropriations for certain purposes; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 1990, Act 161, Imd. Eff. July 2, 1990;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 179, Imd. Eff. Oct. 3, 2003;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Constitutionality:** The Michigan School Reform Act does not violate federal and state constitutional protections, Moore v Detroit School Reform Board, 293 F3d 352 (CA 6 2002).

**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 IV, § 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 Const 1963, art IV, § 33.” OAG, 2003, No. 7139 (October 2, 2003).

**Popular name:** Act 451

*The People of the State of Michigan enact:*

## ARTICLE 1

## PART 1
## GENERAL PROVISIONS

### 380.1 Short title.

Sec. 1. This act shall be known and may be cited as "the revised school code".

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Former law:** The School Code of 1955, deriving from Act 269 of 1955 and formerly compiled as MCL 340.1 to 340.984, was repealed by Act 451 of 1976 and Act 454 of 1976. Certain sections of the School Code of 1955 had been previously repealed by the following acts: Act 45 of 1959; Act 112 of 1959; Act 271 of 1959; Act 190 of 1962; Act 92 of 1963; Act 59 of 1964; Act 270 of 1964; Act 28 of 1965; Act 31 of 1966; Act 317 of 1968; Act 320 of 1968; Act 19 of 1969; Act 170 of 1969; Act 7 of 1971; Act 198 of 1971; Act 2 of 1972; Act 254 of 1972; and Act 166 of 1975.

The School Code of 1927, deriving from Act 319 of 1927 and formerly compiled as MCL 341.1 to 386.12, was repealed by Act 269 of 1955.

**Popular name:** Act 451

### 380.2 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 7 shall have the meanings respectively ascribed to them in those sections.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

## 380.3 Definitions; A to C.

Sec. 3. (1) "Area" as used in the phrase "area vocational-technical education program" or "area career and technical education program" means the geographical territory, within the boundaries of a K to 12 school district, an intermediate school district, or a community college district, that is designated by the department as the service area for the operation of an area vocational-technical education program.

(2) "Area vocational-technical education program", "area career and technical education program", or "career and technical education program" means a program of organized, systematic instruction designed to prepare the following individuals for useful employment in recognized occupations:

(a) Individuals participating in career and technical education readiness activities that lead to enrollment in a career and technical education program in high school.

(b) Individuals enrolled in high school in a school district, intermediate school district, public school academy, or nonpublic school.

(c) Individuals who have completed or left high school and who are available for full-time study in preparation for entering the labor market.

(d) Individuals who have entered the labor market and who need training or retraining to achieve stability or advancement in employment.

(3) "Board" or "school board" means the governing body of a local school district unless clearly otherwise stated.

(4) "Boarding school" means a place accepting for board, care, and instruction 5 or more children under 16 years of age.

(5) "Community district" means a school district organized under part 5b.

(6) "Constituent district" means a local school district the territory of which is entirely within and is an integral part of an intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004;—Am. 2007, Act 45, Imd. Eff. July 17, 2007;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** For transfer of certain powers and duties vested in the department of career development or its director, relating to powers and duties of state board of education or superintendent of public instruction to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers of department of labor and economic growth regarding career and technical education program for secondary students to department of education by type II transfer, see E.R.O. No. 2007-1, compiled at MCL 388.998.

**Popular name:** Act 451

## 380.4 Definitions; E to I.

Sec. 4. (1) "Educational media center" means a program operated by an intermediate school district and approved by the state board that provides services to local school districts or constituent districts under section 671.

(2) "Intermediate school board" means the board of an intermediate school district.

(3) "Intermediate school district" means a corporate body established under part 7.

(4) "Intermediate school district election" means an election called by an intermediate school board and held on the date of the regular school elections of constituent districts or on a date determined by the intermediate school board under section 642c of the Michigan election law, MCL 168.642c.

(5) "Intermediate school elector" means a person who is a school elector of a constituent district and who is registered in the city or township in which the person resides.

(6) "Intermediate superintendent" means the superintendent of an intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2005, Act 61, Imd. Eff. July 7, 2005;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2011, Act 232, Eff. Jan. 1, 2012.

**Popular name:** Act 451

**Administrative rules:** R 340.1702 of the Michigan Administrative Code.

## 380.5 Definitions; L to R.

Sec. 5. (1) "Local act school district" means a district governed by a local act or chapter of a local act. "Local school district" and "local school district board" as used in article 3 include a local act school district and a local act school district board.

(2) "Membership" means the number of full-time equivalent pupils in a public school as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent of public instruction.

(3) "Michigan election law" means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(4) "Nonpublic school" means a private, denominational, or parochial school.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(5) "Objectives" means measurable pupil academic skills and knowledge.

(6) "Public school" means a public elementary or secondary educational entity or agency that is established under this act or under other law of this state, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, intermediate school district, school of excellence corporation, public school academy corporation, strict discipline academy corporation, urban high school academy corporation, or by the department, the state board, or another public body. Public school also includes a laboratory school or other elementary or secondary school that is controlled and operated by a state public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(7) "Public school academy" means a public school academy established under part 6a and, except as used in part 6a, also includes an urban high school academy established under part 6c, a school of excellence established under part 6e, and a strict discipline academy established under sections 1311b to 1311m.

(8) "Pupil membership count day" of a school district means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(9) "Qualifying school district" means a school district that was previously organized and operated as a first class school district governed by part 6 that has a pupil membership of less than 100,000 enrolled on its most recent pupil membership count day, including, but not limited to, a school district that was previously organized and operated as a first class school district before June 21, 2016.

(10) "Regular school election" or "regular election" means the election held in a school district, local act school district, or intermediate school district to elect a school board member in the regular course of the terms of that office and held on the school district's regular election date as determined under section 642c of the Michigan election law, MCL 168.642c.

(11) "Reorganized intermediate school district" means an intermediate school district formed by consolidation or annexation of 2 or more intermediate school districts under sections 701 and 702.

(12) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1982, Act 215, Imd. Eff. July 8, 1982;—Am. 1992, Act 263, Eff. Jan. 1, 1993 ;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2003, Act 179, Imd. Eff. Oct. 3, 2003;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2005, Act 61, Imd. Eff. July 7, 2005;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 232, Eff. Jan. 1, 2012;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2016, Act 385, Eff. Mar. 29, 2017;—Am. 2019, Act 38, Eff. Sept. 24, 2019.

**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).

**Popular name:** Act 451

**Administrative rules:** R 340.1 et seq. of the Michigan Administrative Code.

## 380.6 Definitions; S, T; "department" defined.

Sec. 6. (1) "School district" or "local school district" means a general powers school district organized under this act, regardless of previous classification, a community district, or a school district of the first class.

(2) "School district filing official" means the school district election coordinator as defined in section 4 of the Michigan election law, MCL 168.4, or an authorized agent of the school district election coordinator.

(3) "School elector" means a person qualified as an elector under section 492 of the Michigan election law, MCL 168.492, and resident of the school district or intermediate school district on or before the thirtieth day before the next ensuing regular or special school election.

(4) "School month" means a 4-week period of 5 days each unless otherwise specified in the teacher's contract.

(5) "School of excellence" means a school of excellence established under part 6e.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(6) "Special education building and equipment" means a structure or portion of a structure or personal property accepted, leased, purchased, or otherwise acquired, prepared, or used for special education programs and services.

(7) "Special education personnel" means persons engaged in and having professional responsibility for students with a disability in special education programs and services including, but not limited to, teachers, aides, school social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, teachers of speech and language, instructional media-curriculum specialists, mobility specialists, teacher consultants, supervisors, and directors.

(8) "Special education programs and services" means educational and training services designed for students with a disability and operated by a school district, intermediate school district, the Michigan schools for the deaf and blind, the department of health and human services, or a combination of these, and ancillary professional services for students with a disability rendered by agencies approved by the superintendent of public instruction. The programs shall include vocational training, but need not include academic programs of college or university level.

(9) "Special school election" or "special election" means a school district election to fill a vacancy on the school board or submit a ballot question to the school electors that is held on a regular election date established under section 641 of the Michigan election law, MCL 168.641.

(10) "State approved nonpublic school" means a nonpublic school that complies with 1921 PA 302, MCL 388.551 to 388.558.

(11) "State board" means the state board of education created by section 3 of article VIII of the state constitution of 1963 unless clearly otherwise stated.

(12) "Student with a disability" means that term as defined in R 340.1702 of the Michigan administrative code.

(13) "Department" means the department of education created under sections 300 to 305 of the executive organization act of 1965, 1965 PA 380, MCL 16.400 to 16.405.

(14) "State school aid" means allotments from the general appropriating act for the purpose of aiding in the support of the public schools of the state, including, but not limited to, appropriations from the state school aid fund under the state school aid act of 1979.

(15) "The state school aid act of 1979" means the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 1982, Act 215, Imd. Eff. July 8, 1982;—Am. 1989, Act 159, Eff. Mar. 13, 1990;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.7 Definitions; V.

Sec. 7. (1) "Valuation of a fractional school district" means the sum of the valuations of the fractions thereof, each of which shall be computed in the same manner as the valuation of a whole school district.

(2) "Valuation of the state" means the equalized value as determined by the state board of equalization.

(3) "Valuation of a whole school district" means the total assessed value of the property contained in the district as fixed by the township or city board of review, which in turn is proportionately increased or decreased to the basis of the valuation of the county containing the district as fixed by the county board of equalization, and the result in turn proportionately increased or decreased to the basis of the valuation of the county containing the district as last fixed by the state board of equalization, known as the "state equalized valuation".

(4) "Vocational education" or "career and technical education"means education designed to provide career development and the knowledge and skills leading to technical employment or higher education in a technical field. Career and technical education programs include classroom and laboratory experiences and work-based instruction. The term includes guidance and counseling for a pupil related to the career for which the pupil is being educated and trained or designed to help the pupil benefit from the training. Allowable expenses related to career and technical education delivery include all instructional, support, and administrative costs associated with providing these activities, including, but not limited to, staff salaries, wages, and benefits for career and technical education programs only; information and awareness activities; acquisition and rental of real property; construction of buildings; acquisition of equipment and supplies; and maintenance, repair, and replacement of buildings, lands, equipment, and supplies.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2007, Act 45, Imd. Eff. July 17, 2007.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.10 Rights of parents and legal guardians; duties of public schools.

Sec. 10. It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children. The public schools of this state serve the needs of the pupils by cooperating with the pupil's parents and legal guardians to develop the pupil's intellectual capabilities and vocational skills in a safe and positive environment.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.11 Organization of school district.

Sec. 11. Each school district, except a school district of the first class or a community district, shall be organized and conducted as a general powers school district regardless of previous classification.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.11a General powers school district.

Sec. 11a. (1) Beginning on July 1, 1996, each school district formerly organized as a primary school district or as a school district of the fourth class, third class, or second class shall be a general powers school district under this act.

(2) Beginning on July 1, 1996, a school district operating under a special or local act shall operate as a general powers school district under this act except to the extent that the special or local act is inconsistent with this act. Upon repeal of a special or local act that governs a school district, that school district shall become a general powers school district under this act.

(3) A general powers school district has all of the rights, powers, and duties expressly stated in this act; may exercise a power implied or incident to a power expressly stated in this act; and, except as otherwise provided by law, may exercise a power incidental or appropriate to the performance of a function related to operation of a public school and the provision of public education services in the interests of public elementary and secondary education in the school district, including, but not limited to, all of the following:

(a) Educating pupils. In addition to educating pupils in grades K-12, this function may include operation of preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs for other persons. A school district may do either or both of the following:

(*i*) Educate pupils by directly operating 1 or more public schools on its own.

(*ii*) Cause public education services to be provided for pupils of the school district through an agreement, contract, or other cooperative agreement with another public entity, including, but not limited to, another school district or an intermediate school district.

(b) Providing for the safety and welfare of pupils while at school or a school sponsored activity or while en route to or from school or a school sponsored activity.

(c) Except as otherwise provided in this section, acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.

(d) Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others, including, but not limited to, another school district or an intermediate school district, to carry out school district powers. A school district may indemnify its employees.

(e) Receiving, accounting for, investing, or expending public school money; borrowing money and pledging public school funds for repayment; and qualifying for state school aid and other public or private money from local, regional, state, or federal sources.

(4) A general powers school district may enter into agreements, contracts, or other cooperative arrangements with other entities, public or private, including, but not limited to, another school district or an intermediate school district, or join organizations as part of performing the functions of the school district. An agreement, contract, or other cooperative arrangement that is entered into under this act is not required to comply with the provisions of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, as provided under section 503 of that act, MCL 124.503.

(5) A general powers school district is a body corporate and shall be governed by a school board. An act of a school board is not valid unless approved, at a meeting of the school board, by a majority vote of the members lawfully serving on the board.

(6) The board of a general powers school district shall adopt bylaws. These bylaws may establish or change board procedures, the number of board officers, titles and duties of board officers, and any other matter related to effective and efficient functioning of the board. Regular meetings of the board shall be held


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

at least once each month, at the time and place fixed by the bylaws. Special meetings may be called and held in the manner and for the purposes specified in the bylaws. Board procedures, bylaws, and policies in effect on the effective date of this section shall continue in effect until changed by action of the board.

(7) The board of a school district shall be elected as provided under this act and the Michigan election law. The number of members of the board of a general powers school district shall remain the same as for that school district before July 1, 1996 unless changed by the school electors of the school district at a regular or special school election. A ballot question for changing the number of board members may be placed on the ballot by action of the board or by petition submitted by school electors as provided under chapter XIV of the Michigan election law, MCL 168.301 to 168.316.

(8) Members of the board of a general powers school district shall be elected by the school electors for terms of 4 or 6 years, as provided by the school district's bylaws. At each regular school election, members of the board shall be elected to fill the positions of those whose terms will expire. A term of office begins as provided in section 302 of the Michigan election law, MCL 168.302, and continues until a successor is elected and qualified.

(9) Except as provided under part 5b, a community district shall be organized and conducted in the same manner as a general powers school district. As provided under part 5b, a community district has all of the powers of a general powers school district under section 11a and has all additional powers granted by law to a community district or the school board of a community district. The members of the board of a community district shall be elected by the school electors in the manner and for the terms as provided under part 5b and the Michigan election law.

(10) The board of a general powers school district may submit to the school electors of the school district a question that is within the scope of the powers of the school electors and that the board considers proper for the management of the school system or the advancement of education in the school district. Upon the adoption of a question by the board, the board shall submit the question to the school electors by complying with section 312 of the Michigan election law, MCL 168.312.

(11) A special election may be called by the board of a general powers school district as provided under chapter XIV of the Michigan election law, MCL 168.301 to 168.316.

(12) Unless expressly provided in 1995 PA 289, the powers of a school board or school district are not diminished by this section or by 1995 PA 289.

(13) A school district operating a public library, public museum, or community recreational facility as of July 1, 1996 may continue to operate the public library, public museum, or community recreational facility.

(14) A school district may establish and administer scholarships for its students or graduates to support their attendance at a postsecondary educational institution from funds the school district receives as a result of a compact entered into between this state and a federally recognized Indian tribe pursuant to the Indian gaming regulatory act, Public Law 100-497. A school district that establishes a scholarship program funded under this subsection shall ensure that the scholarship program provides for all of the following:

(a) That a student or graduate is not eligible to be awarded a scholarship unless the student or graduate is enrolled in the school district for all of grades 9 to 12 and meets 1 of the following:

(*i*) Is a resident of the school district for all of grades 9 to 12.

(*ii*) Was enrolled in the school district for the 2009-2010 school year but was not a resident of the school district for that school year, and is enrolled in the school district continuously after that school year until graduation.

(b) That the amount of a scholarship awarded to a student or graduate who was not enrolled in and a continuous resident of the school district for all of grades K to 12 shall be adjusted based on length of enrollment and continuous residency or, for a student or graduate described in subdivision (a)(*ii*), based on length of enrollment.

**History:** Add. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2006, Act 515, Imd. Eff. Dec. 29, 2006;—Am. 2010, Act 91, Imd. Eff. June 10, 2010;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.11b Report to legislature.

Sec. 11b. Not later than 180 days after the effective date of this section, the state board shall prepare and submit to the committees of the legislature with responsibility for education legislation a report that does all of the following:

(a) Details the mandates imposed on school districts, intermediate school districts, and public school academies, and on their boards, by this act, the state school aid act of 1979, other state statute, or rule.

(b) Makes recommendations on mandates that should be eliminated by law.

(c) Makes recommendations on mandates applying to school districts, intermediate school districts, or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

public school academies, or their boards, that should, by legislation, be made subject to waiver by the state board or superintendent of public instruction and on proposed requirements for obtaining such a waiver.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.12 Loss of organization and dissolution of school district; conditions; attachment of dissolved district to organized school districts; accounting and distribution of records, funds, and property; outstanding debt of dissolved school district; audit; payment of discrepancy; approval of tax rate by school electors; sinking fund tax levy; use of test scores; rights and privileges of pupils; definitions.

Sec. 12. (1) A school district shall lose its organization and shall be declared dissolved if any of the following conditions are met:

(a) There are not enough persons residing in the school district and qualified under law to hold all of the offices of the school district or who will accept the offices of the school district.

(b) After consultation with the intermediate school district in which the district is located, the superintendent of public instruction and state treasurer jointly determine that all of the following apply:

(*i*) The school district was required to submit a deficit elimination plan under the state school aid act of 1979 and the school district either has failed to submit a plan or lacks the capability to both implement a deficit elimination plan and meet the school district's obligations to provide public educational services to pupils and other residents of the school district in a manner that complies with this act, the state school aid act of 1979, and rules promulgated by the department.

(*ii*) The school district is not financially viable and is unable to educate pupils in grades K-12 residing in the school district by operating schools for a full school year and providing the required number of instructional hours under this act and the state school aid act of 1979. As used in this subparagraph, "financially viable" means that a school district has the financial resources to carry out at least the educational program required by law and pay its existing debts as they become due taking into consideration the projected enrollment, cash flow, revenues, and borrowing capability of the school district.

(*iii*) The school district has at least 300 and not more than 2,400 pupils in membership.

(*iv*) The number of pupils in membership in the school district for the most recently completed school year was at least 10% less than the number of pupils in membership in the school district for the school year immediately preceding the most recently completed school year.

(*v*) The school district began the school fiscal year ending in the current state fiscal year with an operating fund deficit and is projected to end the school fiscal year ending in the current state fiscal year with a greater operating fund deficit or received a loan approved by the local emergency financial assistance loan board that had the effect of reducing the deficit for the school year ending in the current state fiscal year.

(*vi*) The school district has not consolidated with another school district during the immediately preceding 12 calendar months.

(2) If a school district meets either or both of subsection (1)(a) or (b), the intermediate school board of the intermediate school district to which the school district is constituent, or the superintendent of public instruction if that intermediate school board requests the superintendent of public instruction to act in its place, shall declare the school district dissolved and immediately order attachment of the territory of the school district, in whole or in part, to 1 or more other organized school districts within the intermediate school district. In attaching the territory of the dissolved school district to other school districts, the intermediate school board or the superintendent of public instruction shall take into account the number of pupils who will become pupils of each of those other school districts relative to the number of pupils already enrolled in the other school district and the numbers of pupils who qualify for free and reduced price lunch, special education services and at-risk funding among the other school districts. For a school district that is declared dissolved in 2013, within 21 days after the school district is declared dissolved, and for a school district that is declared dissolved after 2013, within 60 days after the school district is declared dissolved, the dissolved school district shall account to the intermediate school district for all records, funds, and property of the school district and shall make an equitable distribution of the records, funds, and property consistent with the ordered attachment to each receiving school district. A school building or other real property owned by and located in the dissolved district shall become part of and owned by the receiving school district in which it is located.

(3) If a dissolved school district has outstanding debt, the dissolved school district shall retain a limited separate identity and the territory of the dissolved school district shall continue as a separate taxing unit for the limited purpose of the debt until the debt is retired or refunded. The intermediate school board and other officers of the intermediate school district in which the geographic area of the dissolved school district is


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

located shall perform the functions and satisfy the responsibilities of the board and other officers of the dissolved school district relating to the debt, including, but not limited to, all of the following:

(a) Certifying and levying taxes for satisfaction of the debt in the name of the dissolved school district.

(b) Holding debt retirement funds of the dissolved school district separately from the funds of the receiving school district.

(c) Doing all other things relative to the outstanding debt of the dissolved school district required by law and by the terms of the debt, including, but not limited to, levying or renewing a school operating tax under section 1211. The question of renewal of a school operating tax pledged to the repayment of debt of the dissolved school district shall be submitted only to school electors residing within the geographic area of the dissolved school district and does not require approval by electors of a receiving school district not residing within the geographic area of the dissolved school district.

(4) Upon the attachment of a dissolved school district to another school district, the intermediate school board shall audit the assets and liabilities of the dissolved school district. If a considerable discrepancy is found, the intermediate school board shall order the dissolved school district to pay the discrepancy to 1 or more appropriate receiving school districts. After first satisfying debt obligations, the dissolved school district shall repay that amount to 1 or more appropriate receiving school districts from money available to the dissolved school district including voted millage within a time to be determined by the intermediate school board.

(5) If a tax is authorized within a receiving school district at a rate greater than the rate authorized within the dissolved school district at the time of the dissolution, the tax may not be levied within the geographic area of the dissolved school district until approved by the school electors residing within the geographic area of the dissolved school district or by all school electors within the receiving school district, including any expanded geographic area of the receiving school district resulting from attachment under this section.

(6) If a dissolved school district was authorized to levy a sinking fund tax under section 1212 at the time of dissolution, the identity of the dissolving school district as a legal entity shall not be lost and its territory shall remain as a taxing unit for the limited purpose of levying a sinking fund tax under section 1212 until the authorization to levy a sinking fund tax within the dissolved school district expires. For purposes of this subsection, the intermediate school board and other officers of the intermediate school district in which the geographic area of the dissolved school district is located shall perform the functions and responsibilities of the board and other officers of the dissolved school district relating to levying the sinking fund tax and shall distribute the proceeds of the levy to each receiving school district that operates a school building previously operated by the dissolved school district. The proceeds of a sinking fund tax levy under this subsection may be used only within the geographic area of the dissolved school district for purposes authorized under section 1212. A receiving school district may not renew or authorize a new sinking fund tax that is levied only within the geographic area of the dissolved school district.

(7) To the extent permitted under federal law and any applicable waiver approved by the United States department of education, the department shall not include the test scores of pupils from the dissolved school district for determining adequate yearly progress status or for "top-to-bottom" rankings of the receiving school districts for the first 3 school years after dissolution.

(8) For the same number of school years for which test scores of pupils from the dissolved district are not used under subsection (7), a receiving school district shall not use the test scores of pupils from the dissolved school district as a factor in any performance evaluation of an employee of the receiving school district.

(9) The pupils formerly enrolled in the dissolved school district have all the legal and constitutional rights and privileges of the other pupils enrolled in the receiving school districts.

(10) As used in this section:

(a) "Debt" means that term as defined in section 103 of the revised municipal finance act, 2001 PA 34, MCL 141.2103, and any unpaid amounts payable by a dissolved school district to the Michigan public school employees' retirement board under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

(b) "Receiving school district" means a school district to which all or part of the territory of a dissolved school district is attached under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2013, Act 96, Imd. Eff. July 2, 2013.

**Popular name:** Act 451

### 380.12a Grant allocations; "receiving school district" defined.

Sec. 12a. (1) As permitted under federal law, if a school district is dissolved under section 12 or if the functions and responsibilities of a school district for operating a public school are transferred to another public entity, the superintendent of public instruction shall grant each receiving school district or other public


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

entity assuming the functions and responsibilities for the public school an allocation of grants under 20 USC 6333, 6334, 6335, and 6337 and of other federal funds that would otherwise be made available for grants to or federal funding for the public school or make other adjustments in the allocation of federal funds to implement the dissolution of the school district or other transfer of functions and responsibilities.

(2) As used in this section, "receiving school district" means that term as defined in section 12.

**History:** Add. 2013, Act 96, Imd. Eff. July 2, 2013;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Popular name:** Act 451

### 380.12b School district as qualifying school district; loss of organization; transfer of records, funds, and property to community district; retention of certain proceeds, payments, and functions; functions and responsibilities of transition manager; allocation of grants and federal money; community district as successor entity; membership of qualifying school district for purposes of making state school aid allocations; effect of transfer date; duties of qualifying school district; exercise of duties by community district until dissolution of qualifying school district; repayment of outstanding obligations of qualifying school district; determination by state treasurer; certification; definitions.

Sec. 12b. (1) Beginning on the effective date of the amendatory act that added this section, if a school district is or becomes a qualifying school district, the school district shall lose its organization and be dissolved as provided in this section.

(2) If a school district loses its organization under subsection (1), except as otherwise provided in this section, all records, funds, and property of the qualifying school district are transferred on the transfer date to a community district created with the same geographic boundaries of the qualifying school district under part 5b. Except as otherwise provided in this section, proceeds from bonds, notes, or emergency loans, taxes levied by or payable to the qualifying school district, money payable to the qualifying school district under the state school aid act of 1979, and advances or other payments relating to any of these, and all of the qualifying school district functions described under subsection (3), shall be retained by the qualifying school district and are not transferred to the community district. A school building or other real property owned by the qualifying school district becomes part of and owned by the community district. If a qualifying school district has outstanding debt on the transfer date, the qualifying school district shall retain a limited separate identity as a school district and the territory of the qualifying school district shall continue as a separate taxing unit only for the limited public purposes of the repayment of the debt until the debt is retired, satisfying liability from legal claims filed before the transfer date, and protecting the credit of this state and of its school districts.

(3) Before the transfer date, the governor shall designate an individual who is authorized by law to act for and in the place and stead of the school board and superintendent of schools of the qualifying school district as the transition manager for the community district to perform functions and satisfy responsibilities of the community district, of the school board and superintendent of schools of the community district, and of the transition manager under this section until the elected members of the school board of the community district are elected and take office under section 384. Until that time, the transition manager shall exercise the powers, perform the functions, and satisfy the responsibilities of the school board and superintendent of schools of the community district, except that the transition manager shall not negotiate or enter into any collective bargaining agreement that would bind the elected school board of the community district. Until that date, the transition manager also shall perform the functions and satisfy the responsibilities of the school board and superintendent of schools of the qualifying school district relating to the repayment of debt and the dissolution of the qualifying school district, including, but not limited to, all of the following:

(a) Certifying and levying taxes for satisfaction of the debt in the name of the qualifying school district.

(b) Doing all other things relative to the repayment of outstanding debt of the qualifying school district required by law and by the terms of the debt, including, but not limited to, filing draw requests and borrowing from the revolving loan fund for debt service on qualified bonds under the school bond qualification, approval, and loan act, 2005 PA 92, MCL 388.1921 to 388.1939, levying or seeking voter approval for a renewal of a school operating tax under section 1211, or refunding or refinancing debt.

(c) Doing all other things relative to the dissolution of the qualifying school district.

(4) An individual designated as a transition manager under subsection (3) shall perform the functions and satisfy the responsibilities of a transition manager under this section from the time of the designation until the elected members of the school board of the community district are elected and take office under section 384. Officers, employees, agents, and contractors of the community district are subject to direction and supervision by the transition manager and shall actively cooperate with the transition manager in the transition manager's performance of functions and responsibilities under this section. The functions and responsibilities of the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

transition manager under this section include, but are not limited to, all of the following before, on, and after the transfer date:

(a) Appointing an interim superintendent of schools for the community district to perform the functions of the superintendent of schools for the community district only until a superintendent of schools is selected by the school board of the community district and takes office.

(b) Subject to the control of the financial review commission under section 387, adopting the initial budget and general appropriations act for the community district for the first fiscal year of the community district. The initial budget and general appropriations act are subject to amendment by the school board of the community district after the school board is elected and takes office under section 384.

(c) Subject to the control of the financial review commission under section 387, establishing financial and accounting systems for the community district and transferring financial records from the qualifying school district to the community district.

(d) Transferring student records from the qualifying school district in a manner that complies with laws applicable to student records.

(e) Taking action necessary to ensure that state or federal grants payable and expendable by the qualifying school district before the transfer date are payable and expendable by the community district as a successor entity to the qualifying school district after the transfer date.

(f) Taking action necessary to ensure that school buildings and other school property transferred to the community district by operation of law under this section are ready for use in the first school year that begins after the transfer date and preparing a schedule of all fixed assets transferred from the qualifying school district to the community district.

(g) Taking action necessary to ensure the continuity of ongoing educational programs operational both before and after the transfer date and properly accounting for the funding of the educational programs.

(h) Subject to the control of the financial review commission under section 387, negotiating and approving amended or new agreements with vendors of the qualifying school district to assure that the necessary services are available to be provided to the community district. This does not include a collective bargaining agreement.

(i) Adopting on behalf of the community district any policy or operating procedure required by law for a school district as necessary to ensure the community district's compliance with this act and other applicable law.

(5) As permitted under federal law, on the transfer date the superintendent of public instruction shall allocate to a community district receiving the functions and responsibilities of a qualifying school district for a public school under subsection (2) all applicable grants under 20 USC 6333, 20 USC 6334, 20 USC 6335, and 20 USC 6337, and other federal funds that would otherwise be made available for grants to or federal funding for the public school or make other adjustments in the allocation of federal funds to implement the transfer of functions and responsibilities for the public school. The community district is the successor entity of the qualifying school district for purposes of receiving and expending federal grants.

(6) For a community district's first school year of operations only, until the department is able to calculate the community district's membership, the department shall use the membership of the qualifying school district for the purposes of making state school aid allocations to the community district under the state school aid act of 1979.

(7) Effective on the transfer date for a qualifying school district and the community district created with the same geographic boundaries of the qualifying school district under part 5b, all of the following apply:

(a) The community district acquires, succeeds to, and assumes the exclusive right, responsibility, and authority to own, occupy, operate, control, use, lease, and convey the facilities of the qualifying school district existing as of the transfer date, including all lands, buildings, improvements, structures, easements, rights of access, and all other privileges and appurtenances. The officers of the qualifying school district shall execute any instruments of conveyance, assignment, and transfer that are necessary or appropriate to accomplish the acquisition and succession under this subdivision. Occupancy of a facility by a community district under this subdivision is not considered to be a change in occupancy for any purpose under state or local law.

(b) Except as otherwise provided in this section, the community district acquires, succeeds to, and assumes all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used by the qualifying school district as of the transfer date. The officers of the qualifying school district shall execute any instruments of conveyance, assignment, and transfer that are necessary or appropriate to accomplish the acquisition and succession under this subdivision.

(c) Except as otherwise provided in this section, the community district acquires, succeeds to, and assumes all of the rights of the qualifying school district relating to the qualifying school district under any ordinances, agreements, or other instruments and under law. This includes, but is not limited to, a contract issued by the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

qualifying school district under this act to organize and operate a public school academy. This succession includes, and there is transferred to the community district, all licenses, permits, approvals, or awards related to the qualifying school district along with all grant agreements, grant pre-applications, and the right to receive the balance of any funds payable under the agreements.

(d) The community district has the right and authority to own, occupy, operate, control, use, lease, and convey the facilities transferred by the qualifying school district, subject to any liens on the real property.

(e) Except for debt or other obligations retained by the qualifying school district under this section, the community district has the qualifying school district's right, title, and interest in and all of the qualifying school district's responsibilities and authority arising under leases, concessions, and other contracts for facilities.

(f) All records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, or general administration of the qualifying school district are transferred to the community district without reversion or impairment to the maximum extent permitted by law.

(g) A community district acquires, succeeds to, and assumes all of the rights, duties, and obligations under a collective bargaining agreement applicable to the qualifying school district on the transfer date. The terms and conditions of that collective bargaining agreement applicable to employees of the qualifying school district on the transfer date shall be the terms and conditions applicable to employees of the community district and except for the superintendent of schools, the community district shall be the successor employer for employees of the qualifying school district on the transfer date. Except for the superintendent of schools, an individual who is entitled to employment by the qualifying school district on the transfer date shall be entitled to employment by the community district following the transfer to the community district.

(h) For individuals who become employed by a community district by the operation of subdivision (g), the transition manager shall take all steps necessary to ensure that all personnel records are transferred from the qualifying school district to the community district. For an individual who becomes employed by a community district by the operation of subdivision (g), the community district is not required to obtain a criminal history check under section 1230 or a criminal records check under section 1230a or to request information concerning unprofessional conduct under section 1230b before employing the individual.

(i) On the transfer date, a pupil enrolled in the qualifying school district in the immediately preceding school year other than an individual who has completed grade 12 is automatically enrolled by operation of law in the community district for the next school year. The transition manager shall use best efforts to assign a pupil to the appropriate grade at the school the pupil attended in the preceding school year, or to another school that the pupil has applied and been admitted to before the transfer date, unless the appropriate grade is not offered at that school or that school is closed. The transition manager shall ensure that all pupil records are transferred from the qualifying school district to the community district in accordance with sections 1134 and 1135. This section does not diminish or limit the right of a pupil to attend a school of his or her choice.

(8) A transfer to a community district under this section does not impair a contract with a party in privity with the qualifying school district.

(9) Upon the transfer to a community district, the community district assumes and the qualifying school district is relieved from all operational jurisdiction over the qualifying school district and facilities and is relieved from all further costs and responsibility arising from or associated with operating a public school or providing public education services, except as otherwise required under obligations retained by the qualifying school district under this section, including, but not limited to, debt.

(10) A qualifying school district shall do all of the following:

(a) Refrain from any action that would impair a community district's exercise of the powers granted to the community district under this section or part 5b, or that would impair the efficient operation and management of the community district.

(b) Take all action reasonably necessary to cure any defects in title to property transferred from the qualifying school district to the community district.

(c) Upon creation of a community district and before the transfer date, conduct operations of the qualifying school district in the ordinary and usual course of business.

(d) Comply with the terms and conditions of any loan agreement between the qualifying school district and the local financial emergency assistance loan board under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, including, but not limited to, any terms and conditions providing for the payment of transitional operating costs incurred by a community district.

(e) Notify the state treasurer upon the repayment of all outstanding operating obligations of the qualifying school district.

(f) Notify the state treasurer upon the repayment of all outstanding debt of the qualifying school district.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(11) Upon the election and assumption of duties by the members of the initial elected school board of the community district, the school board of the qualifying school district is dissolved and the functions and responsibilities of the qualifying school district shall be exercised by the community district on behalf of the qualifying school district until the qualifying school district is fully dissolved under subsection (14).

(12) If the state treasurer is notified that all outstanding operating obligations of the qualifying school district have been repaid, the state treasurer shall verify whether all outstanding obligations of the qualifying school district have been repaid. The state treasurer also may determine that the outstanding operating obligations of a qualifying school district have been satisfied on his or her own without notice. If the state treasurer determines that all outstanding operating obligations of the qualifying school district have been repaid, the state treasurer shall certify in a written notice to a community district that has the same geographic boundaries as the qualifying school district that the outstanding operating obligations of the qualifying school district have been repaid.

(13) If the state treasurer is notified that all outstanding debt of the qualifying school district has been repaid, the state treasurer shall verify whether all of the outstanding debt of the qualifying school district has been repaid. The state treasurer also may determine that the outstanding debt of a qualifying school district has been repaid on his or her own without notice. If the state treasurer determines that all of the outstanding debt of the qualifying school district has been repaid, the state treasurer shall certify in a written notice to a community district that has the same geographic boundaries as the qualifying district that all outstanding debt of the qualifying school district has been repaid.

(14) Upon certification by the state treasurer under subsection (13), the qualifying school district is fully dissolved and any remaining assets of the qualifying school district are transferred to the community district.

(15) As used in this section:

(a) "Debt" means that term as defined in section 103 of the revised municipal finance act, 2001 PA 34, MCL 141.2103, and also includes any of the following:

(*i*) Obligations of the qualifying school district under an energy installment purchase contract.

(*ii*) Obligations of the qualifying school district under a capital lease.

(*iii*) Any unpaid amounts payable by the qualifying school district to the Michigan public school employees' retirement board under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

(*iv*) The repayment of any loan or obligations under any loan agreement between the qualifying school district and the local financial emergency assistance loan board under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(*v*) The repayment of any school financing stability bonds under section 1356.

(*vi*) Any other monetary obligations of the qualifying school district.

(b) "Operating obligation" means debt of a school district incurred for purposes of financing the operation of a school district or public schools operated by a school district, including, but not limited to, fiscal stability bonds under section 1356 and an emergency loan under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, and transitional operating costs as defined in section 3 of the emergency municipal loan act, 1980 PA 243, MCL 141.933. Operating obligation does not include debt of a school district incurred for the purpose of constructing, renovating, maintaining, or otherwise improving school facilities unless the debt is incurred as transitional operating costs as defined in section 3 of the emergency municipal loan act, 1980 PA 243, MCL 141.933.

(c) "Transfer date" means the first July 1 after the date a school district becomes a qualifying school district. For a school district that became a qualifying school district on the effective date of the amendatory act that added this subdivision, the transfer date is July 1, 2016.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.13 Assumption of bonded indebtedness by combined school districts; payment; election.

Sec. 13. (1) Beginning 3 years after the effective date of the disorganization of a school district which has outstanding bonded indebtedness, the combined school district may assume and pay the obligation of the bonded indebtedness by spreading a debt retirement tax levy uniformly over the territory of the combined school district, if the school electors of the combined school district approve the assumption of the bonded indebtedness. The assumption of the bonded indebtedness shall not release the territory of the district originally incurring the bonded indebtedness from the final responsibility of paying the obligation. The election may be held following the effective date of attachment at a time when a proposal is made to increase the bonded indebtedness of the combined school district. If the assumption of indebtedness is approved, it


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

shall become effective immediately.

(2) At an election to issue new bonds of the combined school district, outstanding bond issues of the original districts may be refunded as part of the new bond issue. The question of assumption of the indebtedness need not be presented as a separate proposition. If a school district is attached to another school district under section 12, the vote by the school electors of the combined school district may be held at any time following the effective date of attachment.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.14 Petitions; violation.

Sec. 14. A petition under, or that is necessary to meet a requirement of, section 11a, 411a, 412a, 503, 614, 617, 690, 701, 853, 860, 931, or 1311e, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, MCL 168.488. A person who violates a provision of the Michigan election law applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law.

**History:** Add. 1998, Act 406, Eff. Mar. 23, 1999;—Am. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.15 Repealed. 2017, Act 38, Eff. Aug. 21, 2017.

**Compiler's note:** The repealed section pertained to transfer of gift from school board to community foundation.

**Popular name:** Act 451

## PART 2
## PRIMARY SCHOOL DISTRICTS

### 380.71-380.87 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

## PART 3
## SCHOOL DISTRICTS OF THE FOURTH CLASS

### 380.101-380.155 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

## PART 3A
## JOINT HIGH SCHOOL DISTRICTS

### 380.171-380.187 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

## PART 4
## SCHOOL DISTRICTS OF THE THIRD CLASS

### 380.201-380.260 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

## PART 5
## SCHOOL DISTRICTS OF THE SECOND CLASS

### 380.301-380.362 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

## PART 5A
## APPOINTMENT OF SCHOOL REFORM BOARDS

### 380.371 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to definitions.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.372 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to establishment of school reform board.

**Popular name:** Act 451

### 380.373 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to suspension of powers and duties of elected school board. The repealed section also pertained to powers and duties of mayor and chief executive officer, termination of contracts, and implementation of school district improvement plan.

**Popular name:** Act 451

### 380.374 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to appointment of chief executive officer and other officers.

**Popular name:** Act 451

### 380.374a Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to election or appointment of certain members or officers to elective office of qualifying school district.

**Popular name:** Act 451

### 380.375 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to provisions applicable after 5 years from initial appointment of school reform board of qualifying school district.

**Popular name:** Act 451

### 380.376 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to school district accountability board.

**Popular name:** Act 451

## PART 5B
## COMMUNITY DISTRICTS

### 380.381 School district organized as community district; political subdivision and public body corporate; name; jurisdiction; definitions.

Sec. 381. (1) A school district organized as a community district shall be governed by this part, by the provisions of article 2 not inconsistent with this part, and by articles 3 and 4.

(2) A community district is a political subdivision and public body corporate separate and distinct from this state and other school districts in this state.

(3) The name of a school district governed by this part shall include the name of the city, village, or township with the greatest population located within the geographic boundaries of the community district, the word "school" or "schools", and the word "community" or "district", or both.

(4) Subject to section 12b, a school district governed by this part shall be under the jurisdiction of and governed by the school board of the community district provided for by section 384.

(5) As used in this part:

(a) "Authorizing body" means that term as defined in section 501, 521, or 551, as applicable.

(b) "Transfer date" means that term as defined in section 12b.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Popular name:** Act 451

### 380.382 Community district; organization and conduct in manner of general powers school district.

Sec. 382. Except as otherwise provided in this part, a community district shall be organized and conducted in the same manner as a general powers school district. Except as otherwise provided by law, a community district has all of the powers of a general powers school district under section 11a and has all additional powers granted by law to a community district or the school board of a community district.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.383 Creation of community district.

Sec. 383. Effective on the date a school district becomes a qualifying school district, a community district


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

is created for the same geographic area of that qualifying school district to provide public education services for residents of that geographic area and to otherwise exercise the powers of a community district for that geographic area beginning on the transfer date for that qualifying school district.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.384 Initial school board for community district; membership; election; terms; bylaws; meetings; limitation; "school district election coordinator" defined.

Sec. 384. (1) Until an initial school board for a community district is elected under this section, the transition manager designated under section 12b shall exercise the powers and duties with respect to governance of the community district as provided under that section.

(2) The initial school board for a community district shall consist of 7 members elected as provided in this section. The school district election coordinator for the community district shall conduct the election as provided for under this section and the Michigan election law.

(3) The school board for a community district shall consist of 7 school electors of the community district elected on a districtwide basis. Members elected to the initial elected school board shall be elected at the first November regular election date, as established under section 641 of the Michigan election law, MCL 168.641, that occurs at least 90 days after the transfer date.

(4) Except as otherwise provided in this subsection, for an individual's name to appear on the official ballot as a candidate for member of the initial elected school board of a community district, the candidate shall file a nominating petition and the affidavit required by section 558 of the Michigan election law, MCL 168.558, with the school district election coordinator not later than 4 p.m. on the fifteenth Tuesday before the election date. The nominating petition must be signed by a minimum of 40 and maximum of 100 school electors of the community district. The nominating petition shall be substantially in the form prescribed under section 303 of the Michigan election law, MCL 168.303. However, instead of filing nominating petitions, a candidate for school board member may pay a nonrefundable filing fee of $100.00 to the school district election coordinator. If this fee is paid by the due date for a nominating petition, the payment has the same effect under this section as the filing of a nominating petition.

(5) The 2 members of the initial elected school board receiving the highest vote totals in that election among the 7 members elected shall be elected for a term of 6 years, the 3 members of the initial elected school board receiving the next highest vote totals in that election among the 7 members elected shall be elected for a term of 4 years, and the 2 members of the initial elected school board receiving the lowest vote totals in that election among the 7 members elected shall be elected for a term of 2 years. The term of a member of the initial elected school board shall begin on January 1 following the member's election.

(6) After the initial terms under subsection (5), each member of the school board of a community district shall be elected at the November regular election date for a term of 4 years beginning on January 1 following the member's election.

(7) The school board of a community district shall adopt bylaws as described in section 11a(6) for a general powers school district. These bylaws may establish or change board procedures; establish the number, titles, and duties of board officers; and address any other matter related to effective and efficient functioning of the board. Regular meetings of the board shall be held at least once each month, at the time and place fixed by the bylaws. Special meetings may be called and held in the manner and for the purposes specified in the bylaws.

(8) A member of a school board for a qualifying school district under section 12b may not also serve as a member of a school board for a community district that has the same geographic boundaries as the qualifying school district. A member of a school board of a community district may not also serve as a member of a school board for a qualifying school district that has the same geographic boundaries as the community district.

(9) As used in this section, "school district election coordinator" means that term as defined under section 4 of the Michigan election law, MCL 168.4.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.385 Initial superintendent of schools for community district; appointment; qualifications; report on performance of community district; factors; performance evaluation on superintendent of schools of community district; chief school administrator of school operated as of date of initial elected school board; renewal or nonrenewal of employment


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**contract; review.**

Sec. 385. (1) The school board of a community district shall employ a superintendent of schools. Within 90 days after the initial school board of a community district takes office, the school board of the community district shall appoint an initial superintendent of schools for the community district. The initial superintendent of schools shall be selected based upon his or her demonstrated ability, record of competence, experience in increasing academic achievement, experience with education reform and redesign, and expertise in the turnaround of academically underperforming urban schools.

(2) On an annual basis, the school board of a community district shall evaluate and issue a report on the performance of the community district based on the following factors:

(a) The proportion of pupils enrolled in the community district who achieve scores at least equivalent to proficient on state assessments.

(b) The proportion of pupils enrolled in the community district who achieve at least 1 year of academic growth in a school year.

(c) The proportion of graduates from or pupils enrolled in the community district who are enrolled in some form of postsecondary education or career and technical education.

(3) On at least an annual basis, the school board of a community district shall evaluate the performance of the superintendent of schools of the community district.

(4) For an individual who is the chief school administrator of a school operated by a community district and is employed by the community district as of the date the initial elected school board takes office under section 384, before making a decision on renewing or nonrenewal of the individual's employment contract as described under section 1229(2) and (3), the school board of the community district shall perform an individual review of each individual's school administrator employment contract and make an affirmative decision to renew the contract or to provide notice of nonrenewal. The school board of the community district shall comply with the time periods in section 1229(2) and (3). The review required under this section is in addition to any performance evaluation required under the performance evaluation system under section 1249b.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.386 Another school district authorized to levy school operating tax within geographic boundaries of community district; levy of school operating tax by community district prohibited.

Sec. 386. If another school district is authorized to levy a school operating tax under section 1211 within the geographic boundaries of the community district during a tax year, the community district shall not levy a school operating tax under section 1211 during that tax year.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.387 Financial oversight by financial review committee.

Sec. 387. A community district is subject to financial oversight by a financial review commission to the extent provided under the Michigan financial review commission act, 2014 PA 181, MCL 141.1631 to 141.1643. If a financial review commission is in place for a community district, all of the following apply:

(a) The appointment of a chief financial officer for the community district is subject to the approval of the financial review commission. Before the chief financial officer's appointment is final, the school board of the community district shall submit the proposed appointment in writing to the financial review commission for its approval. If the proposed appointment is not approved by the financial review commission within 45 days after it is submitted in writing to the financial review commission, the appointment is denied.

(b) The community district may not terminate the employment of the superintendent of schools or chief financial officer of the community district unless that action is approved by the financial review commission.

(c) The transition manager or school board of a community district shall ensure that the community district does not provide to a school board member, official, or employee of the community district any reimbursement from public funds for travel outside of this state unless the reimbursement is specifically approved by the financial review commission. The state treasurer shall monitor and verify compliance with this subdivision by obtaining the necessary information from the department and the community district at least annually. If the state treasurer determines that a community district is not in compliance with this subdivision, the state treasurer shall notify the community district, the department, and the legislature.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.388 Public library; effect of general or local law.

Sec. 388. This part does not repeal or affect a general law or local law governing the management and control of a public library established in a community district under this part or a first class school district under part 6. Any powers and duties of a qualifying school district under section 12b relating to the management and control of a public library are transferred to the community district on the transfer date for the qualifying school district under section 12b.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.389 Formation of community district; presumption of validity.

Sec. 389. The validity of the formation of a community district shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the community district is created under section 383. The court of appeals has original jurisdiction to hear an action under this section. The court shall hear the action in an expedited manner. The department of treasury is a necessary party in any action under this section.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.390, 380.391 Repealed. 2018, Act 601, Eff. June 30, 2019.

**Compiler's note:** The repealed sections pertained to the community district accountability system and the closure of certain public schools.

**Popular name:** Act 451

### 380.392 Opening of new school prohibited; circumstances.

Sec. 392. The board of a community district shall not open a new school if both of the following circumstances exist:

(a) The proposed school would operate at the same location as a public school that currently is on the list under section 1280c(1) or 1280g(3), as applicable, of the public schools in this state that determined to be among the lowest achieving public schools in this state or has been on the list under section 1280c(1) or 1280g(3), as applicable, during the immediately preceding 3-year period.

(b) The proposed school would have substantially the same leadership and substantially the same curriculum offerings as the school that previously operated at that location.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Compiler's note:** In subdivision (a), the phrase “the public schools in this state that determined” evidently should read “the public schools in this state that the department determined.”

For transfer of state school reform/redesign school district and state school reform/redesign officer from department of education to state school reform office created as an autonomous entity within department of technology, management, and budget, see E.R.O. No. 2015-2, compiled at MCL 18.445.

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.

**Popular name:** Act 451

### 380.393 Advisory council.

Sec. 393. (1) A community district shall have, support, and maintain an advisory council as provided in this section.

(2) The advisory council shall consist of 6 members as follows:

(a) The superintendent of schools of the community district or his or her designee.

(b) The school board president of the community district or his or her designee.

(c) One member, appointed by the department, who at the time of his or her appointment is the parent of at least 1 pupil who is currently enrolled, and who has been enrolled for at least 1 full school year, in a public school operated by the community district or operated by the qualifying school district with the same boundaries as the community district. If a member appointed under this subdivision ceases to have a child enrolled in a public school operated by the community district, that member shall be considered to have vacated the member's office.

(d) One member representing authorizing bodies that have authorized at least 3 public school academies located within the community district, appointed by the department from among nominees submitted by a statewide organization representing authorizing bodies.

(e) One member who serves as a school administrator in, or on the board of directors of, a public school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

academy that is located within the community district and is authorized by the governing board of a state public university, appointed by the department from among nominees submitted by a statewide organization representing public school academies.

(f) One member, appointed by the department, who at the time of his or her appointment is the parent of at least 1 pupil who is currently enrolled, and who has been enrolled for at least 1 full school year, in a public school academy located within the community district. If a member appointed under this subdivision ceases to have a child enrolled in a public school academy located within the community district, that member shall be considered to have vacated the member's office.

(3) The advisory council members appointed under subsection (2)(c) to (f) shall serve for a term of 4 years. A vacancy in the office shall be filled in the same manner as the original appointment for the vacated seat.

(4) In carrying out its functions, an advisory council shall solicit input and consider recommendations from representatives of authorizing bodies for public school academies operating within the community district, community groups, and other interested parties with relevant experience.

(5) On an annual basis, an advisory council shall prepare and submit to the school board of the community district a report on the physical state of public school facilities located within the community district; the utilization of public school facilities located within the community district, considering efficiency of that utilization and possible consolidation or elimination of facilities; the siting of existing and future public schools within the community district, considering population, population density, and the efficient and equitable distribution of facilities; and transportation of pupils to and from public schools located within the community district. The school board of the community district shall provide a copy of this report to the department, to the authorizing body of each public school academy located within the community district, and to the standing committees of the senate and house of representatives with responsibility for education legislation.

(6) In carrying out its functions and responsibilities, the school board of a community district shall consider the reports received from the advisory council under subsection (5).

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Popular name:** Act 451

### 380.395 Qualifying school district as party to lease with achievement authority or interlocal agreement with public university creating achievement authority.

Sec. 395. (1) If a qualifying school district is a party to a lease between the qualifying school district and an achievement authority, the community district shall not renew or extend the lease after June 30 following the transfer date.

(2) If a qualifying school district is a party to an interlocal agreement with a state public university creating an achievement authority, as soon as possible after the transfer date the community district shall take action to withdraw from that interlocal agreement to the extent permitted under that interlocal agreement.

(3) If a qualifying school district is a party to an interlocal agreement with a state public university creating an achievement authority, the community district is not authorized to jointly exercise any powers, privileges, or authorities under that interlocal agreement after the June 30 following the transfer date.

(4) As used in this section, "achievement authority" means that term as defined in section 3 of the state school aid act of 1979, MCL 388.1603.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.396 Appropriation.

Sec. 396. For the state fiscal year ending September 30, 2016, $250,000.00 is appropriated from the general fund to the department of treasury for the purpose of providing financial support for the organization and administration of any community district formed under this part during the fiscal year ending September 30, 2016. The state treasurer shall ensure that a portion of this money is allocated as a grant to be used to provide school board training to the initial elected members of the school board of the community district. This training shall be provided to each of these board members no later than 30 days after he or she takes office and shall address at least school board governance, public school financing, fiscal responsibility, and ethics.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

PART 6

SCHOOL DISTRICTS OF THE FIRST CLASS



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.401 Provisions governing school districts of first class; name of school district; jurisdiction of board; board as body corporate; suits.

Sec. 401. (1) A school district organized as a school district of the first class shall be governed by this part, by the provisions of article 2 which are not inconsistent with this part, and by articles 3 and 4.

(2) A school district governed by this part shall be known as the "school district of the city of _____," and shall be under the jurisdiction of the first class school district board.

(3) The first class school district board shall be a body corporate under the name and title of "the board of education of the school district of the city of _____" and under that name may sue and be sued.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.401a First class school district; powers.

Sec. 401a. (1) Except as provided by law, a first class school district has all of the powers granted to a general powers school district in section 11a and has all additional powers granted by law to a first class school district or the board of a first class school district.

(2) Unless expressly provided in the amendatory act that added this section, the powers of a first class school district are not diminished by this section or by the amendatory act that added this section.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.402 First class school district.

Sec. 402. A school district that has a pupil membership of at least 100,000 enrolled on the most recent pupil membership count day is a first class school district governed by this part.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1999, Act 10, Imd. Eff. Mar. 26, 1999;—Am. 2000, Act 230, Imd. Eff. June 27, 2000.

**Compiler's note:** Enacting section 1 of Act 230 of 2000 provides:

"Enacting section 1. The amendments made by this amendatory act to sections 371, 372, 373, 374a, and 402 of the revised school code, 1976 PA 451, MCL 380.371, 380.372, 380.373, 380.374a, and 380.402, are intended to reaffirm the legislature's initial intent to apply those sections and part 5a and sections 449 and 471a of the revised school code, 1976 PA 451, MCL 380.371 to 380.376, 380.449, and 380.471a, to any school district that was a qualifying school district under part 5a of the revised school code at the time of enactment of 1999 PA 10 or that may thereafter become a qualifying school district under part 5a of the revised school code."

**Popular name:** Act 451

### 380.403 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to first class school district if question under MCL 380.410 is approved.

**Popular name:** Act 451

### 380.403a Disapproval of ballot question; applicability of section to first class school district; election of board members.

Sec. 403a. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) Effective on the next January 1 occurring at least 1 year after the question under section 410 is presented to the school electors of the first class school district, the first class school district shall have a board composed of 4 members elected as provided in section 411a, plus 7 members elected, or appointed to fill a vacancy, as provided in section 412a.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 1982, Act 71, Eff. Jan. 1, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.404 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to voting districts within school boundary if question under MCL 380.410 is approved.

**Popular name:** Act 451

### 380.404a Repealed. 1982, Act 71, Imd. Eff. Apr. 14, 1982.

**Compiler's note:** The repealed section pertained to establishment of voting regions.

**Popular name:** Act 451

### 380.404b Voting districts; establishment; number; approval by state board; determination and redetermination of boundary lines; voting districts as compact, contiguous, and equal


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**in population.**

Sec. 404b. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) Upon the effective date of this section with respect to an existing first class school district, or immediately following the date on which a school district becomes a first class school district, 7 voting districts shall be established within its boundaries in the manner provided in this section. The voting districts described shall be established as voting districts if and when approved by the state board.

(3) A board of a first class school district shall determine the boundary lines of its voting districts and shall redetermine the boundary lines after each federal decennial census, but in no event later than April 15 of the first year in which board members are to be elected following the official release of the federal decennial census figures. If the board of a first class school district fails to redetermine the voting district boundary lines by that April 15, the state board shall convene within 10 days to make the redetermination. The redetermination of the state board shall be the voting district boundary lines until the redetermination is made following the next succeeding federal decennial census as provided in this section.

(4) For a first class school district that was a qualifying school district under part 5a at the time of a decennial census, if a redetermination was not made after that decennial census, the voting district boundary lines in effect immediately before that decennial census shall be used for the purposes of electing school board members under section 412a at the first election of school board members after the election under section 410. A redetermination based on that decennial census shall subsequently be made by the school board as provided in this section not later than 3 months after election of the school board.

(5) Voting districts shall be compact, contiguous, and as equal as possible in population.

**History:** Add. 1982, Act 71, Imd. Eff. Apr. 14, 1982;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.405 Repealed. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Compiler's note:** The repealed section pertained to the form and approval of question submitted to electors, and the appointment, powers, and duties of the committee and board.

**Popular name:** Act 451

### 380.406 Repealed. 1982, Act 71, Imd. Eff. Apr. 14, 1982.

**Compiler's note:** The repealed section pertained to submission of plan to legislature.

**Popular name:** Act 451

### 380.410 Selection of ballot designation by local election official; content; approval.

Sec. 410. (1) At the next November general election occurring after the expiration of 5 years after the initial appointment of a school reform board under part 5a for a first class school district, the local elections official of the city with the greatest population located within the boundaries of the school district shall present the question under subsection (2) to the school electors of the first class school district. The local election official may select a ballot designation for the question.

(2) At the November general election described in subsection (1), the following question shall be presented to the school electors of the first class school district:

"Shall the _____ (name of school district) be reapportioned into 9 single-member election districts with district residency requirements, shall a new school board be elected according to these election districts to serve in the district, and shall the school district be governed by a chief executive officer nominated by the mayor of the city with the greatest population located within the boundaries of the school district and approved by this newly elected board? According to state law, a "yes" vote will result in the establishment of the 9 election districts, election of a school board, and appointment of a chief executive officer as described in this question, and a "no" vote will result in the school district being governed by the governance structure otherwise provided for a first class school district under part 6 of the revised school code, consisting of an 11-member school board for the school district with 4 members elected at large and 7 members elected from election districts and with the school district governed by the 11-member school board.

Yes _____

No _____".

(3) If a majority of the school electors of the first class school district voting on the question vote yes on the question under this section, the question is approved.

**History:** Add. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

## 380.411 Repealed. 1981, Act 96, Eff. Mar. 15, 1982;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to nomination and election of at large members of first class school district board.

**Popular name:** Act 451

## 380.411a Board; election of at large members; terms; nominations; provisions; election of officers; president; recalled member as candidate for same office; expiration of term; election of board members; vacancy; qualifications of candidate; moving residence.

Sec. 411a. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) Four members of the board of a first class school district shall be elected at large. The following provisions apply to the terms, nomination, and election of the at large members of the board of a school district organized as a first class school district:

(a) Four members shall be elected for a term of 4 years at the general election to be held in the next November after the question under section 410 is presented to the school electors of the first class school district and every 4 years after that November.

(b) Each candidate shall be nominated at a primary held in conjunction with the preceding primary election conducted pursuant to section 534 of the Michigan election law, 1954 PA 116, MCL 168.534. The nominating petitions shall contain not less than 500 or more than 1,000 signatures of registered school electors of the city in which the first class school district is located; shall meet the requirements of section 544c of the Michigan election law, 1954 PA 116, MCL 168.544c; and shall be filed with the clerk of the city in which the first class school district is located on or before 4 p.m. of the twelfth Tuesday before the primary election. The city clerk may compare the signatures on the petitions with the signatures appearing on the registration records, or in some other proper manner determine whether the signatures appearing on the petition are genuine and comply with the requirements of this section. With the petitions, a candidate shall file an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558. The clerk of the city shall notify the county clerk of the name and address of each candidate not later than 3 days after the last day for candidate withdrawal. However, if the third day is a Saturday, Sunday, or legal holiday, the notice may be made on the next day that is not a Saturday, Sunday, or legal holiday.

(c) Each member shall commence his or her term of office on January 1 following his or her election.

(3) The board of a first class school district shall elect its officers during the month of January following the election of board members. The president of the board shall be a member of the board, and the duties of the president shall be determined by the board.

(4) A board member of a first class school district who is recalled may be a candidate for the same office at the next election for an office at which the recalled member is otherwise eligible.

(5) The term of office of each board member serving in a school district that becomes a first class school district after April 15, 2004 expires on the next succeeding December 31 of an even numbered year, except that if the school district becomes a first class school district later than April 1 of an even numbered year, the term of office of each board member expires on December 31 of the next succeeding even numbered year after the year in which the district became a first class school district. For a district becoming a first class school district after April 15, 2004, 4 school board members shall be elected in the general election of the even numbered year in which the terms of office expire, and the 4 school board members elected shall commence 4-year terms on January 1 of the odd numbered year following the general election.

(6) If a vacancy occurs on the first class school district board from among the at large members, the vacancy shall be filled by majority vote of the remaining first class school district board members at a meeting called by the president of the board for that purpose. If a person is appointed to fill a vacancy for which the unexpired term is more than 1 year and 8 months, that person shall serve until January 1 following the next general election. At that first general election the vacancy shall be filled for the unexpired term. A vacancy shall not be filled later than 60 days before a primary election at which at large board members are to be nominated.

(7) A candidate for the office of board member at large or a person appointed to fill a vacancy on the board pursuant to subsection (6) shall be 18 years of age or older at the time of his or her election or appointment and shall be a registered school elector residing in the first class school district in which the person becomes a candidate or which the person is appointed to represent. If an at large member's residence is moved from the first class school district during the at large member's term of office, it constitutes a vacating of office.

**History:** Add. 1981, Act 96, Eff. Mar. 15, 1982;—Am. 1982, Act 71, Imd. Eff. Apr. 14, 1982;—Am. 1984, Act 322, Eff. Dec. 28, 1984;—Am. 1989, Act 268, Eff. Feb. 12, 1990;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004;—Am. 2007, Act 29, Imd. Eff. June 28, 2007.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.412 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to school board of first class school district if question under MCL 380.410 is approved.

**Popular name:** Act 451

### 380.412a Disapproval of ballot question; board; nomination and election of members; representation of voting district; nominating petition; signature; primary election; filing petition; comparing signatures; filing affidavit; terms; qualifications of candidates; moving residence; vacancy.

Sec. 412a. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) In the next November general election after the question under section 410 is presented to the school electors of the first class school district, 7 members of the board of a first class school district shall be elected by voting districts for an initial term of 2 years. At the November general election held 2 years after that election and every 4 years thereafter, 7 members of the board shall be elected by voting districts for a term of 4 years. Each member shall represent a voting district described in section 404b.

(3) The members shall be nominated and elected by the registered school electors of each voting district in the manner provided by law for the nomination and election of the first class school board members elected at large, except that the number of signatures required on nominating petitions of a candidate for election as a representative of a voting district shall be not less than 250 or more than 500. A signature on a nominating petition is not valid unless the petitioner is a registered school elector of the voting district in which the candidate is running for election. Not more than 2 candidates shall be nominated at the primary election for each voting district.

(4) Candidates shall be nominated at a primary held in conjunction with the preceding primary election conducted pursuant to section 534 of the Michigan election law, 1954 PA 116, MCL 168.534. Nominating petitions shall meet the requirements of section 544c of the Michigan election law, 1954 PA 116, MCL 168.544c, and shall be filed with the clerk of the city in which the first class school district is located on or before 4 p.m. of the twelfth Tuesday preceding the primary election. The city clerk may compare the signatures on the petitions with the signatures appearing on the registration records, or in some other proper manner determine whether the signatures appearing on the petitions are genuine and comply with the requirements of this section. With the petitions, a candidate shall file an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558.

(5) The 7 board members elected to represent the voting districts shall commence their terms of office on January 1 following the election.

(6) A candidate for the office of board member representing a voting district or a person appointed to fill a vacancy pursuant to subsection (7) shall be 18 years of age or older at the time of his or her election or appointment and shall be a registered school elector residing in the voting district in which the person becomes a candidate or which the person is appointed to represent. If a voting district member's residence is moved from the voting district during the voting district member's term of office, this constitutes a vacating of office.

(7) If a vacancy occurs on the first class school district board from among the voting district members, the vacancy shall be filled from among registered school electors of the voting district by majority vote of the remaining first class school district board members. If a person is appointed to fill a vacancy in a voting district for which the unexpired term is more than 1 year and 8 months, that person shall serve until January 1 following the next general election. At that next general election the vacancy shall be filled for the unexpired term. A vacancy shall not be filled later than 60 days before a primary election at which voting district board members are to be nominated.

**History:** Add. 1981, Act 96, Eff. Mar. 15, 1982;—Am. 1982, Act 71, Imd. Eff. Apr. 14, 1982;—Am. 1984, Act 322, Eff. Dec. 28, 1984;—Am. 1989, Act 268, Eff. Feb. 12, 1990;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.413 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to serving notice of election on member.

**Popular name:** Act 451

### 380.413a Notice of election; service on member.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 413a. The city clerk of the city with the greatest population located within the boundaries of the first class school district, within the time specified for serving notices upon officials elected at a city election, shall serve notice of election upon each member of the first class school district board elected at the election.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.414 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to failure to take oath of office.

**Popular name:** Act 451

### 380.414a Failure to take oath of office; filling vacancy.

Sec. 414a. If a person elected to the board of a first class school district under this part fails to take the oath of office within 10 days after service of notice of election, the vacancy shall be filled pursuant to section 411a(6), 412(7), or 412a(7), as applicable.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.415 Expulsion or removal of board member; grounds; procedure.

Sec. 415. (1) The first class school district board, by a vote of 2/3 of the members serving, may expel or remove from office a member for corrupt or willful malfeasance or misfeasance in office, or for willful neglect of the duties of the member's office. The reason for the expulsion or removal shall be entered on the records of the board with the names and votes of the members voting on the question.

(2) A member shall not be expelled or removed unless the member is first furnished with a written copy of the charges and is allowed to be heard in his or her defense, with aid of counsel.

(3) For this purpose the board shall have power to issue subpoenas to compel the attendance of witnesses and the production of papers, and shall proceed within 10 days after service of a copy of the charge to hear and determine the merits of the case.

(4) The member's failure to appear may be good cause for removal from office.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.416 Board; officers; quorum; vacancy in office of president; appointment and salary of secretary and treasurer; duties; bonds; custody and disposition of funds; board members elected in 2006.

Sec. 416. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) The officers of the first class school district board shall be a president, vice-president, secretary, and treasurer. Subject to subsection (7), the board, a majority of which constitutes a quorum, shall elect its president and vice-president biennially from among the members of the board. In case of a vacancy in the office of president, the vice-president shall succeed to the office of president for the balance of the unexpired term. The secretary and treasurer shall be appointed by the board but shall not be members of the board and shall receive a salary fixed by the board.

(3) The president, vice-president, and secretary shall perform the duties prescribed by the bylaws and regulations of the board. The duties of the treasurer shall be determined by the school district general superintendent, as approved by the board.

(4) The officers of the board who in the discharge of the duties of their respective positions handle funds belonging to the first class school district shall be required to give bonds for the faithful performance of their duties in accordance with the bylaws and regulations of the board. The premium of the bonds shall be paid from the funds of the board.

(5) The school district treasurer shall have the custody of all money belonging to the school district and shall pay out money pursuant to section 433. The funds shall be deposited with depositories selected by the board, and the interest derived shall be paid into the general fund of the board.

(6) The board shall require from the school district treasurer a separate bond of not less than $200,000.00 to protect the funds of the board.

(7) All of the following apply to the board members elected by the board in 2006 as president and vice president of the board:

(a) The initial term as president and vice president for each of those board members is continued until a successor is elected by the board for each in January of 2008.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) Successors for each of those officers as described in subdivision (a) shall be elected biennially by the board as provided under subsection (2).

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004;—Am. 2007, Act 29, Imd. Eff. June 28, 2007.

**Popular name:** Act 451

### 380.416a Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to officers of first class school district if question under MCL 380.410 is approved.

**Popular name:** Act 451

### 380.417 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to interest of member in contract with board, and compensation of regional board members.

**Popular name:** Act 451

### 380.417a Board; interest of member in contract; compensation; per diem allowance; reimbursement; maximum payments.

Sec. 417a. (1) A member of the first class school district board shall not be directly or indirectly interested in a contract with the board. Except for the per diem allowance provided in subsection (2), a member of the first class school district board shall not receive compensation for services rendered to the board.

(2) Except as otherwise provided in this subsection and subsection (3), each first class school district board member shall be paid a per diem allowance of $30.00 for each board meeting and subcommittee meeting attended and each authorized duty performed. To be reimbursed for an authorized duty, the duty shall be related directly to the member's responsibility as a board member and shall be authorized in advance by resolution of the board. Compensation shall be provided to a board member for an authorized duty only if that duty and the authority of the board member to perform that duty is specifically enumerated in the resolution authorizing compensation. The payments for meetings, subcommittee meetings, and authorized duties shall not exceed a total of 52 meetings, subcommittee meetings, and authorized duties per year, except that, if the question under section 410 is not approved in the first class school district, this limitation may be removed by majority vote of the board.

(3) If the question under section 410 is approved in the first class school district, the board of the first class school district may by majority vote of the board waive any per diem payment under this section.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 1982, Act 71, Eff. Jan. 1, 1983;—Am. 1985, Act 86, Imd. Eff. July 5, 1985;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.418 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to board meetings, official actions, and annual audit.

**Popular name:** Act 451

### 380.418a Board; meetings; proceedings and official actions as public record; annual audit; report; publication; actions to be by yea and nay vote entered upon record.

Sec. 418a. (1) Regular meetings of the first class school district board shall be held at least once each month, at a time and place fixed by the bylaws. If the question under section 410 is not approved, not less than 7 of the regular meetings shall be held in different voting districts of the first class school district each year. If the question under section 410 is approved, not less than 9 of the regular meetings shall be held in different voting districts of the first class school district each year. The bylaws may provide for the calling of special meetings.

(2) The proceedings and official actions of the first class school district board shall be a public record open to inspection pursuant to section 1202.

(3) The board of the first class school district shall have made a complete annual audit of its financial transactions. The board may employ a firm of certified public accountants to make the audit or, if the city with the greatest population located within the boundaries of the school district has an auditor whose duties are limited to postauditing of finances and investigation of operations, the board may arrange for the city's auditor to make the audit. The audit report shall be made to the board and the chief executive officer and shall be a public record. The board may direct the chief executive officer to publish the audit report by adding to it general school statistics or it may publish general school statistics separately.

(4) If the question under section 410 is not approved in the first class school district, every action of the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

first class school district board creating a liability or debt or originating the disposal or expenditure of property or money shall be by yea and nay vote entered upon its record.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 1982, Act 71, Eff. Jan. 1, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.420 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to powers of chief executive officer of first class school district and duties of school board if question under MCL 380.410 is approved.

**Popular name:** Act 451

### 380.421 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to award of contracts.

**Popular name:** Act 451

### 380.422 Annexation of entire school district to city; bonded indebtedness; powers and duties of chief executive officer.

Sec. 422. If territory comprising an entire school district is annexed to the city and becomes a part of the first class school district, part 10 shall govern where applicable with respect to the bonded indebtedness of either district existing at the time of annexation. The first class school district board may use any funds legally available to retire the bonded indebtedness of the annexed district. If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.423 Annexation of portion of school district to city; bonded indebtedness.

Sec. 423. When territory constituting a portion of another school district is annexed to a city and the district from which that territory is taken has outstanding bonded indebtedness, part 11 shall apply to that bonded indebtedness.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.424 Annexation of property belonging to another school district; determination of amount to be paid; board of arbitration; hearing; notice; regulations; final order; taxes; powers and duties of chief executive officer.

Sec. 424. (1) When school property belonging to another school district is taken by annexation by a first class school district, a determination shall be made of the equitable amount that shall be paid by the first class school district. That determination shall be made by the boards of the 2 districts affected. If the board of the first class school district and the board of the school district from which the property is taken are unable to agree, the matter shall be submitted to a board of arbitration consisting of 1 member appointed by each board and a third member to be selected by the 2 appointed members. The arbitrators by order shall fix a day for hearing and give notice of the hearing as provided in the order. They shall make regulations for the proceedings and shall make a final order determining the amount to be paid by the first class school district to the school district whose property was taken by the annexation and file the order with the county clerk. The order of the arbitrators shall be final. Taxes shall be levied and collected in the manner provided in the order.

(2) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.431 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to powers of board as to real and personal property.

**Popular name:** Act 451

### 380.431a Powers of board as to real and personal property; proceeds from sale of real property; bylaws and regulations; eminent domain proceedings.

Sec. 431a. (1) The board of the first class school district may take, use, hold, lease, sell, and convey real


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and personal property, including property received by gift, devise, or bequest, for the use of the public school within and without its corporate limits. Proceeds from the sale of real property shall be credited to accounts of the school district as provided in section 1262. The first class school district board has the power to purchase, lease, and take by the right of eminent domain all property; erect and maintain or lease all buildings; employ and pay all persons; and do all other things in its judgment necessary for the proper establishment and management of the public schools. If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this subsection.

(2) The first class school district board may adopt and revise as appropriate bylaws and regulations for conducting the business of the board and, if the question under section 410 is not approved in the first class school district, for the control and government of all schools, school property, and pupils in the first class school district.

(3) If property is sought to be taken by eminent domain, proceedings may be brought under 1911 PA 149, MCL 213.21 to 213.25, or the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 1982, Act 71, Eff. Jan. 1, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.432 Annual tax estimates; specification of amounts required for certain funds; retirement of bonds; budget; apportionment of school taxes; assessment, levy, collection, and return of taxes; statement on tax bill; powers and duties of chief executive officer.

Sec. 432. (1) The first class school district board annually shall prepare estimates of the amount of taxes necessary for its needs for the ensuing fiscal year. The estimates shall specify the amount required for the "general fund", the amount required for the "building and site fund", and the amount required for the "debt retirement fund". If the board causes the appropriation for the "building and site fund" to be raised by the issuance of bonds instead of raising the appropriation by taxation, provision shall be made for the retirement of the bonds in a debt retirement fund.

(2) The board shall adopt a budget in the same manner and form as required for its estimates and determine the amount of tax levy necessary for that budget and shall certify on or before the date required by law the amount to the city.

(3) The proper officials of the city shall apportion the school taxes in the same manner as the other taxes of the city are apportioned, and the amount apportioned shall be assessed, levied, collected, and returned for the school district in the same manner as taxes of the city. The tax levied by the school district, in the discretion of the legislative body of the city, may be stated separately on each tax bill.

(4) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.433 Payment of payrolls, bills, accounts, or claims; warrant; certificate; powers and duties of chief executive officer.

Sec. 433. (1) The secretary of the first class school district board shall issue and sign a warrant upon the treasurer for payrolls, bills, and accounts that become due and payable under a contract or because of a previous authorization or action of the board after the payrolls, bills, and accounts are registered and charged to the appropriations from which they are payable. The treasurer, upon receipt of the warrant, shall issue a check in payment thereof.

(2) Other claims and demands against the first class school district shall be made under the regulations of the board. The board, before paying a bill, account, or claim, may require that it be accompanied by a certificate of the person rendering it that the services or the property charged have been actually performed or delivered for the school district, that the sums charged are reasonable and just, and that to the best of that person's knowledge and belief no setoff exists nor payment has been made on account except as included or referred to in the account presented. A similar certificate shall be required on all payrolls, the certificate to be made by the person who supervises the services charged.

(3) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 or his or her designee has the powers and shall perform the duties of the board of the first class school district or board officers under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.434 Contracts for purchase of real estate or erection, remodeling, or repairing of building; endorsement; certificates; borrowing; duties and powers of chief executive officer.

Sec. 434. (1) Before a contract entered into by the first class school district for the purchase of real estate or the erection, remodeling, or repairing of a building is binding on the school district, the secretary shall endorse on the contract that the money proposed to be expended under the contract is actually in the treasury or that the money has been appropriated. A contract submitted shall not be certified by the secretary until all contracts for the completed work covered by the appropriation are submitted, and a warrant shall not be drawn on the account of a contract not containing the certificate.

(2) The board may authorize a contract before the money is available if an appropriation or an authorization of bonds or notes is made for the contract and may borrow on the best terms obtainable on the credit of that appropriation or authorization of bonds or notes sums necessary to make a payment under the contract.

(3) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 or his or her designee has the powers and shall perform the duties of the board of the first class school district or board officers under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.441 Borrowing to pay awards in condemnation proceedings.

Sec. 441. The board of the first class school district, with the consent of the legislative body of the city, may authorize the financial officers of the school district to borrow for not more than 1 year, on the best terms obtainable, sums necessary to pay awards in condemnation proceedings. If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.442 Borrowing powers of board of first class school district; limitations on loans and bonds; powers and duties of chief executive officer.

Sec. 442. (1) The board of the first class school district may do any of the following:

(a) Borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for temporary school purposes sums of money and give notes of the district for temporary school purposes.

(b) Borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, sums of money for the purpose of purchasing sites for buildings, playgrounds, or athletic fields and purchasing or erecting and equipping a building or making a permanent improvement that the school district is authorized to make. The board may accomplish this by the issuance and sale of bonds of the school district on terms the board considers advisable, or by other reasonable means. The board shall designate officers to execute the bonds on behalf of the school district. The designated officers may include the chief financial officer.

(2) A loan shall not be made, except as otherwise provided in this subsection, for a sum that, together with the total outstanding bonded indebtedness of the school district, exceeds 5% of the state equalized valuation of the taxable property within the school district, unless the proposition of making the loans or of issuing bonds is submitted to a vote of the school electors of the school district at a general or special school election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a. Loans may be made or bonds may be issued for the purposes stated in this section in an amount equal to that provided by part 17.

(3) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1985, Act 22, Imd. Eff. May 20, 1985;—Am. 2002, Act 58, Imd. Eff. Mar. 15, 2002;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.443 Expenditure of bond proceeds for remodeling of existing school buildings; "remodeling" defined.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 443. (1) Proceeds from the sale of first class school district bonds may be expended for the remodeling of existing buildings of the school district if the board determines the remodeling will contribute positively to the health, security, or welfare of the pupils of the school district and if the uses are approved by the superintendent of public instruction. If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this subsection.

(2) As used in this section, "remodeling" means the alteration or construction of structural components of a building including walls, roofs, partitions, hallways, stairways, or means of egress, or the replacement, relocation, or reconstruction of heating, ventilating, incineration, electrical, security, or sanitary systems.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1983, Act 118, Imd. Eff. July 18, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.444 Sections 380.442 and 380.443 as supplemental provisions; ex officio officers of board.

Sec. 444. (1) Sections 442 and 443 are supplemental to other provisions of law under which bonds of the school district or the city are authorized to be issued and sold.

(2) Officers of the city in which the school district is situated who participate in matters relating to the issuance and sale of bonds under this part are for that purpose made ex officio officers of the first class school district board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.445 Bonds for sites, buildings, and improvements; resolution; approval of school electors; form of bonds; filing notice and draft; laws governing election; electors qualified to vote; bonds subject to revised municipal finance act; powers and duties of chief executive officer.

Sec. 445. (1) The board of the first class school district by resolution may submit the proposition of issuing bonds for the purpose of purchasing sites for buildings, playgrounds, or athletic fields and purchasing or erecting and equipping a building or making permanent improvements that the school district is authorized to make to the school electors of the school district at a city or state election, or at a special election called for that purpose.

(2) If a majority of the school electors voting on the question approve the issuance of bonds, the board may issue the bonds of the district.

(3) The board shall determine the form of the bonds, the manner in which they shall be executed by the president and secretary of the district, the sums payable and the times of payment, and other terms and conditions the board considers necessary.

(4) If the board determines to issue bonds under this section, sections 432 and 444 shall not apply to the issuance of the bonds and the bonds may be issued in an amount equal to that provided by part 17.

(5) The secretary of the board shall file with the city clerk a written notice of the resolution to submit the bonding proposition to the school electors with a draft of the form of the bonding proposition to be submitted. The notice shall be under the seal of the board and filed with the city clerk at least 60 days before the date fixed by the board for the election.

(6) The laws of this state pertaining to elections in a city shall govern the practicable submission of the proposition to the school electors. Electors qualified to vote on the bonding proposition shall be registered school electors of the city in which the first class school district is located and otherwise qualified to vote on bonding propositions under the constitution and laws of this state.

(7) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(8) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district or board officers under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 334, Imd. Eff. May 23, 2002;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.449 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to powers and duties of school board members and officers of first class school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district following expiration of 5 years after initial appointment of school reform board.

**Popular name:** Act 451

### 380.451 Repealed. 2004, Act 380, Imd. Eff. Oct. 12, 2004.

**Compiler's note:** The repealed section pertained to excise tax on income.

**Popular name:** Act 451

### 380.461 Submission of measure to school electors; filing notice and draft; laws governing election; powers and duties of chief executive officer.

Sec. 461. (1) Upon the adoption, by majority vote of the board members serving, of a measure not coming under its general power or authority, the board of the first class school district shall submit the measure to the school electors of the school district at the next state or city election or a special election called for that purpose. This section does not authorize the issuance of bonds. The secretary of the board shall file with the city clerk a written notice of the adoption of the measure together with a written draft of the measure to be submitted to the school electors. The notice shall be under the seal of the board and filed with the city clerk not less than 60 days before the election.

(2) The laws of this state pertaining to elections in the city govern the practicable submission of the measure to the school electors.

(3) If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district or board officers under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.462 Special election; request; statement of questions; powers and duties of chief executive officer.

Sec. 462. Special elections may be called by the board of the first class school district. The board shall call an election on receipt of the written request of not less than 10% of the registered school electors of the district qualified to vote on the question by giving the prescribed notice. The questions to be submitted at the election shall be stated briefly in the notice. If the question under section 410 is approved in the first class school district, then the chief executive officer appointed under section 420 has the powers and shall perform the duties of the board of the first class school district under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.471 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to appointment of superintendent of schools and employment of other administrators.

**Popular name:** Act 451

### 380.471a Appointment and term of superintendent; employment, terms, and duties of other administrators; administrative and personnel services; contract required; notification of nonrenewal of contract; statement of reasons; meeting; renewal in contract; powers of board over employees; applicability of section to part 5a.

Sec. 471a. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) The first class school district board may appoint a superintendent of schools for a term not exceeding 6 years pursuant to the first class school district board's bylaws. The board may employ assistant superintendents, principals, assistant principals, guidance directors, and other administrators who do not assume tenure in position for a term, not to exceed 3 years, fixed by the board and shall define their duties. Administrative and personnel services shall be provided on a centralized basis throughout the first class school district and shall not be established on a voting district basis. The employment shall be under written contract. Notification of nonrenewal of contract shall be given in writing not less than 90 days before the termination date of the contract of a superintendent of schools, and at least 60 days before the termination date of the contract of other administrators described in this subsection. If notification of nonrenewal is not given as required in this subsection, the contract is renewed for an additional 1-year period.

(3) A notification of nonrenewal of a contract of a person described in this section may be given only for a reason that is not arbitrary or capricious. The board shall not issue a notice of nonrenewal under this section


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

unless the affected person has been provided with not less than 30 days' advance notice that the board is considering the nonrenewal together with a written statement of the reasons the board is considering the nonrenewal. After the issuance of the written statement, but before the nonrenewal statement is issued, the affected person shall be given the opportunity to meet with not less than a majority of the board to discuss the reasons stated in the written statement. The meeting shall be open to the public or a closed session as the affected person elects under section 8 of the open meetings act, 1976 PA 267, MCL 15.268. The failure to provide for a meeting with the board or the finding of a court that the reason for nonrenewal is arbitrary or capricious shall result in the renewal of the affected person's contract for an additional 1-year period. This subsection does not apply to the nonrenewal of the contract of a superintendent of schools.

(4) Except for certification requirements determined by the state board, the first class school district board shall have full power over employees and may specify the duties to be performed by them and fix the qualifications necessary for a position. The qualifications shall not conflict with the rules, regulations, or licensing laws of the state, county, or municipality governing qualifications of engineers or members of other trades.

(5) This section is subject to part 5a.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 1982, Act 71, Eff. Jan. 1, 1983;—Am. 1999, Act 10, Imd. Eff. Mar. 26, 1999;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Compiler's note:** Enacting section 1 of Act 230 of 2000 provides:

"Enacting section 1. The amendments made by this amendatory act to sections 371, 372, 373, 374a, and 402 of the revised school code, 1976 PA 451, MCL 380.371, 380.372, 380.373, 380.374a, and 380.402, are intended to reaffirm the legislature's initial intent to apply those sections and part 5a and sections 449 and 471a of the revised school code, 1976 PA 451, MCL 380.371 to 380.376, 380.449, and 380.471a, to any school district that was a qualifying school district under part 5a of the revised school code at the time of enactment of 1999 PA 10 or that may thereafter become a qualifying school district under part 5a of the revised school code."

**Popular name:** Act 451

### 380.472 School for confinement, discipline, instruction, and maintenance of children.

Sec. 472. A first class school district may establish, maintain, and conduct a school for the purpose of affording a place of confinement, discipline, instruction, and maintenance of children of the city of compulsory school age who may be committed to the school by a court of competent jurisdiction, or admitted on the recommendation of the judge with the consent of their parents or guardian. A child who has been convicted of an offense punishable by confinement in a penal institution shall not be committed or admitted to the school.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

### 380.473 Effect of act on laws governing public libraries; transfer of power and duties regarding libraries.

Sec. 473. This part shall not repeal or affect a general law or local law governing the management and control of public libraries as now established in school districts under this part. The powers and duties of the boards of education now in existence regarding libraries shall be assigned to and transferred to the first class school district board created by this part.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.475 Single-gender school, class, or program; establishment; availability of equal coeducational school, class, or program.

Sec. 475. (1) Subject to subsection (2), the board of a first class school district may establish and maintain a school, class, or program within a school in which enrollment is limited to pupils of a single gender if the school district also makes available to pupils a substantially equal coeducational school, class, or program and a substantially equal school, class, or program for pupils of the other gender.

(2) If the board of a first class school district establishes a single-gender school, class, or program described in subsection (1), the school district shall not require participation by any of its pupils in the single-gender school, class, or program. The board shall ensure that participation by pupils in a single-gender school, class, or program is wholly voluntary. For the purposes of this subsection, participation by a pupil in a single-gender school, class, or program is not considered to be voluntary unless the school district also makes available to the pupil a substantially equal coeducational school, class, or program.

**History:** Add. 2006, Act 347, Imd. Eff. Sept. 1, 2006.

### 380.481-380.483 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed sections pertained to regional boards.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.483a Functions of board; transfer of powers and duties.

Sec. 483a. (1) This section applies to a first class school district only if the question under section 410 is not approved in the first class school district.

(2) The first class school district board shall perform the following functions:

(a) Central purchasing.

(b) Payroll.

(c) Employment, discharge, assignment, and promotion of teachers and other employees of the district.

(d) Contract negotiations for all employees, subject to 1947 PA 336, MCL 423.201 to 423.217, and subject to bargaining certification and the collective bargaining agreement pertaining to affected employees.

(e) Property management and maintenance and the use of educational facilities.

(f) Bonding.

(g) Special education programs.

(h) Allocation of funds for capital outlay and operations.

(i) Determination of the curriculum and the establishment of educational and testing programs.

(j) Adoption of a budget.

(3) All powers and duties formerly vested in the regional boards are transferred to the first class school district board.

**History:** Add. 1981, Act 96, Eff. Jan. 1, 1983;—Am. 2004, Act 303, Imd. Eff. Aug. 10, 2004.

**Popular name:** Act 451

### 380.484 Repealed. 1981, Act 96, Eff. Jan. 1, 1983;—1982, Act 71, Eff. Jan. 1, 1983.

**Compiler's note:** The repealed section pertained to regional boards.

**Popular name:** Act 451

### 380.485 Repealed. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** The repealed section pertained to flow of information between board and community.

**Popular name:** Act 451

## PART 6A
## PUBLIC SCHOOL ACADEMIES

### 380.501 Public school academy; scope; powers; definitions.

Sec. 501. (1) A public school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A public school academy is a body corporate and is a governmental agency. The powers granted to a public school academy under this part constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in this part:

(a) "Authorizing body" means any of the following that issues a contract as provided in this part:

(*i*) The board of a school district.

(*ii*) An intermediate school board.

(*iii*) The board of a community college.

(*iv*) The governing board of a state public university.

(*v*) Two or more of the public agencies described in subparagraphs (*i*) to (*iv*) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the superintendent of public instruction under section 1531.

(c) "Community college" means a community college organized under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or a federal tribally controlled community college that is recognized under the tribally controlled colleges and universities assistance act of 1978, 25 USC 1801 to 1864, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(d) "Contract" means the executive act taken by an authorizing body that evidences the authorization of a


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

public school academy and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on a public school academy, as provided by this part, and confirming the status of a public school academy as a public school in this state.

(e) "Entity" means a partnership, nonprofit or business corporation, labor organization, or any other association, corporation, trust, or other legal entity.

(f) "State public university" means a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 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.

**Compiler's note:** Former MCL 380.501, which pertained to public school academy, scope, and definitions, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

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).

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.501a Repealed. 2011, Act 277, Eff. Mar. 28, 2012.

**Compiler's note:** The repealed section pertained to report by public school academy to legislative committees on education.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.502 Public school academy; organization; operation; bodies authorized to issue contract; application to obtain contract; contents; oversight; suspension of powers; fees; presumption of legality; intergovernmental agreement to issue public school academy contracts.

Sec. 502. (1) A public school academy shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A public school academy corporation shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a public school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a public school academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) Subject to subsection (9), any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more public school academies under this part:

(a) The board of a school district. However, the board of a school district shall not issue a contract for a public school academy to operate outside the school district's boundaries, and a public school academy authorized by the board of a school district shall not operate outside that school district's boundaries.

(b) An intermediate school board. However, the board of an intermediate school district shall not issue a contract for a public school academy to operate outside the intermediate school district's boundaries, and a public school academy authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries.

(c) The board of a community college. However, except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a public school academy to operate in a school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district organized as a school district of the first class, a public school academy authorized by the board of a community college shall not operate in a school district organized as a school district of the first class, the board of a community college shall not issue a contract for a public school academy to operate outside the boundaries of the community college district, and a public school academy authorized by the board of a community college shall not operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 public school academy to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a public school academy itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university. However, the combined total number of contracts for public school academies issued by all state public universities shall not exceed 300 through December 31, 2012 and shall not exceed 500 through December 31, 2014. After December 31, 2014, there is no limit on the combined total number of contracts for public school academies that may be issued by all state public universities.

(e) Two or more of the public agencies described in subdivisions (a) to (d) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(3) To obtain a contract to organize and operate 1 or more public school academies, 1 or more persons or an entity may apply to an authorizing body described in subsection (2). The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 503(5), a list of the proposed members of the board of directors of the public school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(*i*) The name of the proposed public school academy.

(*ii*) The purposes for the public school academy corporation. This language shall provide that the public school academy is incorporated pursuant to this part and that the public school academy corporation is a governmental entity.

(*iii*) The name of the authorizing body.

(*iv*) The proposed time when the articles of incorporation will be effective.

(*v*) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the public school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(*i*) The governance structure of the public school academy.

(*ii*) A copy of the educational goals of the public school academy and the curricula to be offered and methods of pupil assessment to be used by the public school academy. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the public school academy shall be assessed using both the mathematics and reading portions of the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(*iii*) The admission policy and criteria to be maintained by the public school academy. The admission policy and criteria shall comply with section 504. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that a public school academy is being created and adequate information on the admission policy, criteria, and process.

(*iv*) The school calendar and school day schedule.

(*v*) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the public school academy's governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the local and intermediate school districts in which the public school academy will be located.

(h) An agreement that the public school academy will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) A description of and address for the proposed physical plant in which the public school academy will be


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

located. An applicant may request the authorizing body to issue a contract allowing the public school academy board of directors to operate the same configuration of age or grade levels at more than 1 site.

(4) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each public school academy operating under a contract issued by the authorizing body. The authorizing body is responsible for overseeing compliance by the board of directors with the contract and all applicable law. This subsection does not relieve any other government entity of its enforcement or supervisory responsibility.

(5) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more public school academies operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate public school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(6) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a public school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the public school academy in the school year in which the fees or expenses are charged. An authorizing body may provide other services for a public school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the public school academy.

(7) A public school academy shall be presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

(8) An authorizing body may enter into an intergovernmental agreement with another authorizing body to issue public school academy contracts. At a minimum, the agreement shall further the purposes set forth in section 501, describe which authorizing body shall issue the contract, and set forth which authorizing body will be responsible for monitoring compliance by the board of directors of the public school academy with the contract and all applicable law.

(9) Both of the following apply to the issuance of a contract for a public school academy to be located within a community district:

(a) An authorizing body shall not issue a contract to organize and operate a new public school academy to be located in a community district unless, before issuing the contract, the governing board of the authorizing body has certified to the department that the authorizing body has been accredited as an authorizing body by a nationally recognized accreditation body. For an authorizing body described in subsection (2)(e), the authorizing body shall not issue a contract to organize and operate a new public school academy to be located in a community district unless, before issuing the contract, the governing board of each of the public agencies that is party to the interlocal agreement has certified to the department that the public agency has been accredited as an authorizing body by a nationally recognized accreditation body.

(b) An authorizing body shall not issue a contract for a new public school academy to be located in a community district if both of the following circumstances exist:

(*i*) Either of the following:

(A) The proposed public school academy would operate at the same location as a public school that currently is on the list under section 1280c(1) or 1280g(3), as applicable, of the public schools in this state determined to be among the lowest achieving public schools in this state or has been on the list under section 1280c(1) or 1280g(3), as applicable, during the immediately preceding 3-year period.

(B) The proposed public school academy would operate at the same location as a public school academy, urban high school academy, school of excellence, or strict discipline academy that has had its contract revoked or terminated by an authorizing body under the applicable part or section.

(*ii*) The proposed public school academy would have substantially the same board of directors, substantially the same leadership, and substantially the same curriculum offerings as the public school that previously operated at that location.

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 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.

**Compiler's note:** Former MCL 380.502, which pertained to public school academy, organization, and operation, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

For transfer of state school reform/redesign school district and state school reform/redesign officer from department of education to state school reform office created as an autonomous entity within department of technology, management, and budget, see E.R.O. No. 2015-2, compiled at MCL 18.445.

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.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.502a Conversion of public school academy to school of excellence; resolution of board of directors; conditions.

Sec. 502a. If a public school academy operating under this part meets the requirements of part 6e, with the approval of its authorizing body, the board of directors of the public school academy may adopt a resolution choosing to convert the public school academy to a school of excellence under part 6e. If a board of directors of a public school academy that meets the requirements of part 6e is issued a contract to operate as a school of excellence under part 6e, all of the following apply:

(a) The public school academy shall cease to operate as a public school academy under this part and shall operate as a school of excellence under part 6e upon the issuance of the contract under part 6e or at another time as determined by the authorizing body.

(b) The public school academy shall be considered to be a school of excellence for all purposes upon the issuance of the contract under part 6e or at another time as determined by the authorizing body, but shall retain its corporate identity.

(c) The conversion of a public school academy to a school of excellence operating under part 6e shall not impair any agreement, mortgage, loan, bond, note or other instrument of indebtedness, or any other agreement entered into by a public school academy while it was operating under this part.

(d) The contract issued to the public school academy under this part shall automatically terminate upon the issuance of a contract under part 6e or at another time as determined by the authorizing body.

(e) If the authorizing body of the public school academy is the governing board of a state university, then all of the following apply to issuance of a new contract for a public school academy under this part after the conversion:

(*i*) For a period of 12 months after the contract is issued under part 6e, that authorizing body is the only authorizing body that may issue a new contract for a new public school academy to fill the availability under section 502(2)(d) that is created by the conversion of the public school academy to a school of excellence.

(*ii*) If the board of directors of the public school academy that is issued a contract to fill the availability under section 502(2)(d) that is created by the conversion chooses to enter into an agreement with an educational management organization to manage or operate the public school academy, the board of directors may give preference to an educational management organization that has previously operated a school that met the criteria described in section 552(4).

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.503 Public school academy; issuance of contract; priority; petition to place question on ballot; submission; resolution; contents of contract; compliance with applicable laws; governmental immunity; exemption from taxation; acquisition of property; oath of office.

Sec. 503. (1) An authorizing body is not required to issue a contract to any person or entity. Subject to subsection (2), public school academy contracts shall be issued on a competitive basis. In deciding whether to issue a contract for a proposed public school academy, an authorizing body shall consider all of the following:

(a) The resources available for the proposed public school academy.

(b) The population to be served by the proposed public school academy.

(c) The educational goals to be achieved by the proposed public school academy.

(d) The applicant's track record, if any, in organizing public school academies or other public schools.

(e) The graduation rate of a school district in which the proposed public school academy is proposed to be located.

(f) The population of a county in which the proposed public school academy is proposed to be located.

(g) The number of schools in the proximity of a proposed location of the proposed public school academy that are on the list under section 1280c(1) or 1280g(3), as applicable, of the public schools in this state determined to be among the lowest achieving public schools in this state.

(h) The number of pupils on waiting lists of public school academies in the proximity of a proposed location of the proposed public school academy.

(2) An authorizing body may give priority to a proposed public school academy that is intended to replace a public school academy that has been closed pursuant to section 507(5), that will operate all of the same grade levels as the public school academy that has been closed, and that will work toward operating all of grades 9 to 12 within 6 years after it begins operations unless a matriculation agreement has been entered into



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

with another public school that provides grades 9 to 12.

(3) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more public school academies within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 502 and shall be signed by a number of school electors of the school district equal to at least 5% of the total number of school electors of that school district. The petition shall be filed with the school district filing official. If the board receives a petition meeting the requirements of this subsection, the board shall have the question of issuing the contract placed on the ballot at its next regular school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(4) Within 10 days after issuing a contract for a public school academy, the authorizing body shall submit to the superintendent of public instruction a copy of the contract.

(5) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each public school academy subject to its jurisdiction. The resolution shall 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.

(6) A contract issued to organize and administer a public school academy shall contain at least all of the following:

(a) The educational goals the public school academy is to achieve and the methods by which it will be held accountable. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the pupil performance of a public school academy shall be assessed using at least the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(b) A description of the method to be used to monitor the public school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract.

(d) All of the matters set forth in the application for the contract.

(e) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 507.

(f) A description of and address for the proposed physical plant in which the public school academy will be located. An authorizing body may include a provision in the contract allowing the board of directors of the public school academy to operate the same configuration of age or grade levels at more than 1 site if each configuration of age or grade levels and each site identified in the contract are under the direction and control of the board of directors.

(g) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(h) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal shall include increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria as the most important factor in the decision of whether or not to renew the contract.

(i) A certification, signed by an authorized member of the board of directors of the public school academy, that the public school academy will comply with the contract and all applicable law.

(j) A requirement that the board of directors of the public school academy shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(k) A requirement that the board of directors of the public school academy shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management organization involved in the operation of the public school academy, and employees of the public school academy. The contract shall identify the specific prohibited relationships consistent with applicable law.

(*l*) A requirement that the board of directors of the public school academy shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(m) A requirement that the board of directors of the public school academy shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the public school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

academy:

(*i*) A copy of the contract issued by the authorizing body for the public school academy.

(*ii*) A list of currently serving members of the board of directors of the public school academy, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; a copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of $10,000.00 or more as they were submitted to the board of directors.

(*iii*) Quarterly financial reports submitted to the authorizing body.

(*iv*) A current list of teachers and school administrators working at the public school academy that includes their individual salaries as submitted to the registry of educational personnel; copies of the teaching or school administrator's certificates or permits of current teaching and administrative staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the public school academy.

(*v*) Curriculum documents and materials given to the authorizing body.

(*vi*) Proof of insurance as required by the contract.

(*vii*) Copies of facility leases or deeds, or both, and of any equipment leases.

(*viii*) Copies of any management contracts or services contracts approved by the board of directors.

(*ix*) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(*x*) Any management letters issued as part of the annual financial audit under subdivision (g).

(*xi*) Any other information specifically required under this act.

(n) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors of the public school academy and an educational management organization before the agreement is final and valid. An authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to the contract or applicable law.

(o) A requirement that the board of directors of the public school academy shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(*i*) That the public school academy has made a reasonable effort to advertise its enrollment openings.

(*ii*) That the open enrollment period for the public school academy is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(p) A requirement that the board of directors of the public school academy shall prohibit any individual from being employed by the public school academy in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(7) A public school academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(e) Laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

(8) A public school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a public school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(9) A public school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a public school academy are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. Unless the property is already fully exempt from real and personal property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, property occupied by a public school academy and used exclusively for educational purposes is exempt from real and personal property taxes levied for school operating purposes under section 1211, to the extent exempted under that section, and from real and personal property taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. A public school academy may not levy ad valorem property taxes or another tax for any purpose. However, operation of 1 or more public school academies by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or another tax.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(10) A public school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a public school academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

(11) A member of the board of directors of a public school academy is a public officer and shall, before entering upon the duties of the office, take the constitutional oath of office for public officers under section 1 of article XI of the state constitution of 1963.

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Compiler's note:** Former MCL 380.503, which pertained to public school academy, charter, criteria, contents, validity, and renewal, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.503a Public school academy; power of school or intermediate school district to levy taxes; use of revenues.

Sec. 503a. If a school district or intermediate school district applies for and obtains a contract to operate 1 or more public school academies under this part, the power of the school district or intermediate school district to levy taxes for any purpose under this act is not affected by the operation of a public school academy by the school district or intermediate school district. Revenue from taxes levied by a school district or intermediate school district under this act or bonds issued by a school district or intermediate school district under this act may be used to support the operation or facilities of a public school academy operated by the school district or intermediate school district in the same manner as that revenue may be used under this act by the school district or intermediate school district to support school district or intermediate school district operations and facilities. This section does not authorize a school district or intermediate school district to levy taxes or to issue bonds for any purpose that is not otherwise authorized under this act.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.503b Agreement between public school academy and third party; obligation of state or authorizing party; debt.

Sec. 503b. (1) An agreement, mortgage, loan, or other instrument of indebtedness entered into by a public school academy and a third party does not constitute an obligation, either general, special, or moral, of this state or an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, may not be pledged for the payment of any public school academy bond, note, agreement, mortgage, loan, or other instrument of indebtedness.

(2) This part does not impose any liability on this state or on an authorizing body for any debt incurred by a public school academy.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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).

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.503c Management agreement with educational management organization; definitions.

Sec. 503c. (1) Beginning with management agreements described in this section that are entered into or renewed after the effective date of this section, if the board of directors of a public school academy enters into or renews a management agreement with an educational management organization to carry out the operations of the public school academy, both of the following apply:

(a) The management agreement shall require the educational management organization to provide to the board of directors at least annually all of the same information that a school district is required to disclose under section 18(2) of the state school aid act of 1979, MCL 388.1618, for the most recent school fiscal year for which that information is available.

(b) Within 30 days after receiving the information under subdivision (a), the board of directors shall make all of the information it receives under subdivision (a) available through a link on the public school academy's website homepage, in a form and manner prescribed by the department.

(2) As used in this section:

(a) "Educational management organization" means an entity that enters into a management agreement with a public school academy.

(b) "Entity" means a partnership, nonprofit or business corporation, or any other association, corporation, trust, or other legal entity.

(c) "Management agreement" means an agreement to provide comprehensive educational, administrative, management, or instructional services or staff to a public school academy.

(d) "School fiscal year" means the period that begins July 1 and ends June 30.

**History:** Add. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.504 Location; operation at other than single site; documentation that proposed educational model results in measurable progress; discrimination prohibited; admission limits; enrollment; priority; grades and programs offered.

Sec. 504. (1) A public school academy may be located in all or part of an existing public school building. A public school academy shall not operate at a site other than the site or sites requested for the configuration of age or grade levels that will use the site or sites, as specified in the contract. Under a contract, an authorizing body may permit a public school academy to operate the same configuration of age or grade levels at more than 1 site, and a public school academy may operate the same configuration of age or grade levels at more than 1 site, as long as the public school academy is operating in compliance with its contract and is making measurable progress toward meeting its educational goals. For a contract for a new public school academy, an authorizing body may permit a public school academy to operate the same configuration of age or grade levels at more than 1 site, and a public school academy may operate the same configuration of age or grade levels at more than 1 site, if the applicant for the proposed public school academy presents documentation to the authorizing body demonstrating that the applicant's proposed educational model has resulted in schools making measurable progress toward meeting their education goals.

(2) A public school academy shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a public school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a resident of this state. For a public school academy authorized by a school district, intermediate school district, or community college, enrollment in the public school academy may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries of that authorizing body who meet the admission policy, except


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

that admission to a public school academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 502(2)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a public school academy authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to enroll using a random selection process. A public school academy shall allow any pupil who was enrolled in the public school academy in the immediately preceding school year to enroll in the public school academy in the appropriate grade unless the appropriate grade is not offered at that public school academy.

(4) A public school academy may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the public school academy.

(b) A pupil who transfers to the public school academy from another public school pursuant to a matriculation agreement between the public school academy and other public school that provides for this enrollment priority, if all of the following requirements are met:

(*i*) Each public school that enters into the matriculation agreement remains a separate and independent public school.

(*ii*) The public school academy that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(*iii*) The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a public school that is party to the matriculation agreement and who was not expelled from the public school to enroll in the public school academy giving enrollment priority under the matriculation agreement.

(c) A child of a person who is employed by or at the public school academy or who is on the board of directors of the public school academy. As used in this subdivision, "child" includes an adopted child or a legal ward.

(5) A public school academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a public school academy may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**Compiler's note:** Former MCL 380.504, which pertained to conversion public school academy, was repealed by Act 362 of 1994, Imd. Eff. Jan. 14, 1994.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.504a Public school academy; additional powers.

Sec. 504a. In addition to other powers set forth in this part, a public school academy may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) Subject to section 503b, to acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the public school academy require.

(c) To receive, disburse, and pledge funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the public school academy.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the public school academy in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by a public school academy is not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the public school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

academy, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**Compiler's note:** Former MCL 380.504a, which pertained to chartered educational clinics, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

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).

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.504b School district subject to court desegregation order.

Sec. 504b. If a public school academy is operated by a school district that is subject to a court desegregation order, pupil selection at the public school academy is subject to that order.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.504c Repealed. 2008, Act 1, Eff. Dec. 31, 2008.

**Compiler's note:** The repealed section pertained to transfer of enrolled public school academy pupils to another public school.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.505 Use of certificated teachers; use of noncertificated individuals by public school academy run by state public university or community college; report of new or revised teaching techniques.

Sec. 505. (1) Except as otherwise provided by law, a public school academy shall use certificated teachers according to state board rule.

(2) A public school academy authorized by a state public university or community college may use noncertificated individuals to teach as follows:

(a) If the public school academy is authorized by a state public university, the public school academy may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university and who has been granted institutional tenure, or has been designated as being on tenure track, by the state public university.

(b) For a public school academy authorized by a community college, the public school academy may use as a classroom teacher a full-time member of the community college faculty who has at least 5 years' experience at that community college in teaching the subject matter that he or she is teaching at the public school academy.

(c) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(3) A public school academy may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods, and shall report those to the authorizing body and state board to be made available to the public. A public school academy may use any instructional technique or delivery method that may be used by a school district.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**Compiler's note:** Former MCL 380.505, which pertained to public school academy, prohibition of discrimination, admission, enrollment, grades, and programs offered, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.505a Chartered educational clinic.

Sec. 505a. The board of a school district may grant a charter to an eligible entity for a chartered educational clinic. The application requirements and procedures for such a contract for a chartered educational clinic are the same as for a contract for another public school academy. A chartered educational clinic is a specialty public school academy and shall only serve public school pupils described in this section during hours outside the pupil's normal class hours by providing special assistance for up to 3 hours per week, pursuant to a written prescription by the principal of the public school in which the pupil is regularly enrolled on recommendation of a teacher of the pupil. A public school pupil enrolled in grades K-12 who is in educational difficulty or is at risk of falling seriously behind other pupils of his or her age level, of not being advanced in grade level, or of dropping out or being expelled from school may be served by a chartered educational clinic.

**History:** Add. 1994, Act 416, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.506 Personnel.

Sec. 506. A public school academy, with the approval of the authorizing body, may employ or contract with personnel as necessary for the operation of the public school academy, prescribe their duties, and fix their compensation.

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994.

**Compiler's note:** Former MCL 380.506, which pertained to compliance with statutes and rules, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.506a Public school academy; compliance with public employees health benefit act.

Sec. 506a. If the board of directors of a public school academy provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

**History:** Add. 2007, Act 107, Imd. Eff. Oct. 1, 2007.

**Popular name:** Act 451

### 380.507 Authorizing body; duties; powers; fiscal agent; revocation of contract; notice of certain conditions; consideration of other public school options; decision to issue, not issue, or reconstitute contract, or terminate or revoke contract; discretion; corrective measures; transition for affected pupils upon revocation of contract; notice to superintendent of public instruction.

Sec. 507. (1) An authorizing body that issues a contract for a public 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) Establish the method of selection, length of term, and number of members of the board of directors of each public school academy that it authorizes. The authorizing body shall ensure that the board of directors includes representation from the local community.

(d) Oversee each public school academy operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the board of directors is in compliance with the terms of the contract and with applicable law.

(e) Develop and implement a process for holding a public school academy accountable for meeting


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

applicable academic performance standards set forth in the contract and for implementing corrective action for a public school academy that does not meet those standards.

(f) Take necessary measures to ensure that the board of directors of a public school academy operates independently of any educational management company involved in the operations of the public school academy.

(g) Oversee and ensure that the pupil admission process used by the public 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 public 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 a public school academy is the fiscal agent for the public school academy. A state school aid payment for a public school academy shall be paid to the authorizing body that is the fiscal agent for that public school academy, and the authorizing body shall then forward the payment to the public 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 public 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 public 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 if the authorizing body determines that 1 or more of the following have occurred:

(a) Failure of the public 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 public school academy to comply with all applicable law.

(c) Failure of the public 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 a public school academy that is an alternative school serving a special student population, if the department determines that a public school academy site that has been operating for at least 4 years is among the lowest achieving public schools in this state for the immediately preceding 3 school years, as determined under section 1280c or 1280g, as applicable, not to include any individualized education plan subgroup, the department shall notify the public 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 public school academy and amend the public school academy's contract to eliminate the public school academy's authority to operate the existing age and grade levels at the site and the public 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 public 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 public school academy and revoke the public school academy's contract, effective at the end of the current school year.

(6) For a public 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 public school academy or site who reside in the geographic area served by the public school academy or site. If the department determines that closure of the public 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 a public 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 a public school academy or site to closure, the department shall require the public 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 502 or 503, 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 public school academy, the public school academy corporation, a pupil of the public school academy, the parent or guardian of a pupil of the public school academy, or any other person.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(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 public 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, canceling a contract with an educational management organization, if any, withdrawing approval of a contract under section 506, or appointing a new board of directors or a trustee to take over operation of the public 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 public 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 a public 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 public school academy whose contract has terminated or been revoked and the date of contract termination or revocation.

**History:** Add. 1993, Act 362, Imd. Eff. Jan. 14, 1994;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 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.

**Compiler's note:** Former MCL 380.507, which pertained to personnel, was repealed by Act 362 of 1993, Imd. Eff. Jan. 14, 1994.

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

**Popular name:** Charter Schools

**Popular name:** Public School Academies

### 380.508, 380.509 Repealed. 1993, Act 362, Imd. Eff. Jan. 14, 1994.

**Compiler's note:** The repealed sections pertained to state school aid, other funding, payment to fiscal agent, counting in membership, oversight of operations, and revocation of charter.

**Popular name:** Act 451

**Popular name:** Charter Schools

**Popular name:** Public School Academies

## PART 6B
## PUBLIC SCHOOL ACADEMIES

### 380.511-380.518 Repealed. 1994, Act 416, Eff. July 30, 1997.

**Compiler's note:** Sec. 518 (MCL 380.518) of Act 451 of 1976, as added by Act 416 of 1994, provides:

"Sec. 518. This part is repealed if the final disposition of council of organizations and others for education about parochiaid, inc., et al., v John Engler (Ingham county circuit court case no. 94-78461-AW) is that part 6a, as added by Act No. 362 of the Public Acts of 1993, is held by a court of competent jurisdiction to be constitutional, effective, or otherwise valid."

In Council of Organizations and Others for Education About Parochiaid, Inc., et al. v John Engler, 455 Mich 557 (1997), the Michigan Supreme Court held that 1993 PA 362, which added Part 6A--Public School Academies to the School Code of 1976, did not violate art 8, sec 2, or art 8, sec 3 of the Michigan Constitution of 1963. The Court further held that the repealer in 1994 PA 416 (MCL 380.518) was valid and enforceable.

**Popular name:** Act 451

## PART 6C
## URBAN HIGH SCHOOL ACADEMIES

### 380.521 Urban high school academy; powers; definitions.

Sec. 521. (1) An urban high school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of sections 1225 and 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. An


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

urban high school academy is a body corporate and is a governmental agency. The powers granted to an urban high school academy under this part constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in this part:

(a) "Authorizing body" means the governing board of a state public university that issues a contract as provided in this part.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the superintendent of public instruction under section 1531.

(c) "Contract" means the executive act taken by an authorizing body that evidences the authorization of an urban high school academy and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on an urban high school academy, as provided by this part, and confirming the status of an urban high school academy as a public school in this state.

(d) "Educational management company" means an entity that enters into an agreement with the governing board of a public school to provide comprehensive educational, administrative, management, or instructional services or staff to the public school.

(e) "Entity" means a nonprofit corporation that is organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and that has been granted tax-exempt status under section 509(a) of the internal revenue code of 1986.

(f) "State public university" means a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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).

**Popular name:** Act 451

### 380.522 Urban high school academy; organization and administration.

Sec. 522. (1) An urban high school academy shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. An urban high school academy corporation shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that an urban high school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, an urban high school academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) Subject to subsection (9), the governing board of a state public university may act as an authorizing body to issue a contract for the organization and operation of an urban high school academy under this part.

(3) A contract issued under this part shall be issued for an initial term of 10 years. If the urban high school academy meets the educational goals set forth in the contract and operates in substantial compliance with this part, the authorizing body shall automatically renew the contract for a subsequent 10-year term.

(4) To obtain a contract to organize and operate 1 or more urban high school academies, an entity may apply to an authorizing body described in subsection (2). The contract shall be issued to an urban high school academy corporation designated by the entity applying for the contract. The application shall include at least all of the following:

(a) Name of the entity applying for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 528, a list of the proposed members of the board of directors of the urban high school academy and a description of the qualifications


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(*i*) The name of the proposed urban high school academy to which the contract will be issued.

(*ii*) The purposes for the urban high school academy corporation. This language shall provide that the urban high school academy is incorporated pursuant to this part and that the urban high school academy corporation is a governmental entity and political subdivision of this state.

(*iii*) The name of the authorizing body.

(*iv*) The proposed time when the articles of incorporation will be effective.

(*v*) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the urban high school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(*i*) The governance structure of the urban high school academy.

(*ii*) A copy of the educational goals of the urban high school academy and the curricula to be offered and methods of pupil assessment to be used by the urban high school academy. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the urban high school academy shall be assessed using both the mathematics and reading portions of the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(*iii*) The admission policy and criteria to be maintained by the urban high school academy. The admission policy and criteria shall comply with section 524. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that an urban high school academy is being created and adequate information on the admission policy, criteria, and process.

(*iv*) The school calendar and school day schedule.

(*v*) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the urban high school academy's governance structure.

(g) A description of and address for the proposed building or buildings in which the urban high school academy will be located, and a financial commitment by the entity applying for the contract to construct or renovate the building or buildings that will be occupied by the urban high school academy that is issued the contract.

(5) If a particular state public university issues a contract that allows an urban high school academy to operate the same configuration of grades at more than 1 site, as provided in section 524(1), each of those sites shall be under the direction of the board of directors that is a party to the contract.

(6) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more urban high school academies operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate urban high school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(7) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for an urban high school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the urban high school academy in the school year in which the fees or expenses are charged. All of the following apply to this fee:

(a) An authorizing body may use this fee only for the following purposes:

(*i*) Considering applications and issuing or administering contracts.

(*ii*) Compliance monitoring and oversight of urban high school academies.

(*iii*) Training for urban high school academy applicants, administrators, and boards of directors.

(*iv*) Technical assistance to urban high school academies.

(*v*) Academic support to urban high school academies or to pupils or graduates of urban high school academies.

(*vi*) Evaluation of urban high school academy performance.

(*vii*) Training of teachers, including supervision of teacher interns.

(*viii*) Other purposes that assist the urban high school academies or traditional public schools in achieving improved academic performance.

(b) An authorizing body may provide other services for an urban high school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the urban high school academy.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(8) An urban high school academy shall be presumed to be legally organized if it has exercised the franchises and privileges of an urban high school academy for at least 2 years.

(9) Both of the following apply to the issuance of a contract for an urban high school academy to be located within a community district:

(a) An authorizing body shall not issue a contract to organize and operate a new urban high school academy to be located in a community district unless, before issuing the contract, the governing board of the authorizing body has certified to the department that the authorizing body has been accredited as an authorizing body by a nationally recognized accreditation body.

(b) An authorizing body shall not issue a contract for a new urban high school academy to be located in a community district if both of the following circumstances exist:

(*i*) Either of the following:

(A) The proposed urban high school academy would operate at the same location as a public school that currently is on the list under section 1280c(1) or 1280g(3), as applicable, of the public schools in this state determined to be among the lowest achieving public schools in this state or has been on that list during the immediately preceding 3-year period.

(B) The proposed urban high school academy would operate at the same location as a public school academy, urban high school academy, school of excellence, or strict discipline academy that has had its contract revoked or terminated by an authorizing body under the applicable part or section.

(*ii*) The proposed urban high school academy would have substantially the same board of directors, substantially the same leadership, and substantially the same curriculum offerings as the public school that previously operated at that location.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003;—Am. 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.

**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 state school reform/redesign school district and state school reform/redesign officer from department of education to state school reform office created as an autonomous entity within department of technology, management, and budget, see E.R.O. No. 2015-2, compiled at MCL 18.445.

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.

**Popular name:** Act 451

### 380.523 Urban high school academy; contracts; issuance; priority; contents; compliance with state laws; immunity from civil liability; exemption from taxation; acquisition of property.

Sec. 523. (1) An authorizing body is not required to issue a contract to any entity. Urban high school academy contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed urban high school academy, the population to be served by the proposed urban high school academy, and the educational goals to be achieved by the proposed urban high school academy. In evaluating if an applicant is qualified, the authorizing body shall examine the proposed performance standards, proposed academic program, financial viability of the applicant, and the ability of the proposed board of directors to meet the contract goals and objectives. An authorizing body shall give priority to applicants that demonstrate all of the following:

(a) The proposed school will operate at least all of grades 9 through 12 within 5 years after beginning operation.

(b) The proposed school will occupy a building or buildings that are newly constructed or renovated after January 1, 2003.

(c) The proposed school has a stated goal of increasing high school graduation rates.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(d) The proposed school has received commitments for financial and educational support from the entity applying for the contract.

(e) The entity that submits the application for a contract has net assets of at least $50,000,000.00.

(2) A contract issued to organize and administer an urban high school academy shall contain at least all of the following:

(a) The educational goals the urban high school academy is to achieve and the methods by which it will be held accountable. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the pupil performance of an urban high school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination developed under section 1279g, as applicable.

(b) A description of the method to be used to monitor the urban high school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract. An authorizing body may approve amendment of the contract with respect to any provision contained in the contract.

(d) A certification, signed by an authorized member of the urban high school academy board of directors, that the urban high school academy will comply with the contract and all applicable law.

(e) Procedures for revoking the contract and grounds for revoking the contract.

(f) A description of and address for the proposed building or buildings in which the urban high school academy will be located.

(g) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by an independent certified public accountant in accordance with generally accepted governmental auditing principles.

(h) A requirement that the board of directors shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(i) A requirement that the board of directors shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management company involved in the operation of the urban high school academy, and employees of the urban high school academy. The contract shall identify the specific prohibited relationships consistent with applicable law.

(j) A requirement that the board of directors of the urban high school academy shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(k) A requirement that the board of directors of the urban high school academy shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the urban high school academy:

(*i*) A copy of the contract issued by the authorizing body for the urban high school academy.

(*ii*) A list of currently serving members of the board of directors of the urban high school academy, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of $10,000.00 or more as they were submitted to the board of directors.

(*iii*) Quarterly financial reports submitted to the authorizing body.

(*iv*) A current list of teachers working at the urban high school academy that includes their individual salaries as submitted to the registry of educational personnel; copies of the teaching certificates or permits of current teaching staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the urban high school academy.

(*v*) Curriculum documents and materials given to the authorizing body.

(*vi*) Proof of insurance as required by the contract.

(*vii*) Copies of facility leases or deeds, or both, and of any equipment leases.

(*viii*) Copies of any management contracts or services contracts approved by the board of directors.

(*ix*) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(*x*) Any management letters issued as part of the annual financial audit under subdivision (g).

(*xi*) Any other information specifically required under this act.

(*l*) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors and an educational management company before the agreement is final and valid. An


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to the contract or applicable law.

(m) A requirement that the board of directors shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(*i*) That the urban high school academy has made a reasonable effort to advertise its enrollment openings.

(*ii*) That the urban high school academy has made the following additional efforts to recruit pupils who are eligible for special education programs and services to apply for admission:

(A) Reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities within the boundaries of the intermediate school district in which the urban high school academy is located.

(B) Inclusion in all pupil recruitment materials of a statement that appropriate special education services will be made available to pupils attending the school as required by law.

(*iii*) That the open enrollment period for the urban high school academy is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(n) A requirement that the board of directors shall prohibit any individual from being employed by the urban high school academy in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(o) A requirement that, if requested, the board of directors shall report to the authorizing body the total compensation for each individual working at the urban high school academy.

(p) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal shall include increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria as the most important factor in the decision of whether or not to renew the contract.

(3) An urban high school academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) 1978 PA 566, MCL 15.181 to 15.185.

(f) 1968 PA 317, MCL 15.321 to 15.330.

(g) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(h) The revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(i) The federal no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425.

(j) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, 1274, and 1280.

(k) Laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

(4) An urban high school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing or oversight of an urban high school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(5) An urban high school academy is exempt from all taxation on its earnings and property. Unless the property is already fully exempt from real and personal property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, property occupied by an urban high school academy and used exclusively for educational purposes is exempt from real and personal property taxes levied for school operating purposes under section 1211, to the extent exempted under that section, and from real and personal property taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. Instruments of conveyance to or from an urban high school academy are exempt from all taxation, including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. An urban high school academy may not levy ad valorem property taxes or any other tax for any purpose.

(6) An urban high school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or any other means, hold, and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, an urban high school academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**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).

**Popular name:** Act 451

### 380.523a Instrument of indebtedness; liability.

Sec. 523a. (1) An agreement, mortgage, loan, or other instrument of indebtedness entered into by an urban high school academy and a third party does not constitute an obligation, either general, special, or moral, of this state or an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, may not be pledged for the payment of any urban high school academy bond, note, agreement, mortgage, loan, or other instrument of indebtedness.

(2) This part does not impose any liability on this state or on an authorizing body for any debt incurred by an urban high school academy.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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).

**Popular name:** Act 451

### 380.523c Management agreement with educational management organization; definitions.

Sec. 523c. (1) Beginning with management agreements described in this section that are entered into or renewed after the effective date of this section, if the board of directors of an urban high school academy enters into or renews a management agreement with an educational management organization to carry out the operations of the urban high school academy, both of the following apply:

(a) The management agreement shall require the educational management organization to provide to the board of directors at least annually all of the same information that a school district is required to disclose under section 18(2) of the state school aid act of 1979, MCL 388.1618, for the most recent school fiscal year for which that information is available.

(b) Within 30 days after receiving the information under subdivision (a), the board of directors shall make all of the information it receives under subdivision (a) available through a link on the urban high school academy's website homepage, in a form and manner prescribed by the department.

(2) As used in this section:

(a) "Educational management organization" means an entity that enters into a management agreement with an urban high school academy.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) "Entity" means a partnership, nonprofit or business corporation, or any other association, corporation, trust, or other legal entity.

(c) "Management agreement" means an agreement to provide comprehensive educational, administrative, management, or instructional services or staff to an urban high school academy.

(d) "School fiscal year" means the period that begins July 1 and ends June 30.

**History:** Add. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.524 Location; configuration of age or grade levels; operation at more than 1 site; documentation that educational model results in measurable progress; tuition; discrimination; admission; enrollment priority; grades and programs offered.

Sec. 524. (1) An urban high school academy may be located in all or part of an existing public school building. An urban high school academy shall not operate at a site other than the site or sites, requested for the configuration of age or grade levels that will use the site or sites, as specified in the contract. Under a contract, an authorizing body may permit an urban high school academy to operate the same configuration of age or grade levels at more than 1 site, and an urban high school academy may operate the same configuration of age or grade levels at more than 1 site, as long as the urban high school academy is operating in compliance with its contract and is making measurable progress toward meeting its educational goals. For a contract for a new urban high school academy, an authorizing body may permit an urban high school academy to operate the same configuration of age or grade levels at more than 1 site, and an urban high school academy may operate the same configuration of age or grade levels at more than 1 site, if the applicant for the proposed urban high school academy presents documentation to the authorizing body demonstrating that the applicant's proposed educational model has resulted in schools making measurable progress toward meeting their educational goals.

(2) An urban high school academy shall not charge tuition. Except as otherwise provided in this section, an urban high school academy shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, an urban high school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, an urban high school academy shall not enroll a pupil who is not a resident of this state. Enrollment in an urban high school academy must be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the urban high school academy than there are spaces available, pupils shall be selected to attend using a random selection process. An urban high school academy shall allow any pupil who was enrolled in the urban high school academy in the immediately preceding school year to enroll in the urban high school academy in the appropriate grade unless the appropriate grade is not offered at that urban high school academy.

(4) An urban high school academy may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the urban high school academy.

(b) A pupil who transfers to the urban high school academy from another public school under a matriculation agreement between the urban high school academy and other public school that provides for this enrollment priority, if all of the following requirements are met:

(*i*) Each public school that enters into the matriculation agreement remains a separate and independent public school.

(*ii*) The urban high school academy that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(*iii*) The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a public school that is a party to the matriculation agreement and who was not expelled from that public school to enroll in the urban high school academy giving enrollment priority under the matriculation agreement.

(c) A child of a person who is employed by or at the urban high school academy or who is on the board of directors of the urban high school academy. As used in this subdivision, "child" includes an adopted child or a legal ward.

(5) Subject to the terms of the contract authorizing the urban high school academy, an urban high school academy shall include at least grades 9 through 12 within 5 years after beginning operations and may include other grades or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, an urban high school academy may also operate an adult


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

basic education program, adult high school completion program, or general education development testing preparation program.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012;—Am. 2018, Act 619, Imd. Eff. Dec. 28, 2018.

**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).

**Popular name:** Act 451

### 380.525 Powers.

Sec. 525. In addition to other powers set forth in this part, an urban high school academy may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) Subject to section 523a, to acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the urban high school academy require.

(c) To receive, disburse, and pledge funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the urban high school academy.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the urban high school academy in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by an urban high school academy are not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the urban high school academy, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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).

**Popular name:** Act 451

### 380.526 Use of certificated and noncertificated teachers; teaching techniques or methods.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 526. (1) Except as otherwise provided by law, an urban high school academy shall use certificated teachers according to state board rule.

(2) An urban high school academy may use noncertificated individuals to teach as follows:

(a) The urban high school academy may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university that is the authorizing body and who has been granted institutional tenure, or has been designated as being on tenure track, by that state public university.

(b) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(3) An urban high school academy may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods and shall report those to the authorizing body and state board to be made available to the public. An urban high school academy may use any instructional technique or delivery method that may be used by a school district.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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).

**Popular name:** Act 451

### 380.527 Teacher or personnel contracts.

Sec. 527. An urban high school academy, with the approval of the authorizing body, may employ or contract with personnel, or enter into a contract with another party to furnish teachers or other personnel, as necessary for the operation of the urban high school academy, prescribe their duties, and fix their compensation.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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).

**Popular name:** Act 451

### 380.527a Urban high school academy; compliance with public employees health benefit act.

Sec. 527a. If the board of directors of an urban high school academy provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

**History:** Add. 2007, Act 107, Imd. Eff. Oct. 1, 2007.

**Popular name:** Act 451

### 380.528 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


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**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 shall 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 shall 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 shall be paid to the authorizing body that is the fiscal agent for that urban high school academy, which shall 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 public schools in this state for the immediately preceding 3 school years, as determined under section 1280c or 1280g, as applicable, 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


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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 shall 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 his or her 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 his or her designee, shall provide the board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or his or her 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 his or her 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


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

section, the state treasurer, or his or her 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 shall have 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 his or her 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.

**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

### 380.529 Contract provisions; powers of applicant.

Sec. 529. An authorizing body and urban high school academy may include provisions in the contract that permit the entity that applied for the contract to do any of the following:

(a) Participate in the recruiting, interviewing, and nominating process for urban high school academy board members.

(b) Conduct an independent educational review, on a periodic basis, to determine whether the urban high school academy is successful in implementing the educational goals set forth in the contract.

(c) Serve as contract administrator between the urban high school academy board of directors and any educational management company contracted to operate the urban high school academy.

(d) Make recommendations to the authorizing body and urban high school academy on how to improve the urban high school academy's operation.

**History:** Add. 2003, Act 179, Imd. Eff. Oct. 3, 2003.

**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).

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**380.551 School of excellence; powers; definitions.**

Sec. 551. (1) A school of excellence is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A school of excellence is a body corporate and is a governmental agency. The powers granted to a school of excellence under this part constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in this part:

(a) "Authorizing body" means any of the following that issues a contract as provided in this part:

(*i*) The board of a school district.

(*ii*) An intermediate school board.

(*iii*) The board of a community college.

(*iv*) The governing board of a state public university.

(*v*) Two or more of the public agencies described in subparagraphs (*i*) to (*iv*) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the superintendent of public instruction under section 1531.

(c) "Community college" means a community college organized under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or a federal tribally controlled community college that is recognized under the tribally controlled colleges and universities assistance act of 1978, 25 USC 1801 to 1864, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(d) "Contract" means the executive act taken by an authorizing body that evidences the authorization of a school of excellence and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on a school of excellence, as provided by this part, and confirming the status of a school of excellence as a public school in this state.

(e) "Cyber school" means a school of excellence established under this part that has been issued a contract to be organized and operated as a cyber school under section 552(2) and that provides full-time instruction to pupils through online learning or otherwise on a computer or other technology, which instruction and learning may be remote from a school facility.

(f) "Educational management organization" means an entity that enters into an agreement with the governing board of a public school to provide comprehensive educational, administrative, management, or instructional services or staff to the public school.

(g) "Entity" means a partnership, nonprofit or business corporation, labor organization, or any other association, corporation, trust, or other legal entity.

(h) "State public university" means a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

**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.

**Popular name:** Act 451

**380.552 Contracts; limitation on issuance; requirements; cyber schools; conversion of public school academy to school of excellence; organization and administration; authorizing body; application; contents; oversight; suspension of power to issue contracts; fee; presumption of legality; oath of office; offerings made by cyber school; final audited membership; enrollment; limitations; definitions; report; parent-student orientation; school of excellence located within community district.**

Sec. 552. (1) An authorizing body may issue contracts under this subsection to organize and operate a school of excellence. All of the following apply to the issuance of a contract by an authorizing body under this subsection:

(a) The issuance of the contract must be approved by the superintendent of public instruction. The superintendent of public instruction shall approve issuance of a contract if he or she determines that the proposed school of excellence is modeled after a high-performing school or program.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) The first 5 contracts issued by all authorizing bodies under this subsection shall be for schools of excellence that offer 1 or more of high school grades 9 to 12, or any combination of those grades, as specified in the contract.

(c) A school of excellence authorized under this subsection shall not be located in a school district that has a graduation rate of over 75%, on average, for the most recent 3 school years for which the data are available, as determined by the department.

(2) Subject to the limitations in this subsection and subsections (14) and (15), an authorizing body may issue contracts under this subsection for 1 or more schools of excellence that are cyber schools. The combined total number of contracts issued by all statewide authorizing bodies under this subsection for schools of excellence that are cyber schools shall not exceed 15. The board of a school district, an intermediate school board, the board of a community college that is not a statewide authorizing body, or 2 or more public agencies acting jointly as described in subsection (6)(e) may not act as the authorizing body for more than 1 school of excellence that is a cyber school. An authorizing body shall not issue a contract for a school of excellence that is a cyber school unless the school of excellence that is a cyber school meets all of the following requirements:

(a) Is available for enrollment to all pupils in this state.

(b) Offers some configuration of or all of grades K to 12.

(c) The entity applying for the school of excellence that is a cyber school demonstrates experience in delivering a quality education program that improves pupil academic achievement. In determining whether this requirement is met, an authorizing body shall refer to the standards for quality online learning established by the national association of charter school authorizers or other similar nationally recognized standards for quality online learning.

(d) The enrollment in the school of excellence that is a cyber school is limited to not more than 2,500 pupils in membership for the first school year of operation of the school of excellence that is a cyber school, not more than 5,000 pupils in membership for the second school year of operation of the school of excellence that is a cyber school, and not more than 10,000 pupils in membership for the third and subsequent school years of operation of the school of excellence that is a cyber school. As used in this subdivision, "membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(e) The school of excellence that is a cyber school offers each pupil's family a computer and subsidizes the cost of internet access.

(3) For a public school academy operating under part 6a that meets the requirements of subsection (4), with the approval of its authorizing body, the board of directors of the public school academy may adopt a resolution choosing to convert the public school academy to a school of excellence under this part. If the board of directors of a public school academy that meets the requirements of subsection (4) is issued a contract as a school of excellence under this subsection, all the following apply:

(a) The public school academy shall cease to operate as a public school academy under part 6a and shall operate as a school of excellence upon the issuance of a contract or at another time as determined by the authorizing body.

(b) The public school academy shall be considered to be a school of excellence for all purposes upon the issuance of a contract or at another time as determined by the authorizing body, but shall retain its corporate identity.

(c) The conversion of a public school academy under part 6a to a school of excellence operating under this part shall not impair any agreement, mortgage, loan, bond, note or other instrument of indebtedness, or any other agreement entered into by a public school academy while it was operating under part 6a.

(d) The contract issued to the public school academy under part 6a shall automatically terminate upon the issuance of a contract or at another time as determined by the authorizing body.

(4) Subsection (3) applies to a public school academy that is determined by the department to meet all of the following, as applicable:

(a) If the public school academy operates only some or all of grades K to 8, meets at least 1 of the following:

(*i*) On average over a 3-year period, at least 90% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program.

(*ii*) On average over a 3-year period, at least 70% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program and at least 50% of the pupils enrolled in the public school academy met the income eligibility criteria for the federal free or reduced-price lunch program, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769j, and reported to the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

department.

(b) If the public school academy operates grades 9 to 12, at least 80% of the school's pupils graduate from high school or are determined by the department to be on track to graduate from high school, the school has at least 80% average attendance, and the school has at least an 80% postsecondary enrollment rate.

(5) A school of excellence shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A school of excellence shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a school of excellence is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a school of excellence shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(6) Any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more schools of excellence under this part:

(a) The board of a school district. However, except as otherwise provided in this subdivision, the board of a school district shall not issue a contract for a school of excellence to operate outside the school district's boundaries, and a school of excellence authorized by the board of a school district shall not operate outside that school district's boundaries. If the board of a school district issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside that school district's boundaries.

(b) An intermediate school board. However, except as otherwise provided in this subdivision, the board of an intermediate school district shall not issue a contract for a school of excellence to operate outside the intermediate school district's boundaries, and a school of excellence authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries. If the board of an intermediate school district issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside that intermediate school district's boundaries.

(c) The board of a community college. Except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a school of excellence to operate outside the boundaries of the community college district, and a school of excellence authorized by the board of a community college shall not operate outside the boundaries of the community college district. If the board of a community college issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 school of excellence to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a school of excellence itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university.

(e) Two or more of the public agencies described in subdivisions (a) to (d) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(7) To obtain a contract to organize and operate 1 or more schools of excellence, 1 or more persons or an entity may apply to an authorizing body described in this section. The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 553(4), a list of the proposed members of the board of directors of the school of excellence and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(*i*) The name of the proposed school of excellence.

(*ii*) The purposes for the school of excellence corporation. This language shall provide that the school of excellence is incorporated pursuant to this part and that the school of excellence is a governmental entity.

(*iii*) The name of the authorizing body.

(*iv*) The proposed time when the articles of incorporation will be effective.

(*v*) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the school of excellence.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the following:

(*i*) The governance structure of the school of excellence.

(*ii*) A copy of the educational goals of the school of excellence and the curricula to be offered and methods of pupil assessment to be used by the school of excellence. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the school of excellence shall be assessed using both the mathematics and reading portions of the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(*iii*) The admission policy and criteria to be maintained by the school of excellence. The admission policy and criteria shall comply with section 556. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that a school of excellence is being created and adequate information on the admission policy, criteria, and process.

(*iv*) Except for a school of excellence that is a cyber school, the school calendar and school day schedule.

(*v*) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the school of excellence governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the school district and intermediate school district in which the school of excellence will be located.

(h) An agreement that the school of excellence will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) A description of and address for the proposed physical plant in which the school of excellence will be located. An applicant may request the authorizing body to issue a contract allowing the board of directors of the school of excellence to operate the same configuration of age or grade levels at more than 1 site.

(8) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each school of excellence operating under a contract issued by the authorizing body. The authorizing body is responsible for overseeing compliance by the board of directors with the contract and all applicable law. This subsection does not relieve any other government entity of its enforcement or supervisory responsibility.

(9) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more schools of excellence operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate schools of excellence. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(10) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a school of excellence in an amount that exceeds a combined total of 3% of the total state school aid received by the school of excellence in the school year in which the fees or expenses are charged. The authorizing body may provide other services for a school of excellence and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the school of excellence.

(11) A school of excellence shall be presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

(12) A member of the board of directors of a school of excellence is a public officer and shall, before entering upon the duties of the office, take the constitutional oath of office for public officers under section 1 of article XI of the state constitution of 1963.

(13) A school of excellence that is a cyber school may make available to other public schools for purchase any of the course offerings that the cyber school offers to its own pupils.

(14) If the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for the 2012-2013 state fiscal year exceeds a number equal to 1% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then all of the following apply:

(a) An authorizing body may not issue a new contract for a new school of excellence that is a cyber school to begin operations in the 2013-2014 school year.

(b) A school of excellence that is a cyber school may not enroll any new pupils in the school of excellence that is a cyber school in the 2013-2014 school year.

(15) Beginning July 1, 2013, if the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for a state fiscal year


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

exceeds a number equal to 2% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then all of the following apply:

(a) Subject to subdivision (c), an authorizing body may not issue a new contract for a new school of excellence that is a cyber school to begin operations in a school year that begins after that determination is made.

(b) Subject to subdivision (c), a school of excellence that is a cyber school may not enroll any new pupils in the school of excellence that is a cyber school in a school year that begins after that determination is made.

(c) If the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for a state fiscal year does not exceed a number equal to 2% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then subdivisions (a) and (b) do not apply for a school year that begins after that determination is made unless the department makes a new determination that the membership limits under this subsection have been exceeded.

(16) For the purposes of subsections (14) and (15), not later than July 1 of each year, the department shall determine the percentage of the combined total statewide final audited membership for all pupils in membership in public schools that are pupils in membership in schools of excellence that are cyber schools for the state fiscal year that includes that July 1.

(17) As used in this section:

(a) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(b) "Statewide authorizing body" means the governing board of a state public university or the board of a federal tribally controlled community college that is recognized under the tribally controlled colleges and universities assistance act of 1978, 25 USC 1801 to 1864, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(18) Not later than October 1, 2012, if a district, an intermediate school district, a public school academy, or the education achievement system offers online learning, the board or board of directors of the district, intermediate school district, or public school academy, or the education achievement system, shall submit to the department a report that details the per-pupil costs of operating the online learning. The report shall include, on a per-pupil basis, at least all of the following costs:

(a) Textbooks, instructional materials, and supplies, including electronic instructional material.

(b) Computer and other electronic equipment, including internet and telephone access.

(c) Salaries and benefits for the online learning employees.

(d) Purchased courses and curricula.

(e) Fees associated with oversight and regulation.

(f) Travel costs associated with school activities and testing.

(g) Facilities costs.

(h) Costs associated with special education.

(19) Not later than December 31, 2012, the department shall issue a report to the legislature including the following:

(a) A review of the data submitted under subsection (14).

(b) A comparison with costs of substantially similar programs in other states and relevant national research on the costs of online learning.

(c) Any conclusions concerning factors or characteristics of online learning programs that make a difference in the costs of operating the programs.

(20) The board of directors of a school of excellence that is a cyber school, or the board of a school district, intermediate school district, or public school academy that operates an online or other distance learning program, shall submit a monthly report to the department, in the form and manner prescribed by the department, that reports the number of pupils enrolled in the school of excellence that is a cyber school, or in the online or other distance learning program, during the immediately preceding month.

(21) The board of directors of a school of excellence that is a cyber school shall ensure that, when a pupil enrolls in the school of excellence that is a cyber school, the pupil and his or her parent or legal guardian are provided with a parent-student orientation. If the pupil is at least age 18 or is an emancipated minor, the orientation may be provided to just the pupil.

(22) Both of the following apply to the issuance of a contract for a school of excellence to be located within a community district:

(a) An authorizing body shall not issue a contract to organize and operate a new school of excellence to be located in a community district unless, before issuing the contract, the governing board of the authorizing body has certified to the department that the authorizing body has been accredited as an authorizing body by a


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

nationally recognized accreditation body. For an authorizing body described in subsection (6)(e), the authorizing body shall not issue a contract to organize and operate a new school of excellence to be located in a community district unless, before issuing the contract, the governing board of each of the public agencies that is party to the interlocal agreement has certified to the department that the public agency has been accredited as an authorizing body by a nationally recognized accreditation body.

(b) An authorizing body shall not issue a contract for a new school of excellence to be located in a community district if both of the following circumstances exist:

(*i*) Either of the following:

(A) The proposed school of excellence would operate at the same location as a public school that currently is on the list under section 1280c(1) or 1280g(3), as applicable, of the public schools in this state determined to be among the lowest achieving public schools in this state or has been on that list during the immediately preceding 3-year period.

(B) The proposed school of excellence would operate at the same location as a public school academy, urban high school academy, school of excellence, or strict discipline academy that has had its contract revoked or terminated by an authorizing body under the applicable part or section.

(*ii*) The proposed school of excellence would have substantially the same board of directors, substantially the same leadership, and substantially the same curriculum offerings as the public school that previously operated at that location.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012;—Am. 2012, Act 129, Eff. Mar. 28, 2013;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Compiler's note:** For transfer of state school reform/redesign school district and state school reform/redesign officer from department of education to state school reform office created as an autonomous entity within department of technology, management, and budget, see E.R.O. No. 2015-2, compiled at MCL 18.445.

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.

**Popular name:** Act 451

### 380.553 Schools of excellence; issuance of contract; petition to place question of issuing contract on ballot; submission; resolution; contents of contract; compliance with applicable law; governmental immunity; exemption from taxation; acquisition of property.

Sec. 553. (1) An authorizing body is not required to issue a contract to any person or entity. Schools of excellence contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed school of excellence, the population to be served by the proposed school of excellence, the educational goals to be achieved by the proposed school of excellence, and the applicant's track record, if any, in operating public school academies or other public schools.

(2) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more schools of excellence within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 552 and shall be signed by a number of school electors of the school district equal to at least 5% of the total number of school electors of that school district. The petition shall be filed with the school district filing official. If the board receives a petition meeting the requirements of this subsection, the board shall have the question of issuing the contract placed on the ballot at its next regular school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(3) Within 10 days after issuing a contract for a school of excellence, the authorizing body shall submit to the superintendent of public instruction a copy of the contract.

(4) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each school of excellence subject to its jurisdiction. The resolution shall 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.

(5) A contract issued to organize and administer a school of excellence shall contain at least all of the following:

(a) The educational goals the school of excellence is to achieve and the methods by which it will be held accountable. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the pupil performance of a school of excellence shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

under section 1279g, as applicable.

(b) A description of the method to be used to monitor the school of excellence's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract.

(d) All of the matters set forth in the application for the contract.

(e) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 561.

(f) A description of and address for the proposed physical plant in which the school of excellence will be located. An authorizing body may include a provision in the contract allowing the board of directors of the school of excellence to operate the same configuration of age or grade levels at more than 1 site if each configuration of age or grade levels and each site identified in the contract are under the direction and control of the board of directors.

(g) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(h) A certification, signed by an authorized member of the school of excellence board of directors, that the school of excellence will comply with the contract and all applicable law.

(i) A requirement that the board of directors shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(j) A requirement that the board of directors shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management organization involved in the operation of the school of excellence, and employees of the school of excellence. The contract shall identify the specific prohibited relationships consistent with applicable law.

(k) A requirement that the board of directors of the school of excellence shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(*l*) A requirement that the board of directors of the school of excellence shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the school of excellence:

(*i*) A copy of the contract issued by the authorizing body for the school of excellence.

(*ii*) A list of currently serving members of the board of directors of the school of excellence, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of $10,000.00 or more as they were submitted to the board of directors.

(*iii*) Quarterly financial reports submitted to the authorizing body.

(*iv*) A current list of teachers and school administrators working at the school of excellence that includes their individual salaries as submitted to the registry of educational personnel; copies of the teaching or school administrator's certificates or permits of current teaching and administrative staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the school of excellence.

(*v*) Curriculum documents and materials given to the authorizing body.

(*vi*) Proof of insurance as required by the contract.

(*vii*) Copies of facility leases or deeds, or both, and of any equipment leases.

(*viii*) Copies of any management contracts or services contracts approved by the board of directors.

(*ix*) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(*x*) Any management letters issued as part of the annual financial audit under subdivision (g).

(*xi*) Any other information specifically required under this act.

(m) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors and an educational management organization before the agreement is final and valid. An authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to contract or applicable law.

(n) A requirement that the board of directors shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(*i*) That the school of excellence has made a reasonable effort to advertise its enrollment openings.

(*ii*) That the school of excellence has made the following additional efforts to recruit pupils who are


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

eligible for special education programs and services or English as a second language services to apply for admission:

(A) Reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities or children with limited English-speaking ability within the boundaries of the intermediate school district in which the school of excellence is located.

(B) Inclusion in all pupil recruitment materials of a statement that appropriate special education services and English as a second language services will be made available to pupils attending the school as required by law.

(*iii*) That the open enrollment period for the school of excellence is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(o) A requirement that the board of directors shall prohibit any individual from being employed by the school of excellence in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(p) A requirement that, if requested, the board of directors shall report to the authorizing body the total compensation for each individual working at the school of excellence.

(6) A school of excellence shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(f) Laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

(7) A school of excellence and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a school of excellence if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(8) A school of excellence is exempt from all taxation on its earnings and property. Unless the property is already fully exempt from real and personal property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, property occupied by a school of excellence and used exclusively for educational purposes is exempt from real and personal property taxes levied for school operating purposes under section 1211, to the extent exempted under that section, and from real and personal property taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. Instruments of conveyance to or from a school of excellence are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A school of excellence may not levy ad valorem property taxes or another tax for any purpose. However, operation of 1 or more schools of excellence by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or another tax.

(9) A school of excellence may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold, and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a school of excellence may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.553a Cyber school.

Sec. 553a. (1) An authorizing body may issue a contract to establish a school of excellence that is a cyber school. A cyber school shall provide full-time instruction to pupils through online learning or otherwise on a computer or other technology, and this instruction and learning may occur remote from a school facility. Subject to section 559(3), a cyber school may develop and implement personalized, nontraditional, or flexible


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

learning opportunities that include, but are not limited to, project-based learning or competency-based education.

(2) A contract for a school of excellence that is a cyber school must include all of the provisions required under section 553 and both of the following:

(a) A requirement that a teacher who holds appropriate certification according to state board rule or who is engaged to teach under section 1233b will be responsible for all of the following for each course in which a pupil is enrolled:

(*i*) Improving learning by planned instruction.

(*ii*) Diagnosing the pupil's learning needs.

(*iii*) Assessing learning, assigning grades, and determining advancement.

(*iv*) Reporting outcomes to administrators and parents or legal guardians.

(b) A requirement that the cyber school will make educational services available to pupils for a minimum of at least 1,098 hours during a school year. The cyber school shall track a pupil's participation through attendance in the educational program offered by the cyber school for the proportionate number of instructional hours from the date of enrollment of the pupil.

(3) Notwithstanding any other provision of this act or any rule, if a school of excellence that is a cyber school is in compliance with the requirements of subsection (2)(a) regarding a certificated teacher or a teacher engaged to teach under section 1233b, any other adult assisting with the oversight of a pupil during the pupil's participation in the cyber school's education program is not required to be a certificated teacher, a teacher engaged to teach under section 1233b, or an employee of the school.

(4) Notwithstanding any rule to the contrary, a cyber school is not required to comply with any rule that would require a pupil's physical presence or attendance in a classroom.

(5) At the end of a cyber school's second complete school year of operations, the authorizing body of a school of excellence that is a cyber school shall submit to the superintendent of public instruction and the legislature, in the form and manner prescribed by the superintendent of public instruction, a report detailing the operation of the cyber school, providing statistics of pupil participation and academic performance, and making recommendations for any further statutory or rule change related to cyber schools and online learning in this state.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012;—Am. 2018, Act 235, Eff. Sept. 25, 2018;—Am. 2018, Act 619, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 451

### 380.553c School of excellence; management agreement with educational management organization; definitions.

Sec. 553c. (1) Beginning with management agreements described in this section that are entered into or renewed after the effective date of this section, if the board of directors of a school of excellence enters into or renews a management agreement with an educational management organization to carry out the operations of the school of excellence, both of the following apply:

(a) The management agreement shall require the educational management organization to provide to the board of directors at least annually all the same information that a school district is required to disclose under section 18(2) of the state school aid act of 1979, MCL 388.1618, for the most recent school fiscal year for which that information is available.

(b) Within 30 days after receiving the information under subdivision (a), the board of directors shall make all of the information it receives under subdivision (a) available through a link on the school of excellence's website homepage, in a form and manner prescribed by the department.

(2) As used in this section:

(a) "Educational management organization" means an entity that enters into a management agreement with a school of excellence.

(b) "Entity" means a partnership, nonprofit or business corporation, or any other association, corporation, trust, or other legal entity.

(c) "Management agreement" means an agreement to provide comprehensive educational, administrative, management, or instructional services or staff to a school of excellence.

(d) "School fiscal year" means the period that begins July 1 and ends June 30.

**History:** Add. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.554 Contract to operate school of excellence; tax levy; use of revenue.

Sec. 554. If a school district or intermediate school district applies for and obtains a contract to operate 1 or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

more schools of excellence under this part, the power of the school district or intermediate school district to levy taxes for any purpose under this act is not affected by the operation of a school of excellence by the school district or intermediate school district. Revenue from taxes levied by a school district or intermediate school district under this act or bonds issued by a school district or intermediate school district under this act may be used to support the operation or facilities of a school of excellence operated by the school district or intermediate school district in the same manner as that revenue may be used under this act by the school district or intermediate school district to support school district or intermediate school district operations and facilities. This section does not authorize a school district or intermediate school district to levy taxes or to issue bonds for any purpose that is not otherwise authorized under this act.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.555 Liability for debt incurred by school of excellence.

Sec. 555. (1) An agreement, mortgage, loan, or other instrument of indebtedness entered into by a school of excellence and a third party does not constitute an obligation, either general, special, or moral, of this state or an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, may not be pledged for the payment of any school of excellence bond, note, agreement, mortgage, loan, or other instrument of indebtedness.

(2) This part does not impose any liability on this state or on an authorizing body for any debt incurred by a school of excellence.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.556 Location; configuration of age or grade levels; operation at more than 1 site; tuition; discrimination; enrollment; selection process; priority; grades and programs offered.

Sec. 556. (1) A school of excellence may be located in all or part of an existing public school building. A school of excellence, other than a cyber school operated under section 553a, shall not operate at a site other than the site or sites requested for the configuration of age or grade levels that will use the site or sites, as specified in the contract. Under a contract, an authorizing body may permit a school of excellence to operate the same configuration of age or grade levels at more than 1 site, and a school of excellence may operate the same configuration of age or grade levels at more than 1 site, as long as the school of excellence is operating in compliance with its contract and is making measurable progress toward meeting its educational goals. For a contract for a new school of excellence, an authorizing body may permit a school of excellence to operate the same configuration of age or grade levels at more than 1 site, and a school of excellence may operate the same configuration of age or grade levels at more than 1 site, if the applicant for the proposed school of excellence presents documentation to the authorizing body demonstrating that the applicant's proposed educational model has resulted in schools making measurable progress toward meeting their educational goals.

(2) A school of excellence shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a school of excellence may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, a school of excellence shall not enroll a pupil who is not a resident of this state. For a school of excellence authorized by a school district, intermediate school district, or community college, enrollment in the school of excellence may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries of that authorizing body who meet the admission policy, except that admission to a school of excellence authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 552(6)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a school of excellence authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. If there are more applications to enroll in the school of excellence than there are spaces available, pupils shall be selected to attend using a random selection process. A school of excellence shall allow any pupil who was enrolled in the school of excellence in the immediately preceding school year to enroll in the school of excellence in the appropriate grade unless the appropriate grade is not offered at that school of excellence.

(4) A school of excellence may give enrollment priority to 1 or more of the following:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) A sibling of a pupil enrolled in the school of excellence.

(b) A pupil who transfers to the school of excellence from another public school pursuant to a matriculation agreement between the school of excellence and another public school that provides for this enrollment priority, if all of the following requirements are met:

(*i*) Each school of excellence or other public school that enters into the matriculation agreement remains a separate and independent public school.

(*ii*) The school of excellence that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(*iii*) The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a public school that is party to the matriculation agreement and who was not expelled from the public school to enroll in the school of excellence giving enrollment priority under the matriculation agreement.

(c) A child of a person who is employed by or at the school of excellence or who is on the board of directors of the school of excellence. As used in this subdivision, "child" includes an adopted child or a legal ward.

(5) Subject to subsection (6), a school of excellence may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a school of excellence may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

(6) In addition to any other grade levels it operates, a school of excellence shall work toward operating all of grades 9 to 12 within 6 years after it begins operations, unless a matriculation agreement has been reached with another public school that provides grades 9 to 12.

(7) If a school of excellence is a cyber school and its authorizing body is a school district or intermediate school district, the school of excellence shall give enrollment priority to pupils who reside in the school district or intermediate school district that is the authorizing body.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.557 School of excellence; powers.

Sec. 557. In addition to other powers set forth in this part, a school of excellence may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) Subject to section 555, to acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the school of excellence require.

(c) To receive, disburse, and pledge funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the school of excellence.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the school of excellence in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by a school of excellence is not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the school of excellence, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.558 School district subject to court desegregation order.

Sec. 558. If a school of excellence is operated by a school district that is subject to a court desegregation order, pupil selection at the school of excellence is subject to that order.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.559 Use of certificated teachers; use of noncertificated individuals; development and implementation of new teaching techniques or methods.

Sec. 559. (1) Except as otherwise provided by law, and except as otherwise provided under section 553a for a cyber school, a school of excellence shall use certificated teachers according to state board rule.

(2) A school of excellence authorized by a state public university or community college may use noncertificated individuals to teach as follows:

(a) If the school of excellence is authorized by a state public university, the school of excellence may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university and who has been granted institutional tenure, or has been designated as being on tenure track, by the state public university.

(b) For a school of excellence authorized by a community college, the school of excellence may use as a classroom teacher a full-time member of the community college faculty who has at least 5 years' experience at that community college in teaching the subject matter that he or she is teaching at the school of excellence.

(c) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(3) A school of excellence may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods, and shall report those to the authorizing body and state board to be made available to the public. A school of excellence may use any instructional technique or delivery method that may be used by a school district.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.560 Employing or contracting with personnel; method of compensation.

Sec. 560. A school of excellence, with the approval of the authorizing body, may employ or contract with personnel as necessary for the operation of the school of excellence, prescribe their duties, and fix their compensation. A school of excellence may implement and maintain a method of compensation for its employees that is based on job performance, job accomplishments, and job assignment in a subject area or school that is difficult to find employees to staff.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.560a Medical, optical, or dental benefits provided to employees; compliance with public employees health benefit act.

Sec. 560a. If the board of directors of a school of excellence provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act, 2007 PA 106, MCL 124.71 to 124.85, and shall comply with that act.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 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


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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 shall 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 public schools in this state for the immediately preceding 3 school years, as determined under section 1280c or 1280g, as applicable, 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


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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 shall revert to the state. This property shall 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 his or her 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 his or her designee, shall provide the board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or his or her 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 his or her 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 his or her 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 his or her 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.

**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

PART 7



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.601 Provisions governing intermediate school district.

Sec. 601. An intermediate school district shall be governed by this part and by those provisions of articles 2, 3, and 4 which relate specifically to intermediate school districts, intermediate school boards, and intermediate superintendents.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.601a Intermediate school district; powers.

Sec. 601a. (1) An intermediate school district has all of the rights, powers, and duties expressly stated in this act; may exercise a power implied or incident to any power expressly stated in this act; and, except as provided by law, may exercise a power incidental or appropriate to the performance of any function related to the operation of the intermediate school district in the interests of public elementary and secondary education in the intermediate school district, including, but not limited to, all of the following:

(a) Educating pupils. In addition to educating pupils in grades K-12, this function may include operation of preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs for other persons.

(b) Providing for the safety and welfare of pupils while at school or a school sponsored activity or while en route to or from school or a school sponsored activity.

(c) Acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying intermediate school district property, facilities, equipment, technology, or furnishings.

(d) Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out intermediate school district powers. An intermediate school district may indemnify its employees.

(e) Receiving, accounting for, investing, or expending intermediate school district money; borrowing money and pledging intermediate school district funds for repayment; and qualifying for state school aid and other public or private money from local, regional, state, or federal sources.

(2) An intermediate school district may enter into agreements or cooperative arrangements with other entities, public or private, or join organizations as part of performing the functions of the intermediate school district.

(3) An intermediate school board may conduct, operate, participate in, administer, or serve as fiscal agent or administrative entity, or both, for 1 or more programs involving workforce development, including, but not limited to, job training and development programs, school-to-work initiatives, work first or programs under the job training partnership act, Public Law 97-300, 96 Stat. 1322, or a successor program.

(4) Unless expressly provided in the amendatory act that added this section, the powers of an intermediate school board or intermediate school district are not diminished by this section or by the amendatory act that added this section.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.602 Repealed. 2017, Act 38, Eff. Aug. 21, 2017.

**Compiler's note:** The repealed section pertained to gift from intermediate school board to community foundation.

### 380.604 District as body corporate; suits; name.

Sec. 604. An intermediate school district is a body corporate governed by an intermediate school board, to be known as "the intermediate school board of the intermediate school district of the county (or counties) of _____", and under that name may sue and be sued. The intermediate school board may choose a distinctive name for the intermediate school district if approval is given by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.605 Reorganized school district as constituent to intermediate school district; transfer of constituent district; resolution; approval; inaction or denial of transfer; appeal; voting as to acceptance of special education programs, area vocational-technical education programs, or bonded indebtedness for facilities; levying debt retirement taxes.

Sec. 605. (1) If constituent districts of more than 1 intermediate school district are reorganized into a single school district, the reorganized school district shall be constituent to the intermediate school district


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

designated by the board of the reorganized school district. If a decision is not reached within 30 days after the effective date of the reorganization of the constituent districts, the determination shall be made by the superintendent of public instruction.

(2) A constituent district, by resolution of its board, may transfer and become constituent to another contiguous intermediate school district if approval is given by each intermediate school board affected. The intermediate school board shall take final action within 60 days after receiving a resolution. If an intermediate school district from which a constituent district wishes to transfer has fewer than 4,000 constituent district pupils and fails to take action or denies a transfer, the inaction or decision may be appealed to the superintendent of public instruction using the procedures described in section 971. If the intermediate school district to which transfer is proposed has adopted by referendum a program for financing special education programs for students with a disability, or has bonded indebtedness outstanding for special education building facilities, the school electors of the constituent district to be transferred shall vote on the acceptance of those sections and the assumption of the district's pro rata share of bonded indebtedness outstanding for special education facilities for students with a disability.

(3) If the intermediate school district to which transfer is proposed has established an area vocational-technical education program by referendum, or has bonded indebtedness outstanding for area vocational-technical education facilities, the school electors of the district to be transferred shall vote on the acceptance of those sections and the assumption of the district's pro rata share of bonded indebtedness outstanding for area vocational-technical education facilities.

(4) The transfer is effective only if the applicable issues relating to special education programs, area vocational-technical education programs, and bonded indebtedness for special education and area vocational-technical facilities are approved at an election in the constituent district proposing transfer at which all applicable issues are submitted and receive favorable majorities.

(5) The territory of a constituent district of an intermediate school district having bonded indebtedness for special education facilities or area vocational-technical education facilities that is transferred to another intermediate school district shall remain as a part of the intermediate school district from which transferred for the purpose of levying debt retirement taxes for the bonded indebtedness until the bonds are redeemed or sufficient funds are available in the debt retirement funds for that purpose. The transferred constituent district shall be a constituent district of the intermediate school district to which transferred for all other purposes.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1985, Act 86, Imd. Eff. July 5, 1985;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.611 Supervision and control of intermediate school district.

Sec. 611. (1) Except as otherwise provided in this section, an intermediate school district shall be under the supervision and control of an intermediate school board composed of 5 members elected under this part.

(2) In an intermediate school district that adopts sections 615 to 617 for popular election of its members, or in an intermediate school district reorganized under section 701, the number of intermediate school board members shall be 7.

(3) In an intermediate school district whose boundaries are enlarged by a dissolution under section 703, the number of intermediate school board members, at the option of the intermediate school board, may be 7.

(4) Beginning on the effective date of this subsection, an intermediate school board may by resolution change the number of intermediate school board members to 7. Before adopting the resolution to change the number of intermediate school board members to 7, an intermediate school board shall hold at least 2 public hearings on the resolution. If an intermediate school board determines that the terms of intermediate school board members should be staggered differently than provided under this act or any bylaws of the intermediate school board due to a change in the number of board members under this subsection, the intermediate school board may adopt bylaws or amend its bylaws to change the way that intermediate school board members' terms are staggered. The bylaws may alter the current terms of members serving at the time the bylaws are adopted to implement the change in the way that terms are staggered. If an intermediate school board adopts or amends bylaws under this subsection that alter a member's existing term, the member's term is subject to that action.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 2004, Act 419, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.612 Board; eligibility for membership; participation in proceedings to detach or attach territory.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 612. (1) Subject to subsection (2), a school elector of a constituent district is eligible to election or appointment to membership on the intermediate school board.

(2) Until the 2005 intermediate school board election, a member of a board of a constituent district is eligible to election or appointment to membership on the intermediate school board. Beginning with the 2005 intermediate school board election, not more than 3 members of the intermediate school board may also be serving at the same time as a member of the board of a constituent district or board of directors of a public school academy. However, if an intermediate school board has more than 3 members serving as of September 1, 2004 who are also serving at the same time as members of the board of a constituent district, this limitation does not apply to that intermediate school board until the expiration of the current terms of those intermediate school board members.

(3) A member of an intermediate school board who is a member of a constituent district board shall not participate in proceedings conducted pursuant to part 11 to detach territory from or attach territory to the constituent district of which he or she is a board member.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 419, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.613 Board; annual meeting; election and duties of officers; treasurer's bonds.

Sec. 613. (1) The intermediate school board shall hold its organizational meeting annually on or before the fourth Monday of January or, if the intermediate school district's regular election is in June, on or before the fourth Monday of July.

(2) The intermediate school board shall organize by electing a president, a vice-president, a secretary, and a treasurer. Until July 1, 2005, the president and vice-president shall be members of the intermediate school board, but the secretary and treasurer need not be. Beginning July 1, 2005, all officers shall be members of the intermediate school board.

(3) The officers shall perform duties provided by law and prescribed by the policies and regulations of the intermediate school board not inconsistent with this part or other laws of the state.

(4) The treasurer shall post with the secretary a bond in an amount approved by the intermediate school board, conditioned upon the faithful performance of the treasurer's duties.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2004, Act 234, Imd. Eff. July 21, 2004;—Am. 2004, Act 419, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.614 Board; election of members; resolution; notice of meeting; acting chairperson and secretary; open meeting; term; vacancy; nominating petition; signatures; filing petition and affidavit; ballots; filing fee.

Sec. 614. (1) Except as provided in section 615 and subject to section 642c of the Michigan election law, MCL 168.642c, the members of the intermediate school board shall be elected biennially on the first Monday in June by an electoral body composed of 1 person designated by the board of each constituent school district.

(2) The board of a constituent district shall designate its representative to this electoral body by resolution adopted not earlier than 21 days before the date of this biennial election. The board shall consider the resolution at not less than 1 public meeting before adopting the resolution. The resolution shall be adopted by majority vote of the members serving on the board. In its resolution designating its representative, the board of a constituent district shall identify the candidate the board supports for each position to be filled on the intermediate school board and shall direct its representative to vote for that individual or individuals at least on the first ballot taken by the electoral body. The secretary of the intermediate school board shall send a notice by certified mail of the hour and place of the meeting of the electoral body described in subsection (1) to the secretary of the board of each constituent school district at least 10 days before the meeting. The president and secretary of the intermediate school board shall act as chairperson and secretary at the meeting. The meeting of the electoral body shall be an open meeting conducted in the manner prescribed under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Except as provided in section 703, the term of office of each member elected to the intermediate school board is 6 years and begins on July 1 following election. Not more than 2 members of the intermediate school board shall be from the same school district unless there are fewer districts than there are positions to be filled.

(4) A vacancy shall be filled by the remaining members of the intermediate school board until the next biennial election at which time the vacancy shall be filled for the balance of the unexpired term. Notice of the vacancy shall be filed with the state board within 5 days after the vacancy occurs. If the vacancy is not filled within 30 days after it occurs, the vacancy shall be filled by the state board.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(5) Subject to subsection (7), a candidate for election to the intermediate school board shall be nominated by petitions that are signed by a number of school electors of the combined constituent school districts of the intermediate school district, as follows:

(a) If the population of the intermediate school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the intermediate school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(6) A school elector may sign as many petitions as there are vacancies to fill. Nominating petitions and an affidavit as provided in section 558 of the Michigan election law, MCL 168.558, shall be filed with the school district filing official not later than 30 days before the date of the biennial election under subsection (1). The school district filing official shall determine the sufficiency of the petitions and the eligibility of the candidates nominated. The school district filing official shall provide ballots for the biennial election, listing on the ballots the names of all candidates properly nominated. The chairperson of the biennial election meeting may accept nominations for a vacancy from the floor only if no nominating petitions have been filed for the vacancy.

(7) Instead of filing nominating petitions, a candidate for election to the intermediate school board may pay a nonrefundable filing fee of $100.00 to the school district filing official. If this fee is paid by the due date for nominating petitions, the payment has the same effect under this section as the filing of nominating petitions.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 1984, Act 322, Eff. Dec. 28, 1984;—Am. 1992, Act 263, Eff. Jan. 1, 1993;—Am. 2002, Act 157, Eff. Jan. 1, 2003;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2004, Act 233, Imd. Eff. July 21, 2004;—Am. 2004, Act 419, Imd. Eff. Nov. 29, 2004;—Am. 2011, Act 232, Eff. Jan. 1, 2012.

**Popular name:** Act 451

### 380.614a Board members subject to recall; manner; removal from office.

Sec. 614a. (1) A member of an intermediate school board elected under section 614 at a biennial election meeting described in section 614(1) or appointed to fill a vacancy under section 614 is subject to recall by the intermediate school electors of the intermediate school district in the manner prescribed in chapter XXXVI of the Michigan election law, MCL 168.951 to 168.976.

(2) A member of an intermediate school board elected under section 614 at a biennial election meeting described in section 614(1) or appointed to fill a vacancy under section 614 may be removed from office by the boards of the constituent districts. A member is removed from office under this subsection if a number of the boards of the constituent districts at least equal to a majority of the boards plus 1 adopt resolutions requesting removal of the member and file those resolutions within a 60-day period with the secretary of the intermediate school board. However, if the secretary of the intermediate school board is the subject of the removal resolution, a constituent district board may file the resolution with another officer of the intermediate school board.

(3) A member of an intermediate school board elected under section 614 at a biennial election meeting described in section 614(1) or appointed to fill a vacancy under section 614 may be removed from office by the governor as prescribed in section 619.

**History:** Add. 2004, Act 234, Imd. Eff. July 21, 2004.

**Popular name:** Act 451

### 380.615 Board; popular election of members.

Sec. 615. Members of the intermediate school board shall be elected at popular elections in an intermediate school district which adopts sections 615 to 617.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.616 Adoption of MCL 380.615 to 380.617; submission of question to school electors; form; resolutions; election; termination of popular election.

Sec. 616. (1) An intermediate school board may submit to the school electors of the constituent districts comprising the intermediate school district the question of adoption of sections 615 to 617. The question shall be in substantially the following form:

"Shall sections 615 to 617 of the revised school code, providing for the popular election of members of the intermediate school board, be effective within the constituent districts of _____ (name of intermediate school district)?

Yes ( )


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

No ( )".

(2) The intermediate school board shall submit the question upon receipt of resolutions adopted by a majority of the boards of constituent districts and representing more than 1/2 of the combined memberships of the constituent districts of the intermediate school district as of the latest pupil membership count day. The resolutions of the constituent district boards shall be adopted between March 1 and the next succeeding July 1. The question shall be presented to the school electors of the constituent districts at the next regular school election after resolutions of constituent district boards meeting the requirements of this section have been filed with the school district filing official.

(3) If a majority of the school electors votes in favor of popular election, members of the intermediate school board shall be elected at the next regular school election and biennially thereafter at the regular school elections of the constituent districts.

(4) An intermediate school district that adopts sections 615 to 617 may terminate the popular election of members of the intermediate school board in the same manner.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005
.

**Popular name:** Act 451

### 380.617 Candidate for office of board member; nomination; election.

Sec. 617. (1) In an intermediate school district in which sections 615 to 617 are effective, a candidate for the office of member of the intermediate school board shall be nominated, and members shall be elected, as provided in chapter XIV of the Michigan election law, MCL 168.301 to 168.315.

(2) At the first election, 3 members of an intermediate school board shall be elected for a term of 6 years, 2 for a term of 4 years, and 2 for a term of 2 years. After the first election, their successors shall be elected biennially for terms of 6 years.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1980, Act 135, Imd. Eff. May 29, 1980;—Am. 1984, Act 322, Eff. Dec. 28, 1984;—Am. 1989, Act 268, Eff. Feb. 12, 1990;—Am. 2002, Act 157, Eff. Jan. 1, 2003;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.619 Removal of board member; procedures; eligibility for election or appointment; restriction.

Sec. 619. (1) The governor may remove a member of an intermediate school board from office under this section if the governor is satisfied from the evidence submitted to the governor that the member is guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(2) Before the governor removes an intermediate school board member under this section, all of the following procedures shall be followed:

(a) Charges shall be submitted to the governor in writing specifying the grounds for removal. The charges shall be accompanied by any supporting evidence and by the affidavit of the person making the charges verifying that the person believes the charges to be true.

(b) A copy of the charges shall be served on the intermediate school board member. Service shall be made as follows:

(*i*) If the intermediate school board member can be found, by handing the intermediate school board member a copy of the charges and of any affidavits or exhibits accompanying the charges.

(*ii*) If the intermediate school board member cannot be found, by leaving a copy of the charges and of any affidavits or exhibits accompanying the charges with a person of suitable age at the intermediate school board member's last known place of residence or, if a person of suitable age is not available, by posting the copy or copies in a conspicuous place at the intermediate school board member's last known place of residence.

(c) The intermediate school board member shall be given an opportunity to respond to the charges.

(3) A person removed from office under this section is not eligible for election or appointment to a school board or intermediate school board for a period of 3 years from the date of removal.

**History:** Add. 2004, Act 234, Imd. Eff. July 21, 2004.

**Popular name:** Act 451

### 380.620 Report to be posted on intermediate school district website.

Sec. 620. (1) Not later than December 31 of each year, each intermediate school district shall post on its website a report containing all of the following information for the immediately preceding school fiscal year in the form and manner prescribed by the department:

(a) All of the following general information:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*i*) The amount of the intermediate school district's total budget.

(*ii*) The number of full-time equated pupils served by the intermediate school district.

(*iii*) The number of employees employed by the intermediate school district.

(*iv*) The number of constituent districts, public school academies, and nonpublic schools served by the intermediate school district.

(b) Except as otherwise provided in subsection (2) and subject to subsection (9), for each intermediate school board member or school administrator of the intermediate school district who had travel expenses during the school fiscal year that totaled more than $3,000.00 and that were paid for with intermediate school district funds, all of the following information concerning that travel:

(*i*) The total cost of air travel.

(*ii*) The total cost of overnight lodging.

(*iii*) The total cost of car rental.

(*iv*) The total cost of meals.

(*v*) The dates, purpose, and locations of travel.

(*vi*) The name and position of the board member or administrator.

(c) Except as otherwise provided in subsection (3) and subject to subsection (5), for each contract, other than an employment contract or a contract that is reported under subdivision (f), that was entered into by the intermediate school district during the school fiscal year and that either obligated the intermediate school district for an amount in excess of $100,000.00; was not competitively bid and obligated the intermediate school district for an amount in excess of $25,000.00; or was entered into with an entity in which an intermediate school board member or school administrator of the intermediate school district, or a family member of an intermediate school board member or school administrator of the intermediate school district, was known by the intermediate school board to have a monetary interest, a description of the contract that includes at least all of the following:

(*i*) The subject matter and cost of the contract.

(*ii*) Whether the contract was competitively bid or was a single source contract.

(*iii*) The name and position of each individual who signed the contract on behalf of the intermediate school district.

(d) Except as otherwise provided in subsection (3), if there was a modification made during the school fiscal year to an existing contract that resulted in an additional financial obligation owed by the intermediate school district in excess of $100,000.00 or that resulted in the total financial obligation owed by the intermediate school district from the existing contract exceeding $100,000.00, or was a modification to an existing contract that was not competitively bid and the modification resulted in an additional financial obligation owed by the intermediate school district in excess of $25,000.00 or resulted in the total financial obligation owed by the intermediate school district from the existing contract exceeding $25,000.00, a description of the modification and the total amount of the additional and total financial obligation.

(e) Subject to subsection (4), for each intermediate school district employee with a compensation package with a total annual monetary value in the top 3% among the intermediate school district's employees, all of the following:

(*i*) The dollar value of his or her salary.

(*ii*) The dollar value of all expense accounts provided for the employee and the dollar value of all reimbursed expenses.

(*iii*) The dollar value of any bonus, stipend, or any other form of supplemental compensation. As used in this subparagraph, "supplemental compensation" means any payment or benefit made available to that employee that is not generally made available to all teaching, administrative, and executive-level employees of the intermediate school district.

(f) Total costs incurred during the school fiscal year, and the source or sources of the money expended during the school fiscal year, for fiber optic or cable equipment and operating system software for fiber optic or cable equipment networks. The description of the source or sources of the money expended for purposes described in this subdivision shall specify the amount used from each of the separate funds maintained by the intermediate school district and used from each other source.

(g) Payments made during the school fiscal year to persons who were not employees of the intermediate school district for public relations, polling, lobbying, or legal services and a description of the services received by the intermediate school district in return.

(h) For each person not included under subdivision (e) or (g) to whom the intermediate school district was required to issue a federal income tax form 1099 that showed payments in excess of $25,000.00 during the school fiscal year, the total amount paid to the individual, a description of the project or projects for which the person was contracted, and the services provided by the person.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(i) The amount and percentage of the intermediate school district's total budget that was spent on each of the following:

(*i*) Administrative costs, as defined under the Michigan public school accounting manual.

(*ii*) Public relations, surveys, polling, lobbying, and legal services.

(j) A list of all motor vehicles weighing 7,500 pounds or less that were owned or leased by the intermediate school district during the school fiscal year and are not reported under subdivision (c) and a description of the purposes for which each of these motor vehicles was used.

(2) Subsection (1)(b) does not apply to any of the following:

(a) Round-trip air travel on a scheduled airline from a location in the Upper Peninsula to a location in the Lower Peninsula or chartered round-trip air travel from a location in the Upper Peninsula to a location in the Lower Peninsula if the cost of the chartered air travel is less than the published cost of the same air travel on a scheduled airline.

(b) Travel expenses for air or boat travel for work-related purposes within this state between an island and the mainland.

(c) Travel expenses for travel within the boundaries of the intermediate school district for work-related purposes.

(d) Mileage reimbursement.

(3) Subsection (1)(c) and (d) does not apply to a contract for utilities or to a contract for an annuity or retirement benefit in which all employees are eligible to participate unless the contract is for payment of a commission to a third-party broker for securing 1 of those contracts.

(4) If an intermediate school district has fewer than 3 employees in the top 3% of employees as described in subsection (1)(e), the intermediate school district shall include the information required under subsection (1)(e) for each intermediate school district employee with a compensation package with a total monetary value in the top 3 among the intermediate school district's employees. If an intermediate school district has more than 20 employees in the top 3% of employees as described in subsection (1)(e), the intermediate school district shall include the information under subsection (1)(e) for each intermediate school district employee with a compensation package with a total monetary value in the top 20 among the intermediate school district's employees.

(5) For the purposes of subsection (1)(c), an intermediate school board member or school administrator of an intermediate school district, or a family member of an intermediate school board member or school administrator of an intermediate school district, is not considered to have a monetary interest in any of the following contracts:

(a) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member, intermediate school district administrator, or family member is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*ii*) A corporation in which a trust, if an intermediate school board member, intermediate school district administrator, or family member is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*iii*) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.5101 to 450.6200, if an intermediate school board member, intermediate school district administrator, or family member is an employee but not a member of the company.

(b) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member, intermediate school district administrator, or family member is not a director, officer, or employee.

(*ii*) A firm, partnership, or other unincorporated association, in which an intermediate school board member, intermediate school district administrator, or family member is not a partner, member, or employee.

(*iii*) A corporation or firm that has an indebtedness owed to an intermediate school board member, intermediate school district administrator, or family member.

(c) A contract between the intermediate school district and a constituent district.

(6) The department shall include on its website a link to the page on each intermediate school district's website that includes the intermediate school district's report under subsection (1).

(7) The department shall work with intermediate school districts to determine the form and manner for the posting of the report under subsection (1).

(8) An intermediate school district shall maintain the report under subsection (1) on its website only for the most recent reporting period, but shall maintain paper copies of previous reports for at least 10 years.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(9) Beginning January 1, 2006, the monetary amount specified in subsection (1)(b) shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

(10) As used in this section:

(a) "Competitively bid" means that a contract was entered into through a request for information, a request for proposal, or a formal competitive bid process that was advertised and open to the public, and includes a contract entered into on behalf of the intermediate school district by a federal, state, or local governmental entity that performed a request for information, request for proposal, or formal competitive bid process or by a nonprofit corporation or nonprofit association that performed a request for information, request for proposal, or formal competitive bid process.

(b) "Family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

(c) "Total budget" means budget for all funds held by the intermediate school district.

**History:** Add. 2004, Act 413, Eff. July 1, 2006.

**Popular name:** Act 451

### 380.621 Compensation and expenses of board members.

Sec. 621. (1) An intermediate school board member shall receive a per diem allowance for attendance at meetings convened in accordance with the bylaws of the intermediate school board or held pursuant to law. Except as provided in subsection (4), the intermediate school board, by resolution, may authorize compensation which shall not exceed $30.00 per meeting, subcommittee meeting, or authorized duty if the duty is related directly to the member's responsibility as a board member and if the duty is authorized in advance by resolution of the board. Compensation shall be provided to a board member for an authorized duty only if that duty and the authority of the board member to perform that duty is specifically enumerated in the resolution authorizing compensation. A board member shall not receive compensation for more than a total of 52 meetings, subcommittee meetings, and authorized duties per year unless the majority of the board votes to remove this limitation.

(2) An intermediate school board member who wishes to increase the compensation per meeting of the intermediate school board pursuant to subsection (1) shall introduce a resolution to that effect at a regularly scheduled meeting of the intermediate school board. A public hearing on the merit of the resolution shall be held at the next regularly scheduled meeting of the intermediate school board, and the intermediate school board shall not vote on the resolution until after allowing for public testimony.

(3) Additional compensation shall be subject to the approval of a majority of the representatives of constituent district boards at the annual budget meeting required by section 624. The per diem allowances and expenses shall be approved and paid from funds of the intermediate school district. Reimbursement of board members for actual and necessary expenses incurred in the performance of official functions shall be by action of the board.

(4) The per diem compensation for members of an intermediate school board that exceeds the amount permitted in subsection (1) and that was in effect on January 12, 1977 shall continue unless the compensation is reduced in compliance with subsection (1).

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1980, Act 347, Imd. Eff. Dec. 23, 1980;—Am. 1985, Act 86, Imd. Eff. July 5, 1985;—Am. 1990, Act 127, Imd. Eff. June 26, 1990.

**Popular name:** Act 451

### 380.621a Travel by board member; policy; approval.

Sec. 621a. An intermediate school board shall establish a policy requiring approval by the intermediate school board or its designee of all travel by an intermediate school board member or an intermediate school district employee that includes at least 1 overnight stay and is paid for or reimbursed by the intermediate school district. The policy shall require a board member or employee to submit both a pretravel authorization form detailing estimated expenses and a posttravel form detailing and verifying actual expenses and shall


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

require approval of both forms.

**History:** Add. 2004, Act 234, Imd. Eff. July 21, 2004;—Am. 2004, Act 419, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.622 Financial institutions for deposit of school funds; selection; coded accounts; audit; separation of funds; investments; commingling prohibited; exception; earnings; accounting for money combined for investment pool; limitation on deposit or investment of additional funds; limitation on acceptable assets; secured deposits; form of security; "deposit" and "financial institution" defined.

Sec. 622. (1) The intermediate school board shall select financial institutions for the deposit of school funds. The intermediate school board shall keep a set of coded accounts to be approved by the superintendent of public instruction and shall have its books audited at least annually by a certified public accountant. General operating funds, building and site funds, cooperative education funds, special education funds, vocational-technical education funds, and debt retirement funds shall be maintained separately and shall not be commingled, except that the intermediate school board, by resolution, may authorize the treasurer to combine money from more than 1 fund for the purpose of making an investment authorized by subsection (2)(g).

(2) The treasurer of an intermediate school district, if authorized by resolution of the intermediate school board, may invest general operating funds, special education funds, area vocational-technical education funds, building and site funds, cooperative education funds, and debt retirement funds of the district. Investments shall be made subject to subsection (4) and shall be restricted to any of the following:

(a) Bonds, bills, or notes of the United States or obligations of this state.

(b) Certificates of deposit issued by a financial institution.

(c) Commercial paper rated prime at the time of purchase and maturing not more than 270 days after the date of purchase.

(d) Securities issued or guaranteed by agencies or instrumentalities of the United States government.

(e) United States government or federal agency obligation repurchase agreements.

(f) Bankers' acceptances issued by a bank that is a member of the federal deposit insurance corporation.

(g) Investment pools, as authorized by the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed entirely of instruments that are legal for direct investment by an intermediate school district.

(h) Mutual funds composed entirely of investment vehicles that are legal for direct investment by an intermediate school district.

(i) Certificates of deposit issued in accordance with the following conditions:

(*i*) The funds are initially invested through a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(*ii*) The financial institution arranges for the investment of the funds in certificates of deposit in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the intermediate school district.

(*iii*) The full amount of the principal and any accrued interest of each certificate of deposit is insured by an agency of the United States.

(*iv*) The financial institution acts as custodian for the intermediate school district with respect to each certificate of deposit.

(*v*) At the same time that the funds of the intermediate school district are deposited and the certificate or certificates of deposit are issued, the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially invested by the intermediate school district through the financial institution.

(j) Deposit accounts that meet all of the following conditions:

(*i*) The funds are initially deposited in a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(*ii*) The financial institution arranges for the deposit of the funds in deposit accounts in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the intermediate school district.

(*iii*) The full amount of the principal and any accrued interest of each deposit account is insured by an agency of the United States.

(*iv*) The financial institution acts as custodian for the intermediate school district with respect to each deposit account.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*v*) On the same date that the funds of the intermediate school district are deposited under subparagraph (*ii*), the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially deposited by the intermediate school district in the financial institution.

(3) The earnings of an investment shall become a part of the fund from which the investment was made. When money of more than 1 fund of a single intermediate school district or money of more than 1 intermediate school district are combined for an investment pool authorized by subsection (2)(g), the money shall be accounted for separately, and the earnings from the investment shall be separately and individually computed, recorded, and credited to the fund or intermediate school district, as the case may be, for which the investment was acquired.

(4) Notwithstanding subsection (2), additional funds of an intermediate school district shall not be deposited or invested in a financial institution that is not eligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(5) Assets acceptable for pledging to secure deposits of funds under this act are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(*i*) Securities issued by the federal home loan mortgage corporation.

(*ii*) Securities issued by the federal national mortgage association.

(*iii*) Securities issued by the government national mortgage association.

(c) Securities considered acceptable to the intermediate school board and the financial institution.

(6) Security in the form of collateral, surety bond, or another form may be taken for the deposits or investments of an intermediate school district in a financial institution. However, an investment under subsection (2)(e) or in an investment pool that includes instruments eligible for investments under subsection (2)(e) shall be secured by the transfer of title and custody of the obligations to which the repurchase agreements relate and an undivided interest in those obligations must be pledged to the intermediate school district for these agreements.

(7) As used in this section, "deposit" includes purchases of or investment in shares of a credit union.

(8) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1979, Act 87, Imd. Eff. Aug. 1, 1979;—Am. 1986, Act 132, Imd. Eff. June 16, 1986;—Am. 1997, Act 47, Imd. Eff. June 30, 1997;—Am. 2001, Act 127, Imd. Eff. Oct. 15, 2001;—Am. 2008, Act 307, Imd. Eff. Dec. 18, 2008;—Am. 2009, Act 22, Imd. Eff. May 5, 2009;—Am. 2012, Act 232, Imd. Eff. June 29, 2012.

**Popular name:** Act 451

### 380.622a Additional audits.

Sec. 622a. (1) In addition to the annual financial audit required under section 622, an intermediate school district is subject to an audit of the matters described in this section conducted by an independent auditor under the direction of the department of treasury under this section. An audit conducted under this section shall be based in part on an examination of an intermediate school district's accounts, financial records, and accounting procedures and shall address at least 3 of the following aspects of the intermediate school district's operations, as directed by the department of treasury:

(a) Whether intermediate school board members, intermediate school district administrators, and intermediate school district employees are adhering to ethics policies adopted by the intermediate school board or required by state law.

(b) Whether intermediate school board members, intermediate school district administrators, and intermediate school district employees are adhering to conflict of interest policies adopted by the intermediate school board or required by state law. This includes, but is not limited to, policies and practices with regard to contracts in which an intermediate school board member, an intermediate school district administrator, or an intermediate school district employee who is involved in the contracting process, or a family member of an intermediate school board member, an intermediate school district administrator, or an intermediate school district employee who is involved in the contracting process, has a substantial conflict of interest; and policies and practices with regard to an intermediate school district administrator negotiating, handling, presenting, or recommending a contract in which the administrator or a family member of the administrator has a substantial


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

conflict of interest. As used in this subdivision, "substantial conflict of interest" means that term as defined in section 634(5).

(c) Whether a modification to an existing contract was made during the audit period that resulted in an additional financial obligation to the intermediate school district and the modification was not competitively bid. As used in this subdivision, "competitively bid" means that a contract was entered into through a request for information, a request for proposal, or a formal competitive bid process that was advertised and open to the public, and includes a contract entered into on behalf of the intermediate school district by a federal, state, or local governmental entity that performed a request for information, request for proposal, or formal competitive bid process or by a nonprofit corporation or nonprofit association that performed a request for information, request for proposal, or formal competitive bid process.

(d) Whether the intermediate school district's policies and practices for responding to requests received under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and the intermediate school district's actual responses to requests made during the audit period under that act, were in compliance with that act. This part of the audit shall include, but is not limited to, an examination of whether the costs charged for responding to requests exceeded the costs permitted under that act.

(e) Whether intermediate school board members, intermediate school district administrators, and intermediate school district employees are adhering to travel guidelines and practices adopted by the intermediate school board or required by state law.

(f) Whether the intermediate school district has accurately accounted for and reported all information relating to stipends, salaries, benefits, or other compensation paid to intermediate school district administrators.

(g) Whether the intermediate school district has used public funds in violation of law to pay for food, gifts, or other items that are not used for instructional purposes, as defined by the intermediate school board.

(h) Whether proceeds from a tax levied under section 681 for area vocational-technical education operating purposes or from a tax levied under section 1724a for special education operating purposes have been expended for a purpose other than the purpose for which the tax was levied.

(2) The department of treasury shall direct the random audits of intermediate school districts under this section as follows:

(a) The department of treasury shall select the intermediate school districts to be audited under this section on a random basis.

(b) The department of treasury shall announce between July 1 and July 15 of each calendar year the intermediate school districts that will be subject that year to an audit under this section for the immediately preceding school fiscal year.

(c) The department of treasury shall select 5 intermediate school districts for audit under this section every 2 years.

(d) Upon request by the department of treasury, the intermediate school district shall notify the department of treasury of the name, address, and contact person of the independent auditor selected by the intermediate school board to perform the annual financial audit for the intermediate school district. The department of treasury shall enter into an agreed-upon procedures agreement with the selected independent auditor, identifying the matters to be audited and establishing the rate of payment, which shall be no more than the rate the department would charge for the same type of audit. The department of treasury shall oversee the conduct of the audit by the independent auditor to the extent the department of treasury considers necessary to meet the purposes of this section.

(e) An intermediate school board and intermediate school district officials shall provide all information requested by the independent auditors or the department of treasury and shall cooperate with them to the fullest extent possible.

(f) The independent auditor shall submit an audit report of the audit to the center for educational performance and information in the form and manner prescribed by the center for educational performance and information. The center for educational performance and information shall submit a copy of the audit report of each audit conducted under this section to the department of treasury, to the applicable intermediate school board, to the senate and house standing committees having jurisdiction over education legislation, to the department, and, subject to subdivision (g), to the attorney general if the department of treasury considers it appropriate.

(g) If the department of treasury determines that an audit conducted under this section has disclosed that the intermediate school board or any intermediate school district official or employee has violated any state law governing the financial operations of an intermediate school district, the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(3) In addition to the intermediate school districts selected for a random audit under subsection (2), the department of treasury may also direct an audit under this section of 1 or more additional intermediate school districts selected by the department of treasury if the department of treasury considers that additional audit or audits to be appropriate. Subsection (2)(d), (e), (f), and (g) applies to an audit under this subsection.

(4) The department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts the auditing criteria to be used for the purposes of this section.

(5) An audit under this section shall be performed in accordance with standards issued by the American institute of certified public accountants and with government audit standards issued by the United States general accounting office.

(6) The department of treasury shall pay the costs of the audit conducted under this section. The department of treasury's obligation under this section is limited to the amount of a separate line item appropriation identified for the purpose of funding the department of treasury's duties under this section and included in the annual appropriations act making appropriations for the department of treasury.

(7) The department shall post on its website the audit reports it receives under subsection (2)(f).

**History:** Add. 2004, Act 412, Eff. July 1, 2006.

**Popular name:** Act 451

### 380.623 Board; duties generally; conducting business at public meeting; actions of board; public notice of meeting.

Sec. 623. (1) The intermediate school board shall do all of the following:

(a) Perform duties required by law and by the state board, but shall not supersede or replace the board of a constituent district, nor shall the intermediate school board control or otherwise interfere with the rights of constituent districts or public school academies except as provided in this part.

(b) Employ a superintendent, assistants, and other employees the intermediate school board considers necessary and fix their compensation. The compensation of the intermediate superintendent, assistants, and other employees shall include salaries, travel expenses incurred in the discharge of their official duties, and other benefits the board approves. The necessary contingent expenses of the office of the intermediate school board and the intermediate superintendent shall be paid by the treasurer subject to the authorization of the intermediate school board. The intermediate superintendent shall have the qualifications prescribed in section 651 and perform the duties provided by law and by the intermediate school board.

(2) The business the intermediate school board is authorized to perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. An act of the board shall not be valid unless voted at a meeting by a majority vote of the members elected and serving on the board and a record made of the vote. An action of an intermediate school board on matters of personnel, property transfers, bonding, expenditures of money, or other matters designated by the board's bylaws shall be by yea and nay vote entered upon its record. Public notice of the time, date, and place of the meeting shall be given in the manner required by section 5 of Act No. 267 of the Public Acts of 1976, being section 15.265 of the Michigan Compiled Laws.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 413, Imd. Eff. Dec. 29, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.623a Procurement of supplies, materials, and equipment; written policies; competitive bids; approval of purchase; adjustment of maximum amount; local policy giving preference to Michigan-based business; items purchased through cooperative bulk


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**purchasing program; heating and cooking equipment; "Michigan-based business" defined.**

Sec. 623a. (1) An intermediate school board shall adopt written policies governing the procurement of supplies, materials, and equipment.

(2) Except as otherwise provided in subsection (4) or (5), an intermediate school district shall not purchase an item or a group of items purchased in a single transaction costing $20,959.00 or more unless competitive bids are obtained for those items and the purchase of those items is approved by the intermediate school board. The maximum amount specified in this section shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar.

(3) The intermediate school board of an intermediate school district may adopt and implement a local policy that gives a preference to a Michigan-based business in awarding a contract under this section. The policy may provide for a preference based on the status of the primary contractor as a Michigan-based business or based on the status of 1 or more subcontractors of the primary contractor as Michigan-based businesses, or both. A policy adopted under this subsection shall be consistent with federal statutes and regulations and shall not be applied to a contract that is to be paid with federal funds. Upon request by an intermediate school district that has adopted and implemented a policy described in this subsection, the department of treasury shall disclose to that intermediate school district verifying information as described in section 268(3) of the management and budget act, 1984 PA 431, MCL 18.1268. The adoption, implementation, or application of a policy described in this subsection, or a decision not to adopt, implement, or apply such a policy, does not create a cause of action.

(4) An intermediate school district is not required to obtain competitive bids for items purchased through the cooperative bulk purchasing program operated by the department of management and budget under section 263(3) of the management and budget act, 1984 PA 431, MCL 18.1263.

(5) An intermediate school district is not required to obtain competitive bids for purchasing food unless the food is purchased in a single transaction costing $100,000.00 or more.

(6) The intermediate school board of an intermediate school district may acquire by purchase, lease, or rental, with or without option to purchase, equipment necessary for the operation of intermediate school district programs, including, but not limited to, heating, water heating, and cooking equipment for school buildings, and may pay for the equipment from operating funds of the intermediate school district. Heating and cooking equipment may be purchased on a title retaining contract or other form of agreement creating a security interest and pledging in payment money in the general fund or funds received from state school aid. The contracts may extend for not more than 10 years.

(7) As used in this section, "Michigan-based business" means a business that would qualify for a preference in a procurement contract with this state as determined under section 268 of the management and budget act, 1984 PA 431, MCL 18.1268.

**History:** Add. 1982, Act 489, Eff. Mar. 30, 1983;—Am. 1983, Act 140, Imd. Eff. July 18, 1983;—Am. 1990, Act 159, Imd. Eff. July 2, 1990;—Am. 2004, Act 588, Imd. Eff. Jan. 4, 2005;—Am. 2007, Act 45, Imd. Eff. July 17, 2007;—Am. 2008, Act 344, Imd. Eff. Dec. 23, 2008;—Am. 2008, Act 540, Imd. Eff. Jan. 13, 2009.

**Popular name:** Act 451

### 380.623b Inspecting, monitoring, removing, or treating asbestos or material containing asbestos; contractual agreement to provide legal representation against civil liability.

Sec. 623b. (1) If the duties of a person employed by an intermediate school board include inspecting, monitoring, removing, or treating asbestos or material containing asbestos, or supervising those activities, the intermediate school board may contractually agree to provide legal representation and indemnification against civil liability with regard to claims or actions resulting from or arising out of the person's negligence or alleged negligence in performing those duties while in the course of his or her employment and while acting within the scope of his or her authority.

(2) A contractual agreement authorized under this section may be entered into at any time before or after the person begins performing the duties described in subsection (1).

**History:** Add. 1989, Act 203, Imd. Eff. Oct. 23, 1989.

**Popular name:** Act 451

### 380.624 Annual general fund operating budget.

Sec. 624. (1) Not later than April 1 of each year, the intermediate school board shall prepare an annual


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

general fund operating budget, which shall be in the form prescribed by the county tax allocation board, and shall file the budget with the county clerk of each county in which the intermediate school board is situated except a county that has established separate tax limitation millage rates pursuant to sections 5a to 5*l* of the property tax limitation act, 1933 PA 62, MCL 211.205a to 211.205*l*. Each county clerk receiving the budget shall deliver it to the county tax allocation board in the same manner as other school district budgets are handled.

(2) An intermediate school board shall have its proposed budget reviewed by its constituent districts each year as follows:

(a) Not later than May 1 of each year, the intermediate school board shall submit its proposed budget for the next school fiscal year to the board of each constituent district for review.

(b) Not later than June 1 of each year, the board of each constituent district shall review the proposed intermediate school district budget, shall adopt a board resolution expressing its support for or disapproval of the proposed intermediate school district budget, and shall submit to the intermediate school board any specific objections and proposed changes the constituent district board has to the budget. If an intermediate school board receives any specific objections or proposed changes, the intermediate school board shall consider the proposed budget changes.

(3) The tax allocation board shall receive the budget from its county clerk and shall allocate a tax rate to the intermediate school district. Not later than September 1 of each year, or not later than 5 days after the election if taxes are authorized at an election held pursuant to section 36(2) of the general property tax act, 1893 PA 206, MCL 211.36, the secretary of the intermediate school board shall file a certified copy of the resolution of the intermediate school board certifying the taxes to be levied on the taxable property within the intermediate school district with the clerk of each city and township in which the district is situated.

(4) As used in this section, "general fund operating budget" means the budget that includes revenues from the intermediate school district's share of mills as determined by the tax allocation board or by referendum and state school aid. Disbursements from the general fund operating budget shall apply to those expenditures required for the operation of all intermediate school district programs except cooperative education, special education, and vocational education, and may apply to any expenditures from the general fund to assist with the costs of cooperative education, special education, and vocational education.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1979, Act 131, Imd. Eff. Oct. 26, 1979;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 234, Imd. Eff. July 21, 2004.

**Popular name:** Act 451

### 380.624a Intermediate school board exempt from MCL 380.624(2).

Sec. 624a. Notwithstanding section 624, for 1994 only an intermediate school board is not required to comply with section 624(2), regarding submission of its annual budget, until April 15, 1994.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Compiler's note:** Former MCL 380.624a, which pertained to levy of property taxes for school operating purposes, was repealed by Act 258 of 1994, Eff. Jan. 1, 1995.

**Popular name:** Act 451

### 380.625 Taxes.

Sec. 625. (1) Intermediate school district taxes shall be spread on the tax roll and shall be collected pursuant to this act and the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(2) Taxes collected under this part by a city or township treasurer shall be paid to the treasurer of the intermediate school board pursuant to section 43 of Act No. 206 of the Public Acts of 1893, being section 211.43 of the Michigan Compiled Laws, or to the county treasurer in the same manner as other county taxes are paid and similar accounts and records shall be kept. The county treasurer shall pay the funds received under this part to the treasurer of the intermediate school board. County treasurers of counties in which fractions of intermediate school districts are situated shall pay those funds collected under this part to the treasurer of the intermediate school board.

(3) Intermediate school district taxes shall be assessed, levied, and collected as provided in this act and Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws. Budgets shall be submitted and intermediate school districts shall be governed by Act No. 62 of the Public Acts of 1933, as amended, being sections 211.201 to 211.217a of the Michigan Compiled Laws.

(4) Except as provided in subsection (5), the intermediate school board shall receive from the county treasurer the same reports of delinquent taxes due school districts as the treasurer is required by law to file with township and city clerks and shall compute from that report the amount of delinquent school taxes due


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

each constituent district in the intermediate school district. The county treasurer at the time of making monthly settlements with the township and city treasurers of the county shall file with the secretary of each intermediate school district board having territory in the county a statement of all delinquent school taxes which are included in the amounts sent by the county treasurer to the township and city treasurers of the county, together with the descriptions upon which the delinquent school taxes have been paid. Each intermediate school board, upon receipt of these statements, shall compute the amounts of delinquent school taxes and interest thereon included in the statement due each constituent district of the intermediate school district. Within 30 days after receiving the statement of the county treasurer, the intermediate school board shall give notice to the secretary of each constituent district board of the amount of delinquent school tax and interest thereon that belongs to the constituent district and which was included in the amount sent by the county treasurer to the treasurer of the township or city in which the constituent district is located.

(5) The procedure for reporting delinquent taxes does not apply in a county which has created a delinquent tax revolving fund under section 87b of Act No. 206 of the Public Acts of 1893, as amended.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1984, Act 78, Imd. Eff. Apr. 18, 1984.

**Popular name:** Act 451

### 380.625a Property taxes levied by intermediate school district for operating purposes.

Sec. 625a. Except as provided in section 705, beginning in 1995, the board of an intermediate school district may levy ad valorem property taxes for operating purposes at a rate not to exceed 1.5 times the number of mills allocated to the intermediate school district for those purposes in 1993 as provided for under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws.

**History:** Add. 1994, Act 258, Imd. Eff. July 5, 1994.

**Popular name:** Act 451

### 380.625b Authorization for tax cut; duration.

Sec. 625b. For a tax that is authorized after the effective date of this section for intermediate school district operating purposes, the duration of the authorization for the tax shall not exceed 20 years. The authorization for a tax described in this section may be renewed with the approval of the intermediate school electors for a duration not to exceed 20 years. The duration of the authorization for a tax described in this section shall be stated in the ballot question concerning the levy or renewal of the tax.

**History:** Add. 2004, Act 415, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.626 Map; boundaries of each constituent district; report of boundary change.

Sec. 626. (1) Except as provided in subsection (2), by July 1 of each odd-numbered year the intermediate school board shall prepare and publish a map of the intermediate school district showing by district lines the boundaries of each constituent district and shall submit a copy of the map to the clerk of each township and city located in the intermediate school district, to the secretary of each constituent district, and to the secretary of state. In the period intervening between publication dates, the intermediate school board shall report each boundary change to the principal officers of the affected municipalities and townships and the secretary of state.

(2) An intermediate school board is not required to prepare or submit a new map of the intermediate school district if the boundaries of its constituent districts have not changed since the last submission.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.627 Board; additional duties; cooperative programs for information technology systems; comprehensive school improvement support services; cost-effective business services.

Sec. 627. (1) An intermediate school board shall do all of the following:

(a) Upon request of the board of a constituent district, furnish services on a management, consultant, or supervisory basis to the district. The intermediate school board may charge a constituent district for the costs of services furnished under this subdivision.

(b) Upon request of the board of a constituent district, direct, supervise, and conduct cooperative educational programs on behalf of the district. The intermediate school board may utilize available funds not otherwise obligated by law and accept contributions from other sources for the purpose of financing the programs. The funds shall be deposited with the treasurer in a cooperative education fund and shall be


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

disbursed as the intermediate school board directs. The intermediate school board may employ personnel and take other action necessary to direct, supervise, and conduct cooperative educational programs.

(c) Conduct cooperative programs mutually agreed upon by 2 or more intermediate school boards.

(d) Conduct cooperative programs mutually agreed upon with 1 or more public school academies.

(2) An intermediate school board may conduct or participate in cooperative programs for information technology systems which may include, but are not limited to, equipment for storage, retrieval, processing, and transmission of voice, data, or video communications; contract with public schools or other educational institutions, government agencies, public broadcasting stations or systems, or information technology service providers in conducting the programs; and acquire and install the equipment, software, and training necessary for the programs in the manner and at the places the intermediate school board considers appropriate.

(3) Upon request of the board of a constituent school district or public school academy located within the intermediate school district, an intermediate school board may provide, either solely or as part of a consortium of intermediate school districts, comprehensive school improvement support services to the district or public school academy. These services may include, but are not limited to, all of the following:

(a) The development of a core curriculum.

(b) The evaluation of a core curriculum.

(c) The preparation of 1 or more school improvement plans.

(d) The dissemination of information concerning 1 or more school improvement plans.

(e) The preparation of an annual educational report.

(f) Professional development.

(g) Educational research.

(h) The compilation of instructional objectives, instructional resources, pupil demographics, and pupil academic achievement.

(i) Assistance in obtaining school accreditation.

(j) The provision of general technical assistance.

(4) To the extent allowed by law, if the most cost-effective business services are not available to constituent districts, an intermediate school board shall offer to provide for constituent districts and public school academies located within the intermediate school district business services that can be accomplished more cost-effectively by an intermediate school district. An intermediate school district may charge a fee for these services, and may contract with a third party for provision of some or all of these services. These services may include, but are not limited to, any of the following:

(a) Data processing.

(b) Payroll.

(c) Class scheduling.

(d) Distance learning coordination and delivery.

(e) Transportation services.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1990, Act 107, Imd. Eff. June 18, 1990;—Am. 1991, Act 187, Imd. Eff. Dec. 27, 1991;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.627a Homebound or hospitalized pupils; coordination of required educational services.

Sec. 627a. Upon the request of the board of 1 or more constituent school districts, an intermediate school district may coordinate the required educational services provided by 1 or more constituent school districts to homebound or hospitalized pupils, or both.

**History:** Add. 1988, Act 215, Imd. Eff. July 1, 1988.

**Popular name:** Act 451

### 380.628 Schools for children in homes operated by juvenile division of probate court; powers of board as to real or personal property.

Sec. 628. The intermediate school board may:

(a) Establish a school for persons of school age who live in children's homes operated by the juvenile division of the probate court or who live at home but are assigned to the school by the juvenile division of the probate court. The intermediate school board may lease or purchase sites; build, lease, or rent housing facilities; and employ the personnel necessary to operate the schools. The intermediate school board may exclude a pupil for persistent misbehavior; classify and promote pupils for instructional purposes; and do all things necessary to the proper conduct of the school.

(b) Build or acquire real or personal property for use for intermediate school district purposes by purchase, land contract, lease or rental contract with or without option to purchase, or title retaining contract. The


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

intermediate school board may pay for the property out of funds of the district which will or may become lawfully available for these purposes.

(c) Receive, by assignment, conveyance, gift, devise, or bequest, any real or personal property or an interest therein for use in maintaining scholarships or for other educational purposes, and the intermediate school board may act as trustee or custodian of the property. The property shall be used by the intermediate school board solely for the educational purposes for which it was assigned, conveyed, given, devised, or bequeathed, whether by way of trust or otherwise. The treasurer of the board may, when required, give bond to insure proper administration of the property.

(d) Sell, exchange, or lease real or personal property of the district which is no longer required for school purposes; give proper deeds or other instruments passing title to the property; dedicate or sell and convey land for highway purposes to the state or an agency or instrumentality of the state, including municipalities and boards of county road commissioners; and give an easement for public utilities. Proceeds from the sale of real property shall be credited to accounts of the school district as provided in section 1262.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977.

**Popular name:** Act 451

### 380.629 Borrowing by intermediate school board; purposes; limitations on borrowing money or issuing bonds; resolution by constituent school district not to participate in cooperative program or conduct election.

Sec. 629. (1) An intermediate school board may borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, sums of money on terms the intermediate school board considers necessary for 1 or more of the following purposes:

(a) For temporary purposes for which the intermediate school board may give notes of the intermediate school district. The intermediate school board shall not borrow a sum that exceeds the amount that has been voted by the intermediate school board or the school electors of the intermediate school district.

(b) To purchase sites for buildings; to purchase, erect, complete, remodel, improve, furnish, refurnish, equip, or reequip buildings and facilities the board is authorized to acquire, including, but not limited to, general administrative, vocational, or special education buildings or facilities, or parts of those buildings or facilities, or additions to those buildings or facilities, and prepare, develop, or improve sites for those buildings or facilities; to purchase and install information technology systems, together with the equipment and software, as are necessary for programs conducted by the intermediate school district under section 627(2); and to issue and sell bonds of the intermediate school district in the form and on the terms the board considers advisable.

(2) An intermediate school board shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the intermediate school district, exceeds 1/9 of 1% of the state equalized valuation of the taxable property within the district, unless the question of borrowing the money or issuing bonds is submitted first to a vote of the school electors of the intermediate school district held under section 661 and approved by the majority of the registered school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the intermediate school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a or to issue bonds under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i. Money may be borrowed and bonds may be issued for the purposes stated in this section in an amount equal to that provided by part 17. For the purposes of this subsection, bonds authorized by vote of the school electors for special education facilities under part 30 and for area vocational-technical education facilities under sections 681 to 690 and bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i, shall not be included in computing the total outstanding bonded indebtedness of an intermediate school district.

(3) Not later than 30 days after receipt of notice that the question of issuing bonds under this section to purchase and install information technology systems as are necessary for a cooperative program under section 627(2) will be submitted to the school electors of the intermediate school district, the board of a constituent school district by resolution may elect not to participate in the cooperative program and not to conduct an election on the question within the constituent school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1985, Act 22, Imd. Eff. May 20, 1985;—Am. 1990, Act 107, Imd. Eff. June 18, 1990;—Am. 1991, Act 187, Imd. Eff. Dec. 27, 1991;—Am. 1997, Act 152, Imd. Eff. Dec. 22, 1997;—Am. 2002, Act 61, Imd. Eff. Mar. 15, 2002;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.630 Oaths.

Sec. 630. A member of the intermediate school board may administer oaths for qualifying board members


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and oaths required in transactions connected with, or related to, the educational program of the intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.632 Intermediate school district employees; economic benefits for employees; sabbatical leave.

Sec. 632. (1) In the process of establishing salaries or determining other working conditions, the intermediate school board may provide other related benefits of an economic nature on a joint participating or nonparticipating basis with intermediate school district employees. Subject to section 633, the benefits may include health and accident insurance coverage, group life insurance, annuity contracts, and reimbursement for credit hours earned during employment for professional improvement.

(2) After a teacher has been employed at least 7 consecutive years by the intermediate school board, and at the end of each additional period of 7 or more consecutive years of employment, the intermediate school board may grant the teacher a sabbatical leave for professional improvement for not to exceed 2 semesters at 1 time, if the teacher holds a permanent, life, or continuing certificate. During the sabbatical leave, the teacher shall be considered to be in the employ of the intermediate school board, shall have a contract, and may be paid compensation under the regulations of the intermediate school board. The intermediate school board shall not be held liable for death or injuries sustained by a teacher while on sabbatical leave.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2007, Act 107, Imd. Eff. Oct. 1, 2007.

**Popular name:** Act 451

### 380.633 Intermediate school district employees; compliance with public employees health benefit act.

Sec. 633. If the intermediate school board of an intermediate school district provides medical, optical, or dental benefits to employees and their dependents, the intermediate school board shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

**History:** Add. 2007, Act 107, Imd. Eff. Oct. 1, 2007.

**Popular name:** Act 451

### 380.634 Conflict of interest policy.

Sec. 634. (1) Not later than July 1, 2005, each intermediate school board shall adopt and implement a conflict of interest policy designed to avoid conflicts of interest by intermediate school district officials and employees.

(2) Not later than July 1, 2005, each intermediate school board shall adopt and implement a policy to prohibit use of intermediate school district funds or other public funds under the control of the intermediate school district for purchasing alcoholic beverages, jewelry, gifts, fees for golf, or any item the purchase or possession of which is illegal. Subject to subsection (8), the policy may allow the use of public funds for the purchase of a plaque, medal, trophy, or other award for the recognition of an employee, volunteer, or pupil if the purchase does not exceed $100.00 per recipient. As used in this subsection, "public funds" means funds generated from taxes levied under this act, state appropriations of state or federal funds, or payments made to the intermediate school district for services by a constituent district or any other person, but does not include voluntary contributions made for a specific purpose by an intermediate school board member, an intermediate school district employee, another individual, or a private entity.

(3) The department shall develop and distribute to intermediate school districts a model conflict of interest policy for the purposes of subsection (1) and a model policy meeting the requirements of subsection (2).

(4) Subject to subsection (8), in any 1-month period, an intermediate school board member or intermediate school district administrator shall not accept from a person who does business or seeks to do business of any kind with the intermediate school district any money, goods, or services with a value in excess of $44.00 if the board member or administrator does not provide goods or services of equal value in exchange. This subsection does not apply to a gift or reward already prohibited under section 1805.

(5) If an intermediate school board member or intermediate school district administrator has a substantial conflict of interest in a proposed contract, the intermediate school board shall not enter into that contract. As used in this subsection, "substantial conflict of interest" means a conflict of interest on the part of an intermediate school board member or intermediate school district administrator in respect to a contract with the intermediate school district that is of such substance as to induce action on his or her part to promote the contract for his or her own personal benefit. In the following cases, there is no substantial conflict of interest:

(a) A contract between the intermediate school district and any of the following:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*i*) A corporation in which an intermediate school board member or intermediate school district administrator is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*ii*) A corporation in which a trust, if an intermediate school board member or intermediate school district administrator is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owns stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*iii*) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.5101 to 450.6200, if an intermediate school board member or intermediate school district administrator is an employee but not a member of the company.

(b) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member or intermediate school district administrator is not a director, officer, or employee.

(*ii*) A firm, partnership, or other unincorporated association, in which an intermediate school board member or intermediate school district administrator is not a partner, member, or employee.

(*iii*) A corporation or firm that has an indebtedness owed to an intermediate school board member or intermediate school district administrator.

(c) A contract between the intermediate school district and a constituent district.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids if the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract that were not authorized by the contract at the time of award.

(6) If an intermediate school board member, intermediate school district administrator, or an employee of an intermediate school district who recommends, negotiates, or is authorized to sign a contract on behalf of the intermediate school district either is employed by or under contract with a business enterprise with which the intermediate school district is considering entering into a contract or knows that he or she has a family member who has an ownership interest in or is employed by a business enterprise with which the intermediate school district is considering entering into a contract, the board member, administrator, or employee shall disclose this fact to the intermediate school board at a public meeting of the intermediate school board before the intermediate school board enters into the contract. If the intermediate school board receives a disclosure described in this subsection, the intermediate school board shall vote at a public meeting of the intermediate school board on whether or not it considers the relationship described in the disclosure to be a conflict of interest, and shall not enter into the contract without first voting at a public meeting of the intermediate school board to enter into the contract. As used in this subsection, "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

(7) An intermediate school board shall ensure that each employment contract with a school administrator employed by the intermediate school district includes both a provision prohibiting the school administrator from engaging in conduct involving moral turpitude and a provision allowing the intermediate school board to void the contract if the school administrator violates the provision prohibiting conduct involving moral turpitude.

(8) Beginning January 1, 2005, the monetary amounts specified in subsections (2) and (4) shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

**History:** Add. 2004, Act 419, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.641 Early intervening model program for grades K to 3.

Sec. 641. (1) An intermediate school district may develop and make available to districts and public school academies an early intervening model program for grades K to 3. The early intervening model program shall


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

be designed to instruct classroom teachers and support staff on how to monitor individual pupil learning and how to provide specific support or learning strategies to pupils as early as possible in order to avoid inappropriate referrals to special education. The model program shall be based on a program with documented positive results and outcomes and shall include all of the following:

(a) Literacy and numeracy supports, sensory motor skill development, behavior supports, instructional consultation for teachers, and the development of a parent/school learning plan. Specific support or learning strategies may include support in or out of the general classroom in areas including reading, writing, math, visual memory, motor skill development, behavior, or language development. These would be provided based on an understanding of the individual child's learning needs.

(b) A schoolwide system of academic and behavioral support based on a support team available to the classroom teachers. The members of this team could include the principal, special education staff, reading teachers, school psychologists, speech and language services providers, school social workers, and other appropriate personnel who would be available to systemically study the needs of the individual child and work with the classroom teacher to match instruction to the needs of the individual child.

(2) An intermediate school district may use funds received under section 81 of the state school aid act of 1979, MCL 388.1681, for the purposes of subsection (1).

(3) If an intermediate school district develops an early intervening model program under this section, the intermediate school district shall notify its constituent districts and the public school academies located within the intermediate school district that the model program is available and that the intermediate school district has funds available for developing the model program.

**History:** Add. 2008, Act 582, Imd. Eff. Jan. 16, 2009.

**Popular name:** Act 451

### 380.651 Repealed. 1994, Act 413, Imd. Eff. Dec. 29, 1994.

**Compiler's note:** The repealed section pertained to certification requirements of superintendents and administrators.

**Popular name:** Act 451

### 380.652 Superintendent; surety bond.

Sec. 652. An intermediate superintendent shall execute a surety bond, approved and paid for by the intermediate school board, in the penal sum of $1,000.00 and conditioned upon the superintendent's faithful accounting and payment of intermediate school district money. An intermediate superintendent shall file the bond with the president of the intermediate school board within 10 days after appointment as superintendent.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.653 Superintendent as executive officer of board; powers and duties generally.

Sec. 653. The intermediate superintendent shall be the executive officer of the intermediate school board and shall:

(a) Put into practice the educational policies of the state and of the intermediate school board.

(b) Recommend in writing all employees.

(c) Suspend an employee for cause until the intermediate school board considers the suspension.

(d) Supervise and direct the work of assistants and other employees of the intermediate school board.

(e) Examine and audit the books and records of a constituent district when directed to do so by the state board.

(f) Perform duties the state board and the intermediate school board prescribe, make reports as may be required by the state board, and at the close of his term of office deliver all records, books, and papers belonging to the office to the intermediate superintendent's successor.

(g) Examine in constituent districts not employing a superintendent the statements of taxes to be raised by the constituent districts required by law to be filed with the township clerk and the county board of commissioners at the October session of the board, and notify the secretary of the board of a constituent district that fails to file tax statements required by law, or has failed to qualify for state school aid.

(h) Make written reports to the boards of constituent districts in regard to all matters pertaining to the educational interests of the districts.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.654 Intermediate superintendent; duties.

Sec. 654. (1) Except as otherwise provided in subsection (2), in a constituent district not employing a


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

superintendent the intermediate superintendent shall do all of the following:

(a) Recommend in writing all teachers to the school board of the constituent district.

(b) Suspend a teacher for cause until the school board of the constituent district employing the teacher considers the suspension.

(c) Supervise and direct the work of the teachers.

(d) Classify and control the promotion of pupils.

(2) Subsection (1) does not apply to a constituent district if any of the following apply:

(a) The constituent district is not required to employ a superintendent as an employee of the district under section 1229.

(b) All of the public schools within the constituent district have been transferred to 1 or more other school districts or public entities.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.661 Submission of question to school electors at regular or special school election.

Sec. 661. (1) Subject to the Michigan election law, the intermediate school board may submit questions to the intermediate school electors of the intermediate school district at a regular or special school election held in each of the constituent districts. A question shall not be submitted to the intermediate school electors unless the question is within the lawful authority of the intermediate school electors to decide.

(2) A person who is a school elector of a constituent district of an intermediate school district and who is registered in the city or township in which that person resides is an intermediate school elector of that intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.662 Repealed. 2003, Act 299, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed section pertained to procedures relating to special elections of intermediate school districts.

**Popular name:** Act 451

### 380.671 Criteria for approval of regional educational media centers; operation of educational media centers; “educational media center” defined; purchase, sale, lease, or loan of equipment; disposition of used or surplus equipment.

Sec. 671. (1) The state board shall establish criteria based on state and national guidelines for approving regional educational media centers for initial and continued funding. Among the criteria shall be:

(a) The establishment of a minimum size for the service area based on pupil enrollment.

(b) Provision for 2 or more intermediate school districts or parts of intermediate school districts to combine to operate an instructional materials center. The combining intermediate school districts may contract with 1 intermediate school district to administer the center or a cooperative board may be organized.

(c) The designation of a service area which will provide reasonable and efficient lines of communication between the center and the farthest local school district. In sparsely settled areas of the state where a minimum enrollment requirement would necessitate districts of unwieldly geographical size, satellite or subcenters may be established.

(d) Provision for the staffing and administration of a center by qualified personnel having a substantial background of training and experience in the selection, use, evaluation, and application of media materials to education.

(2) An intermediate school board acting singly, or in cooperation with other intermediate school districts, may operate educational media centers to serve public and nonpublic schools in its respective area.

(3) As used in this section, "educational media center" means a program approved by the state board which provides basic educational services to local school districts which may include:

(a) A materials lending library containing 16mm and 8mm motion pictures or improvements thereof with provision for processing and servicing, 35mm slides or improvements thereof, filmstrips, remedial and enrichment programmed instructional materials, disc recordings, and other items.

(b) Duplication service to reproduce transparencies, slides, filmstrips, and charts or improvements thereof.

(c) Magnetic type duplicating service for audio and video tape.

(d) Delivery and dissemination system for materials and services.

(e) Professional leadership training services to local school districts for coordination and assistance with proper utilization of materials and services.

(f) Acquisition and use of materials that will be coordinated with the curriculum of local school districts.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(g) Technical and maintenance service for cooperating districts.

(h) Professional, reference, and informational library materials and services.

(i) Central purchasing of equipment related to media center activities and use in the local school.

(j) Graphics staff to produce transparency masters and charts and to render other production services to teachers.

(4) An educational media center shall not purchase, sell, grant a lease, or loan for more than 30 days, directly or indirectly, equipment for use by other than a public school, nonpublic school, local school district, intermediate school district, community college district, or publicly funded library or library cooperative. This shall not prohibit the disposition of used or surplus equipment by publicly advertised sale.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1980, Act 157, Imd. Eff. June 12, 1980.

**Compiler's note:** In subsection (1)(c), "unwieldly geographical size" evidently should read "unwieldy geographical size."

**Popular name:** Act 451

**Administrative rules:** R 380.1 et seq. of the Michigan Administrative Code.

### 380.673 Operation of educational recreation program.

Sec. 673. An intermediate school board that has an agreement with an appropriate local authority may operate an educational recreation program if the educational recreation program operated by the intermediate school district under this section is approved by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1996, Act 69, Imd. Eff. Feb. 26, 1996.

**Popular name:** Act 451

### 380.681 Career and technical education program; approval by vote of electors; election; submission of question; form of ballot; limitation on number of mills to be levied; use of tax proceeds; repayment of misspent funds; number of elections; publication of audit results; responsibility of state board.

Sec. 681. (1) An intermediate school district may establish an area career and technical education program and operate the program under sections 681 to 690 if approved by a majority of the intermediate school electors of the intermediate school district voting on the question. The election shall be called and conducted in accordance with this act and the Michigan election law. The establishment of the area career and technical education program may be rescinded by the same process.

(2) The question of establishing an area career and technical education program may be submitted to the intermediate school electors of an intermediate school district at a regular school election or at a special election held in each of the constituent districts. Subject to section 641 of the Michigan election law, MCL 168.641, the intermediate school board shall determine the date of the election and shall give notice to the school district filing official at least 60 days in advance of the date the ballot question is to be submitted to the intermediate school electors.

(3) The ballot for referring the question of adopting sections 681 to 690 and establishing an area career and technical education program to the intermediate school electors of an intermediate school district shall be substantially in the following form:

"Shall _____ (legal name of intermediate school district), state of Michigan, come under sections 681 to 690 of the revised school code and establish an area career and technical education program which is designed to encourage the operation of area career and technical education programs if the annual property tax levied for this purpose is limited to _____ mills?

Yes ( )

No ( )".

(4) Beginning in 1995, and subject to section 625b, the number of mills of ad valorem property taxes an intermediate school board may levy for area career and technical education program operating purposes under sections 681 to 690 is limited to the following:

(a) If the intermediate school district did not levy any millage in 1993 for area career and technical education program operating purposes under sections 681 to 690, the intermediate school board, with the approval of the intermediate school electors, may levy not more than 1 mill for those purposes.

(b) If the intermediate school district levied millage in 1993 for area career and technical education program operating purposes under sections 681 to 690, the intermediate school board, with the approval of the intermediate school electors, may levy mills for those purposes at a rate not to exceed 1.5 times the number of mills authorized for those purposes in the intermediate school district in 1993. Approval of the intermediate school electors is not required for the levy under this subdivision of previously authorized mills until that authorization expires.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(5) An intermediate school district that levies a tax for area career and technical education program operating purposes shall not use proceeds from the tax for any purpose other than area career and technical education program operating purposes and shall submit to the department of treasury a copy of the audit report from the audit of the intermediate school district conducted under section 622a. If the department of treasury determines from the audit report that the proceeds from the tax have been used for a purpose other than area career and technical education program operating purposes, as defined under subsection (7), the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(6) If the attorney general determines from a report filed under subsection (5) that an intermediate school district has misspent tax proceeds as described in subsection (5) and notifies the intermediate school district of this determination, the intermediate school district shall repay to its area career and technical education program operating fund an amount equal to the amount the department of treasury determined under subsection (5) has been used for a purpose other than area career and technical education program operating purposes. The intermediate school district shall make this repayment from funds of the intermediate school district that lawfully may be used for making such a repayment.

(7) For the purposes of subsections (5) and (6), not later than January 1, 2008, the department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts a definition of area career and technical education program operating purposes.

(8) An intermediate school district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for area career and technical education program operating purposes under sections 681 to 690.

(9) Within 30 days after receiving the audit results, an intermediate school district shall publish the results of any audit conducted concerning the area career and technical education program on the intermediate school district's website. The results shall remain posted on the website for at least 6 months.

(10) The state board is the sole agency responsible for the supervision and administration of career and technical education in this state with authority to accept federal funding for career and technical education and with the responsibility to administer the requirements for career and technical education under federal and state law.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1984, Act 21, Imd. Eff. Mar. 6, 1984;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2004, Act 415, Imd. Eff. Nov. 29, 2004;—Am. 2007, Act 45, Imd. Eff. July 17, 2007;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.681a Repealed. 1994, Act 258, Eff. Jan. 1, 1995.

**Compiler's note:** The repealed section pertained to levy of taxes for vocational-technical education program.

**Popular name:** Act 451

### 380.682 Area vocational-technical education; submitting question of increasing millage limit; election; form of ballot.

Sec. 682. Subject to section 681(4), an intermediate school board operating under sections 681 to 690 may direct that the question of increasing the millage limit on the annual property tax levied for area vocational-technical education be submitted to the intermediate school electors of the intermediate school district. The election shall be called and conducted in accordance with section 661. The ballot shall be substantially in the following form:

"Shall the _____ mill limitation on the annual property tax previously approved by the electors of _____,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

```
      (legal name of intermediate school district)
state of Michigan, for the establishment and operation of
area vocational-technical education programs be increased
by __________ mills?
     Yes ( )
     No  ( )".
```

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 299, Eff. Jan. 1, 2005
.

**Popular name:** Act 451

### 380.683 Area vocational-technical education budget; form; delivery; allocation of tax rates; limitation; certification of taxes to be levied; spread of tax on roll; payment of taxes collected; accounts and records.

Sec. 683. (1) An intermediate school board operating under sections 681 to 691 shall prepare annually an area vocational-technical education budget which shall be in the same form as that required in local school districts, and shall be delivered to the county clerks of the counties in which the intermediate school district is located, except in counties which have established separate tax limitation millage rates pursuant to sections 5a to 5m of the property tax limitation act, Act No. 62 of the Public Acts of 1933, as amended, being sections 211.205a to 211.205m of the Michigan Compiled Laws. The county clerk shall deliver the budget to the tax allocation board in the same manner as local school district budgets are handled.

(2) County tax allocation boards shall receive area vocational-technical education budgets from their respective county clerks; shall treat them as local school district budgets are treated; and shall allocate tax rates to intermediate school districts for the purposes of sections 681 to 691. The allocations shall be handled in the same manner as other allocations for local school districts. The allocations shall not be made within the 15 mill limitation and shall not exceed the limit authorized by an election at which these sections became effective.

(3) When the intermediate school board receives an allocation on the basis of its area vocational-technical education budget, the board shall certify for collection to the officials of the local property tax collecting unit a statement of the amount of taxes to be levied. The certification shall be made in the same manner as local school districts, but the rate certified for levy shall not exceed the amount allocated.

(4) On receipt of the statement from the intermediate school board, the officials responsible for the levying and collection of these taxes shall spread on the tax roll an area vocational-technical education tax equal to the amount ordered spread, and shall collect the taxes in the same manner as other taxes are collected.

(5) Taxes collected by a city or township treasurer under subsection (4) shall be paid to the treasurer of the intermediate school board pursuant to section 43 of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.43 of the Michigan Compiled Laws, or to the county treasurers in the same manner as other county taxes are paid and similar accounts and records shall be kept. The county treasurers shall pay all funds received under subsection (4) to the treasurer of the intermediate school board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1984, Act 78, Imd. Eff. Apr. 18, 1984.

**Popular name:** Act 451

### 380.684 Operation of career and technical education program; submission for review; expenditure of funds; state approval to use state or federal funds; compliance with certain conditions; basis for monitoring programs; expediting program approval; collaboration with community college; participation by public school academy and nonpublic school pupils; costs of special election; payment; "CEPI" defined.

Sec. 684. (1) An intermediate school board in which an area career and technical education program has been established may operate area career and technical education programs or may contract with local school districts or with community colleges for the operation of the programs or with a private degree-granting postsecondary institution if the intermediate school district is not within a community college district and if there existed on or before July 1, 1992 a written agreement for the operation of such a program. Area career and technical education programs operated under sections 681 to 690 shall be submitted for review of the representatives of the constituent districts of the intermediate school district at an annual budget review meeting held on or before June 1 under section 624.

(2) An intermediate school board may expend area career and technical education funds for the operation of area career and technical education programs for instructional, support, and administrative costs associated with providing career and technical education activities, including, but not limited to, staff salaries, wages, and benefits for career and technical education programs only; information and awareness activities;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

acquisition and rental of real property; construction of buildings; acquisition of equipment and supplies; and maintenance, repair, and replacement of buildings, lands, equipment, and supplies. An intermediate school board shall not expend area career and technical education funds for purposes other than those set forth in sections 681 to 690. An intermediate school board must obtain state approval to use state or federal career and technical education funds. Expenditure of vocational education millage revenue for the purposes allowed under this subsection shall be determined by the intermediate school board. However, if the millage revenue is commingled with state or federal funds, then the intermediate school district must obtain state approval to use the commingled funds. If an audit by or on behalf of the department determines that an intermediate school board has expended area career and technical education funds for a purpose other than those set forth in sections 681 to 690, the intermediate school district is subject to the measures under section 681(5) and (6).

(3) The intermediate school board shall ensure that all of the following are met:

(a) The intermediate school board shall notify the department at the time the area career and technical education program is established.

(b) In order to be responsive to local workforce needs, emerging technologies, and local demand occupations, the intermediate school district shall establish a program advisory committee pursuant to administrative guidelines established by the office of career and technical preparation within the department. At least a majority of the members of the program advisory committee shall be representatives from business and industry.

(c) The program shall collect career and technical education information data and distribute that data to the appropriate state department or departments and to the program advisory committee. For the purposes of this subdivision, the department or CEPI shall only require an intermediate school district to report information that is not already available from the financial information database maintained by CEPI.

(d) The intermediate school district shall submit its career and technical education plan to the department in the form and manner prescribed by the department. For the purposes of this subdivision, the department or CEPI shall only require an intermediate school district to report information that is not already available from the financial information database maintained by CEPI.

(4) The department may monitor career and technical education programs funded with state or federal funding based upon feedback from the program advisory committee and predetermined state or federal skills standards that include student outcomes.

(5) The department, in consultation with the appropriate career and technical education professionals, shall develop a process for expedited state approval of programs that recognize local workforce needs, emerging technologies, and local demand occupations.

(6) If there is a community college that offers career and technical preparation programs within the intermediate school district, the intermediate school board shall collaborate with the community college to minimize duplication of programs.

(7) An area career and technical education program shall allow participation by public school academy and nonpublic school pupils to the same extent as pupils of constituent districts.

(8) An intermediate school board operating under sections 681 to 690 may expend funds received under section 683 for the costs of a special election held to renew or increase the millage limit on the annual property tax levied for area career and technical education purposes.

(9) The treasurer of an intermediate school board shall pay out area career and technical education funds on order of the intermediate school board.

(10) As used in this section, "CEPI" means the center for educational performance and information created in section 94a of the state school aid act of 1979, MCL 388.1694a.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1989, Act 48, Imd. Eff. June 12, 1989;—Am. 1994, Act 413, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 277, Imd. Eff. June 17, 1996;—Am. 2007, Act 45, Imd. Eff. July 17, 2007;—Am. 2016, Act 535, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.685 Payments from area vocational-technical education funds; computation; reimbursement; payment of percent of difference.

Sec. 685. An intermediate school board in which an area vocational-technical education program is established shall make payments from area vocational-technical education funds to those constituent districts and community colleges under contract serving the intermediate school district which operate area vocational-technical education centers. Payments shall be computed as follows: the total cost of an area vocational-technical education center shall be computed; and, from this amount shall be deducted the current state-federal vocational education reimbursement for the area vocational-technical education center. All or part of the difference resulting shall be reimbursable by the intermediate school board. If the funds are not


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

sufficient to make up this difference, a like percent of the difference shall be paid to all area vocational-technical education centers in the intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.686 Grants for career and technical education centers, buildings, sites, and equipment; contracts to accept nonpublic school pupils and nonresident pupils; change or disposal of facility purpose.

Sec. 686. (1) An intermediate school board may make grants of money to constituent districts operating area career and technical education centers or to community colleges serving the intermediate district with area career and technical programs for the purpose of constructing area career and technical education buildings, for site acquisition, or for area career and technical education equipment, if before the grant is made the board of the constituent district in which the center is located contracts to receive nonresident children into the facility for a period of at least 15 years after the date of the contract, or if the board of trustees of the community college contracts to receive nonresident persons on a tuition basis into the facility for a period of at least 15 years after the date of the contract.

(2) The contracts described in subsection (1) shall provide that the constituent districts or community colleges are bound to accept nonpublic school pupils and nonresident pupils into designated area career and technical education facilities in return for and in consideration of grants-in-aid for the construction of area career and technical education buildings and for the purchase of area career and technical education buildings, sites, and equipment.

(3) If an intermediate school district has provided at least 90% of the financial consideration for the acquisition or construction of an area career and technical education facility, a constituent district or community college may not dispose or change the purpose of the facility without the consent of the intermediate school board even if title to the facility is vested in the constituent district or community college.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2007, Act 45, Imd. Eff. July 17, 2007.

**Popular name:** Act 451

### 380.687 Borrowing money and issuing bonds; purposes; limitation; submission to school electors; form of ballot; use of proceeds from bonds issued or refunded.

Sec. 687. (1) An intermediate school board in which an area vocational-technical education program is established, by a majority vote of the intermediate school electors voting on the question at a regular school election or at a special election called for that purpose, may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping area vocational-technical buildings and other facilities, or parts of buildings and other facilities or additions to buildings and other facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for area vocational-technical buildings and other facilities; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the foregoing purposes. An intermediate school district shall not issue bonds under this part for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(2) A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the foregoing 1.5% limitation.

(3) An intermediate school board may submit a proposal to issue bonds of the intermediate school district, authorized under this section, to the intermediate school electors at the same election at which the intermediate school electors vote on the establishment of an area vocational-technical education program. If these questions are presented to the school electors at the same election, the board shall include the bond proposal in the 60-day notice given the boards of constituent districts. The establishment of an area vocational-technical education program shall become effective if approved by a majority of the intermediate school electors voting on the question. The authority to issue bonds is effective only if a majority of the intermediate school electors approve both the establishment of the area vocational-technical education program and the issuance of bonds.

(4) The ballot used in submitting the question of borrowing money and issuing bonds under this section shall be in substantially the following form:

"Shall _____ (here state the legal name of the intermediate school district designating the name of a district of not less than 18,000 pupils or first class school district that has elected not to come under this act as far as an area vocational-technical education program is concerned) state of Michigan, borrow the sum of


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

not to exceed $_____ and issue its bonds therefor, for the purpose of _____?
Yes ( )
No ( )".

(5) An intermediate school district shall not use the proceeds from bonds issued or refunded under this section or levy a tax to repay bonds issued or refunded under this section for any purpose other than facilities used for area vocational-technical education purposes. If a facility is to be used during regular school hours for purposes other than providing area vocational-technical education programs and services, proceeds from bonds issued or refunded under this section or from millage levied to repay bonds issued or refunded under this section shall be used only for that portion of the facility that is used for providing area vocational-technical education programs and services.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2002, Act 62, Imd. Eff. Mar. 15, 2002;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2004, Act 415, Imd. Eff. Nov. 29, 2004.

### 380.688 Vocational-technical education center; contract to accept nonresident pupils.

Sec. 688. A constituent district or community college maintaining an area vocational-technical education facility designated by the state board may enter into a contract with the intermediate school board and shall become an area vocational-technical education center by contracting with the intermediate school board to accept nonresident pupils assigned into its facility by the intermediate school board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.689 Repealed. 1981, Act 87, Eff. July 2, 1981.

**Compiler's note:** The repealed section pertained to appointment and duties of committee to visit vocational-technical education facilities.

**Popular name:** Act 451

### 380.690 Nonparticipation or participation by certain school districts in area vocational-technical education program; resolution; election; funding; expenditures; buildings, sites, and equipment.

Sec. 690. (1) A school district of not less than 18,000 pupils, a first class school district, or a school district offering or making available to its pupils a comprehensive vocational education program approved by the state board, may elect not to come under an area vocational-technical education program by resolution adopted by its board not later than 30 days after receipt of notice that the question of establishing the area vocational-technical education program will be submitted to the school electors of the district.

(2) A school district electing not to come under the area vocational-technical education program may thereafter elect to come under the program if at a special or regular school election a majority of the school electors voting approve the operation of the area vocational-technical education program and the annual tax rate for that purpose in effect in the other constituent districts of the intermediate school district.

(3) Except as provided in this subsection, in an intermediate school district where the school electors have voted upon and failed to approve the ballot question set forth in section 681, a combination of 2 or more contiguous constituent districts, by resolution of their boards, may elect to establish an area vocational-technical education program, if approved by resolution of the intermediate district board and designated by the state board. The requirement of contiguity of constituent districts does not apply if 1 or more of the districts that constitute the basis of contiguity declare their intent, by board resolution, not to be part of the proposed area vocational-technical education program. At any time within 6 months after the enactment of the resolution establishing the program in a local school district, school electors equal in number to not less than 5% of the votes cast in the most recent school election may petition their local school district board to submit the resolution to the school district filing official for submission to the electorate, in a form and manner to be prescribed by the secretary of state, and the district's participation in the program shall be terminated if not approved by a majority of the school electors voting on the question.

(4) Area vocational-technical education programs established under this section shall receive appropriate state funding or federal funding allocated by the state board on exactly the same basis as area vocational-technical education programs and centers established by intermediate school districts. Constituent districts establishing an approved area vocational-technical education program under this section may designate, by board resolution, specific amounts of either authorized operating millage or operating millage being requested from the school electors to be utilized solely for the area vocational-technical education program, in a manner to be prescribed by the state board, and the specified amount of millage shall be regarded as area vocational-technical education millage rather than local school district operating millage in


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

all computations made by the state board to determine state aid. The revenue obtained from the millage designated, together with appropriate state and federal funds, may be expended for the same purposes specified for intermediate district programs in sections 684 and 685, including contracts with the intermediate school district, another local school district, or a community college for area vocational-technical education programs, facilities, and services. If constituent districts establish area vocational-technical education programs under this section, buildings, sites, and equipment may be jointly acquired, owned, or leased.

(5) A contiguous school district desiring to become part of an area vocational-technical education program established under this section may do so with the approval of each participating school district, the intermediate school district, and the state board. Constituent districts operating an approved area vocational-technical education program under this section may subsequently elect not to participate, or may thereafter elect to participate, in an intermediate school district vocational-technical education program in exactly the same manner prescribed in this section for school districts of not less than 18,000 pupils, a first class school district, or a school district offering or making available to its pupils a comprehensive vocational education program approved by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1980, Act 72, Imd. Eff. Apr. 3, 1980;—Am. 1985, Act 5, Imd. Eff. Mar. 27, 1985;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

****** 380.692 THIS SECTION DOES NOT APPLY AFTER DECEMBER 31, 1988: See (6) of 380.692 ******

### 380.692 Charter building authority; section inapplicable after December 31, 1988.

Sec. 692. (1) In an intermediate school district that complies with the following criteria, there may be established pursuant to subsection (3) a charter building authority with boundaries, except as provided by subsection (2), identical to the boundaries of the intermediate school district:

(a) The intermediate school district is operating under sections 681 to 690.

(b) More than 1 location within the intermediate school district has been designated by the state board of education for providing area vocational-technical education programs.

(c) A building at 1 of the designated locations for providing area vocational-technical education programs has been constructed without utilizing funds from the area vocational-technical education tax levy.

(2) The board of a constituent school district which is in a portion of the intermediate school district not to be served by proposed facilities for which the proposed charter building authority may impose property taxes may elect, by adoption of a resolution within 30 days after receipt of the notice required by subsection (3), not to be included within the charter building authority.

(3) A charter building authority created pursuant to this section shall be governed by the board of the intermediate school district. With the approval of the state board of education, the intermediate school district board may submit to the school electors of those constituent districts that have not elected to be excluded pursuant to subsection (2) the question of coming under this section and of authorizing the charter building authority to impose a specified ad valorem property tax millage rate for not more than 3 years to be used solely for acquiring, purchasing, constructing, and renovating sites and buildings for area vocational-technical education programs operated by the intermediate school district and for purchasing equipment for these facilities. This question shall be submitted at an annual election or at a special election held in each of the participating constituent school districts. The intermediate school district board shall determine the date of the election and shall give notice under section 662 to the secretary of each constituent district at least 60 days before the date of the election. Except as provided by this section, the election shall be called and conducted pursuant to sections 661 and 662.

(4) A charter building authority shall prepare a budget which shall be in the same form as that required in local school districts, and which shall be delivered to the county clerks of the counties in which the charter building authority is located. The county clerk of each county shall deliver the budget to the tax allocation board, which board shall treat the budget as local school district budgets are treated and shall allocate tax rates to the charter building authority for the purposes set forth by this section, except in counties which have established separate tax limitations. Allocations to charter building authorities shall not be made within the 15-mill limitation but shall be within the charter limitations of section 6 of article IX of the state constitution of 1963. The allocations shall not exceed the limit authorized by the election at which the charter building authority was established and any portion of the net limitation tax rate allocated shall be included within the total tax rate authorized to be levied by the charter building authority.

(5) Charter building authority taxes shall be levied, collected, and returned in the same manner as the levy of the intermediate school district.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(6) This section shall not apply after December 31, 1988 and a charter building authority, which may levy taxes within the limitation established by the election at which the charter building authority was established and expend tax revenues for those purposes for which the taxes may be levied, shall not impose a tax levy pursuant to this section that becomes a lien after December 31, 1988.

**History:** Add. 1983, Act 118, Imd. Eff. July 18, 1983.

**Popular name:** Act 451

### 380.701 Combining adjoining intermediate school districts to form single intermediate school district; resolution; submission of question to electors; petitions; form of ballot; effective date of reorganization; interim board; superintendent; reorganization meeting; election of board; auditing accounts; contracts; special education programs; annual property tax rates.

Sec. 701. (1) Two or more adjoining intermediate school districts may combine to form a single intermediate school district when the reorganization is approved by a majority of the school electors of each intermediate school district voting on the question in the regular school elections of the constituent districts.

(2) The question of combining intermediate school districts may be submitted by a resolution of the intermediate school boards meeting in joint session.

(3) The question shall be submitted if petitions signed by a number of school electors of each intermediate school district equal to not less than 5% of the number of pupil memberships on the latest pupil membership count day of the combined constituent districts of the intermediate school district are filed with the school district filing official. Within 30 days after receiving sufficient petitions, the school district filing official shall notify the secretary of the intermediate school district and the secretary shall apply for approval to the superintendent of public instruction. The school district filing official shall submit the question in accordance with section 661 at the next regular school election after the superintendent of public instruction approves the merger.

(4) The ballots for a ballot question under this section shall be in substantially the following form:

"Shall the following intermediate school districts be organized as a single intermediate school district?

(List names of intermediate school districts)

Yes ( )

No ( )".

(5) If the consolidation is approved by a majority of the school electors voting on the question in each of the participating intermediate school districts, the reorganization is effective in the combined intermediate school districts 30 days after the regular school election at which the question is submitted. The reorganized intermediate school district is a single intermediate school district subject to this part.

(6) The members of the intermediate school boards of the original intermediate school districts shall act as an interim board until a board of the combined intermediate school district is elected. The interim board has all the powers and duties of an intermediate school board under this part. The person chosen by the interim intermediate school board as intermediate superintendent shall serve only until a successor is chosen by the elected intermediate school board. The secretary of the intermediate school board having the largest number of pupils in membership in its combined constituent districts at the time of reorganization shall call a meeting of the members of the interim intermediate school board for the purpose of organization within 15 days after the effective date of the reorganization. The school district filing official shall provide for the election of a board of the reorganized intermediate school district under chapter XIV of the Michigan election law, MCL 168.301 to 168.316. At the first election, there shall be elected 3 members of a board for 6 years, 2 for 4 years, and 2 for 2 years. Their successors shall be elected biennially for terms of 6 years.

(7) The reorganized intermediate school district shall operate as a single intermediate school district from the effective date of the reorganization. Within 10 days after the reorganization, all accounts of the reorganized intermediate school districts shall be audited in the manner established by the interim intermediate school board. The contracts of the intermediate superintendents in force on the effective date of reorganization continue in effect until the time of their termination except as to position as intermediate superintendents.

(8) If, before reorganization of the intermediate school districts each of the combining intermediate school districts adopted special education programs by referendum as provided in part 30 and approved the same annual property tax rates for the education of students with a disability, the special education programs and the annual property tax rates shall continue in effect in the reorganized intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.702 Annexation of intermediate school district; resolution; election; adoption of special education program and annual tax rate; ballot; approval of proposed annexation; filing result of election; funds and property; release from liability; effective date of annexation; notices; appointment and terms of board members.

Sec. 702. (1) An intermediate school district may be annexed to another intermediate school district if the intermediate school board of the annexing intermediate school district approves the annexation by resolution, and a majority of the school electors of the intermediate school district to be annexed voting on the question at a regular or special school election in the intermediate school district approve the annexation. If prior to annexation the annexing intermediate school district adopts a special education program by referendum as provided in part 30, the intermediate school electors of the intermediate school district to be annexed must vote to adopt that special education program and annual tax rate. The vote on the question shall be by ballot furnished by the school district filing official for the intermediate school district to be annexed. Before the election is held, the annexing intermediate school board shall obtain the approval of the superintendent of public instruction of the proposed annexation.

(2) Within 10 days after the election, the school district filing official shall file the result with the secretary of the intermediate school board, and 5 days later the intermediate school board secretary shall file the election result with the secretary of the intermediate school board of the annexing intermediate school district. Within 15 days after the annexation election the intermediate school board of the annexed intermediate school district shall account to the intermediate school board of the annexing intermediate school district for the money and property in its hands and shall turn over the money and property to that intermediate school board. Property and money belonging to the annexed intermediate school district becomes the property of the annexing intermediate school district. The outstanding indebtedness of the annexed intermediate school district becomes the liability of the annexing intermediate school district. Upon receipt of the money and property, the members of the annexed intermediate school board shall be released from liability for the money and property and their offices terminated.

(3) The annexation is effective on the latest date on which the election was held in a constituent district of the annexed intermediate school district. The secretary of the intermediate school board of the annexing intermediate school district shall give written notice of the annexation to the superintendent of public instruction within 15 days after the annexation election. Within 30 days after annexation, the board of the annexing intermediate school district shall appoint 2 school electors of the annexed intermediate school district to membership on the intermediate school board of the reorganized intermediate school district, who shall serve until January 1 or, if the intermediate school district's regular school election is held in May, until July 1 after the next intermediate school district election. Notification of the appointments shall be filed with the superintendent of public instruction. If the appointments are not made within the 30 days, the superintendent of public instruction shall make the appointments. At the next intermediate school district election, members of the intermediate school board shall be elected in the number and for the terms required in section 701. The terms of the members of the intermediate school board whose terms have not expired shall determine the terms of the additional members to be elected.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.703 Plan for disorganization of intermediate school district; request; resolution; notice of meeting; approval of state board; finality; effective date of disorganization; joint meetings of boards; distribution of assets; taxes; appointment of intermediate school board members; term; notification.

Sec. 703. (1) An intermediate school district comprised of less than 5 constituent districts and having no bonded indebtedness may be disorganized and its constituent districts attached to contiguous intermediate school districts under this section.

(2) The board of each constituent district may request the intermediate school board to prescribe a plan for disorganization of the intermediate school district. Each request shall designate another intermediate school district to which the constituent district desires to be attached. The intermediate school board shall prescribe, by resolution, a plan under which each of the constituent districts will be attached in whole to contiguous intermediate school districts designated in the requests. If the designated intermediate school district is not contiguous, the intermediate school board's plan may prescribe attachment to a contiguous intermediate school district.

(3) The intermediate superintendent of the intermediate school district that is to be disorganized shall give


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

30 days' notice of the time and place of the meeting of the intermediate school board and of the proposed plan for disorganization by publication of the notice in a newspaper of general circulation in the intermediate school district. The intermediate school board shall present the adopted plan for dissolution to the board of each of its constituent districts and to the intermediate school board of each intermediate school district whose boundaries would be enlarged by the proposal.

(4) The intermediate superintendent of each intermediate school district whose boundaries would be enlarged by the dissolution shall give 30 days' notice of the time and place of the meeting of the intermediate school board and of the recommended plan for enlargement of the intermediate school district by publication of the notice in a newspaper of general circulation in the intermediate school district.

(5) If the intermediate school board of each affected intermediate school district approves the plan for disorganization, the intermediate school board of the intermediate school district to be dissolved shall refer the matter to the superintendent of public instruction for approval. The action of the superintendent of public instruction declaring the intermediate school district dissolved is final. Disorganization of the intermediate school district and attachment of its constituent districts to contiguous intermediate school districts takes effect on July 1 after the date of the approval of the superintendent of public instruction.

(6) The intermediate school boards of the intermediate school districts to which territory is attached by dissolution shall meet jointly, sitting as a single board, and make an equitable distribution of the money, property, and other assets belonging to the disorganized intermediate school district among the intermediate school districts affected. The territory of constituent districts transferred to other intermediate school districts by dissolution shall be subject to all taxes levied for purposes of the intermediate school district to which transferred, including taxes for the retirement of bonded indebtedness, special education programs, and area vocational-technical education programs.

(7) Within 30 days after a district attaches to a contiguous intermediate school district under this section, the board of the intermediate school district whose boundaries have been enlarged by the dissolution may appoint 2 school electors of constituent districts, 1 of whom shall be an elector of the attached district, to membership on the intermediate school board. Intermediate school board members appointed under this subsection serve until January 1 or, if the intermediate school district's regular school election is held in May, until July 1 after the next intermediate school district election. The intermediate school board may determine 1 initial term of less than 6 years for 1 of the additional members to be elected at the intermediate school district election. Notification of an appointment shall be filed with the superintendent of public instruction.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.705 Regional enhancement property tax; levy by intermediate school district, school district, or public school academy; resolution submitting question to voters; election; calculation and payment of revenue; pupils counted in membership; allocation or payment to constituent district; receipt of revenue by public school academy; receipt of revenue; term and renewal of tax; presentment of tax to electors as separate question; public school academy as single constituent district; use of revenue from regional enhancement property tax; intermediate or public school academy as constituent district.

Sec. 705. (1) Beginning in 1997, and in each year after 1997, a regional enhancement property tax may be levied by an intermediate school district at a rate not to exceed 3 mills to enhance other state and local funding for intermediate school district, school district, or public school academy operations, as provided in this section, if approved by a majority of the intermediate school electors voting on the question.

(2) If a resolution requesting that the question of a regional enhancement property tax be submitted to the voters is adopted within a 180-day period and transmitted to the intermediate school board by 1 or more boards or boards of directors of its constituent districts representing a majority of the combined membership of the constituent districts as of the most recent pupil membership count day and if those resolutions all contain an identical specified number of mills to be levied under this section and an identical specified number of years for which the tax shall be levied, the question of levying a regional enhancement property tax by the intermediate school district shall be placed on the ballot by the intermediate school district at the next regular school election held in each of the constituent districts that are school districts. If the question is to be submitted to the intermediate school electors of an intermediate school district having a population of more than 1,400,000, the intermediate school board shall call a special election to be held at the next state primary or general election. If the resolution requirement is met more than 180 days before the next regular school district elections, and if requested in the resolutions, the intermediate school board shall submit the question of levying a regional enhancement property tax within the intermediate school district on the ballot at a


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

special election called by the intermediate school board for that purpose not earlier than 90 days after the resolution requirements are met.

(3) Not later than 10 days after receipt by the intermediate school district of the revenue from the regional enhancement property tax, the intermediate school district shall calculate and pay to each of its constituent districts an amount of the revenue calculated by dividing the total amount of the revenue by the combined membership of the constituent districts within the intermediate school district, as of the most recent pupil membership count day, and multiplying that quotient by the constituent district's membership, as of the most recent pupil membership count day for which a final department-audited pupil count is available. If a constituent district has entered into an agreement with a school district or public entity to perform the functions and responsibilities of the constituent district for operating a public school of the constituent district, then for the purposes of this subsection the pupils in membership in that public school shall be considered to be in membership in the constituent district and a proportionate share of the revenue payable to the constituent district under this section shall be transferred by the constituent district to the school district or public entity performing the functions and responsibilities of the constituent district for operating the public school. The proportionate share of that revenue to be paid to that school district or public entity shall be determined according to the percentage of the constituent district's membership that is enrolled in the particular public school for the state fiscal year corresponding to the tax year. Revenue from a regional enhancement property tax under this section shall not be allocated or paid to a constituent district that does not operate a public school directly but retains a limited separate identity for purposes of section 12, 12b, 863, 903, or 947.

(4) If a public school academy is receiving revenue from a regional enhancement property tax under an agreement described in subsection (3), the public school academy shall receive that revenue until the term of the initially levied regional enhancement property tax expires, as specified in the ballot question, as long as the receipt of that revenue remains consistent with the agreement. After the term of the initially levied regional enhancement property tax expires or the public school academy is no longer entitled to receive revenue from the regional enhancement property tax under the agreement described in subsection (3), the public school academy shall not receive revenue from any regional enhancement property tax that is subsequently levied or renewed unless that public school academy meets the requirements of subsection (7) to receive revenue from a regional enhancement property tax as a constituent district.

(5) Regional enhancement property tax under this section may be levied for a term not to exceed 20 years, as specified in the ballot question, and may be renewed for the same term and for the purposes described in subsection (1) with the approval of a majority of the intermediate school electors voting on the question.

(6) The question of levying a regional enhancement property tax under this section shall be presented to the intermediate school electors as a separate question.

(7) For the purposes of this section, except as otherwise provided in this section, a public school academy is considered to be a single constituent district of an intermediate school district if the public school academy operates at least 1 site that is located in that intermediate school district and the public school academy counts in membership pupils enrolled at the site or sites located in that intermediate school district on the pupil membership count day used to calculate the combined membership of the intermediate school district's constituent districts under subsection (2). A public school academy that is a school of excellence operating as a cyber school, as defined in section 551, is considered to be a single constituent district of an intermediate school district only if the administrative office of that cyber school is located within the intermediate school district, 100% of the pupils enrolled in the cyber school reside within the intermediate school district, and the cyber school counts in membership pupils enrolled in the cyber school on the pupil membership count day used to calculate the combined membership of the intermediate school district's constituent districts under subsection (2). However, a public school academy is not eligible to be considered a constituent district under this subsection if the public school academy's 2 most recent annual financial audits required under section 503(6)(g), 523(2)(g), 553(5)(g), or 1311e(5)(h) indicate successive unresolved material findings. In addition, in order to be considered a constituent district under this subsection, the public school academy must provide the department documentation establishing that the public school academy has a special education program that is in compliance with state and federal law.

(8) Except for a school of excellence operating as a cyber school, as defined in section 551, a public school academy that receives revenue from a regional enhancement property tax due to the operation of subsection (7) shall use that money only for expenditures that directly benefit a site operated by the public school academy that is located in the intermediate school district in which the regional enhancement property tax was approved.

(9) For a regional enhancement property tax that was initially authorized and levied before the effective date of the amendatory act that added this subsection, both of the following apply:

(a) Subject to subsection (4), a public school academy is not eligible to be considered a constituent district


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and to receive revenue from that regional enhancement property tax due to the operation of subsection (7) until that regional enhancement property tax is renewed.

(b) An intermediate school district is not eligible to be considered a constituent district and to receive revenue for pupils counted in membership by the intermediate school district from that regional enhancement property tax due to the operation of subsection (10) until that regional enhancement property tax is renewed.

(10) For a regional enhancement property tax that is initially authorized and levied or renewed after the effective date of the amendatory act that added this subsection, for the purposes of this section, an intermediate school district is considered to be a single constituent district of the intermediate school district if it enrolls pupils who are counted in membership by the intermediate school district and not counted in membership by another intermediate school district, school district, or public school academy.

**History:** Add. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 23, Eff. May 15, 2018.

**Popular name:** Act 451

### 380.705a, 380.705b Repealed. 1994, Act 258, Imd. Eff. July 5, 1994.

**Compiler's note:** The repealed sections pertained to levy of enhancement property tax for school district operations.

**Popular name:** Act 451

PART 7A

SCHOOL DISTRICT COMMERCIAL AND INDUSTRIAL PROPERTY TAX BASE SHARING

### 380.751-380.756 Repealed. 1993, Act 175, Eff. Oct. 1, 1993;—1993, Act 260, Imd. Eff. Dec. 14, 1993.

**Popular name:** Act 451

PART 7B

CONSOLIDATION OF SERVICES

### 380.761 Repealed. 2016, Act 532, Eff. Apr. 9, 2017.

**Compiler's note:** The repealed section pertained to conduct of study by intermediate school district concerning sharing of services.

**Popular name:** Act 451

ARTICLE 2

PART 8

RECLASSIFICATION OF SCHOOL DISTRICTS

### 380.805-380.812 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

PART 9

CONSOLIDATION OF SCHOOL DISTRICTS

### 380.851 Consolidation of school districts to form single school district.

Sec. 851. Two or more school districts may consolidate to form a single school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.852 Request to initiate consolidation proceedings; referral of question by intermediate superintendent; approval, denial, or other action by state board.

Sec. 852. (1) If the intermediate superintendent is requested in writing by not less than 10 school electors of each of 2 or more school districts to initiate proceedings for consolidation of the districts, the intermediate superintendent shall refer the question of consolidating the districts to the state board for its approval. A resolution of the board requesting this action by the intermediate superintendent shall have the same effect as a written request by the school electors of a district.

(2) The state board may approve or deny the proposal to initiate proceedings to effectuate the proposed consolidation, or the state board may require that 1 or more of the school districts be excluded from the proposed consolidation. The action of the state board in the matter shall be final.

(3) If the school districts proposed to be consolidated are located in more than 1 intermediate school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district, the request to initiate consolidation proceedings shall be filed with the intermediate superintendent of the intermediate school district containing the largest portion of the assessed valuation of the proposed consolidated school district. The intermediate superintendent shall refer the question to the state board. Upon approval of the state board the intermediate superintendent shall perform the duties of an intermediate superintendent in connection with the consolidation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.853 Petitions; preparation; form; contents; signature; circulation; return of petitions to school district filing official; expiration date.

Sec. 853. (1) Within 30 days after the receipt of the approval of the state board to the consolidation, the intermediate superintendent shall notify the school district filing official, who shall have petitions prepared for circulation within the designated school districts. The petitions shall be printed or duplicated.

(2) A petition under this section shall be substantially in the form prescribed for other petitions under this act and is subject to section 14.

(3) Upon the request of a school elector of the district proposed to be consolidated, the school district filing official shall provide a petition for consolidation to the school elector. A petition shall be circulated only by a school elector of the district. The statement appearing below the signatures of petitioners shall be dated and signed on each page before filing the petition with the school district filing official.

(4) A school elector circulating a petition under this section shall return the petition to the school district filing official before the expiration date stated on the petition that is the sixtieth day after the school district filing official certifies the number of registered general electors residing in each of the affected school districts. The expiration date shall be not later than 180 days after the date of approval by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 263, Eff. Jan. 1, 1993;—Am. 1998, Act 406, Eff. Mar. 23, 1999;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.854 Certification of number of registered general electors; basis for determining required number of signatures; registration after date of certification; effect of additional registrations; eligibility to sign petition.

Sec. 854. (1) Immediately upon receipt of the approval of the state board to the consolidation, the intermediate superintendent shall request the school district filing official to certify the number of registered general electors residing in each of the affected school districts. The number of registered general electors certified is the basis for determining the required number of signatures for calling an election on the question of consolidation.

(2) The signature of a person registering after the date of certification by the school district filing official is a valid signature if the person is registered at the time of signing the petition. Additional registrations do not affect the number of registered general electors originally certified. Only a registered school elector is eligible to sign a petition and to vote on the question of consolidation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 263, Eff. Jan. 1, 1993;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.855 Canvass of petitions; purpose; determining validity of signatures.

Sec. 855. The school district filing official shall canvass the petitions to determine the number of school electors who have signed them. For the purpose of determining the validity of doubtful signatures, the school district filing official may have the signatures checked against the registration records by the clerk of a political subdivision in which petitions were circulated or may use other methods to determine the validity of doubtful signatures.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.856 Submitting question of consolidation to school electors at next regular school election or special election; petitions not required in certain school districts.

Sec. 856. (1) If the school district filing official is presented with petitions signed by school electors in each school district in a number at least equal to 5% of the number of school electors residing in each school district, the school district filing official shall submit the question of consolidation to be submitted to the vote of the school electors of the school districts at the next regular school election or a special election.

(2) Petitions are not required in a school district operating 12 grades if a resolution adopted by the board of


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the school district requesting consolidation of school districts has been filed with the intermediate superintendent.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.857 Submitting question of establishing consolidated school district to school electors at regular school election or special election; voting as unit; day and hours of elections.

Sec. 857. (1) The question of establishing a consolidated school district shall be submitted to the school electors at a regular school election or at a special election held for that purpose. In voting to form the consolidated school district, a school district operating 12 grades shall vote separately as a unit. The remaining school districts to be included in the consolidation shall vote together as a unit.

(2) The elections shall be held on the same day and during the same hours.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 263, Eff. Jan. 1, 1993;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.858 Election notices.

Sec. 858. The school district filing official shall give written notice to the secretary of the board of each affected school district of the date of the consolidation election at least 60 days before the election.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 263, Eff. Jan. 1, 1993;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.859 Form of ballot question; affirmative vote of majority required; effective date of consolidation; reimbursements; expenses.

Sec. 859. (1) The ballot question shall be in substantially the following form:

"Shall the territory of the following school districts be united to form 1 school district?

(Names of school districts to be consolidated listed here)

Yes ( )

No ( )".

(2) The affirmative vote of a majority of the school electors voting on the question in each of the election units is necessary to effect the consolidation of the school districts. The consolidation takes effect July 1 after the election.

(3) If the consolidation becomes effective, expenses incurred for the election in each election unit shall be certified to the board of the consolidated school district. The school board of the consolidated school district shall pay election reimbursements from the funds of the consolidated school district. If the proposition to consolidate is not approved, the intermediate school board shall determine the expenses of the election held in the election unit operating less than 12 grades and apportion the required reimbursements equally among the school districts of the election unit. Each school board of the election unit shall pay the apportionment to the local unit of government that conducted the election.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 509, Imd. Eff. July 23, 2002;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.860 Submitting questions of assuming bonded indebtedness or increasing constitutional limitation on taxes; form; payment of bonded indebtedness; applicability of MCL 380.864.

Sec. 860. (1) If the petitions filed with a school district filing official under section 853 request submission of the question of assuming the bonded indebtedness of 1 or more of the school districts proposing consolidation, or the question of increasing the constitutional limitation on taxes of the consolidated school district for operating purposes to the school electors at the consolidation election, the school district filing official shall include the question or questions in the notice of the election ballot questions filed with each of the election units.

(2) A request for including assumption by the consolidated school district of the bonded indebtedness of 1 or more of the districts proposing consolidation shall be stated on the petition after the names of the school districts to be consolidated in substantially the following form:

```
     "We petition that the question of assumption and payment
by the proposed consolidated school district of the bonded
indebtedness of ____________________________________________ be
                 (name of school district or districts)
```



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

submitted to the electors at the same election in which the proposed consolidation is submitted", and if applicable,

"We petition that the question of increasing the constitutional limitation on taxes which may be assessed against all property in the proposed consolidated school district by _____ mills for a period of _____ years, ___ to ___, inclusive, for operating purposes, be submitted to the electors at the same election with the question of consolidating the above listed districts".

(3) If the school electors approve the consolidation of school districts and the assumption of the bonded indebtedness of an original district, the consolidated school district shall assume the obligation of the bonded indebtedness. The consolidated school district shall pay the bonded indebtedness by spreading debt retirement taxes uniformly over the territory of the consolidated district. Section 864 applies to the debt retirement tax levies, the continuing obligations of the original school districts, and the rights and remedies of a bondholder.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.861 Appointment of board; filing acceptance of office and affidavit of eligibility; election and terms of board members.

Sec. 861. Within 10 days after the date of the official canvass of the consolidation election, the intermediate school board of the intermediate school district containing the territory of the consolidated school district shall appoint school electors of the school district in the number required by section 11a to act as a board for the school district. This board shall continue to operate the affected school districts as separate school districts until the effective date of the consolidation. If a consolidated school district includes territory in more than 1 intermediate school district, the appointment shall be made by the intermediate school board of each intermediate school district acting jointly as a single board. Within 7 days after appointment, each member shall file with the intermediate superintendent an acceptance of the office, accompanied by a written affidavit setting forth the fact of eligibility for office. Each appointed board member shall hold office until January 1, or, if the consolidated school district's regular election is in May, until July 1, next following appointment. A new board shall be elected at the first regular school election held after the effective date of consolidation in the manner prescribed by law for the election of a first board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005 ;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.862 Accounting for records, funds, and property; release from liability; termination of offices.

Sec. 862. Within 20 days after the effective date of a consolidation the board of each of the original school districts shall account to the board of the consolidated school district for all records, funds, and property belonging to the original school district and shall turn over the same to the board of the consolidated school district. Upon receipt of records, funds, and property by the board of the consolidated school district, the officers of the original school districts shall be released from liability therefor and their offices terminated.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.862a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to mergers of joint high school districts into consolidated school districts.

**Popular name:** Act 451

### 380.863 Consolidated school district; bonded indebtedness or outstanding tax anticipation notes of school district; territory of original school district as assessing unit; refund; board of trustees; officers; certification and levy of taxes; commingling; uniform spread of taxes.

Sec. 863. (1) If a school district becoming part of a consolidated school district has bonded indebtedness, or has outstanding tax anticipation notes at the time of consolidation, the identity of the district shall not be lost by virtue of the consolidation. Territory of the original school district shall remain as an assessing unit for purposes of bonded indebtedness and tax anticipation notes until the indebtedness is retired or the outstanding bonds are refunded by the consolidated school district. If a consolidated school district has not assumed the bonded indebtedness of an original school district, the bonded indebtedness of the original school district may be refunded by the consolidated school district on behalf of the original school district, and the territory of the original school district shall remain as an assessing unit for the purposes of the refunding bonds until the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

refunding funds are retired or are assumed by the consolidated school district. The board of the consolidated school district shall constitute the board of trustees for the original school district having bonded indebtedness or tax anticipation notes. The officers of the consolidated school district shall be the officers for the original school district for this purpose.

(2) The board of the consolidated school district shall certify and order the levy of taxes for the bonded indebtedness and tax anticipation notes in the name of the original school district and shall not commingle the debt retirement funds of the original school district with funds of the consolidated school district. The board of the consolidated school district shall do all things relative to the bonded indebtedness and tax anticipation notes required by law and by the terms under which the issue and sale of the bonds and tax anticipation notes were originally authorized.

(3) Other taxes of any nature for purposes of the consolidated school district shall be spread uniformly over the entire area of the consolidated school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2015, Act 164, Imd. Eff. Oct. 28, 2015.

**Popular name:** Act 451

### 380.864 Assumption of bonded indebtedness of consolidated school district; payment; liability; certification and levy of taxes; election.

Sec. 864. (1) Beginning 3 years after the consolidation election, a consolidated school district may assume and pay the obligation of the bonded indebtedness of an original school district which joined the consolidation from the proceeds of a debt retirement tax levy spread uniformly over the territory of the consolidated school district if the school electors of the district approve the assumption of the bonded indebtedness. Assumption of bonded indebtedness of an original school district shall not release the territory of the original school district from the final responsibility of paying the obligation to bondholders.

(2) If the bonded indebtedness of an original school district is assumed, the board of the consolidated school district shall certify and order the levy of taxes for the bonded indebtedness equivalent in terms of money to those required by the terms under which the indebtedness was originally incurred, and shall carry out provisions of the original bond contract. Following the effective date of consolidation a question of assuming bonded indebtedness of an original school district may be presented at an election to issue new bonds of the consolidated school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.871 Expired. 1976, Act 451, Eff. Jan. 1, 1978.

**Compiler's note:** The expired section pertained to disbandment of consolidated school district.

**Popular name:** Act 451

## PART 10
## ANNEXATION

### 380.901 Annexation of school district; resolution; approval; ballot vote; election; filing certified statement of vote; funds, property, and outstanding indebtedness; liability; effective date of annexation; annexation by concurrent proceedings; annexation by separate proceedings.

Sec. 901. (1) A school district shall be annexed to another school district if the board of the annexing school district adopts a resolution approving the annexation and a majority of the school electors of the district to be annexed approve the annexation. The resolution may specify an effective date for the annexation. The vote on the question shall be by ballot. Before the election is held, the board of the annexing school district shall obtain the approval of the state board of the proposed annexation. The election shall be held within 120 days after passage of the resolution by the board of the annexing school district.

(2) Within 10 days after the election the secretary of the board of the school district in which the election was held shall file a certified statement of the vote for annexation with the secretary of the board of the annexing school district.

(3) Within 15 days after the effective date of the annexation, the officers of the board of the annexed school district shall account to the board of the annexing school district for funds and property of the district. Property and money belonging to the annexed school district shall be the property of the annexing school district. Outstanding indebtedness of the annexed school district shall become the liability of the annexing school district. Upon receipt of the funds and property by the board of the annexing school district, the officers of the annexed school district shall be released from liability for the funds and property and their


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

offices terminated.

(4) The annexation is effective on the date of the annexation election or the date specified in the board resolution as the effective date of the annexation, whichever is later, except that if an election is required in the annexing school district under section 904, the annexation is effective on the date of the official canvass in the annexing school district or the date specified in the board resolution as the effective date of the annexation, whichever is later.

(5) Except as provided in this section, the annexation of 2 or more school districts may be by concurrent proceedings. Elections in the annexed school districts may be held on the same or different days.

(6) If the annexing school district and 1 or more of the school districts to be annexed have bonded indebtedness that is to be mutually assumed at the time of annexation under section 907, the annexation of each district having bonded debt shall be by separate proceedings that shall not be concurrent with the proceedings for annexation of another school district.

(7) If a school district to be annexed has bonded debt that is to be assumed by an annexing school district, annexation of the district shall be by separate proceedings that shall not be concurrent with proceedings by which another school district is annexed.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 140, Imd. Eff. July 15, 1992.

**Popular name:** Act 451

### 380.902 Notice of annexation.

Sec. 902. Within 15 days after the effective date of an annexation the secretary of the board of the annexing school district shall give written notice of the annexation to the intermediate superintendent of each of the intermediate school districts in which the territory of the combined school district is situated and to the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

****** 380.902a THIS SECTION DOES NOT APPLY AFTER JUNE 30, 1988: See (5) of 380.902a ******

### 380.902a Merger of teachers for purpose of making layoff and recall determinations; standards and procedures; applicability of subsection (1); altering provisions of subsection (1); applicability of section.

Sec. 902a. (1) Upon the annexation of 1 school district by another, the teachers of the annexed and annexing school districts shall be merged for the purpose of making determinations in the layoff and recall of those teachers. The teachers of the annexed school district shall be merged with the teachers of the annexing school district as if those teachers had been employed in the annexing school district for the length of time equal to their accumulated seniority with the annexed school district at the date of the annexation, according to the applicable standards in the annexed school district for acquired seniority. Layoff and recall determinations shall then be made according to the standards and procedures in effect in the annexing school district. A teacher on layoff in the annexed or the annexing district on the date of the annexation shall not displace any teacher who is actively employed with either school district at the time of the annexation. Teachers on layoff in the annexed and annexing school district at the time of the annexation shall be merged with each other in the same manner as those actively employed and shall be considered for assignment for the next available vacancy for which they are certified, if applicable, and qualified. This subsection shall not apply to teachers of annexed and annexing school districts in which the annexation takes place after June 30, 1986.

(2) The provisions of subsection (1) may be altered by a future collective bargaining agreement after the annexation has been complete for 2 years.

(3) This section shall not apply to any school district in which annexation has been complete for 3 years.

(4) This section shall only apply to school districts located in a county with a population of more than 2,000,000.

(5) This section shall not apply after June 30, 1988.

**History:** Add. 1982, Act 284, Imd. Eff. Oct. 7, 1982;—Am. 1985, Act 11, Imd. Eff. Apr. 24, 1985.

**Popular name:** Act 451

### 380.903 Bonded indebtedness of annexed school district at time of annexation; territory of annexed district as separate assessing unit; board of trustees; officers.

Sec. 903. (1) If a school district which is annexed to another school district has bonded indebtedness at the time of annexation, the identity of the district shall not be lost by virtue of annexation. Its territory shall


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

remain as a separate assessing unit for purposes of bonded indebtedness until the indebtedness has been retired or the outstanding bonds refunded by the annexing school district. The board of the annexing school district shall constitute the board of trustees for the annexed school district having bonded indebtedness. The officers of the annexing school district are the officers for the annexed district.

(2) The board of the annexing school district shall certify and order the levy of taxes for bonded indebtedness in the name of the annexed school district, shall not commingle the debt retirement funds of the annexed school district with those of the annexing school district, and shall do all things relative to the indebtedness required by law and by the terms under which the issuance and sale of the bonds were originally authorized.

(3) Other taxes of any nature levied for purposes of the combined school district shall be spread uniformly over the entire area of the combined school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.904 Assumption of bonded indebtedness; resolution; approval; payment; final responsibility; uniform tax spread.

Sec. 904. (1) If a school district which has bonded indebtedness proposes to annex to a school district which has no outstanding bonded indebtedness, the resolution of the board of the annexing school district prescribed by section 901 may provide that the annexation shall not become effective unless the school electors of the annexing school district approve the assumption of the indebtedness.

(2) If the assumption of bonded indebtedness is approved by the school electors, the annexing school district shall assume the obligation of the bonded indebtedness of the annexed school district and pay the same by levying debt retirement taxes uniformly over the territory of the combined school district. The assumption of bonded indebtedness of an annexed school district shall not release the territory of the annexed school district from the final responsibility of paying the bonded debt.

(3) If an annexing school district has bonded indebtedness at the time of the annexation of another school district, the territory of the annexing school district shall remain as a separate assessing unit for purposes of the bonded indebtedness until the indebtedness is retired or the outstanding bonds are refunded by the combined school district.

(4) Other taxes of any nature for purposes of the combined school district shall be spread uniformly over the entire area of the district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.905 Assumption of bonded indebtedness; resolution; approval; uniform levy of debt retirement taxes; final responsibility.

Sec. 905. (1) If a school district which has bonded indebtedness proposes to annex a school district which has no bonded indebtedness, the resolution of the board of the annexing school district prescribed by section 901 may provide that the annexation shall become effective only if the school electors of the district to be annexed approve the assumption of the bonded indebtedness at the same election at which the school electors of the district to be annexed approve the annexation.

(2) If the assumption of bonded indebtedness and annexation are approved by the school electors, the annexing school district shall levy debt retirement taxes uniformly over the territory of the combined school district. The assumption of the bonded indebtedness by the district shall not release the original territory from the final responsibility of paying the bonded obligation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.906 Bonded indebtedness of both annexing and annexed school districts; identity of annexed school district; territory as separate assessing unit; board of trustees; officers; certification and levy of taxes; commingling; uniform spread of taxes.

Sec. 906. (1) If a school district which has bonded indebtedness is annexed to another school district which has bonded indebtedness, the identity of the annexed school district shall not be lost by virtue of the annexation. The territory of each district shall remain as a separate assessing unit for the purposes of bonded indebtedness until the indebtedness of each is refunded or retired. The board of the annexing school district is the board of trustees for the annexed school district having bonded indebtedness. The officers of the annexing school district are the officers for the annexed school district.

(2) The board of the annexing school district shall certify and order the levy of taxes for the bonded


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

indebtedness in the name of the annexed school district and shall not commingle the debt retirement funds of the annexed school district with those of the annexing school district and shall do all things relative to the bonded indebtedness required by law and by the terms under which the issuance and sale of the bonds were originally authorized.

(3) Other taxes of whatever nature levied for the purposes of the combined school district shall be spread uniformly over the entire area of the combined school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.907 Annexation of school districts both having bonded indebtedness; resolution; approval; assumption and payment of bonded indebtedness; final responsibility.

Sec. 907. (1) If a school district which has bonded indebtedness proposes to annex a school district which has bonded indebtedness, the resolution of the annexing board prescribed by section 901 may provide that the annexation shall become effective only if the school electors of the annexing school district approve the assumption of the bonded indebtedness of the school district to be annexed and the school electors of the school district to be annexed at the same election approve the assumption of the bonded indebtedness of the annexing school district and approve the annexation.

(2) If the annexation is effective, the combined school district shall assume the obligation of the bonded indebtedness of both the annexing and annexed school districts and shall pay the same by levying debt retirement tax levies uniformly over the territory of the district. The assumption of the bonded indebtedness by the annexing school district shall not operate to release the territory of the annexing school district or of the annexed school district from the final responsibility of paying the bonded obligation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.908 Annexation of school districts both having bonded indebtedness; resolution; approval.

Sec. 908. If a school district which has bonded indebtedness proposes to annex a school district which has bonded indebtedness, the resolution of the annexing board prescribed by section 901 may provide that the annexation shall become effective only if the school electors of the district to be annexed approve both the assumption of the bonded indebtedness of the annexing school district and annexation at the same election.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.911 Assumption and payment of bonded indebtedness by combined school district; final responsibility; election to issue new bonds; refunding bonds; vote by school electors.

Sec. 911. (1) Beginning 3 years after the effective date of an annexation in which 1 or more of the school districts forming the combined school district have outstanding bonded indebtedness, the combined school district may assume the obligation of the bonded indebtedness and pay the same by levying debt retirement tax levies uniformly over the territory of the combined school district if the school electors of the combined school district approve the assumption of the bonded indebtedness. The assumption of the indebtedness shall not release the territory of the district originally incurring the bonded indebtedness from the final responsibility of paying the bonded obligation.

(2) After the effective date of annexation, the election may be held when a proposal to issue new bonds of the combined school district is submitted to the school electors. The assumption of indebtedness, if approved, shall become effective immediately.

(3) At an election to issue new bonds of the combined school district, outstanding bond issues of 1 or more of the original school districts may be refunded as a part of the new bond issue. It shall not be necessary to present the question of assumption of the indebtedness as a separate proposition.

(4) If a school district is attached to another school district under section 921, the vote by the school electors of the combined school district may be held at any time after the effective date of annexation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.912 Annexation of school district; increase in tax limitation.

Sec. 912. If a school district which has voted to increase the constitutional limitation on taxes for either building and site or general fund purposes and the term of years for which the millage was voted has not expired proposes to annex a school district, the resolution of the annexing board prescribed by section 901


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

may provide that the annexation shall become effective only if the school electors of the district to be annexed approve an increase in the constitutional limitation on taxes for the same amounts, for the same purposes, and for the same years as are in effect in the annexing school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.921 Constituent districts not operating schools; list; compliance; duties.

Sec. 921. (1) Subject to subsection (2), annually on June 1 each intermediate superintendent shall compile a list of constituent districts that did not operate school within the constituent district during the preceding 2 or more years. Before June 10, the intermediate superintendent shall direct in writing the board of each constituent district on this list to comply with this section and section 922. Within 1 year after issuance of this directive by the intermediate superintendent, the constituent district shall do 1 of the following:

(a) Attach itself either totally or in part to 1 or more operating school districts, including, but not limited to, a reorganization under section 12 or 12b.

(b) Transfer the functions and responsibilities of the constituent district relating to operating public schools to 1 or more other public entities authorized to operate public schools, including, but not limited to, another school district or an intermediate school district.

(c) Reopen and operate its own school.

(2) For the purposes of this section, a constituent district shall be considered to have operated a school within the school district if the constituent district did either or both of the following:

(a) Directly operated 1 or more schools on its own.

(b) Caused public education services to be provided within the school district to residents of the school district through an agreement, contract, or other cooperative agreement with another public entity, including, but not limited to, another school district or an intermediate school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.922 Noncompliance with MCL 380.921; total or partial annexation or attachment; procedures; appeal; hearing; order; taxes; forfeiture of financial benefits.

Sec. 922. (1) If a constituent district fails to comply with either of the requirements of section 921, the intermediate school board, upon the approval of the state board, shall annex or attach the district either totally or in part to 1 or more operating school districts pursuant to the following procedures:

(a) Not later than 30 days after the expiration of the 1-year period described in section 921, the intermediate school board shall hold a hearing to determine facts and shall make recommendations regarding the attachment of the constituent district, or parts of the constituent district, to 1 or more operating school districts. At least 5 days before the hearing, notice of the hearing shall be given to the secretary of the board of each school district whose boundaries are affected by the proposed attachment of territory of the closed school district.

(b) Not later than 30 days after the hearing described in subdivision (a), the intermediate school board shall issue a written order regarding the attachment of the closed school district either totally or in part to 1 or more operating school districts. The order shall indicate the date on which the annexation or property attachment is to take place. The intermediate school board shall transmit a copy of the order to the secretary of the board of each school district whose boundaries are changed by the order. The order has full effect in law on all affected school districts unless an appeal is taken under this section.

(c) Not later than 20 days after receipt of the order described in subdivision (b), a school district affected by the order shall comply with the order made by the intermediate school district or appeal to the state board for a review of the order.

(2) Not later than 90 days after the receipt of an appeal from 1 or more of the affected school districts, the state board shall confirm the order made under subsection (1) or hold a hearing on the basis of the appeal. Not later than 60 days after the hearing, the state board shall ratify or amend the order of the intermediate school board. An order issued by the state board under this subsection shall have full effect in law.

(3) As of the date of attachment, territory attached to an operating school district is a part of that district for all purposes, including the levy of all taxes, except taxes levied for the retirement of outstanding bonded indebtedness. For territory attached to an operating school district after January 1, 1990, the territory is subject to the levy of taxes levied for the retirement of outstanding bonded indebtedness and all other taxes levied by the operating school district.

(4) In addition to any applicable penalty under article 4, a school district that fails to comply with an order of the intermediate school board or the state board under this section shall forfeit all financial benefits to


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

which the district might be entitled under legislative appropriations for school aid purposes.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1990, Act 113, Imd. Eff. June 21, 1990.

**Popular name:** Act 451

### 380.931 Division of district; resolution; petition; election; certifying number of registered school electors; effective date of division; description of division.

Sec. 931. (1) An intermediate school board may divide a constituent district that has no bonded indebtedness and attach the parts thereof to 2 or more operating school districts if requested to do so by resolution of the board of the school district to be divided, or if petitioned by not less than 5% of the registered school electors residing in the district on the date the petition is received, and if the school electors of the school district, voting on the question at a regular or special school election, approve the division.

(2) The school district filing official shall certify the number of registered school electors residing in a school district as needed for voting on the ballot question.

(3) The resolution of the board of the school district to be divided or the petition of the registered school electors residing in the district may specify the effective date of the division of the school district, which date shall not be later than the end of the fiscal year in which the election takes place.

(4) The resolution of the intermediate school board to which the school district to be divided is constituent shall clearly describe the division. The description of the division shall be based on the resolution of the board of the school district to be divided or on the petition of the school electors.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

### 380.932 Division of district; election; submission of question; ballot; approval; ratification; territory; taxes; certified statement of vote; declaration of division; attachment to operating district; distribution of money and property; effective date.

Sec. 932. (1) The board of the school district to be divided shall call an election at which the question of the division of the school district shall be submitted to the school electors. Vote on the ballot question shall be by ballot in the form determined by the school district filing official and shall clearly describe the division. Before an election is held, the superintendent of public instruction shall approve the proposed division and the attachment of the parts to existing operating school districts. The election in the school district to be divided shall be held not later than the next available day for a regular school election or special school election following the date of approval by the superintendent of public instruction.

(2) The affirmative vote of a majority of the school electors voting on the question is necessary to ratify the action of the intermediate school board.

(3) Territory attached to an existing operating school district shall be a part of that school district for all purposes, including the levy of all taxes the school district to which the territory is attached is authorized to levy.

(4) Within 5 days after the election, the school district filing official shall file a certified statement of the vote for division with the intermediate superintendent.

(5) Within 30 days after the filing of the certified statement of the vote approving the division, the intermediate school board, by resolution, shall declare the school district divided, attach the territory to the specified operating school districts, and make an equitable distribution of the money, property, and other material belonging to the school district among the school districts to which the territory is attached.

(6) If the effective date is determined by the resolution of the board or by the petition of the school electors under section 931, the intermediate school board shall declare the school district divided on that date.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.933 Notice of boundary change; map.

Sec. 933. The intermediate superintendent shall notify the secretaries of the school districts whose boundaries are changed, the affected township supervisors or city assessors, and the state board of the division of the school district. The notification shall contain a map clearly indicating in detail the boundaries of the affected school districts before the alteration in boundaries and the boundaries of the affected school districts as altered by the division of the school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

PART 10A


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.941 Division of school district by annexation and transfer; resolution; approval; election; ballot; majority required.

Sec. 941. A school district shall be divided by annexation of a part of its area consisting of not less than 50% of its assessed value to another school district and the transfer of the remaining area of the school district to 1 or more school districts contiguous to the dividing school district if the boards of the school district to be divided, the annexing school district, and the school district or districts to which territory will be transferred each adopt a resolution approving the annexation and transfer and, except as provided in this section, a majority of the school electors of the school district to be divided approve the annexation and transfer at a regular or special election to be called by the board of the dividing school district. The vote on the question shall be by ballot. Before the election is held, the boards of the school district to be divided and the annexing school district shall obtain the approval of the state superintendent of public instruction pursuant to section 944. The election shall be held not more than 180 days after the last date of passage of a resolution by the board of either the dividing school district or the annexing school district. Effective January 1, 1986, a school district shall not be divided by annexation and transfer unless a majority of the school electors of each school district which receives 25% or more of the state equalized value of the school district being annexed and transferred approve the annexation and transfer at a regular or special election to be called by the board of the appropriate school district.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.942 Resolution; minimum specifications.

Sec. 942. The resolution adopted by the boards of the school district being divided and the annexing school district pursuant to section 941 shall specify at a minimum all of the following:

(a) The effective date of the division, annexation, and transfer.

(b) The territory that is to be annexed to the annexing school district.

(c) The territory or territories that are to be transferred and the school districts to which they are to be transferred.

(d) A finding that the division, annexation, and transfer are in the best interests of the education of the pupils within the affected school districts.

(e) The manner in which the annexing and dividing school districts propose to assign employees of the dividing school district to bargaining units pursuant to section 948.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.943 Filing resolution; hearing; notice; designation of representative.

Sec. 943. Upon adoption, a copy of the resolutions adopted by the annexing and the dividing school districts pursuant to section 941 promptly shall be filed with the superintendent of public instruction. Upon receipt of the resolutions, the superintendent of public instruction shall schedule and hold or cause to be held a hearing concerning the division of the school district by annexation and transfer. The hearing shall be held within 30 days after receipt by the superintendent of public instruction of the resolutions from the boards of the annexing and dividing school districts. The superintendent of public instruction shall give 10 days' notice of the time and place of the hearing and of the proposed division and alterations in school district boundaries to be considered by posting notice in at least 5 public places in each of the school districts whose territory will be affected, by publication at least once before the meeting in a newspaper of general circulation in the territory of the affected school districts, and by mailing a copy of the notice to the secretary of the board of each school district whose territory will be affected. The board of each school district whose territory will be affected by the proposed division and transfer shall designate a representative to attend the hearing.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.944 Written order approving or disapproving division; transmittal.

Sec. 944. If, within 30 days after the hearing, the superintendent of public instruction determines that the division would be in the best interest of the education of the pupils in the school districts affected by the division, including but not limited to consideration of such matters as class size, certified and noncertified staff, physical plants, transportation, curriculum, administration, labor relations, racial makeup, and cost effectiveness, he or she shall issue a written order approving the division of the school district. If the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

superintendent of public instruction determines that the division would not be in the best interest of the education of the pupils in the school districts affected by the division, he or she shall issue a written order disapproving the division. A copy of the order shall be transmitted to the secretary of the board of education of each school district whose boundaries are to be affected by the division.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.945 Election; resolution; conduct; canvass; question.

Sec. 945. Upon receipt of an order transmitted as prescribed by section 944 and approving the division of the school district, the board of the school district to be annexed, divided, and transferred shall provide by resolution for the election on the question of annexing, dividing, and transferring the school district. The election shall be conducted and canvassed in the dividing district as provided in the Michigan election law. The question to be submitted to the electors shall be whether the territory of the dividing school district shall be annexed and transferred in the manner specified in the resolution of the dividing school district.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.946 Filing certified statement of vote.

Sec. 946. Within 10 days after the election required by section 945, the secretary of the board of the school district in which the election was held shall file a certified statement of the vote for annexation and transfer with the secretary of the board of the annexing school district and with the secretary of the board of each school district to which some portion of the dividing school district is to be transferred.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.947 Bonded indebtedness; taxation; recertification of taxes by resolution; filing certified copy of resolution; effect of reduction in taxes.

Sec. 947. (1) If the dividing school district has bonded indebtedness at the time of annexation and transfer, the identity of the school district shall not be lost by virtue of annexation or transfer. The territory of the dividing school district shall remain as a separate assessing unit for purposes of bonded indebtedness until the indebtedness has been retired or the outstanding bonds refunded by the annexing school district. The board of the annexing school district shall constitute the board of trustees for the divided school district having bonded indebtedness. The officers of the annexing school district shall be the officers for the divided district for the purpose of bonded indebtedness.

(2) The board of the annexing school district shall certify and order the levy of taxes for bonded indebtedness in the name of the dividing school district, shall not commingle the debt retirement funds of the dividing school district with those of the annexing school district, and shall do all things relating to the indebtedness required by law and by the terms under which the issuance and sale of the bonds originally were authorized.

(3) Other taxes of any nature levied for the purposes of any of the combined school districts formed by annexation or transfer shall be spread uniformly over the entire area of the combined school district levying the tax.

(4) If the electors of the dividing school district approve the annexation and transfer after September 15 but before December 1 of any year, the boards of the newly formed school districts by resolution shall recertify the taxes to be levied on the taxable property within the newly formed district to reflect any resulting reduction or increase in millage caused or authorized by the division, annexation, and transfer. The secretary of the board shall file a certified copy of the resolution with the county clerk and each city and township clerk in which the newly formed district is situated. If a dividing school district, an annexing school district, or a transferee school district has collected a portion of the taxes for the year in which the reduction occurs, the amount of the reduction shall be applied in whole to the second levy for that year in that affected school district.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.948 Assets and liabilities; employment contracts and agreements; applicability of subsection (2); rights and benefits.

Sec. 948. (1) Upon the effective date of the division of the school district, all assets and liabilities of the divided school district, with the exception of its bonded indebtedness, shall become the assets and liabilities


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

of the annexing school district except as provided in subsection (2).

(2) Except as provided in subsection (3), all employment contracts and agreements with authorized bargaining agents in effect at the time of the annexation-transfer election with the annexing school district, the annexed school district, and the school district or districts to which portions of the territory of the dividing school district are to be transferred shall remain in full force and effect for the duration of those contracts for the employees covered by them even after division of the district until representatives of employees, for the purposes of collective bargaining, have been certified by the Michigan employment relations commission and a successor agreement has been ratified by the bargaining agent of each bargaining unit and the boards of education of the annexing school district or the district or districts to which portions of the territory of the dividing school district have been transferred, as the case may be.

(3) In the event of an agreement of the authorized bargaining agents and the board of a district in which employees are to be employed, not less than 60 days prior to the annexation-transfer election, the provisions of subsection (2) shall not apply. All personnel employed under the provisions of this act shall be entitled to all the rights and benefits to which they otherwise would be entitled had they been employed by the newly formed school district originally.

(4) Employees of the dividing school district employed by the annexing school district or any district to which a portion of the territory of the dividing school district has been transferred shall be entitled to all rights provided by Act No. 4 of the Public Acts of the Extra Session of 1937, being sections 38.71 to 38.191 of the Michigan Compiled Laws, to which they would have been entitled if they had been employed originally by the annexing school district or any school district to which a portion of the territory of the dividing school has been transferred, as the case may be, including tenure status.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

### 380.949 Division effective when school in session; pupils; tuition; closing schools.

Sec. 949. If the division of a school district becomes effective at a time when school is in session, each pupil may complete the school year at the school the pupil was attending before the division occurred without payment of tuition, regardless of the school district to which that school may have been annexed or transferred. The boards of the newly formed school districts may agree to permit nonresident pupils who attended school in the dividing school district to attend school in the newly formed school districts without payment of tuition for the 2 school fiscal years after the effective date of the division. This section shall not prevent the annexing school district from closing any schools included in the annexation the fiscal year immediately following the effective date of the division.

**History:** Add. 1984, Act 154, Imd. Eff. June 25, 1984.

**Popular name:** Act 451

## PART 11
## TRANSFER OF TERRITORY

### 380.951 Transfer of territory between school districts; resolution or petition; final action; territory being detached to be contiguous; approval of electors; request by board of condominium association.

Sec. 951. (1) An intermediate school board may detach territory from 1 school district and attach the territory to another school district if requested to do so by resolution of the board of a school district whose boundaries would be changed by the action; subject to subsection (2), by resolution of the board of a condominium association acting pursuant to a petition signed by not less than 2/3 of the co-owners of the condominium association who reside on the land to be transferred; or if petitioned by not less than 2/3 of the persons who own and reside on the land to be transferred. The intermediate school board shall take final action within 60 days after the receipt of the resolution or petition. The territory to be detached shall be contiguous to the school district to which it is attached. If the latest assessed valuation of the territory to be detached is more than 10% of the latest assessed valuation of the entire school district from which the territory is to be detached, the action of the intermediate school board shall not be effective unless approved by an affirmative vote of a majority of the school electors of the school district from which the territory is to be detached.

(2) The board of a condominium association may request that an intermediate school board detach territory from 1 school district and attach the territory to another school district as described in subsection (1) only if the board of the condominium association represents the co-owners of a condominium project that is completed and not less than 75% of the units are sold and occupied.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1988, Act 508, Imd. Eff. Dec. 29, 1988;—Am. 1990, Act 147, Imd. Eff. June 27, 1990.

**Popular name:** Act 451

### 380.952 Notice of meeting and of proposed alterations in school district boundaries.

Sec. 952. The intermediate superintendent shall give 10 days' notice of the time and place of the meeting of the intermediate school board and of the proposed alterations in school district boundaries to be considered by publication once before the meeting in newspapers of general circulation in the territory of the affected school districts.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1982, Act 370, Imd. Eff. Dec. 28, 1982.

**Popular name:** Act 451

### 380.953 Territory extending into 2 or more school districts; joint meeting of boards; filing resolution or petition; notice of meeting; action on resolution or petition; quorum; election of chairperson and secretary.

Sec. 953. If the territory of school districts the boundaries of which are affected by the proposed alteration extends into 2 or more intermediate school districts, the intermediate school board of each intermediate school district shall meet jointly and sit as a single board to act upon the request for the transfer of territory. The resolution or petition for the transfer of territory may be filed with the intermediate school board of 1 of the intermediate school districts. The intermediate superintendent shall call the joint meeting of the affected intermediate school boards and give the notice of the intermediate school districts' meeting under section 952. Action on the resolution or petition for transfer of territory shall be taken only at a meeting attended by at least a quorum of each of the intermediate school boards. The intermediate school boards meeting jointly shall elect 1 of their members chairperson and another secretary of the meeting.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.953a Transfer of territory; basis for decision.

Sec. 953a. In making a decision on a proposed transfer of territory under this part, the intermediate school board, or the intermediate school boards meeting jointly, shall consider the welfare of the affected pupil, including, but not limited to, the length of the pupil's commute to and from school, on a school bus or otherwise.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.954 Map; preparation; contents; filing certified copy.

Sec. 954. If the intermediate school board or the joint intermediate school boards approve alterations in the boundaries of school districts, the board or joint boards shall cause a map to be prepared showing in detail the boundaries of the affected school districts before alteration and the boundaries of territory attached or detached. A copy of the map bearing the certification of the intermediate superintendent or the chairperson of the joint boards shall be filed with the secretary of each affected school district and with each affected township supervisor or city assessor.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.955 Effective date of transfer; transfer of personal property; payment for loss of property; accounting; adjournment.

Sec. 955. The intermediate school board or joint intermediate school boards shall determine the effective date of the transfer, which shall not be less than 10 days after the date of the determination, and shall determine whether personal property of a school district is to be transferred. If real property owned by a school district is transferred to another school district, the intermediate school board shall determine an equitable payment for the loss of the property. The intermediate school board or joint intermediate school boards may require an accounting from the affected boards of education and, for the purpose of making the determination, may adjourn subject to the call of the president of the intermediate school board or chairperson of the joint intermediate school boards.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.961 Territory detached from school district having bonded indebtedness; taxes; bond issue; exemptions; collections; payment of present value of pro rata bonded indebtedness; certifications; settlement of bonded indebtedness.

Sec. 961. (1) If territory is detached from a school district which has bonded indebtedness and transferred to another school district, the territory shall remain as part of the district from which detached for the purpose of levying debt retirement taxes for the bonded indebtedness until the bonds are redeemed or sufficient funds are available in the debt retirement fund for that purpose. The transferred territory shall not be part of the school district from which detached for the purpose of a subsequent bond issue, nor shall the detached territory be part of the school district from which detached for tax levies imposed for the purpose of bonded indebtedness created or assumed at a time when the portion of detached territory was not a part of the district or territory approving or assuming the bonded indebtedness. The territory shall be a part of the school district to which transferred for all other purposes.

(2) The territory shall not be subject to debt retirement tax levies for bonded indebtedness of the school district to which transferred existing at the time of transfer until the bonded indebtedness of the school district from which the territory was transferred existing at the time of the transfer is retired or sufficient funds are available and earmarked in the debt retirement fund for that purpose. The board of the school district to which the property is attached, by resolution, may exempt the property from the debt tax levies for not more than 3 years. The school officials of the district to which the territory is attached shall certify required debt retirement levies for the bonds of the school district from which the territory was detached, and the territory over which the levies are to be spread, to the proper taxing officials when certifying other taxes to be levied by the school district. The tax collecting officials shall remit the collections with other tax collections to the school district to which the property is attached. The officials of that school district shall immediately transmit the collections to the school district from which the territory was detached.

(3) The school district to which territory is attached may pay to the school district from which the land is detached the present value of the pro rata bonded indebtedness of the detached territory. The intermediate school board shall certify to the department of treasury the fact of the transfer, the description of the territory transferred, the bonded indebtedness of the school district from which the territory is detached, the assessed valuation of the school district from which the territory is detached, the assessed valuation of the detached territory, and other information the department of treasury may require. The department of treasury shall determine the pro rata share of the bonded indebtedness of the detached territory to the board of the school district from which the territory is detached. The department of treasury shall certify the amount determined to the intermediate school board. The intermediate school board shall certify the amounts to the boards of the school districts affected. The school district to which the territory is transferred may pay the sum to the school district from which the territory has been detached. Settlement of the bonded indebtedness shall be made on the state equalized valuation in the year of transfer. The school district receiving the money shall apply it under the terms and tenor of the bond issue.

(4) A transfer made after September 1 in a given year shall be a part of the territory from which detached for the purpose of the succeeding December tax levy in the year of transfer. Upon settlement of the bonded indebtedness by the school district to which the territory has been attached, the territory is subject to the bond debt retirement tax levy for bonded indebtedness of the school district to which attached existing at the time of transfer. For the purpose of making the settlement, the school district to which the territory is attached may use up to 15% of state school aid in 1 year.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1983, Act 118, Imd. Eff. July 18, 1983.

**Popular name:** Act 451

### 380.966 Levy of school operational millage; certification.

Sec. 966. If territory is attached to a school district effective before September 1 of a year, school operational millage for that year shall be levied on property in the territory by the attaching school district. If territory is attached to a school district effective on or after September 1 of a year, school operational millage for that year shall be levied on property in the territory by the school district from which the territory is detached. The school officials of the district entitled to levy school operational millage upon the transferred territory shall certify the school operational millage, and the territory over which it is to be spread, to the proper taxing officials when certifying the taxes to be levied by the school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.971 Appeal to state board of education.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 971. (1) One or more resident owners of land considered for transfer from 1 school district to another, or the board of a school district whose territory is affected, may appeal the action of the intermediate school board or joint intermediate school boards in transferring the land, the failure to transfer the land, or action relative to the accounting determination to the state board within 10 days after the action or determination by the intermediate school board or the joint intermediate school boards. If the intermediate school board or the joint intermediate school boards fail to take action within the time limit under section 951, the appeal may be made to the state board within 10 days following the termination of the period. The pendency of an appeal shall suspend the action or determination of the intermediate school board or joint intermediate school boards.

(2) The state board may confirm, modify, or set aside the order of the intermediate school board or the joint intermediate school boards. In considering an appeal, the state board shall consider the welfare of the affected pupil, including, but not limited to, the length of the pupil's commute to and from school, on a school bus or otherwise. The action of the state board on the appeal is final.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.976 Change in boundaries; continued attendance of twelfth grade pupils without payment of tuition.

Sec. 976. If the boundaries of a school district are changed pursuant to this part, a pupil in the twelfth grade at the time of the change or entering twelfth grade at the beginning of the school year immediately following the change shall be allowed to continue attending school in the school district which the pupil attended before the change without payment of tuition.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

## PART 12
## SCHOOL ELECTIONS

### 380.1001-380.1032 Repealed. 1992, Act 263, Eff. Jan. 1, 1993;—2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

## PART 13
## SCHOOL ELECTIONS; REGISTRATION SCHOOL DISTRICTS

### 380.1051-380.1071 Repealed. 1992, Act 263, Eff. Jan. 1, 1993;—2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

## PART 14
## BOARDS OF EDUCATION; MEMBERSHIP

### 380.1101-380.1106 Repealed. 2003, Act 299, Eff. Jan. 1, 2005.

**Compiler's note:** The repealed sections pertained to election or appointment of board members, vacancies, and recall.

**Popular name:** Act 451

### 380.1107 Removal of board member; procedures; eligibility for election or appointment; restriction.

Sec. 1107. (1) The governor may remove a member of a school board from office under this section if the governor is satisfied from the evidence submitted to the governor that the member is guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(2) Before the governor removes a school board member under this section, all of the following procedures shall be followed:

(a) Charges shall be submitted to the governor in writing specifying the grounds for removal. The charges shall be accompanied by any supporting evidence and by the affidavit of the person making the charges verifying that the person believes the charges to be true.

(b) A copy of the charges shall be served on the school board member. Service shall be made as follows:

(*i*) If the school board member can be found, by handing the school board member a copy of the charges and of any affidavits or exhibits accompanying the charges.

(*ii*) If the school board member cannot be found, by leaving a copy of the charges and of any affidavits or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

exhibits accompanying the charges with a person of suitable age at the school board member's last known place of residence or, if a person of suitable age is not available, by posting the copy or copies in a conspicuous place at the school board member's last known place of residence.

(c) The school board member shall be given an opportunity to respond to the charges.

(3) A person removed from office under this section is not eligible for election or appointment to a school board or intermediate school board for a period of 3 years from the date of removal.

**History:** Add. 2004, Act 234, Imd. Eff. July 21, 2004.

**Popular name:** Act 451

PART 15

SCHOOL DISTRICTS; POWERS AND DUTIES GENERALLY

### 380.1131 Provisions governing school districts.

Sec. 1131. Each school district is subject to and governed by this article except as to those matters which are specifically or by necessary implication provided for a first class school district under part 6, and by articles 3 and 4. An intermediate school district is governed by the provisions of this article that relate specifically to intermediate school districts and by articles 3 and 4.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1132 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to powers, duties, obligations, and liabilities of a school district as body corporate.

**Popular name:** Act 451

### 380.1133 Commencement of fiscal school year.

Sec. 1133. The fiscal school year of a local school district or an intermediate school district commences on July 1.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1134 Definitions; tagging record of missing student; removal of tag.

Sec. 1134. (1) As used in this section and section 1135:

(a) "Local school district" means a local school district or local act school district that requires records to be compiled for each student in the district.

(b) "Intermediate school district" means an intermediate school district that serves a student who does not have a record at the local school district, but does have a record at the intermediate school district.

(2) Upon notification by a law enforcement agency pursuant to section 8 of Act No. 319 of the Public Acts of 1968, being section 28.258 of the Michigan Compiled Laws, that a student less than 17 years of age is missing, a local school district or intermediate school district shall tag the record of the missing student in a manner that will alert the local or intermediate school district to the fact that the record is that of a missing person.

(3) Upon notification by a law enforcement agency pursuant to section 8 of Act No. 319 of the Public Acts of 1968 that the information entered into the law enforcement information network regarding a missing student has been canceled, the local or intermediate school district shall remove the tag from the student's school record not later than 7 days after receiving the notice from the law enforcement agency.

(4) The local or intermediate school district shall remove the tag on a missing student's school record as soon as possible after the student becomes 18 years of age.

**History:** Add. 1987, Act 84, Imd. Eff. June 29, 1987.

**Popular name:** Act 451

### 380.1135 Proof of identity and age; notice of noncompliance; investigation; reporting inaccurate or suspicious affidavit; school record of transfer student; compliance; effect of tagged record; confidentiality.

Sec. 1135. (1) Upon enrollment of a student for the first time in a local school district, public school academy, or intermediate school district, the local school district, public school academy, or intermediate school district shall notify in writing the person enrolling the student that within 30 days he or she shall provide to the local school district, public school academy, or intermediate school district either of the following:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) A copy of the student's birth certificate.

(b) Other reliable proof, as determined by the local school district, public school academy, or intermediate school district, of the student's identity and age, and an affidavit explaining the inability to produce a copy of the birth certificate.

(2) If a person enrolling a student fails to comply with subsection (1), the local school district, public school academy, or intermediate school district shall notify the person enrolling the student in writing that, unless he or she complies within 30 days after the notification, the case must be referred to the local law enforcement agency for investigation. If the person enrolling the student fails to comply within that 30-day period, the local school district, public school academy, or intermediate school district shall notify the local law enforcement agency.

(3) The local school district, public school academy, or intermediate school district shall immediately report to the local law enforcement agency any affidavit received under this section that appears inaccurate or suspicious in form or content.

(4) Within 14 days after enrolling a transfer student, the school shall request in writing directly from the student's previous school a copy of his or her school record. Any school that compiles records for each student in the school and that is requested to forward a copy of a transferring student's record to the new school shall comply within 30 days after receipt of the request unless the record has been tagged under section 1134. If a student record has been tagged under section 1134, a copy of the student record must not be forwarded, and the requested school shall notify the law enforcement agency that notified the school district of the missing student under section 8 of 1968 PA 319, MCL 28.258, of the request.

(5) A local school district, public school academy, or intermediate school district shall not disclose any personally identifiable information contained in a student record to a law enforcement agency, except in compliance with 20 USC 1232g, commonly referred to as the family educational rights and privacy act.

**History:** Add. 1987, Act 84, Imd. Eff. June 29, 1987;—Am. 2018, Act 619, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 451

### 380.1136 Protection of pupil privacy.

Sec. 1136. (1) To protect pupil privacy, the superintendent of public instruction shall ensure that the department complies with all of the following and the state budget director shall ensure that CEPI complies with all of the following:

(a) The department or CEPI shall not sell any information that is part of a pupil's education records.

(b) Within 30 days after the effective date of this section, the department and CEPI each shall post on its website a notice of the information it collects for a pupil's education records. The notice shall include at least an inventory of all pupil data elements collected by the department or CEPI and a description of each pupil data element.

(c) At least 30 days before initiating the collection of any pupil data elements in addition to those already disclosed in the inventory under subdivision (b), the department or CEPI shall post on its website a notice of the additional pupil data elements it is proposing to collect and an explanation of the reasons for the proposal.

(d) The department or CEPI shall not disclose any information concerning a pupil that is collected or created by the department or CEPI except in accordance with a policy adopted and made publicly available by the superintendent of public instruction or state budget director, as applicable, that clearly states the criteria for the disclosure of the information.

(e) The department or CEPI shall ensure that any contract it has with a vendor that allows the vendor access to education records contains express provisions requiring the vendor to protect the privacy of education records and provides express penalties for noncompliance.

(f) If the department or CEPI provides any personally identifiable information concerning a pupil that is collected or created by the department or CEPI as part of the pupil's education records to any person other than the school district, intermediate school district, public school academy, authorizing body, preschool, or postsecondary institution in which the pupil is currently or was formerly enrolled, or the pupil's parent or legal guardian, then the department or CEPI shall, if the pupil is under 18 years of age or claimed as a dependent on a parent's or legal guardian's federal income tax return, disclose to the pupil's parent or legal guardian upon his or her written request all of the following:

(*i*) The specific data fields that were disclosed.

(*ii*) The name and contact information of each person, agency, or organization to which the information has been disclosed.

(*iii*) The reason for the disclosure.

(g) The department or CEPI shall disclose the information under subdivision (f) within 30 days after receiving the written request and without charge to the parent or legal guardian. If the department or CEPI


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

considers it necessary to make redacted copies of all or part of a pupil's education records in order to protect personally identifiable information of another pupil, the department or CEPI shall not charge the parent or legal guardian for the cost of making those copies.

(2) To protect pupil privacy, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that the school district, intermediate school district, or public school academy complies with all of the following, and the governing board of an authorizing body shall ensure that the authorizing body complies with all of the following:

(a) A school district, an intermediate school district, a public school academy, an educational management organization, or an authorizing body shall not sell or otherwise provide to a for-profit business entity any personally identifiable information that is part of a pupil's education records. This subdivision does not apply to any of the following situations:

(*i*) For a pupil enrolled in a public school academy, if the public school academy has a management agreement with an educational management organization, the public school academy providing the information to that educational management organization.

(*ii*) Providing the information as necessary for standardized testing that measures the pupil's academic progress and achievement.

(*iii*) Providing the information as necessary to a person that is providing educational or educational support services to the pupil under a contract with the school district, intermediate school district, public school academy, or educational management organization.

(b) Upon written request by a pupil's parent or legal guardian, a school district, an intermediate school district, a public school academy, or an authorizing body shall disclose to the parent or legal guardian any personally identifiable information concerning the pupil that is collected or created by the school district, intermediate school district, public school academy, or authorizing body as part of the pupil's education records.

(c) Subject to the exemptions under subsection (3), if a school district, intermediate school district, public school academy, or authorizing body provides any information described in subdivision (b) to any person, agency, or organization, then the school district, intermediate school district, public school academy, or authorizing body shall disclose to the pupil's parent or legal guardian upon his or her written request all of the following:

(*i*) The specific information that was disclosed.

(*ii*) The name and contact information of each person, agency, or organization to which the information has been disclosed.

(*iii*) The legitimate reason that the person, agency, or organization had in obtaining the information.

(d) A school district, an intermediate school district, a public school academy, or an authorizing body shall disclose the information under subdivisions (b) and (c) within 30 days after receiving the written request and without charge to the parent or legal guardian. If the school district, intermediate school district, public school academy, or authorizing body considers it necessary to make redacted copies of all or part of a pupil's education records in order to protect personally identifiable information of another pupil, the school district, intermediate school district, public school academy, or authorizing body shall not charge the parent or legal guardian for the cost of those copies.

(3) Subsection (2)(c) does not apply to any of the following situations:

(a) A school district, intermediate school district, public school academy, or authorizing body providing the information to the department or CEPI.

(b) A school district, intermediate school district, public school academy, or authorizing body providing the information to the pupil's parent or legal guardian.

(c) A public school academy providing the information to its authorizing body or to an educational management organization with which it has a management agreement.

(d) A school district or public school academy providing the information to its intermediate school district or to another intermediate school district providing services to the school district or public school academy or its pupils pursuant to a written agreement.

(e) An intermediate school district providing the information to a school district or public school academy in which the pupil is enrolled or to a school district or public school academy for which the intermediate school district is providing services pursuant to a written agreement.

(f) An authorizing body providing the information to a public school academy in which the pupil is enrolled.

(g) Providing the information to a person, agency, or organization with written consent from the pupil's parent or legal guardian or, if the pupil is at least age 18, the pupil.

(h) Providing the information to a person, agency, or organization seeking or receiving records in


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

accordance with an order, subpoena, or ex parte order issued by a court of competent jurisdiction.

(i) Providing the information as necessary for standardized testing that measures the pupil's academic progress and achievement.

(j) A school district, intermediate school district, public school academy, or authorizing body providing information that is covered by the opt-out form described in subsection (6), unless the pupil's parent or legal guardian or, if the pupil is at least age 18 or is an emancipated minor, the pupil has signed and submitted the opt-out form under subsection (6)(d).

(4) If an educational management organization receives information that is part of a pupil's education records from any source as permitted under this section, the educational management organization shall not sell or otherwise provide the information to any other person except as provided under this section.

(5) In addition to ensuring compliance with subsection (1), the superintendent of public instruction shall ensure that the department, and the state budget director shall ensure that CEPI, complies with all other applicable privacy law.

(6) For the purposes of this section, each school district, intermediate school district, public school academy, or authorizing body shall do all of the following:

(a) Develop a list of uses for which the school district, intermediate school district, public school academy, or authorizing body commonly would disclose a pupil's directory information.

(b) Develop an opt-out form that lists all of the uses or instances under subdivision (a) and allows a parent or legal guardian to elect not to have his or her child's directory information disclosed for 1 or more of these uses.

(c) Present the opt-out form under subdivision (b) to each pupil's parent or legal guardian within the first 30 days of the school year. A school district, intermediate school district, public school academy, or authorizing body also shall make the form available to a parent or legal guardian at other times upon request.

(d) If an opt-out form under subdivision (b) is signed and submitted to the school district, intermediate school district, public school academy, or authorizing body by a pupil's parent or legal guardian, the school district, intermediate school district, public school academy, or authorizing body shall not include the pupil's directory information in any of the uses that have been opted out of in the opt-out form.

(7) If a pupil is at least age 18 or is an emancipated minor, the pupil may act on his or her own behalf under subsection (6).

(8) As used in this section:

(a) "Authorizing body" means that term as defined in part 6a, 6c, or 6e or section 1311b, as applicable.

(b) "CEPI" means the center for educational performance and information created under section 94a of the state school aid act of 1979, MCL 388.1694a.

(c) "Directory information" means that term as defined in 34 CFR 99.3.

(d) "Education records" means that term as defined in 34 CFR 99.3.

(e) "Educational management organization" means that term as defined in section 503c, 523c, or 553c, as applicable.

(f) "Management agreement" means that term as defined in section 503c, 523c, or 553c, as applicable.

(g) "Personally identifiable information" means that term as defined in 34 CFR 99.3.

**History:** Add. 2016, Act 367, Eff. Mar. 22, 2017.

**Popular name:** Act 451

### 380.1137 Powers of parents and legal guardians; policies or guidelines.

Sec. 1137. (1) In recognition of the rights of parents and legal guardians, the board of a school district, public school academy, university school, or intermediate school district shall ensure that a parent or legal guardian responsible for the care and custody of a pupil enrolled in the school district, public school academy, university school, or intermediate school district may do all of the following:

(a) Review the curriculum, textbooks, and teaching materials of the school in which the pupil is enrolled at a reasonable time and place and in a reasonable manner.

(b) Be present, to a reasonable degree, and at reasonable times and subject to reasonable restrictions, controls, and limits, to observe instructional activity in a class or course in which the pupil is enrolled and present. As used in this subdivision, "instructional activity" does not include testing.

(2) The board of a school district, public school academy, university school, or intermediate school district may adopt reasonable policies or guidelines under this section. Those policies or guidelines shall not unreasonably prevent the exercise of the rights set forth in subsection (1) and shall not create an unreasonable obstacle to teaching or learning, or to administering or maintaining proper discipline, in a school or school program. If a board adopts policies or guidelines under this subsection, the board shall make the policies or guidelines available to the public.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1137a Release of information to parent who is subject of personal protection order; prohibition.

Sec. 1137a. If a school district, local act school district, public school academy, intermediate school district, or nonpublic school is the holder of records pertaining to a minor pupil, if a parent of the minor pupil is prohibited by a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, from having access to information in records concerning the minor pupil that will inform the parent about the minor's or other parent's address or telephone number or the other parent's employment address, and if the school district, local act school district, public school academy, intermediate school district, or nonpublic school has received a copy of the personal protection order, the school district, local act school district, public school academy, intermediate school district, or nonpublic school shall not release that information to the parent who is subject to the personal protection order.

**History:** Add. 1999, Act 272, Eff. July 1, 2000.

**Popular name:** Act 451

### 380.1138 Pupil absent from school due to deployment or return from active duty of parent, legal guardian, or sibling; excused absence; definitions.

Sec. 1138. (1) If a pupil is absent from school for up to 1 full school day because his or her parent, legal guardian, or sibling is a service member being deployed on or returning from active duty, or if a pupil is absent from school for up to 2 full school days if the location of the deployment or return is more than 300 miles from the pupil's home, the school officials of a public school shall consider that absence to be an excused absence. The board of a school district or intermediate school district or board of directors of a public school academy shall ensure that their attendance policy is consistent with this section.

(2) This section does not prohibit a public school from considering an absence for a reason described in subsection (1) that is longer than the number of school days prescribed in subsection (1) to be an excused absence.

(3) As used in this section:

(a) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of congress, or an order of the governor.

(b) "Armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(c) "Michigan national guard" means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(d) "Service member" means a member of the armed forces, a reserve branch of the armed forces, or the Michigan national guard.

**History:** Add. 2008, Act 141, Imd. Eff. May 28, 2008.

**Popular name:** Act 451

### 380.1139 Access to high school pupil directory by armed forces recruiting representatives.

Sec. 1139. (1) Except as otherwise provided in subsection (2), the school officials of a public high school shall provide at least the same access to the high school campus and to pupil directory information of the pupils enrolled in the high school as is provided to other entities offering educational or employment opportunities to official recruiting representatives of all of the following for the purpose of informing pupils of educational and career opportunities available in the following:

(a) The armed forces of the United States.

(b) The service academies of the armed forces of the United States.

(2) If a high school pupil or the parent or legal guardian of a high school pupil submits a signed, written request to school officials of a public high school that indicates that the pupil or the parent or legal guardian does not want the pupil's directory information to be accessible to official recruiting representatives under subsection (1), then the school officials of the high school shall not allow that access to the pupil's directory information. The governing board of the school district, intermediate school district, or public school academy operating the high school shall ensure that pupils and parents and guardians are notified of the provisions of this subsection.

(3) The school officials of a public high school shall provide any public notice required to be given under section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974, in order to comply with this section and federal law.

(4) The school officials of a public high school may require an official recruiting representative described in subsection (1) to pay a fee, not to exceed the actual costs incurred by the high school, for copying and mailing pupil directory information under this section.

(5) An official recruiting representative who receives pupil directory information under this section shall use that information only to provide information to pupils concerning educational and career opportunities available in the armed forces of the United States or the service academies of the armed forces of the United States. An official recruiting representative who receives pupil directory information under this section shall not release that information to a person who is not involved in recruiting pupils for the armed forces of the United States or the service academies of the armed forces of the United States.

(6) Public schools are encouraged to assign 1 or more school employees to notify male pupils age 18 or older that they are required to register for the selective service.

(7) The armed forces of the United States are encouraged to work with each other to develop and use a standardized form for requesting access to a high school campus and for requesting a time for the access.

(8) As used in this section:

(a) "Armed forces of the United States" means the armed forces of the United States and their reserve components and the United States coast guard.

(b) "Pupil directory information" means a pupil's name and address and, if it is a listed or published telephone number, the pupil's telephone number.

**History:** Add. 2002, Act 39, Imd. Eff. Mar. 12, 2002.

**Popular name:** Act 451

### 380.1140 Skilled trades training and apprenticeship programs; access to representatives of associations to provide information.

Sec. 1140. If a school district, intermediate school district, or public school academy allows institutions of higher education access to school facilities or activities to provide information to pupils about educational, vocational, or apprenticeship opportunities, the board of the school district or intermediate school district or board of directors of the public school academy shall allow the same access to representatives of associations to provide information about skilled trades training and apprenticeship programs.

**History:** Add 2003, Act 264, Imd. Eff. Jan. 5, 2004.

**Popular name:** Act 451

### 380.1141 Property of school district exempt from taxation; exception; liability for special assessments; agreement to pay special assessments for local improvements.

Sec. 1141. (1) The property of a school district is exempt from taxation, provisions of other acts to the contrary notwithstanding, except that property owned by the school district that is used for private purposes for more than 2 years is not exempt from taxation as long as the private use continues beyond the 2-year period.

(2) School property not being utilized primarily for public school purposes and from which income is being derived or which is being held out for income purposes at the time of final confirmation of special assessment rolls by the governing body of a city, village, or township shall be liable to the city, village, or township for special assessments attributable to the property. The property shall continue to be liable for the special assessment for a period not longer than 2 years after the property is put to a public school use. The board of a school district may enter into an agreement with a county or county agency, city, village, or township to pay special assessments for local improvements levied against school property irrespective of the use to which the property is put.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1146 Single-gender school, class, or program.

Sec. 1146. (1) Except as otherwise provided under subsection (2) and section 475, a separate school or department shall not be kept for a person on account of race, color, or gender. This section shall not be construed to prevent the grading of schools according to the intellectual progress of the pupil to be taught in separate places as may be considered expedient.

(2) Subject to subsection (3), the board of a school district or intermediate school district or board of directors of a public school academy may establish and maintain a school, class, or program within a school in which enrollment is limited to pupils of a single gender if the school district, intermediate school district, or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

public school academy makes available to pupils a substantially equal coeducational school, class, or program and a substantially equal school, class, or program for pupils of the other gender.

(3) If the board of a school district or intermediate school district or board of directors of a public school academy establishes a single-gender school, class, or program described in subsection (1), the school district, intermediate school district, or public school academy shall not require participation by any of its pupils in the single-gender school, class, or program. The board or board of directors shall ensure that participation by pupils in a single-gender school, class, or program is wholly voluntary. For the purposes of this subsection, participation by a pupil in a single-gender school, class, or program is not considered to be voluntary unless the school district, intermediate school district, or public school academy also makes available to the pupil a substantially equal coeducational school, class, or program.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2006, Act 303, Imd. Eff. July 20, 2006.

**Popular name:** Act 451

### 380.1147 Enrollment of child in kindergarten; age; eligibility; notification.

Sec. 1147. (1) A child who is a resident of a school district that does not provide kindergarten and who is at least 5 years of age on the first day of enrollment of the school year may attend school in a public school operated by the school district or, for a community district or a school district that does not directly operate schools on its own, in another public school located within the geographic boundaries of the school district.

(2) Subject to subsection (3), beginning with the 2015-2016 school year, a child who is at least 5 years of age on September 1 of the school year of enrollment and who resides in the school district may enroll in kindergarten in a public school operated by the school district or, for a community district or a school district that does not directly operate schools on its own, in another public school located within the geographic boundaries of the school district.

(3) If a child residing in the school district or a child eligible to enroll in and be counted in membership in the school district under section 105 or 105c of the state school aid act of 1979, MCL 388.1705 and 388.1705c, is not 5 years of age on the enrollment eligibility date specified in subsection (2), but will be 5 years of age not later than December 1 of a school year, the parent or legal guardian of that child may enroll the child in kindergarten for that school year in a public school operated by the school district or, for a community district or a school district that does not directly operate schools on its own, in another public school located within the geographic boundaries of the school district if the parent or legal guardian notifies the public school in writing that he or she intends to enroll the child in kindergarten for that school year. A public school that receives this written notification may make a recommendation to the parent or legal guardian of a child described in this subsection that the child is not ready to enroll in kindergarten due to the child's age or other factors. However, regardless of this recommendation, the parent or legal guardian retains the sole discretion to determine whether or not to enroll the child in kindergarten under this subsection.

(4) The ages prescribed in this section for a child's eligibility for enrollment in a public school also apply to a child's eligibility to enroll in a public school academy.

(5) If a public school enrolls any children in kindergarten for a school year under subsection (3), the public school shall notify the department of the number of those children enrolled by not later than December 31 of that school year.

(6) This section does not require a school district to operate a public school directly on its own.

(7) This section does not apply to a school district that does not operate a public school directly but retains a limited separate identity for purposes of section 12, 12b, 863, 903, or 947.

(8) This section does not require a school district or public school academy that does not otherwise provide kindergarten to provide kindergarten.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2012, Act 198, Imd. Eff. June 26, 2012;—Am. 2014, Act 479, Imd. Eff. Jan. 13, 2015;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Constitutionality:** Shared time instruction of sectarian, nonpublic school students in and of itself is not violative of the Establishment Clause of the United States Constitution even where benefits to religion appear substantial; it is only where it is clear that the program was motivated wholly by religious considerations that a conflict with the clause would exist. Snyder v Charlotte Schools, 421 Mich 517; 365 NW2d 151 (1984).

Shared time instruction clearly is not intended to benefit one or all religions; rather, the purpose is secular: to provide educational opportunities at public schools for all resident school-age children whether they attend public or religious or secular nonpublic schools. Snyder v Charlotte Schools, 421 Mich 517; 365 NW2d 151 (1984).

**Popular name:** Act 451

### 380.1147b Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to diversity of school populations.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1148 Residence of child placed in licensed home or home of relatives; admission to school; child placed in foster care; enrollment and attendance of child regardless of residence; transfer to another school.

Sec. 1148. (1) Except as provided in section 1711 and subsection (2), a child whose parents or legal guardians are unable to provide a home for the child and who is placed in a licensed home or in a home of relatives in the school district for the purpose of securing a suitable home for the child and not for an educational purpose shall be considered a resident for education purposes of the school district where the home in which the child is living is located. The child shall be admitted to the school in the district.

(2) If a child who is under court jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is placed in foster care, a school district shall allow the child to enroll in and attend the appropriate grade in the school selected by the department of human services or a child placing agency without regard to whether or not the child is residing in that school district. If the selection results in a child transferring to another school, the child's school records shall be transferred as provided under section 1135.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2009, Act 186, Imd. Eff. Dec. 17, 2009.

**Popular name:** Act 451

### 380.1148a Parents residing in different school districts; residency of child.

Sec. 1148a. For education purposes under this act, without regard to whether a parent or legal guardian has custody of the child, if a child's parents, or a child's parent or parents and the child's legal guardian, reside in different school districts, the child shall be considered to be a resident of a school district in which either of the child's parents resides, or in which the child's legal guardian resides. If the child meets the applicable age requirements, the child may attend school in a school district in which either of the child's parents resides, or in which the child's legal guardian resides.

**History:** Add. 1996, Act 394, Imd. Eff. Oct. 3, 1996.

**Popular name:** Act 451

### 380.1149, 380.1150 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to special assistance to certain at risk students.

**Popular name:** Act 451

### 380.1151 English as basic language of instruction; exceptions.

Sec. 1151. (1) English shall be the basic language of instruction in the public and nonpublic schools of this state and in state institutions.

(2) Subsection (1) shall not be construed as applying to:

(a) Religious instruction in a nonpublic school given in a foreign language in addition to the regular course of study.

(b) A course of instruction in a foreign language in which the pupil acquires sufficient proficiency to be conversant in the foreign language.

(c) Bilingual instruction, as defined in section 1152, which will assist children of limited English-speaking ability to achieve reasonable efficiency in the English language.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1152 “Bilingual instruction,”“children of limited English-speaking ability,” and “in-service training” defined.

Sec. 1152. As used in sections 1152 to 1158:

(a) "Bilingual instruction" means the use of 2 languages, 1 of which is English, as media of instruction for speaking, reading, writing, or comprehension. "Bilingual instruction" may include instruction in the history and culture of the country, territory, or geographic area associated with the language spoken by children of limited English-speaking ability who are enrolled in the program and in the history and culture of the United States.

(b) "Children of limited English-speaking ability" means children who have or reasonably may be expected to have difficulty performing ordinary classwork in English because their native tongue is a language other than English or because they come from a home or environment where the primary language used is a language other than English.

(c) "In-service training" means short-term or part-time training for administrators, teachers, teacher aides,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

paraprofessionals, or other education personnel engaged in bilingual instruction programs for children of limited English-speaking ability.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1153 Bilingual instruction program; establishment and operation.

Sec. 1153. (1) The board of a school district may establish and operate a bilingual instruction program for children of limited English-speaking ability.

(2) A child of limited English-speaking ability residing in a district that does not have an appropriate bilingual instruction program or that is not required to have a bilingual instruction program may enroll in a bilingual instruction program in another school district.

(3) An intermediate school district may operate or contract for the operation of a bilingual program or service, and may carry children enrolled in the program in membership in the same manner as a local school district and be entitled to its proportionate share of state funds available for the program. Membership shall be calculated under rules promulgated by the state board. The intermediate school board shall consider:

(a) Whether the cost of operating an intermediate bilingual instruction-support program is justified by the number of children at each grade level who would benefit from its establishment.

(b) Whether alternative methods of providing a bilingual instruction-support program, such as visiting teachers or part-time instruction, can be provided.

(4) The state shall continue to fund programs of bilingual instruction described in this section at least at the level that instruction is funded in the 1995-1996 state fiscal year.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

**Administrative rules:** R 388.701 et seq. of the Michigan Administrative Code.

### 380.1154 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to bilingual instruction programs.

**Popular name:** Act 451

### 380.1155 Bilingual instruction program; notice of enrollment.

Sec. 1155. (1) Prior to the placement of a child of limited English-speaking ability in a bilingual instruction program, the board of the local school district in which the child resides shall notify, by registered mail, the child's parents or legal guardian that the child is being enrolled in a bilingual instruction program. The notice shall contain a simple, nontechnical description of the purposes, method, and content of the program and shall inform the parents or guardian that they have the right to visit bilingual instruction classes in which their child is enrolled.

(2) The notice shall be written in English and in the native language of the child of limited English-speaking ability.

(3) The notice shall inform the parents or guardian that they have the absolute right to refuse the placement or to withdraw their child from the program by giving written notice to the board of the local school district in which the child resides.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1156 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to advisory committees.

**Popular name:** Act 451

### 380.1157 In-service training programs; rules; examination of testing mechanisms.

Sec. 1157. (1) The state board, in cooperation with intermediate school districts and local school districts, shall develop and administer a program of in-service training for bilingual instruction programs. The state board shall promulgate rules governing the conduct of and participation in the in-service training programs.

(2) The state board shall promulgate rules governing the endorsement of teachers as qualified bilingual instructors in the public schools of this state. The teacher shall meet the requirements of part 22 and shall be proficient in both the oral and written skills of the language for which the teacher is endorsed.

(3) The state board shall approve an examination or testing mechanism suitable for evaluating the proficiency in English language skills of a child of limited English-speaking ability.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 390.1101 et seq. of the Michigan Administrative Code.

### 380.1157a Repealed. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Compiler's note:** The repealed section pertained to high school credit in foreign language.

**Popular name:** Act 451

### 380.1157b High school credit in foreign language for American sign language.

Sec. 1157b. The board of a school district may grant high school credit in a foreign language to a pupil enrolled in high school who has satisfactorily completed a high school course offered in American sign language or who has attained proficiency in American sign language outside of a public or private high school curriculum.

**History:** Add. 1987, Act 18, Imd. Eff. Apr. 24, 1987.

**Popular name:** Act 451

### 380.1158 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to duties of the state board.

**Popular name:** Act 451

### 380.1163 Gun safety instruction for elementary school pupils; model program.

Sec. 1163. (1) Not later than August 1, 2011, the department shall develop or adopt, and shall make available to schools, 1 or more model programs for gun safety instruction for elementary school pupils. The model program shall adopt or be based on the "Eddie Eagle" gunsafe accident prevention program developed by the national rifle association.

(2) Each school district and public school academy is encouraged to adopt and implement the model gun safety instruction program developed under subsection (1) in at least grade 3 beginning in the 2011-2012 school year.

**History:** Add. 2010, Act 367, Imd. Eff. Dec. 22, 2010.

**Popular name:** Act 451

### 380.1164b African history; course content.

Sec. 1164b. A school district or public school academy that teaches world history in a middle school or high school grade is encouraged to focus the content of instruction regarding Africa on at least 1 or more of the following kingdoms: Ghana, Mali, Songhay, Benin, Bornu, Nubia, Axum, Meroe, Monomotapa, or medieval Ethiopia, or on the Swahili coast prior to 1750. This section is not intended to prohibit or limit teaching about other areas of African history.

**History:** Add. 2008, Act 312, Imd. Eff. Dec. 18, 2008.

**Popular name:** Act 451

### 380.1165 Financial education programs.

Sec. 1165. (1) Not later than July 1, 2002, the department shall develop or adopt, and shall make available to schools, 1 or more model programs for youth financial education. A program under this section shall be designed to incorporate financial education throughout the curriculum for grades K to 12 and shall be based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, borrowing, and investing.

(2) Each school district, local act school district, and public school academy is encouraged to adopt and implement the model financial education programs developed under subsection (1) or 1 or more similar financial education programs.

(3) To the extent that federal funds are available for these purposes, the department shall use those funds for grants to public schools and other measures to encourage implementation of financial education programs.

**History:** Add. 2002, Act 111, Imd. Eff. Apr. 1, 2002.

**Popular name:** Act 451

### 380.1166 Constitution and government; civics; mandatory courses; commencement of instruction; exception; revision of state curriculum content standards for high school social studies; definition.

Sec. 1166. (1) In all public and nonpublic schools in this state regular courses of instruction shall be given


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

in the constitution of the United States, in the constitution of Michigan, and in the history and present form of government of the United States, Michigan, and its political subdivisions. Instruction shall begin not later than the opening of the eighth grade, or its equivalent, except in schools maintaining a junior high school, in which case it may begin in the ninth grade.

(2) A high school in this state shall require a 1-semester course of study of 5 periods per week in civics. The course shall include the form and functions of the federal, state, and local governments and shall stress the rights and responsibilities of citizens. A diploma shall not be issued by a high school to a pupil who has not successfully completed this course. This course requirement is not a graduation requirement for a high school pupil who has enlisted or been inducted into military service.

(3) By not later than May 1, 2018 or the next update of the state curriculum content standards after the effective date of this subsection, whichever occurs first, the state board shall revise the state curriculum content standards for high school social studies to ensure that those content standards cover the same content as covered by the 100 questions on the civics portion of the naturalization test used by the United States Citizenship and Immigration Services as of December 1, 2016.

(4) Beginning with the first state high school social studies assessment administered after the state academic curriculum content standards are revised as required under subsection (3), the superintendent of public instruction shall ensure that the high school social studies assessment includes questions related to the learning objectives in the state curriculum standards for high school social studies as revised under subsection (3).

(5) As used in this section, "state curriculum content standards" means the state board recommended model curriculum content standards developed and periodically updated under section 1278.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2016, Act 391, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1166a Model program of instruction in career development; "the superintendent Brian Whiston career pathways law."

Sec. 1166a. (1) Not later than January 1, 2019, the department, in consultation with the department of talent and economic development, shall develop or adopt, and make available to schools, a model program of instruction in career development that meets at least all of the following:

(a) Defines learning targets and themes for each grade level.

(b) Includes instruction for pupils in grades K to 12.

(c) Incorporates career development education embedded within core instruction.

(d) Includes strategies for engaging parents and community business and industry interests.

(2) Beginning in the 2019-2020 school year, the board of a school district or board of directors of a public school academy shall ensure that the school district's or public school academy's curriculum incorporates grade-appropriate instruction on career development in each grade level in grades K to 12.

(3) This section shall be known and may be cited as "the superintendent Brian Whiston career pathways law".

**History:** Add. 2018, Act 229, Eff. Sept. 25, 2018.

**Popular name:** Act 451

### 380.1167, 380.1168 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to dispute management, resolution, and consumer economics.

**Popular name:** Act 451

### 380.1168 Social studies curriculum; inclusion of age- and grade-appropriate instruction about genocide; governor's council on genocide and Holocaust education; creation; members; appointment; vacancy; removal; meetings; election of chairperson and other officers; quorum; conduct of business at public meeting; writing subject to freedom of information act; expenses; use of state funds; duties; advisory body; definitions.

Sec. 1168. (1) Beginning in the 2016-2017 school year, the board of a school district or board of directors of a public school academy shall ensure that the school district's or public school academy's social studies curriculum for grades 8 to 12 includes age- and grade-appropriate instruction about genocide, including, but not limited to, the Holocaust and the Armenian Genocide. The legislature recommends a combined total of 6 hours of this instruction during grades 8 to 12.

(2) Subsection (1) does not preclude a school district or public school academy from including instruction described in subsection (1) in other subject areas.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) The governor's council on genocide and Holocaust education is created as a temporary commission described in section 4 of article V of the state constitution of 1963.

(4) The governor's council on genocide and Holocaust education shall consist of 15 members appointed by the governor. Members shall be individuals who have a particular interest or expertise in genocide education or Holocaust education, or both.

(5) If the governor determines that sufficient private funding is available for the operations of the governor's council on genocide and Holocaust education, the governor shall appoint the members of the governor's council on genocide and Holocaust education within 60 days after the effective date of this section.

(6) If a vacancy occurs on the governor's council on genocide and Holocaust education, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(7) The governor may remove a member of the governor's council on genocide and Holocaust education for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(8) The first meeting of the governor's council on genocide and Holocaust education shall be called by the governor. At the first meeting, the governor's council on genocide and Holocaust education shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the governor's council on genocide and Holocaust education shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 8 or more members.

(9) A majority of the members of the governor's council on genocide and Holocaust education appointed and serving constitute a quorum for the transaction of business at a meeting of the council. A majority of the members present and serving are required for official action of the council. A member may not vote by proxy.

(10) The business that the governor's council on genocide and Holocaust education may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(11) A writing prepared, owned, used, in the possession of, or retained by the governor's council on genocide and Holocaust education in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) Members of the governor's council on genocide and Holocaust education shall serve without compensation. However, if funding is available for this purpose from private sources, members of the council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

(13) State funds shall not be used for the operations of the governor's council on genocide and Holocaust education.

(14) The governor's council on genocide and Holocaust education shall do all of the following:

(a) Identify, to the extent possible, all sources of strategies and content for providing and enhancing genocide education to students.

(b) Advise the superintendent of public instruction, school districts, public school academies, and nonpublic schools in this state on strategies and content for providing and enhancing genocide education to students.

(c) Identify, to the extent possible, all programs and resources to train teachers in providing genocide education to students and share these programs and resources with the superintendent of public instruction, school districts, public school academies, and nonpublic schools in this state.

(d) Promote, within the schools and general population of this state, implementation of genocide education. This duty includes, but is not limited to, all of the following:

(*i*) In accordance with 2004 PA 10, engendering and coordinating events, activities, and education that will appropriately memorialize the victims of the Holocaust, such as observance of Holocaust Remembrance Day and the Days of Remembrance.

(*ii*) In accordance with 2002 PA 558, engendering and coordinating events, activities, and education that will appropriately memorialize the victims of the Armenian Genocide, such as observance of the Michigan Days of Remembrance of the Armenian Genocide.

(*iii*) Engendering and coordinating events, activities, and education that will appropriately memorialize the victims of other genocides.

(e) Secure private funding for the governor's council on genocide and Holocaust education. The governor's council on genocide and Holocaust education may also apply for and accept grants and receive gifts, donations, and other financial support from private sources, in accordance with state law, for the purpose of carrying out its duties under this section.

(f) Carry out any other tasks that it considers to be advisable to support the ability of this state to meet its goals in providing genocide education.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(g) Submit an annual report to the legislature on the progress and status of the council.

(15) With respect to its duties, the governor's council on genocide and Holocaust education is an advisory body only. There is no right or obligation on the part of this state or its subdivisions, officials, or employees to implement the findings or recommendations of the governor's council on genocide and Holocaust education unless further legislation is enacted that specifically authorizes implementation of those findings or recommendations.

(16) As used in this section:

(a) "Armenian Genocide" means the systematic, bureaucratic, state-sponsored persecution and murder of approximately 1,500,000 Armenians by the Ottoman Turkish Empire and its collaborators.

(b) "Genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.

(c) "Holocaust" means the systematic, bureaucratic, state-sponsored persecution and murder of approximately 6,000,000 Jews and 5,000,000 other individuals by the Nazi regime and its collaborators.

**History:** Add. 2016, Act 170, Imd. Eff. June 14, 2016.

**Popular name:** Act 451

### 380.1169 Dangerous communicable diseases; human immunodeficiency virus infection and acquired immunodeficiency virus infection; teacher training; teaching materials; curricula; teaching of abstinence from sex.

Sec. 1169. (1) The principal modes by which dangerous communicable diseases, including, but not limited to, human immunodeficiency virus infection and acquired immunodeficiency syndrome, are spread and the best methods for the restriction and prevention of these diseases shall be taught in every public school in this state. Subject to subsection (3) and section 1507b, the teaching under this section shall stress that abstinence from sex is a responsible and effective method for restriction and prevention of these diseases and is a positive lifestyle for unmarried young people.

(2) Except for licensed health care professionals who have received training on human immunodeficiency virus infection and acquired immunodeficiency syndrome, each person who teaches K to 12 pupils about human immunodeficiency virus infection and acquired immunodeficiency syndrome pursuant to subsection (1) shall have training in human immunodeficiency virus infection and acquired immunodeficiency syndrome education for young people. The superintendent of public instruction, in cooperation with the department of public health, shall train trainers to provide the teacher training required by this subsection and shall provide for the development and distribution to school districts of medically accurate material on the teaching of human immunodeficiency virus infection and acquired immunodeficiency syndrome to young people.

(3) The choice of curricula to be used for human immunodeficiency virus infection and acquired immunodeficiency syndrome education required to be taught under subsection (1) shall be approved by the appropriate school board and implemented in the school setting not later than October 1, 1990. Before adopting any revisions to the curriculum implemented under this section, including, but not limited to, revisions to provide for the teaching of abstinence from sex as a responsible method for restriction and prevention of disease, a school board shall hold at least 2 public hearings on the proposed revisions. The hearings shall be held at least 1 week apart and public notice of the hearings shall be given in the manner required under section 1201 for board meetings. A public hearing held pursuant to this section may be held in conjunction with a public hearing held pursuant to section 1507.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1987, Act 185, Imd. Eff. Nov. 30, 1987;—Am. 1990, Act 139, Imd. Eff. June 26, 1990;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 2004, Act 165, Imd. Eff. June 24, 2004.

**Popular name:** Act 451

### 380.1170 Physiology and hygiene; instruction; development of comprehensive health education programs; conflict with religious beliefs.

Sec. 1170. (1) Instruction shall be given in physiology and hygiene, with special reference to substance abuse, including the abusive use of tobacco, alcohol, and drugs, and their effect upon the human system.

(2) Comprehensive health education programs shall be developed as prescribed by Act No. 226 of the Public Acts of 1969, being sections 388.381 to 388.385 of the Michigan Compiled Laws.

(3) A child upon the written statement of parent or guardian that instruction in the characteristics or symptoms of disease is in conflict with his or her sincerely held religious beliefs shall be excused from attending classes where such instruction is being given and no penalties as to credit or graduation shall result


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

therefrom.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1170a Model core academic curriculum content standards for health education; subject area content expectations and guidelines for health education; instruction in cardiopulmonary resuscitation and automated external defibrillators; individuals providing instruction; use of local resources; exemption; definitions.

Sec. 1170a. (1) By not later than the 2017-2018 school year, the department shall ensure that the model core academic curriculum content standards for health education and the subject area content expectations and guidelines for health education under section 1278a provide for all of the following:

(a) Instruction in cardiopulmonary resuscitation for pupils enrolled in grades 7 to 12. Subject to subsection (5), the content standards and subject area content expectations shall ensure that the psychomotor skills necessary to perform cardiopulmonary resuscitation are incorporated into the instruction and that the instruction is based on either of the following:

(*i*) An instructional program developed by the American Red Cross or the American Heart Association.

(*ii*) Nationally recognized, evidence-based guidelines for cardiopulmonary resuscitation.

(b) Instruction about automated external defibrillators for pupils enrolled in grades 7 to 12.

(2) The content standards or subject area content expectations and guidelines under subsection (1) shall not require a certificated teacher to be an authorized CPR/AED instructor to facilitate, provide, or oversee instruction described in subsection (1)(a) if that instruction does not result in a pupil earning a CPR certification card or status.

(3) If instruction described in subsection (1)(a) will result in a pupil earning a CPR certification card or status, that instruction must be taught by an authorized CPR/AED instructor, as applicable.

(4) School districts, public school academies, and nonpublic schools are encouraged to use locally available resources to provide the instruction required to meet the content standards or subject area content expectations and guidelines under subsection (1), including, but not limited to, emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or American Red Cross, or properly trained teachers or other school employees.

(5) The content standards and subject area content expectations and guidelines required under subsection (1) shall provide that a school or program that provides 100% online instruction is exempt from having to incorporate psychomotor skills into the instruction under this section.

(6) As used in this section:

(a) "Authorized CPR/AED instructor" means an instructor who is authorized by the American Heart Association, American Red Cross, or a similar nationally recognized association to provide instruction in cardiopulmonary resuscitation that results in the issuance of a CPR certification card or status.

(b) "CPR certification card or status" means a card or other credential evidencing successful completion of instruction in cardiopulmonary resuscitation that is issued by the American Heart Association, American Red Cross, or a similar nationally recognized organization using evidence-based guidelines for the teaching of cardiopulmonary resuscitation.

**History:** Add. 2016, Act 388, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1170b State model academic standards for health education; inclusion of instruction on prescription opioid drug abuse; availability.

Sec. 1170b. (1) Beginning in the 2019-2020 school year, the department shall ensure that the state model academic standards for health education under section 1278a include instruction on prescription opioid drug abuse, including, at least, the model program of instruction made available under subsection (2).

(2) Not later than July 1, 2019, the department shall make available to school districts and public school academies a grade-and age-appropriate model program of instruction on prescription opioid drug abuse based on the recommendations developed by the prescription drug and opioid abuse commission under section 7113a of the public health code, 1978 PA 368, MCL 333.7113a. The model program of instruction made available by the department shall include at least instruction on the prescription drug epidemic and the connection between prescription opioid drug abuse and addiction to other drugs.

**History:** Add. 2017, Act 255, Eff. Mar. 27, 2018.

**Popular name:** Act 451

### 380.1171 Suicide prevention and awareness; instruction and professional development;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**availability of model programs and materials to school districts and public school academies; notice to parents; cause of action or legal duty not created; section known as "Chase Edwards law."**

Sec. 1171. (1) The board of a school district or board of directors of a public school academy is encouraged to provide age-appropriate instruction for pupils and professional development for school personnel concerning the warning signs and risk factors for suicide and depression and the protective factors that help prevent suicide. The instruction and professional development shall be designed to achieve the following goals:

(a) To prevent both fatal and nonfatal suicide behaviors among youth.

(b) To increase pupil awareness of the warning signs and risk factors for suicide and depression.

(c) To improve access to appropriate prevention services for vulnerable youth groups.

(2) The board of a school district or board of directors of a public school academy is encouraged to work with school personnel and local or state organizations and resources specializing in suicide prevention and awareness.

(3) The department shall develop or select model programs and materials on suicide prevention and awareness that are appropriate for the purposes of this section, such as the Michigan model for comprehensive school health education, and shall make those model programs and materials available to school districts and public school academies.

(4) If a school district or public school academy provides instruction described in subsection (1), the board of the school district or board of directors of the public school academy shall notify the parents of all pupils of each school in which the instruction is provided about the instruction using the communication method the school district or public school academy normally uses for regular communications with parents.

(5) Failure of a school district or public school academy to comply with subsection (4) does not create a cause of action or constitute a breach of any legal duty in a civil action.

(6) This section shall be known as the "Chase Edwards law".

**History:** Add. 2006, Act 324, Imd. Eff. July 20, 2006.

**Compiler's note:** Former MCL 380.1171, which pertained to instruction on animals and birds, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1171a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to development of nature study area.

**Popular name:** Act 451

### 380.1172 Repealed. 2016, Act 535, Eff. Apr. 9, 2017.

**Compiler's note:** The repealed section pertained to promulgation of rules concerning personality tests.

### 380.1173-380.1174a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to selection of social studies materials; guidelines pertaining to culture of ethnic, religious, and racial minorities, and to the contributions of women; and curriculum for multicultural education.

**Popular name:** Act 451

### 380.1175 Public holidays; salaries not affected; commemorative exercises.

Sec. 1175. (1) January 1, New Year's day; the last Monday of May, Memorial or Decoration day; July 4; the first Monday in September, Labor day; the fourth Thursday of November, Thanksgiving day, and December 25, Christmas day, shall be public holidays in the public schools of this state. If 1 of these days falls on Sunday, the Monday following shall be a public holiday in the public schools. A school session shall not be held on the public holidays described in this subsection in a public school in this state. The salary of a school officer or a teacher shall not be affected by reason of the dismissal of school on the days described in this subsection.

(2) On the third Monday in January in conjunction with the federal holiday, Martin Luther King, Jr. day; February 12, Lincoln's birthday; the third Monday of February, Washington's birthday; September 17, the date of the adoption of the federal constitution; the second Monday in October, Columbus day; and November 11, Veteran's day, a school officer or teacher shall have each school under the officer's or teacher's control observe the day by a proper and appropriate commemorative exercise. A commemorative exercise may include or involve the assignment of schoolwork to teach the significance of the days described in this subsection, which shall not be considered as legal holidays for schools.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1984, Act 389, Eff. Mar. 29,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

1985;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1176 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to adoption of certain act provisions by local district.

**Popular name:** Act 451

### 380.1177 Immunization statements; vision screening test; immunization status and vision report; rules.

Sec. 1177. (1) A child enrolling in a public or nonpublic school for the first time or, beginning in the 2014-2015 school year, enrolling in grade 7 for the first time shall submit 1 of the following:

(a) A statement signed by a physician that the child has been tested for and immunized or protected against diseases specified by the director of the department of community health.

(b) A statement signed by a parent or guardian to the effect that the child has not been immunized because of religious convictions or other objection to immunization.

(c) A statement signed by a physician that certifies that the child is in the process of complying with all immunization requirements.

(2) In addition, the parent or guardian of each child enrolling in kindergarten for the first time shall submit a statement signed by a district, county, or city health department director stating that the child has been administered the department of community health preschool vision screening test, or signed by a licensed medical or osteopathic physician or a licensed optometrist stating that the child's eyes have been examined during the preschool years after age 3 and before initial entrance. A vision test is not required if there is a statement signed by a parent or guardian to the effect that the child cannot be submitted to the test because of religious convictions.

(3) Not later than November 1 of each year, the administrator of each school shall provide the director of the department of community health with the immunization status of each pupil in grades K through 12 who enrolled in the school for the first time, or, beginning in the 2014-2015 school year, enrolled in grade 7 in the school for the first time, between the immediately preceding January 1 and the immediately preceding September 30, as well as a vision report of each child entering kindergarten during that time period. This information shall be transmitted through the approved local full-time health department, if available, and shall be on forms provided by the director of community health or otherwise reported in a manner approved by the director of the department of community health. Not later than February 1 of each year, the administrator of each school shall provide an update to the report due the previous November 1 to show the immunization status of each pupil in grades K through 12 who enrolled in the school for the first time, or, beginning in the 2014-2015 school year, enrolled in grade 7 in the school for the first time, during the calendar year ending the immediately preceding December 31. This information shall be transmitted in the same manner as the report due the previous November 1.

(4) The department of community health shall promulgate rules, including rules identifying the diseases specified under subsection (1)(a), for the implementation of this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 1996, Act 399, Imd. Eff. Oct. 11, 1996;—Am. 2000, Act 91, Imd. Eff. May 1, 2000;—Am. 2013, Act 121, Imd. Eff. Oct. 1, 2013.

**Compiler's note:** Enacting section 1 of Act 121 of 2013 provides:
"Enacting section 1. This amendatory act takes effect July 1, 2013."

**Popular name:** Act 451

**Administrative rules:** R 325.3501 et seq. of the Michigan Administrative Code.

### 380.1177a Meningococcal meningitis; human papillomavirus; vaccines; information to be provided to parents and guardians.

Sec. 1177a. (1) If, at the beginning of a school year, the board of a school district or board of directors of a public school academy provides information on immunizations, infectious disease, medications, or other school health issues to parents and guardians of pupils in at least grades 6, 9, and 12, then with that information the board or board of directors shall include information about meningococcal meningitis and the vaccine for meningococcal meningitis. The information shall include at least the causes and symptoms of meningococcal meningitis, how it is spread, and sources where parents and guardians may obtain additional information about meningococcal meningitis and may obtain vaccination of a child against meningococcal meningitis.

(2) If, at the beginning of a school year, the board of a school district or board of directors of a public school academy provides information on immunizations, infectious disease, medications, or other school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

health issues to parents and guardians of pupils in at least grades 6, 9, and 12, then with that information the board or board of directors shall include information about human papillomavirus and the vaccine for human papillomavirus. The information shall include at least the risks associated with human papillomavirus; the availability, effectiveness, and potential risks of immunization for human papillomavirus; and sources where parents and guardians may obtain additional information about human papillomavirus and may obtain vaccination of a child against human papillomavirus.

(3) The department, in cooperation with the department of community health, shall develop and make available to school districts, public school academies, and nonpublic schools information that meets the requirements of subsections (1) and (2). The department shall do this in the manner the department determines to be the most cost-effective and programmatically effective, which shall include at least posting the information on its website.

**History:** Add. 2005, Act 240, Imd. Eff. Nov. 22, 2005;—Am. 2008, Act 121, Imd. Eff. May 9, 2008.

**Popular name:** Act 451

### 380.1178 Administration of medication or epinephrine auto-injector to pupil or individual; liability; school employee as licensed registered professional nurse.

Sec. 1178. (1) Subject to subsection (2), a school administrator, teacher, or other school employee designated by the school administrator, who in good faith administers medication to a pupil in the presence of another adult or in an emergency that threatens the life or health of the pupil, pursuant to written permission of the pupil's parent or guardian, and in compliance with the instructions of a physician, physician's assistant, or certified nurse practitioner, or a school employee who in good faith administers an epinephrine auto-injector to an individual consistent with the policies under section 1179a, is not liable in a criminal action or for civil damages as a result of an act or omission in the administration of the medication or epinephrine auto-injector, except for an act or omission amounting to gross negligence or willful and wanton misconduct.

(2) If a school employee is a licensed registered professional nurse, subsection (1) applies to that school employee regardless of whether the medication or epinephrine auto-injector is administered in the presence of another adult.

(3) A school district, nonpublic school, member of a school board, or director or officer of a nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a person acting under this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1978, Act 431, Imd. Eff. Oct. 5, 1978;—Am. 1995, Act 289, Eff. July 1, 1996 ;—Am. 2000, Act 9, Imd. Eff. Mar. 7, 2000;—Am. 2006, Act 48, Imd. Eff. Mar. 9, 2006;—Am. 2013, Act 187, Eff. Mar. 14, 2014;—Am. 2016, Act 385, Eff. Mar. 29, 2017;—Am. 2019, Act 38, Eff. Sept. 24, 2019.

**Popular name:** Act 451

### 380.1178a Administration of medications; duties of department.

Sec. 1178a. (1) Not later than October 1, 2002, the department shall do all of the following:

(a) Review all guidelines, policies, or other publications produced by the department or another state agency concerning administration of medications to pupils at school and revise them as necessary.

(b) Make available to all school districts, intermediate school districts, and public school academies a model local policy concerning administration of medications to pupils at school.

(2) The model local policy developed under subsection (1) shall address the type and amount of training that may be required for persons who participate in administering medications to pupils at school. In developing this part of the policy, the department may consider training programs offered by the Michigan association of school nurses and by other public health organizations.

(3) Not later than 1 year after the effective date of this section, each school board, intermediate school board, and public school academy board of directors shall review its local policy concerning administration of medications to pupils at school. This review shall take place at a public meeting.

(4) School boards, intermediate school boards, and public school academy boards of directors are encouraged to align their local policies with the model policy developed under subsection (1) and are encouraged to provide appropriate training to persons who participate in administering medications to pupils at school.

**History:** Add. 2002, Act 51, Imd. Eff. Mar. 15, 2002.

**Popular name:** Act 451

### 380.1179 Use of inhaler or epinephrine auto-injector permitted; conditions; liability; extra inhaler or epinephrine auto-injector; FDA approved over-the-counter topical substance;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**notice to classroom teachers; definitions.**

Sec. 1179. (1) If the conditions prescribed in subsection (2) are met, notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use 1 or more of the following at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

(2) Subsection (1) applies to a pupil if all of the following conditions are met:

(a) The pupil has written approval to possess and use the inhaler or epinephrine auto-injector as described in subsection (1) from the pupil's physician or other health care provider authorized by law to prescribe an inhaler or epinephrine auto-injector and, if the pupil is a minor, from the pupil's parent or legal guardian.

(b) The principal or other chief administrator of the pupil's school has received a copy of each written approval required under subdivision (a) for the pupil.

(c) There is on file at the pupil's school a written emergency care plan that contains specific instructions for the pupil's needs, that is prepared by a physician licensed in this state in collaboration with the pupil and the pupil's parent or legal guardian, and that is updated as necessary for changing circumstances.

(3) Notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use a United States Food and Drug Administration approved, over-the-counter topical substance at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating if all of the following conditions are met:

(a) If the pupil is a minor, the pupil has written approval to possess and use the United States Food and Drug Administration approved, over-the-counter topical substance from the pupil's parent or legal guardian.

(b) The principal or other chief administrator of the pupil's school has received a copy of the written approval required under subdivision (a), if any, for the pupil.

(4) A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being prohibited by an employee of the school or school district from using a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) or (3), as applicable, had not been satisfied. A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being permitted by an employee of the school or school district to use or possess a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) or (3), as applicable, had been satisfied. This subsection does not eliminate, limit, or reduce any other immunity or defense that a school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school may have under section 1178 or other state law.

(5) As part of its general powers, a school district may request a pupil's parent or legal guardian to provide an extra inhaler or epinephrine auto-injector to designated school personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler or epinephrine auto-injector to school personnel.

(6) A principal or other chief administrator who is aware that a pupil is in possession of a United States Food and Drug Administration approved, over-the-counter topical substance, an inhaler, or an epinephrine auto-injector pursuant to this section shall notify each of the pupil's classroom teachers of that fact and of the provisions of this section.

(7) As used in this section and in section 1179a:

(a) "School board" includes a school board, intermediate school board, or the board of directors of a public school academy.

(b) "School district" includes a school district, intermediate school district, or public school academy.

(c) "United States Food and Drug Administration approved, over-the-counter topical substance" includes, but is not limited to, sunscreen, antimicrobial or antifungal products, external analgesics including lidocaine, psoriasis or eczema topical treatments, or any other topical product with a therapeutic effect.

**History:** Add. 2000, Act 10, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 73, Imd. Eff. Apr. 20, 2004;—Am. 2013, Act 187, Eff. Mar.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

14, 2014;—Am. 2018, Act 243, Eff. Sept. 26, 2018.

**Popular name:** Act 451

### 380.1179a Employees trained in use and administration of epinephrine auto-injector; requirements; development and implementation of policies by school board; identification, development, and adoption of revisions to department medication administration guidelines; report; alternative funding.

Sec. 1179a. (1) Beginning with the 2014-2015 school year, a school board shall ensure that, in each school it operates with an instructional and administrative staff of at least 10, there are at least 2 employees at the school who have been trained in the appropriate use and administration of an epinephrine auto-injector and that, in each school it operates with an instructional and administrative staff of fewer than 10, there is at least 1 employee at the school who has been trained in the appropriate use and administration of an epinephrine auto-injector. The training required under this subsection shall be conducted under the supervision of, and shall include evaluation by, a licensed registered professional nurse.

(2) Not later than the beginning of the 2014-2015 school year, a school board shall develop and implement policies that are consistent with the department's medication administration guidelines, as revised under subsection (4), and that provide for the possession of at least 2 epinephrine auto-injectors in each school operated by the school board to be used for administration by a licensed registered professional nurse who is employed or contracted by the school district or by a school employee who is trained in the administration of an epinephrine auto-injector under subsection (1) and is authorized to administer an epinephrine auto-injector under the policies. The policies shall authorize a licensed registered professional nurse who is employed or contracted by the school district or a school employee who is trained in the administration of an epinephrine auto-injector under subsection (1) to administer an epinephrine auto-injector to a pupil who has a prescription on file at the school. The policies also shall authorize a licensed registered professional nurse who is employed or contracted by the school district or a school employee who is trained in the administration of an epinephrine auto-injector under subsection (1) to administer an epinephrine auto-injector to any other individual on school grounds who is believed to be having an anaphylactic reaction. The policies also shall require notification to the parent or legal guardian of a pupil to whom an epinephrine auto-injector has been administered.

(3) A licensed registered professional nurse who is employed or contracted by the school district or a school employee who is trained in the administration of an epinephrine auto-injector under subsection (1) may possess and administer an epinephrine auto-injector.

(4) The department, in conjunction with the department of community health and with input from the Michigan association of school nurses, the Michigan nurses association, the Michigan parent teacher association, the American college of allergy, asthma, and immunology, the Michigan chapter of the American academy of pediatrics, the school-community health alliance of Michigan, and other school health organizations and entities, shall identify, develop, and adopt appropriate revisions to the medication administration guidelines issued by the department, including, but not limited to, those relating to the specification of training needs and requirements for the administration and maintenance of stock epinephrine auto-injectors, including stocking of both junior and regular dose epinephrine auto-injectors, as necessary, and storage requirements.

(5) At least annually, a school district shall report to the department, in the form and manner prescribed by the department, all instances of administration of an epinephrine auto-injector to a pupil at school. The reporting shall include at least all of the following:

(a) The number of instances of administration of an epinephrine auto-injector to a pupil at school in a school year.

(b) The number of pupils who were administered an epinephrine auto-injector at school who were not previously known to be severely allergic.

(c) The number of pupils who were administered an epinephrine auto-injector at school using the school's stock of epinephrine auto-injectors.

(6) A school board shall attempt to obtain funding or resources from private sources, or from another source other than this state, for fulfilling the requirements of this section. If a school board is unable to obtain this alternative funding for all or part of its costs of complying with this section, the school board may apply to the department for reimbursement for the unfunded costs of complying with this section, in the form and manner prescribed by the department. The legislature shall appropriate funds for making this reimbursement. The department shall make the reimbursement according to the appropriation that is made for this purpose. The department annually shall submit a report to the legislature detailing the number of school boards that apply for reimbursement and the number of school boards that are able to secure alternative funding.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 2013, Act 187, Eff. Mar. 14, 2014.

**Popular name:** Act 451

### 380.1179b Repealed. 2019, Act 38, Eff. Sept. 24, 2019.

**Compiler's note:** The repealed section pertained to the administration of opioid antagonists by school employees.

**Popular name:** Act 451

### 380.1186 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to homes for superintendent, administrators and teachers.

**Popular name:** Act 451

## PART 16
## BOARDS OF EDUCATION; POWERS AND DUTIES GENERALLY

### 380.1201 Board; business to be conducted at public meetings; validity of board actions; closed sessions; legal meetings; notice of meetings; signing of minutes; vice-president to act in absence of president.

Sec. 1201. (1) The business that the board of a school district is authorized to perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. An act of the board is not valid unless the act is authorized at a meeting by a majority vote of the members elected or appointed to and serving on the board and a proper record is made of the vote.

(2) The board may hold closed sessions only as authorized by section 8 of the open meetings act, 1976 PA 267, MCL 15.268.

(3) A meeting at which all members are present, with or without proper notice to members of the board, and for which proper notice is given to the public pursuant to subsection (4), is considered a legal meeting for the transaction of business.

(4) The board shall give public notice of the time, date, and place of the meeting in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) The minutes of each board meeting shall be signed by the secretary. In the absence of the secretary, the president shall appoint a temporary secretary who shall sign the minutes of the meeting. The vice-president shall act in the absence of the president.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2001, Act 27, Imd. Eff. June 22, 2001.

**Popular name:** Act 451

### 380.1202 Record of proceedings, accounts, and business; public records; inspection.

Sec. 1202. The board of a school district shall maintain records of the proceedings of the board, the accounts of the treasurer, and the business of the district in an orderly manner. The records of the board shall be public records subject to inspection under section 492 of Act No. 328 of the Public Acts of 1931, as amended, being section 750.492 of the Michigan Compiled Laws.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1202a-380.1204 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to site-based decision making, financial reports, and audits.

**Popular name:** Act 451

### 380.1203 Conflict of interest.

Sec. 1203. (1) A member of the board of a school district or intermediate school district or board of directors of a public school academy who believes or has reason to believe that he or she has a conflict of interest with regard to a contract or other financial transaction that requires the approval of the board or board of directors shall abstain from voting on the contract or other financial transaction and shall disclose the specific conflict of interest. A member of the board of a school district or intermediate school district or board of directors of a public school academy is presumed to have a conflict of interest if the member or his or her family member has a financial interest, or a competing financial interest, in the contract or other financial transaction or is an employee of the school district, intermediate school district, or public school academy.

(2) A person serving as the legal counsel to the board of a school district or intermediate school district or board of directors of a public school academy, or otherwise acting as an advisor or consultant to the board or board of directors, who believes or has reason to believe that the person has a conflict of interest with regard


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to a contract or other financial transaction that requires the approval of the board or board of directors shall disclose the conflict of interest to the board or board of directors before the vote on the contract or other financial transaction. A person serving as the legal counsel to the board of a school district or intermediate school district or board of directors of a public school academy or otherwise acting as an advisor or consultant to the board or board of directors is presumed to have a conflict of interest if the person or his or her family member has a financial interest, or a competing financial interest, in the contract or other financial transaction.

(3) For the purposes of this section, if a member of the board of a school district or intermediate school district or board of directors of a public school academy, or a person serving as the legal counsel to the board or board of directors, has a child who is a pupil of the school district, intermediate school district, or public school academy, that relationship alone does not constitute a conflict of interest or financial interest in a contract or other financial transaction of the school district, intermediate school district, or public school academy.

(4) For the purposes of this section, an individual is not considered to have a financial interest in any of the following instances:

(a) A contract or other financial transaction between the school district, intermediate school district, or public school academy and any of the following:

(*i*) A corporation in which the individual is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*ii*) A corporation in which a trust, if the individual is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owns stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*iii*) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200, if the individual is an employee but not a member of the company.

(b) A contract or other financial transaction between the school district, intermediate school district, or public school academy and any of the following:

(*i*) A corporation in which the individual is not a director, officer, or employee.

(*ii*) A firm, partnership, or other unincorporated association, in which the individual is not a partner, member, or employee.

(*iii*) A corporation or firm that has an indebtedness owed to the individual.

(c) A contract between an intermediate school district and a constituent district.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids if the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract that were not authorized by the contract at the time of award.

(5) If a majority of the members of the board of a school district or intermediate school district or of the board of directors of a public school academy are required to abstain from voting on a contract or other financial transaction due to the operation of this section, then, notwithstanding any other provision of law or any bylaw, for the purposes of that contract or other financial transaction, the members who are not required to abstain constitute a quorum of the board or board of directors and a majority of those members eligible to vote is required for approval of the question.

(6) The provisions of this section are in addition to other provisions of law concerning conflicts of interest that apply to school districts, intermediate school districts, and public school academies.

(7) As used in this section, "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

**History:** Add. 2012, Act 606, Imd. Eff. Jan. 9, 2013.

### 380.1204a Annual educational report.

Sec. 1204a. (1) In addition to the requirements specified in section 1280 for accreditation under that section, if the board of a school district wants all of its schools to be accredited under section 1280, the board shall prepare and submit to the state board not later than September 1 each year, and shall provide that each school in the school district distributes to the public at an open meeting not later than October 15 each year, an annual educational report. The annual educational report shall include, but is not limited to, all of the following information for each public school in the school district:

(a) The accreditation status of each school within the school district, the process by which pupils are assigned to particular schools, and a description of each specialized school.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) The status of the 3- to 5-year school improvement plan as described in section 1277 for each school within the school district.

(c) A copy of the core academic curriculum and a description of its implementation, including how pupils are ensured enrollment in those courses or subjects necessary for them to receive adequate instruction in all of the core academic curriculum, and the variances and explanation for the variances from the model core academic curriculum developed by the state board pursuant to section 1278(2).

(d) A report for each school of aggregate student achievement based upon the results of any locally-administered student competency tests, statewide assessment tests, or nationally normed achievement tests that were given to pupils attending school in the school district.

(e) For the year in which the report is filed and the previous school year, the district pupil retention report as defined in section 6 of the state school aid act of 1979, being section 388.1606 of the Michigan Compiled Laws.

(f) The number and percentage of parents, legal guardians, or persons in loco parentis with pupils enrolled in the school district who participate in parent-teacher conferences for pupils at the elementary, middle, and secondary school level, as appropriate.

(g) Beginning in the 1996-97 school year, if the school is a high school, all of the following:

(*i*) The number and percentage of pupils enrolled in the school who enrolled during the immediately preceding school year in 1 or more postsecondary courses under the postsecondary enrollment options act or under section 21b of the state school aid act of 1979, being section 388.1621b of the Michigan Compiled Laws.

(*ii*) The number of college level equivalent courses offered to pupils enrolled in the school, in the school district, and in consortia or cooperative programs available to pupils of the school district.

(*iii*) The number and percentage of pupils enrolled in the school who were enrolled in at least 1 college level equivalent course during the immediately preceding school year, disaggregated by grade level.

(*iv*) The number and percentage of pupils described in subparagraph (*iii*) who took a college level equivalent credit examination.

(*v*) The number and percentage of pupils described in subparagraph (*iv*) who achieved a score on a college level equivalent credit examination that is at or above the level recommended by the testing service for college credit.

(h) A comparison with the immediately preceding school year of the information required by subdivisions (a) through (g).

(2) At least annually, the department shall prepare and submit to the legislature a report of the information described in subsection (1)(g), aggregated for statewide and intermediate school district totals, using the information submitted by school districts.

(3) The state board shall prepare and make available to school districts suggestions for accumulating the information listed in subsection (1) and a model annual educational report for school districts to consider in the implementation of this section.

(4) As used in this section, "college level equivalent course" and "college level equivalent credit examination" mean those terms as defined in part 14a.

**History:** Add. 1989, Act 159, Eff. Mar. 13, 1990;—Am. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1996, Act 159, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1204b Repealed. 1990, Act 25, Eff. Apr. 13, 1990.

**Compiler's note:** The repealed section pertained to annual reports.

**Popular name:** Act 451

### 380.1205 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to administration of oaths.

**Popular name:** Act 451

### 380.1206 Conduct of elections under MCL 168.301 to 168.315.

Sec. 1206. (1) The Michigan election law governs election procedures for a school district, local act school district, or intermediate school district regular school election or special school election.

(2) A school district, local act school district, or intermediate school district regular school election or special school election shall be administered and conducted as provided in chapter XIV of the Michigan election law, MCL 168.301 to 168.315. A school district, local act school district, or intermediate school district may use general operating funds to reimburse units of local government involved in administering and


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

conducting a regular school election or special school election for the school district, local act school district, or intermediate school district, as required under the Michigan election law.

**History:** Add. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.1210 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to receipt of property for scholarships or other educational purposes.

**Popular name:** Act 451

### 380.1211 Mills levied for school operating purposes; limitation; reduction of mills from which homestead, qualified agricultural property, qualified forest property, supportive housing property, property occupied by public school academy, and industrial personal property are exempt; effect of insufficient mills allowed to be levied under subsection (1); additional mills; number of mills school district may levy after 1994; exemption of commercial personal property; approval by school electors; excess tax revenue; shortfall; allocation under property tax limitation act; reducing number of mills; definitions.

Sec. 1211. (1) Except as otherwise provided in this section and section 1211c, the board of a school district shall levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes, whichever is less. A principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property are exempt from the mills levied under this subsection except for the number of mills by which that exemption is reduced under this subsection. Except as otherwise provided in subsection (9), the board of a school district that had a foundation allowance for the 1994-95 state fiscal year greater than $6,500.00 may reduce the number of mills from which a principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property are exempted under this subsection by up to the number of mills, as certified under section 1211a, required to be levied on a principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995, and the board also may levy in 1994 or a succeeding year that number of mills for school operating purposes on a principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property.

(2) Subject to subsection (3), if the department of treasury determines that the maximum number of mills allowed to be levied under subsection (1) on all classes of property was not sufficient for a school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for that school fiscal year, the board of the school district may levy in 1994 or a succeeding year additional mills uniformly on all property up to the number of mills required for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995. However, the board of a school district described in this subsection, by board resolution, may elect to exempt each principal residence and all qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property located in the school district from some or all of the mills that the board is authorized to levy under this subsection.

(3) After 1994, the number of mills a school district may levy under this section on any class of property must not exceed the lesser of the number of mills the school district was certified by the department of treasury under section 1211a to levy on that class of property under this section in 1994 or the number of mills required to be levied on that class of property under this section to ensure that the increase from the immediately preceding state fiscal year in the school district's combined state and local revenue per membership pupil, calculated as if the school district had levied the maximum number of mills the school district was allowed to levy under this section regardless of the number of mills the school district actually levied, does not exceed the lesser of the dollar amount of the increase in the target foundation allowance under section 20 of the state school aid act of 1979, MCL 388.1620, from the immediately preceding state fiscal year or the percentage increase in the general price level in the immediately preceding calendar year. If the number of mills a school district is allowed to levy under this section in a year after 1994 is less than the number of mills the school district was allowed to levy under this section in the immediately preceding year, any reduction required by this subsection in the school district's millage rate must be calculated by first


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

reducing the number of mills the school district is allowed to levy under subsection (2) and then increasing the number of mills from which a principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property are exempted under subsection (1). For calculations under this subsection, the target foundation allowance under section 20 of the state school aid act of 1979, MCL 388.1620, for the 2018-2019 state fiscal year is considered to be the basic foundation allowance under section 20 of the state school aid act of 1979, MCL 388.1620, for the 2018-2019 state fiscal year.

(4) Commercial personal property is exempt from 12 of the mills levied under this section. However, if the number of mills from which industrial personal property is exempted for a specific school district is reduced under this section, then the number of mills from which commercial personal property is exempted for that school district must be reduced by that same number of mills.

(5) Except as otherwise provided under this subsection, millage levied under this section must be approved by the school electors. For the purposes of this section, millage approved by the school electors before January 1, 1994 for which the authorization has not expired is considered to be approved by the school electors. With the approval of the state treasurer, a school district may pledge millage levied under this section for the repayment of a loan under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, money borrowed by the school district under section 1225, or the repayment of advances, overpayments, or other obligations of the school district to this state under section 15 of the state school aid act of 1979, MCL 388.1615.

(6) If a school district levies millage for school operating purposes that is in excess of the limits of this section, the amount of the resulting excess tax revenue must be deducted from the school district's next regular tax levy.

(7) If a school district levies millage for school operating purposes that is less than the limits of this section, the board of the school district may levy at the school district's next regular tax levy an additional number of mills not to exceed the additional millage needed to make up the shortfall.

(8) A school district shall not levy mills allocated under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, other than mills allocated to a school district that was previously a school district of the first class, for payment to a public library commission under section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211, after 1993.

(9) Beginning with taxes levied for 2011, if a school district had a foundation allowance for the 1994-95 state fiscal year greater than $6,500.00 and if the school district's foundation allowance for the 2009-2010 state fiscal year was less than the basic foundation allowance prescribed for the 2009-2010 state fiscal year under section 20 of the state school aid act of 1979, MCL 388.1620, the school district may not reduce the number of mills from which certain classes of property are exempted from the levy of millage under subsection (1) and may not levy that number of mills on those classes of property as would otherwise be allowed under subsection (1).

(10) As used in this section:

(a) "Combined state and local revenue per membership pupil" means that term as defined in section 20 of the state school aid act of 1979, MCL 388.1620.

(b) "Commercial personal property" means property classified as commercial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(c) "Foundation allowance" means a school district's foundation allowance as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(d) "General price level" means that term as defined in section 33 of article IX of the state constitution of 1963.

(e) "Industrial personal property" means the following:

(*i*) Except as otherwise provided in subparagraph (*ii*), property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(*ii*) Beginning December 31, 2011, industrial personal property does not include a turbine powered by gas, steam, nuclear energy, coal, or oil the primary purpose of which is the generation of electricity for sale.

(f) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(g) "Owner", "person", "principal residence", and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(h) "Property occupied by a public school academy" means property occupied by a public school academy, urban high school academy, or school of excellence that is used exclusively for educational purposes.

(i) "Qualified forest property" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(j) "School operating purposes" includes expenditures for furniture and equipment, for alterations necessary to maintain school facilities in a safe and sanitary condition, for funding the cost of energy conservation improvements in school facilities, for deficiencies in operating expenses for the preceding year or preceding years, including, but not limited to, repayment of an emergency loan under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, and for paying the operating allowance due from the school district to a joint high school district in which the school district is a participating school district under former part 3a. Taxes levied for school operating purposes do not include any of the following:

(*i*) Taxes levied by a school district for operating a community college under part 25.

(*ii*) Taxes levied under section 1212.

(*iii*) Taxes levied under section 1356 for eliminating an operating deficit.

(*iv*) Taxes levied for operation of a library under section 1451 or for operation of a library established under 1913 PA 261, MCL 397.261 to 397.262, that were not included in the operating millage reported by the district to the department as of April 1, 1993. However, a district may report to the department not later than April 1, 1994 the number of mills it levied in 1993 for a purpose described in this subparagraph that the school district does not want considered as operating millage and then that number of mills is excluded under this section from taxes levied for school operating purposes.

(*v*) Taxes paid by a school district that was previously a school district of the first class to a public library commission under section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211.

(*vi*) Taxes levied under former section 1512 for operation of a community swimming pool. In addition, if a school district included the millage it levied in 1993 for operation of a community swimming pool as part of its operating millage reported to the department for 1993, the school district may report to the department not later than June 17, 1994 the number of mills it levied in 1993 for operation of a community swimming pool that the school district does not want considered as operating millage and then that number of mills is excluded under this section from taxes levied for school operating purposes.

(k) "Supportive housing property" means real property certified as supportive housing property under chapter 3B of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1459 to 125.1459a.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1982, Act 431, Imd. Eff. Dec. 29, 1982;—Am. 1991, Act 108, Imd. Eff. Oct. 9, 1991;—Am. 1992, Act 236, Imd. Eff. Oct. 22, 1992;—Am. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 1994, Act 136, Imd. Eff. May 24, 1994;—Am. 1994, Act 173, Imd. Eff. June 17, 1994;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 126, Eff. Jan. 1, 2004;—Am. 2006, Act 380, Imd. Eff. Sept. 27, 2006;—Am. 2006, Act 648, Imd. Eff. Jan. 5, 2007;—Am. 2007, Act 37, Imd. Eff. July 12, 2007;—Am. 2008, Act 455, Imd. Eff. Jan. 9, 2009;—Am. 2010, Act 216, Eff. Mar. 30, 2011;—Am. 2011, Act 317, Eff. Dec. 31, 2011;—Am. 2012, Act 232, Imd. Eff. June 29, 2012;—Am. 2012, Act 285, Imd. Eff. Aug. 1, 2012;—Am. 2020, Act 156, Imd. Eff. Sept. 17, 2020.

**Compiler's note:** Enacting section 1 of Act 37 of 2007 provides:
"Enacting section 1. This amendatory act applies to taxes levied after December 31, 2007."

**Popular name:** Act 451

### 380.1211a Certifications by department of treasury; appeal of determinations; appeal conference; final decision.

Sec. 1211a. Not later than June 20, 1994, the department of treasury shall certify each school district's combined state and local revenue per membership pupil, as defined in section 1211, for the school fiscal year ending in 1994, the number of mills the school district may levy beginning in 1994 under section 1211, and the number of mills by which the school district may reduce the exemption for a homestead and qualified agricultural property for 1994 under section 1211. The department of education shall provide to the department of treasury all information necessary for the department of treasury to make the certifications under this section. Not later than July 20, 1994, a school district may appeal the determinations made by the department of treasury for the district under this section. An appeal under this subsection shall be made to the superintendent of public instruction, who may assign the appeal to a hearing officer. The superintendent of public instruction shall offer any appealing school district an appeal conference to attempt to resolve the issues raised in the appeal without a hearing. If the appeal conference does not resolve the issues, the superintendent of public instruction or hearing officer may conduct a hearing. Based upon the appeal, the information submitted by the school district, and the information provided by the department of treasury, the hearing officer shall submit a proposed decision to the superintendent of public instruction either affirming the determinations made by the department of treasury or directing the department of treasury to make specific adjustments. Not later than 30 days after receiving the proposed decision, or not later than 30 days after hearing the appeal, the superintendent of public instruction shall issue a final decision either affirming the determinations made by the department of treasury or directing the department of treasury to make


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

specific adjustments and provide a copy to the school district.

**History:** Add. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 1994, Act 258, Imd. Eff. July 5, 1994.

**Popular name:** Act 451

### 380.1211b Repealed. 1994, Act 258, Imd. Eff. July 5, 1994.

**Compiler's note:** The repealed section pertained to establishment of school district as charter authority.

**Popular name:** Act 451

### 380.1211c Additional mills; limitation; presentation to school electors as separate questions; school district not described in MCL 388.1620.

Sec. 1211c. For 1994 through 1996, a school district may levy, in addition to the millage authorized under section 1211, not more than 3 additional mills for enhancing operating revenue if approved by the school electors at an election held after 1993. The question of levying mills authorized under this section shall be presented to school electors as a separate question and identified as being for enhancement of operating revenue. A school district that is not a school district described in section 20(12) or (13) of the state school aid act of 1979, being section 388.1620 of the Michigan Compiled Laws, shall not levy any millage under this section that was approved by the school electors after September 30, 1994, unless the school district levies, for the same tax year, the maximum number of mills under section 1211 that does not exceed the limitations imposed by section 1211(3).

**History:** Add. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 1994, Act 344, Imd. Eff. Dec. 12, 1994.

**Popular name:** Act 451

### 380.1211d Repealed. 2003, Act 126, Eff. Jan. 1, 2004.

**Compiler's note:** The repealed section pertained to definitions.

**Popular name:** Act 451

### 380.1211e Affidavit claiming exemption on qualified agricultural property; filing.

Sec. 1211e. (1) Subject to subsection (2), to claim an exemption under section 1211(1) for qualified agricultural property for the 1994 tax year, if an affidavit claiming an exemption on a principal residence was not filed for the property by May 1, 1994, an affidavit claiming the exemption on qualified agricultural property shall be filed with the local assessing unit by June 1, 1994. If property is qualified agricultural property and is classified as agricultural property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, that property is exempt and an affidavit claiming the exemption does not need to be filed.

(2) If there are provisions in the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, that are inconsistent with subsection (1), the provisions of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, prevail.

**History:** Add. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 126, Eff. Jan. 1, 2004.

**Popular name:** Act 451

### 380.1212 Sinking fund; creation; purpose; tax levy; audit; submission of proposition to school electors; election; ballot; approval; definitions.

Sec. 1212. (1) If approved by the school electors of the school district, the board of a school district may levy a tax on the taxable value of the real and personal property of the school district each year for the purpose of creating a sinking fund. All of the following apply to a sinking fund tax authorized under this section:

(a) For a sinking fund tax authorized before the effective date of the amendatory act that added subsection (6), the sinking fund tax may be used for the purchase of real estate for sites for, and the construction or repair of, school buildings. For a sinking fund tax authorized on or after the effective date of the amendatory act that added subsection (6), the sinking fund tax may be used for the purchase of real estate for sites for, and the construction or repair of, school buildings, for school security improvements, or for the acquisition or upgrading of technology.

(b) For a sinking fund tax authorized before the effective date of the amendatory act that added subsection (6), the sinking fund tax shall not exceed 5 mills. For a sinking fund tax authorized on or after the effective date of the amendatory act that added subsection (6), the sinking fund tax shall not exceed 3 mills.

(c) For a sinking fund tax authorized before the effective date of the amendatory act that added subsection (6), the sinking fund tax may be levied each year for a period not to exceed 20 years. For a sinking fund tax authorized on or after the effective date of the amendatory act that added subsection (6), the sinking fund tax


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

may be levied each year for a period not to exceed 10 years.

(d) The sinking fund tax levy is subject to the 15 mill tax limitation provisions of section 6 of article IX of the state constitution of 1963 and the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(2) A school district that levies a sinking fund tax under this section shall have an independent audit of its sinking fund conducted annually, including a review of the uses of the sinking fund, and shall submit the audit report to the department of treasury. If the department of treasury determines from the audit report that the sinking fund has been used for a purpose other than those authorized for the sinking fund under this section, the school district shall repay the misused funds to the sinking fund from the school district's operating funds and shall not levy a sinking fund tax under this section after the date the department of treasury makes that determination.

(3) The proposition of levying a sinking fund tax shall be submitted to the school electors of the school district at a regular or special school election.

(4) The question of levying taxes for the purpose of creating a sinking fund shall be by ballot in substantially the following form:

```
     "Shall _______________________________ levy   ________ mills
            (legal name of school district)
to create a sinking fund for the purpose of  ____________________
_____________________________________________________________________
for a period of _____ years?
   Yes ( )
   No ( )".
```

(5) For the purposes of this section, millage approved by the school electors before December 1, 1993 for which the authorization has not expired is considered to be approved by the school electors.

(6) As used in this section:

(a) "School security improvement" means any capital improvement or purchase that is designed to act as a deterrent to unauthorized entry of persons or items onto school premises or to otherwise promote security, including, but not limited to, metal detectors, locks, doors, lighting, cameras, and enhancements to entryways. School security improvement also includes a mobile telephone application that provides the ability to communicate with personnel on site while also connecting an emergency telephone call to a 9-1-1 center. School security improvement does not include personnel costs or operation costs related to a capital improvement or purchase or related to a mobile telephone application.

(b) "Technology" means that term as defined in section 1351a.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2016, Act 319, Eff. Mar. 29, 2017.

### 380.1213 Filing certified copy of resolution certifying taxes to be levied; time.

Sec. 1213. The secretary of the board of a school district shall file a certified copy of a resolution of the board certifying the taxes to be levied on the taxable property within the district as approved by the school electors of the district or the board with each city and township clerk in which the school district is situated according to the following:

(a) Not later than September 30 of each year.

(b) Within 10 days after the annual meeting if held in September.

(c) Not later than 5 days after the election if taxes are authorized at an election held pursuant to section 36(2) or (3) of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.36 of the Michigan Compiled Laws.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1979, Act 75, Imd. Eff. July 31, 1979;—Am. 1986, Act 263, Imd. Eff. Dec. 9, 1986.

**Popular name:** Act 451

### 380.1214 Additional millage; authorization by resolution; levy, collection, and enforcement procedure; proceedings as to first debt retirement fund tax; proceedings as to separate tax rate limitations.

Sec. 1214. (1) If the school electors of a school district vote the authorization of a tax rate in addition to that allocated to the district under the property tax limitation act, Act No. 62 of the Public Acts of 1933, as amended, being sections 211.201 to 211.217a of the Michigan Compiled Laws, before September 30 in any year, or for any school district on or before the last day permitted for an election held pursuant to section 36(2) or (3) of the general property tax act, Act No. 206 of the Public Acts of 1893, as amended, being section 211.36 of the Michigan Compiled Laws, then the board, by resolution, may authorize the additional millage


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

so voted to be levied and collected, in the year voted, with the county taxes. The levy, collection, and enforcement procedure for the additional tax shall be pursuant to the laws in effect for the levy, collection, and enforcement procedure of county taxes against property lying within the boundaries of the school district.

(2) The same proceedings may be taken for the levy, collection, and enforcement procedure of the first debt retirement fund tax when a bond issue is approved by the school electors before September 30 in any year. However, if a bond issue is approved after September 14, 1986 and before September 30, 1986, the levy, collection, and enforcement procedure of the first debt retirement fund tax shall not be taken unless, within 10 days after the effective date of this 1986 amendatory act, the secretary of the board of the school district files a certified copy of the resolution of the board certifying the taxes to be levied with the clerk of each city and township in which the school district is located.

(3) The same proceedings may be taken for the levy, collection, and enforcement of an additional tax rate if the electors of a county adopt separate tax rate limitations pursuant to sections 5a to 5m of Act No. 62 of the Public Acts of 1933, as amended, being sections 211.205a to 211.205m of the Michigan Compiled Laws, giving a school district a higher tax rate than the maximum tax rate determined by the county tax allocation board, and the separate limitation is adopted after June 1 and effective for taxes levied during that calendar year.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1979, Act 75, Imd. Eff. July 31, 1979;—Am. 1980, Act 267, Imd. Eff. Sept. 30, 1980;—Am. 1986, Act 263, Imd. Eff. Dec. 9, 1986.

**Popular name:** Act 451

### 380.1215 Accounting for moneys; fund designations.

Sec. 1215. (1) Operating taxes shall be accounted for under the title of "general fund". The state board may establish other fund designations to clarify further the expenditure classifications for which general fund moneys may be used.

(2) Library money shall be accounted for under the title of "library fund".

(3) Building and site money shall be accounted for under the title of "building and site fund".

(4) Taxes collected for retiring bonded indebtedness shall be accounted for as required by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 63, Imd. Eff. Mar. 15, 2002.

**Popular name:** Act 451

### 380.1216 Use of money raised by tax.

Sec. 1216. Except as provided in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, as provided in section 15 of the state school aid act of 1979, MCL 388.1615, or for purposes authorized under section 1211(5), money raised by tax shall not be used for a purpose other than that for which it was raised without the consent of a majority of the school electors of the district voting on the question at a regular or special school election.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1978, Act 473, Imd. Eff. Oct. 19, 1978;—Am. 1991, Act 108, Imd. Eff. Oct. 9, 1991;—Am. 1992, Act 236, Imd. Eff. Oct. 22, 1992;—Am. 2002, Act 64, Imd. Eff. Mar. 15, 2002;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2012, Act 285, Imd. Eff. Aug. 1, 2012.

**Popular name:** Act 451

### 380.1217 Support and maintenance of sectarian schools prohibited; transportation of nonpublic school pupils.

Sec. 1217. A board of a school district or board of directors of a public school academy shall not apply money received by it from any source for the support and maintenance of a school sectarian in character. This section does not prohibit the transportation to school and from school of pupils attending nonpublic schools under sections 1321 and 1322.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 416, Eff. Mar. 30, 1995.

**Popular name:** Act 451

### 380.1217a Purchase, rental, or lease of cars for board members or for chauffeurs for board members prohibited.

Sec. 1217a. For travel within the boundaries of its district, a board of a school district or intermediate school district shall not expend funds received by the district from any source for the purchase, rental, or lease of cars for board members or for chauffeurs for board members.

**History:** Add. 1988, Act 257, Imd. Eff. July 15, 1988.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1218 Assessment, levy, and collection of school taxes; budgets; provisions governing school districts.

Sec. 1218. (1) School taxes shall be assessed, levied, and collected in the manner provided in Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(2) Budgets shall be submitted and school districts shall be governed by Act No. 62 of the Public Acts of 1933, as amended.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1219 Annual budget; adoption; budgetary assumptions; transmission to CEPI; submission to department of treasury; information; potential for existence of fiscal stress within school district, intermediate school district, or public school academy; determination; basis; duties of state treasurer; administrative review of financial status; contract; provisions; waiver of certain requirements; periodic financial status reports; submission of enhanced deficit elimination plan; conditions; determination under subsection (13); availability of documents on website; administrative review of financial status of public school academy; definitions.

Sec. 1219. (1) Except as otherwise provided in subsection (2), before July 7 of each school fiscal year, each school district and public school academy shall transmit to CEPI the budgetary assumptions used when adopting its annual budget pursuant to the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. However, a school district or public school academy that had a positive general fund balance of at least 5% of total general fund revenues for each of 2 most recently completed school fiscal years is not required to transmit the budgetary assumptions under this subsection. After receipt by CEPI, CEPI shall compile and transmit the budgetary assumptions to the department of treasury. The submission of the budgetary assumptions under this subsection shall be in the form prescribed by CEPI and shall include at least all of the following information:

(a) The projected foundation allowance for the school district or public school academy used by its governing body when adopting the budget for the school district or public school academy for the current school fiscal year.

(b) The projected membership of the school district or public school academy used when adopting the budget of the school district or public school academy for the current school fiscal year.

(c) The estimated expenditures per pupil for the school district or public school academy for the immediately preceding school fiscal year, calculated by dividing total general fund operating expenditures for the school district or public school academy during that school fiscal year by the membership for the school district or public school academy reported by the department in the most recent state aid financial status report for the month of May.

(d) The projected expenditures per pupil for the school district or public school academy for the current school fiscal year, calculated by dividing the total general fund operating expenditures authorized by the governing body of the school district or the public school academy when adopting the budget for the current school fiscal year by the projected membership of the school district or public school academy used when adopting the budget of the school district or public school academy for the current school fiscal year.

(2) If an authorizing body submits a budgetary assumption report required under subsection (1) on behalf of each public school academy authorized by that authorizing body that would otherwise be required to submit budgetary assumptions under subsection (1), then those public school academies are not required to submit the budgetary assumption report required under subsection (1).

(3) If, based on the factors enumerated in this subsection, the state treasurer determines that the potential for fiscal stress exists within a school district, intermediate school district, or public school academy; that an operating deficit may arise within a school district, intermediate school district, or public school academy during the current school fiscal year or the following 2 school fiscal years; or that a school district, intermediate school district, or public school academy may be unable to meet its financial obligations while also satisfying the school district's, intermediate school district's, or public school academy's obligations or abilities to provide public educational services in a manner that complies with this act, the state school aid act of 1979, and applicable rules, then the state treasurer may declare that the potential for fiscal stress exists for the school district, intermediate school district, or public school academy. This determination shall be based on consideration of the following factors:

(a) Financial data or other information submitted by the school district, intermediate school district, or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

public school academy to a state department or agency.

(b) Financial data or other information included within an audited financial statement of the school district, intermediate school district, or public school academy.

(c) Financial data or other information provided to a state department, agency, or authority in connection with a request to issue bonds, notes, or other debt obligations, including, but not limited to, information relating to a request for a loan under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(d) Financial data or other information included within a recommended budget, budget, or general appropriations act of the school district, intermediate school district, or public school academy.

(e) Financial data or other information provided to a state department, agency, or authority by an officer, employee, contractor, or agent of the school district, intermediate school district, or public school academy.

(f) For a school district, data relating to pupil enrollment, including, but not limited to, residents of other school districts enrolled in the school district and residents of the school district enrolled in another school district or in a public school not operated by the school district.

(g) For a school district, financial data or other information provided to the department or department of treasury by the intermediate school district in which the school district is located.

(h) For a public school academy, financial data or other information provided to the department or department of treasury by the authorizing body of the public school academy.

(4) If the state treasurer declares under subsection (3) that the potential for fiscal stress exists for a school district, intermediate school district, or public school academy, then not less than 14 days after the declaration the state treasurer shall do all of the following:

(a) Notify the governing body of the school district, intermediate school district, or public school academy that the state treasurer has declared that the potential for fiscal stress exists for the school district, intermediate school district, or public school academy.

(b) For a school district or public school academy, notify the governing body of the school district or public school academy that it may establish a contract under subsection (5) with an intermediate school district to perform an administrative review of the financial status of the school district or public school academy.

(5) Subject to subsection (16), if the state treasurer declares under subsection (3) that the potential for fiscal stress exists for a school district or public school academy, the governing body of the school district or public school academy may choose to establish a contract with an intermediate school district to perform an administrative review of the financial status of the school district or public school academy. An intermediate school district that is working with a school district or public school academy to establish a contract under this subsection shall consult with the department of treasury on the development of the contract. A school district or public school academy must enter into this contract within 60 days after receiving notification of the declaration from the state treasurer under subsection (4). A contract under this subsection between an intermediate school district and a school district or public school academy shall provide for all of the following:

(a) Within 90 days after entering into the contract, the intermediate school district shall complete an administrative review and issue recommendations to the school district or public school academy concerning those steps the school district or public school academy should consider taking to avoid a deficit.

(b) After completion of the administrative review, the intermediate school district shall present the recommendations under subdivision (a) at the next scheduled public meeting of the governing body of the school district or public school academy.

(c) The intermediate school district shall send a copy of the recommendations to the department and the department of treasury.

(d) Subject to subsection (6), the intermediate school district's administrative review under subdivision (a) shall include, but is not limited to, all of the following:

(*i*) An examination of financial practices, including at least an examination of the school district's or public school academy's compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, budget to actual expense report monitoring, and budget amendment practices after budget adoption.

(*ii*) An examination of staffing and a comparison of staffing to other school districts and public school academies, as applicable.

(*iii*) An examination of wages and a comparison of wages to other school districts and public school academies in the area, as applicable.

(*iv*) An examination of benefit costs as a percentage of wages and a comparison of benefit costs as a percentage of wages to other school districts and public school academies in the area, as applicable.

(*v*) A school building student capacity utilization review.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*vi*) An examination of non-instructional costs by function and a comparison of those costs to other school districts and public school academies, as applicable.

(*vii*) A review of enrollment projection methods and history.

(*viii*) An examination of deferred maintenance and capital investment needs. Capital investment needs include technology equipment and technology infrastructure needs.

(*ix*) An examination of substitute costs, workers compensation costs, unemployment compensation costs and forecasts, and a review of other insurance programs.

(*x*) An examination of pupil transportation costs and routing.

(*xi*) An examination of the current and future costs of existing bargaining agreements.

(e) The school district or public school academy shall give the intermediate school district or its contracted agents access to any and all financial data or information relating to the financial condition of the school district or public school academy as requested by the intermediate school district.

(f) The school district or public school academy shall allow the intermediate school district or its contracted agents to examine all financial records and books of account of the school district or public school academy.

(g) The school district or public school academy shall promptly and fully provide the assistance and information necessary and properly requested by the intermediate school district or its contracted agent in the effectuation of the intermediate school district's duties under this subsection, including, but not limited to, complying with a request that the school district or public school academy provide a facility condition assessment or a physical asset inventory if either of these has not been completed in the immediately preceding 24 months.

(h) The school district or public school academy shall allow the intermediate school district to work in a consortium with another intermediate school district or multiple intermediate school districts in the effectuation of the intermediate school district's duties under this subsection.

(i) The school district or public school academy shall allow the intermediate school district to use a contractor or contractors to assist in the review on a cost recovery basis as determined by the intermediate school district.

(j) Either the intermediate school district or the school district or public school academy may rescind the contract, as follows:

(*i*) The intermediate school district may rescind the contract if the school district or public school academy is not complying with 1 or more of the recommendations issued to the school district or public school academy under subdivision (a).

(*ii*) The school district or public school academy may rescind the contract for any reason.

(6) The parties to a contract under subsection (5) may request the department of treasury to waive 1 or more of the requirements for items to be included in the intermediate school district's administrative review under subsection (5)(d). If the department of treasury grants a waiver under this subsection, then the intermediate school district's administrative review under subsection (5)(d) is not required to include the waived item or items.

(7) If a school district or public school academy establishes a contract with an intermediate school district under subsection (5), the intermediate school district shall submit quarterly reports to the department of treasury on the status of the implementation of the recommendations issued to the school district or intermediate school district by the intermediate school district under subsection (5)(a).

(8) Subject to subsection (9), the state treasurer may require a school district, intermediate school district, or public school academy to submit periodic financial status reports under this section if all of the following occur:

(a) The state treasurer has declared under subsection (3) that the potential for fiscal stress exists for the school district, intermediate school district, or public school academy.

(b) More than 60 days have passed since the school district, intermediate school district, or public school academy was notified of the declaration as required under subsection (4)(a).

(c) For a school district or public school academy, that school district or public school academy has not established a contract with an intermediate school district in the time and manner required under subsection (5), has rescinded a contract with an intermediate school district under subsection (5)(j), or has had its contract with an intermediate school district under subsection (5) rescinded by the intermediate school district under subsection (5)(j).

(d) The school district, intermediate school district, or public school academy has not had a positive general fund balance of at least 5% of total general fund revenues for each of the 2 most recently completed school fiscal years.

(e) The school district, intermediate school district, or public school academy has had a declining general


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

fund balance in 1 or both of the 2 most recently completed school fiscal years.

(f) The school district, intermediate school district, or public school academy is not required to submit a deficit elimination plan or an enhanced deficit elimination plan under section 1220.

(9) If a school district or public school academy enters into a contract with an intermediate school district as described under subsection (5), the state treasurer shall not require the school district or public school academy to submit periodic financial status reports under this section until at least 730 days after the governing body of the school district or public school academy was notified of the declaration of the state treasurer under subsection (4)(a). However, the state treasurer may require the school district or public school academy to submit periodic financial status reports under this section if the state treasurer determines that the school district or public school academy has not implemented any of the recommendations within 365 days after the governing body of the school district or public school academy was notified of the declaration of the state treasurer under subsection (4)(a).

(10) If a school district, intermediate school district, or public school academy is required to submit periodic financial status reports under this section, the school district, intermediate school district, or public school academy shall do all of the following:

(a) Submit a periodic financial status report in the form and manner and on the periodic basis prescribed by the department of treasury, after approval by the governing body of the school district or public school academy.

(b) Transmit a copy of each periodic financial status report required under this section to the members of its governing body.

(c) Provide the department of treasury with other financial data or information relating to the financial conditions of the school district, intermediate school district, or public school academy as requested by the department of treasury.

(d) Allow the department of treasury to examine financial records and books of account of the school district, intermediate school district, or public school academy.

(e) Promptly and fully provide the assistance and information necessary and properly requested by the department of treasury in the exercise of the department of treasury's duties under this section.

(11) If a school district, intermediate school district, or public school academy fails to submit a periodic financial status report required under this section, or if the state treasurer determines that information included on a periodic financial status report indicates that fiscal stress exists within the school district, intermediate school district, or public school academy, or that a deficit has occurred or is projected to occur within the school district, intermediate school district, or public school academy within the current school fiscal year or the next school fiscal year and that the school district, intermediate school district, or public school academy lacks the capacity to address the deficit without state assistance, then the state treasurer may require the school district, intermediate school district, or public school academy to submit an enhanced deficit elimination plan under section 1220.

(12) If a school district is required to submit periodic financial status reports under this section and a loan is issued to the school district under the emergency loan act, 1980 PA 243, MCL 141.931 to 141.942, the state treasurer shall require the school district to submit periodic financial status reports under this section for not more than 4 years after the date of issuance of the loan.

(13) A school district, intermediate school district, or public school academy is no longer required to submit periodic financial status reports under this section if the state treasurer determines that the periodic financial status reports submitted by the school district, intermediate school district, or public school academy indicate that potential fiscal stress does not exist within the school district, intermediate school district, or public school academy; that a deficit is not projected to arise within the school district, intermediate school district, or public school academy within the current school fiscal year or the next 2 school fiscal years; and that the school district, intermediate school district, or public school academy will be able to meet its financial obligations while also satisfying the school district's, intermediate school district's, or public school academy's obligations or ability to provide public educational services in a manner that complies with this act, the state school aid act, and applicable rules.

(14) If the state treasurer makes a determination under subsection (13) that the conditions under that subsection apply to a school district, intermediate school district, or public school academy, the state treasurer shall notify the school district, intermediate school district, or public school academy within 14 days after making that determination.

(15) CEPI shall make available to the public on its website all of the periodic financial status reports submitted to the state treasurer under this section. The state treasurer shall transmit to CEPI any documents needed by CEPI to comply with this subsection.

(16) If the state treasurer declares under subsection (3) that the potential for fiscal stress exists for a public


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

school academy, then, in addition to the option under subsection (5) for the public school academy to establish a contract with an intermediate school district to perform an administrative review under subsection (5), the governing body of the public school academy may establish a contract with its authorizing body for the authorizing body to perform an administrative review of the financial status of the public school academy. If a public school academy and its authorizing body establish a contract for the authorizing body to perform an administrative review under this subsection, then all of the following apply:

(a) The authorizing body shall perform all of the same functions with respect to the public school academy as an intermediate school district performs for an administrative review under subsection (5).

(b) The contract and administrative review shall include all of the same items as a contract and administrative review under subsection (5).

(c) The authorizing body has all of the same powers and duties with respect to the contract and the administrative review as an intermediate school district has for a contract and administrative review under subsection (5), including, but not limited to, the duty to consult with the department of treasury when working to establish the contract.

(d) The department of treasury shall perform the same role and shall treat the contract and administrative review, and the public school academy, in the same manner as if it were a contract and administrative review under subsection (5).

(e) All of the provisions under this section that apply to a contract and administrative review under subsection (5) also apply to the contract and administrative review under this subsection.

(17) As used in this section:

(a) "Authorizing body" means an authorizing body for a public school academy under this act.

(b) "CEPI" means the center for educational performance and information created in section 94a of the state school aid act of 1979, MCL 388.1694a.

(c) "Deficit" means a condition prohibited under section 15(2) of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.435, or under section 102(1) of the state school aid act of 1979, MCL 388.1702. Deficit also includes 1 or both of the following circumstances for a school district, intermediate school district, or public school academy:

(*i*) The total general fund balance of the school district, intermediate school district, or public school academy is negative or is projected to be negative at the end of the current school fiscal year.

(*ii*) One or more of the funds of the school district, intermediate school district, or public school academy other than the general fund have a negative balance or projected negative balance that is greater than the total general fund balance.

(d) "Financial emergency" means that 1 or more of the conditions described in section 5(3)(a) to (m) of the local financial stability and choice act, 2012 PA 436, MCL 141.1545, exist or are likely to occur within a school district, intermediate school district, or public school academy in the current or next school fiscal year and threaten the ability of the school district, intermediate school district, or public school academy to provide necessary governmental services essential to public health, safety, and welfare.

(e) "Fiscal stress" means 1 or both of the following:

(*i*) That a school district, intermediate school district, or public school academy is unable to meet its short-term or long-term financial obligations as those obligations arise.

(*ii*) That 1 or more of the conditions described in section 4(1)(a) to (i), (k) to (q), or (s) of the local financial stability and choice act, 2012 PA 436, MCL 141.1544, exist or are likely to occur within a school district, intermediate school district, or public school academy.

(f) "Governing body" means, for a school district, the school board of the school district and, for a public school academy, the board of directors of the public school academy.

(g) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(h) "Pupil" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

**History:** Add. 2015, Act 109, Imd. Eff. July 7, 2015.

### 380.1220 Adoption of or operation under deficit budget; prohibition; requirements; reports; deficit elimination plan; approval; likelihood of recurring operating deficits or recurring financial stress; failure to eliminate deficit; enhanced deficit elimination plan required; enhanced monthly monitoring report; definitions.

Sec. 1220. (1) A school district, intermediate school district, or public school academy shall not adopt or operate under a deficit budget, and a school district, intermediate school district, or public school academy shall not incur an operating deficit in a fund during a school fiscal year. If a school district, intermediate school district, or public school academy has an existing deficit fund balance, incurs a deficit fund balance in


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the most recently completed school fiscal year, or adopts a current year budget that projects a deficit fund balance, all of the following apply:

(a) The school district, intermediate school district, or public school academy shall notify the superintendent of public instruction and the state treasurer immediately upon the occurrence of the circumstance. A school district shall provide a copy of the notice under this subdivision to the intermediate superintendent of the intermediate school district in which the school district is located. A public school academy shall provide a copy of the notice under this subdivision to the authorizing body of the public school academy.

(b) Within 30 days after making notification under subdivision (a), the school district, intermediate school district, or public school academy shall submit to the superintendent of public instruction in the form and manner prescribed by the department an amended budget for the current school fiscal year and a deficit elimination plan approved by the board of the school district, intermediate school district, or public school academy, with a copy to the state treasurer. A school district shall transmit a copy of the amended budget and the deficit elimination plan to the intermediate superintendent of the intermediate school district in which the school district is located. A public school academy shall transmit a copy of the amended budget and the deficit elimination plan to its authorizing body.

(c) The department may withhold and release some or all of the money payable to the school district, intermediate school district, or public school academy as provided under section 102(1) of the state school aid act of 1979, MCL 388.1702.

(d) The superintendent of public instruction may require a deficit elimination plan to include an academic plan for the school district, intermediate school district, or public school academy.

(e) After the superintendent of public instruction approves a school district's, intermediate school district's, or public school academy's deficit elimination plan, the school district, intermediate school district, or public school academy shall post the deficit elimination plan on the school district's, intermediate school district's, or public school academy's website.

(2) The following reporting requirements apply for the purposes of this section and section 1219:

(a) Not later than March 1 of each year, the department shall prepare a report of deficits incurred or projected by school districts, intermediate school districts, and public school academies in the immediately preceding fiscal year and the progress made in reducing those deficits and submit the report to the standing committees of the legislature responsible for K-12 education legislation, the appropriations subcommittees of the legislature responsible for K-12 school aid appropriations, the house and senate fiscal agencies, the state treasurer, and the state budget director. The department also shall submit quarterly interim reports concerning the progress made by school districts, intermediate school districts, and public school academies in reducing those deficits to the standing committees of the legislature responsible for K-12 education legislation, the appropriations subcommittees of the legislature responsible for K-12 school aid appropriations, the house and senate fiscal agencies, the state treasurer, and the state budget director. On a quarterly basis, the superintendent of public instruction shall publicly present those reports to the appropriations subcommittees of the legislature responsible for K-12 school aid appropriations.

(b) Not later than March 1 of each year, the state treasurer shall prepare a report of school districts, intermediate school districts, and public school academies that were required under section 1219 to submit periodic financial status reports in the immediately preceding state fiscal year or required under this section to submit an enhanced deficit elimination plan in the immediately preceding state fiscal year, and the progress made in adhering to that plan, and submit the report to the standing committees of the legislature responsible for K-12 education legislation, the appropriations subcommittees of the legislature responsible for K-12 state school aid appropriations, the house and senate fiscal agencies, the department, and the state budget director. The state treasurer also shall submit quarterly interim reports concerning school districts, intermediate school districts, and public school academies that are subject to periodic financial status reports or are under an enhanced deficit elimination plan to the standing committees of the legislature responsible for K-12 education legislation, the appropriations subcommittees of the legislature responsible for K-12 state school aid appropriations, the house and senate fiscal agencies, the department, and the state budget director. On a quarterly basis, the state treasurer shall publicly present those quarterly interim reports to the appropriations subcommittees of the legislature responsible for K-12 state school aid appropriations.

(3) A school district, intermediate school district, or public school academy required to submit a deficit elimination plan under this section shall submit to the superintendent of public instruction and the state treasurer a monthly monitoring report on revenue and expenditures in a form and manner prescribed by the department and shall post these reports on its website. A school district shall transmit a copy of each report under this subsection to the intermediate superintendent of the intermediate school district in which the school district is located. A public school academy shall transmit a copy of each report under this section to the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

authorizing body of the public school academy. A school district may contract with its intermediate school district or another entity to provide the monthly monitoring report.

(4) If a school district, intermediate school district, or public school academy is required to submit a deficit elimination plan under this section, and the deficit elimination plan is approved by the department, the superintendent of public instruction may continue allotment and payment of funds as provided under section 102 of the state school aid act of 1979, MCL 388.1702. When approving a deficit elimination plan, the superintendent of public instruction shall establish the period of time within which a school district, intermediate school district, or public school academy must eliminate its deficit and may set special conditions that the school district, intermediate school district, or public school academy must meet while the deficit elimination plan is in effect. After the department approves a school district's, intermediate school district's, or public school academy's deficit elimination plan under this subsection, the school district, intermediate school district, or public school academy shall post the deficit elimination plan on the school district's, intermediate school district's, or public school academy's website. The requirements of this section relating to a deficit elimination plan do not apply to a school district, intermediate school district, or public school academy if the school district, intermediate school district, or public school academy is required to submit an enhanced deficit elimination plan under subsection (5).

(5) If, based upon information included in a periodic financial status report required under section 1219, a deficit elimination plan required under this section, or a request by the superintendent of public instruction, the state treasurer determines that a school district, intermediate school district, or public school academy is subject to rapidly deteriorating financial circumstances, persistently declining enrollment, or other indicators of financial stress likely to result in recurring operating deficits or recurring financial stress within the school district, intermediate school district, or public school academy, the state treasurer may require the school district, intermediate school district, or public school academy to submit an enhanced deficit elimination plan in the form and manner determined by the department of treasury. If the deficit for a school district, intermediate school district, or public school academy that is subject to a deficit elimination plan has not been completely eliminated within 5 years after it submitted its initial deficit elimination plan, the state treasurer shall require the school district, intermediate school district, or public school academy to submit an enhanced deficit elimination plan under this subsection. An enhanced deficit elimination plan shall provide for the resolution of the deteriorating financial circumstances, persistently declining enrollment, or other indicators of recurring operating deficits or recurring financial stress and is subject to approval by the state treasurer. As a condition of approving the enhanced deficit elimination plan, the state treasurer may require a school district, intermediate school district, or public school academy required to submit an enhanced deficit elimination plan under this section to enter into a financial recovery agreement with the state treasurer. A financial recovery agreement may provide for, but is not limited to, all of the following:

(a) Assistance and guidance from the department of treasury and other state departments and agencies.

(b) A financial and operating plan for the school district, intermediate school district, or public school academy.

(c) The appointment of a local auditor or inspector, or both.

(d) Remedial measures or other action under this act necessary to address the financial circumstances of the school district, intermediate school district, or public school academy.

(e) The required retention by the school district, intermediate school district, or public school academy of a consultant or 1 or more other experts for the purpose of assisting the school district, intermediate school district, or public school academy to achieve the goals and objectives of the financial recovery agreement.

(6) Before a school district, intermediate school district, or public school academy submits an enhanced deficit elimination plan to the state treasurer under subsection (5), the board of the school district or intermediate school district or board of directors of the public school academy shall approve the plan. If a school district, intermediate school district, or public school academy is required to submit an enhanced deficit elimination plan under subsection (5), some or all of the money payable to the school district, intermediate school district, or public school academy under the state school aid act of 1979 may be withheld by the state treasurer and released as provided under section 102(3) of the state school aid act of 1979, MCL 388.1702. When approving an enhanced deficit elimination plan, the state treasurer may establish the period of time within which a school district, intermediate school district, or public school academy must eliminate its deficit and may set special conditions that the school district, intermediate school district, or public school academy must meet while the enhanced deficit elimination plan is in effect.

(7) To assure greater coordination and effective partnerships in the development and implementation of an enhanced deficit elimination plan under subsection (5), when administering subsections (5), (6), and (9), the department of treasury shall consult with all of the following:

(a) The department.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) The school district, intermediate school district, or public school academy required to submit an enhanced deficit elimination plan under subsection (5).

(c) For a school district required to submit an enhanced deficit elimination plan under subsection (5), the intermediate superintendent of the intermediate school district in which the school district is located.

(d) For a public school academy required to submit an enhanced deficit elimination plan under subsection (5), the authorizing body of the public school academy.

(8) After the state treasurer approves an enhanced deficit elimination plan for a school district, intermediate school district, or public school academy, the school district, intermediate school district, or public school academy shall post the enhanced deficit elimination plan on the school district's, intermediate school district's, or public school academy's website.

(9) If a school district, intermediate school district, or public school academy is required to submit an enhanced deficit elimination plan under subsection (5), the school district, intermediate school district, or public school academy shall submit to the superintendent of public instruction and the state treasurer an enhanced monthly monitoring report on revenue, expenditures, cash flow, debt, other liabilities, assets, budget amendments, pupil membership, and other data relating to the finances of the school district, intermediate school district, or public school academy in a form and manner prescribed by the department of treasury and shall post these reports on its website.

(10) As used in this section:

(a) "Authorizing body" means an authorizing body for a public school academy under this act.

(b) "Deficit elimination plan" means a plan required under this section for the elimination of a deficit that sets forth actions to be taken to eliminate the deficit within the time period prescribed by the department.

(c) "Deficit fund balance" means that term as defined in the "Michigan Public School Accounting Manual" published by the department.

(d) "Enhanced deficit elimination plan" means measures required by the state treasurer under this section to address the financial conditions within a school district, intermediate school district, or public school academy and resolve any deficit within the time period prescribed by the state treasurer.

**History:** Add. 2015, Act 111, Imd. Eff. July 7, 2015.

### 380.1221 Deposit of district or academy funds; designation of financial institution; limitation on deposit or investment of additional funds; “deposit” and “financial institution” defined.

Sec. 1221. (1) The treasurer of a board of a school district or board of directors of a public school academy shall deposit the funds of the school district or public school academy in a financial institution or in a joint investment authorized by section 1223. The deposit shall be made in the name of the treasurer as an officer of the school district or public school academy. The board or board of directors shall designate the financial institution or institutions in which the funds of the school district or public school academy shall be deposited. The treasurer shall deposit funds of the school district or public school academy in 1 or more depositories in the proportion and manner determined by the board or board of directors.

(2) Notwithstanding subsection (1), additional funds of a school district or public school academy shall not be deposited or invested in a financial institution that is not eligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(3) As used in this section, "deposit" includes purchases of or investment in shares of a credit union.

(4) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1979, Act 87, Imd. Eff. Aug. 1, 1979;—Am. 1986, Act 132, Imd. Eff. June 16, 1986;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1997, Act 47, Imd. Eff. June 30, 1997.

**Popular name:** Act 451

### 380.1222 Deposit of district funds; limitation.

Sec. 1222. A bank whose combined capital and surplus exceeds $50,000.00 may receive deposits of funds in an amount not more than double the combined capital and unimpaired surplus of the bank.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1223 Investment of funds; authorization; restrictions; deposit of obligations; commingling prohibited; exceptions; earnings; deposit of funds accumulated under deferred compensation program; security; limitation on deposit or investment of


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**additional funds; "deposit" and "financial institution" defined.**

Sec. 1223. (1) If authorized by resolution of the board of a school district, the treasurer may invest debt retirement funds, building and site funds, building and site sinking funds, or general funds of the district. The investment shall be made subject to subsection (7) and shall be restricted to the following:

(a) Bonds, bills, or notes of the United States; obligations, the principal and interest of which are fully guaranteed by the United States; or obligations of the state. In a primary or fourth class school district, the bonds, bills, or notes shall be payable, at the option of the holder, upon not more than 90 days' notice, or if not so payable, shall have maturity dates not more than 5 years after the purchase dates.

(b) Certificates of deposit issued by a financial institution or share certificates of a state or federal credit union that is a financial institution.

(c) Commercial paper rated prime at the time of purchase and maturing not more than 270 days after the date of purchase.

(d) Securities issued or guaranteed by agencies or instrumentalities of the United States government.

(e) United States government or federal agency obligation repurchase agreements.

(f) Bankers' acceptances issued by a bank that is a member of the federal deposit insurance corporation.

(g) Mutual funds composed entirely of investment vehicles that are legal for direct investment by a school district.

(h) Investment pools, as authorized by the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed entirely of instruments that are legal for direct investment by a school district.

(i) Certificates of deposit issued in accordance with the following conditions:

(*i*) The funds are initially invested through a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(*ii*) The financial institution arranges for the investment of the funds in certificates of deposit in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the school district.

(*iii*) The full amount of the principal and any accrued interest of each certificate of deposit is insured by an agency of the United States.

(*iv*) The financial institution acts as custodian for the school district with respect to each certificate of deposit.

(*v*) At the same time that the funds of the school district are deposited and the certificate or certificates of deposit are issued, the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially invested by the school district through the financial institution.

(j) Deposit accounts that meet all of the following conditions:

(*i*) The funds are initially deposited in a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(*ii*) The financial institution arranges for the deposit of the funds in deposit accounts in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the school district.

(*iii*) The full amount of the principal and any accrued interest of each deposit account is insured by an agency of the United States.

(*iv*) The financial institution acts as custodian for the school district with respect to each deposit account.

(*v*) On the same date that the funds of the school district are deposited under subparagraph (*ii*), the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially deposited by the school district in the financial institution.

(2) An obligation purchased under this section, when received by the treasurer, shall be deposited with the financial institution having the deposit of the money of the particular fund from which the obligation was purchased.

(3) Money in the several funds of a school district shall not be commingled for the purpose of making an investment authorized by this section except as follows:

(a) The board of a school district may establish and maintain 1 common debt retirement fund for issues of bonds of similar character.

(b) The board of a school district, by resolution, may authorize the treasurer to combine money from more than 1 fund for the purpose of making an investment authorized by subsection (1)(h).

(4) Earnings of an investment shall become a part of the fund for which the investment was made. When money of more than 1 fund of a single district or money of more than 1 district are combined for an


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

investment pool authorized by subsection (1)(h), the money shall be accounted for separately, and the earnings from the investment shall be separately and individually computed, recorded, and credited to the fund or district, as the case may be, for which the investment was acquired.

(5) The treasurer of a school district, if authorized by resolution of the board, may deposit upon approval of the employee, funds accumulated under a deferred compensation program in a federally insured financial institution authorized by law to do business in this state. If authorized by a resolution of the board, the treasurer of a school district, with the prior consent of the employee, may use funds accumulated under a deferred compensation plan to purchase from a life insurance company authorized to do business in this state an annuity contract or life insurance policy in the manner and for the purposes described in section 457 of the internal revenue code.

(6) Security in the form of collateral, surety bond, or another form may be taken for the deposits or investments of a school district in a financial institution. However, an investment under subsection (1)(e) or in an investment pool that includes instruments eligible for investments under subsection (1)(e) shall be secured by the transfer of title and custody of the obligations to which the repurchase agreements relate and an undivided interest in those obligations must be pledged to the school district for these agreements.

(7) Notwithstanding subsection (1), additional funds of a school district shall not be deposited or invested in a financial institution that is not eligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(8) As used in this section, "deposit" includes purchase of or investment in shares of a credit union.

(9) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 281, Imd. Eff. Dec. 23, 1977;—Am. 1979, Act 87, Imd. Eff. Aug. 1, 1979;—Am. 1980, Act 273, Imd. Eff. Oct. 8, 1980;—Am. 1981, Act 85, Imd. Eff. July 2, 1981;—Am. 1986, Act 132, Imd. Eff. June 16, 1986;—Am. 1997, Act 47, Imd. Eff. June 30, 1997;—Am. 2008, Act 307, Imd. Eff. Dec. 18, 2008;—Am. 2009, Act 22, Imd. Eff. May 5, 2009;—Am. 2012, Act 232, Imd. Eff. June 29, 2012.

**Popular name:** Act 451

### 380.1224 Tax-deferred investments for employees; purchase; payroll allocations; ownership; rights nonforfeitable; liability for purchase; nondiscriminatory application of section; “tax-deferred investment” defined.

Sec. 1224. (1) At the request of an employee and as part of the employee's compensation arrangement, the board of a school district may purchase a tax-deferred investment for an employee for retirement or other purposes and may make payroll allocations in accordance with the arrangement to pay for the tax-deferred investment. The allocation shall be made in a manner which will qualify all or part of the tax-deferred investment for the benefit afforded under the federal internal revenue code or other federal income tax law. The employee shall own the tax-deferred investment. The employee's rights under it shall be nonforfeitable except for failure to make required payments.

(2) The board shall not have liability because of its purchase of tax-deferred investments for employees.

(3) This section shall be applied in a nondiscriminatory manner to employees of the school district.

(4) As used in this section, "tax-deferred investment" means an annuity contract, interest in a mutual fund, or other investment device that qualifies for deferral of federal income taxes under the federal internal revenue code or other federal income tax law.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 19, Imd. Eff. Mar. 19, 1992.

**Popular name:** Act 451

### 380.1225 Power of board to borrow money and issue notes; purpose; pledging money to be received from state school aid; notes as full faith and credit obligations; agreement with Michigan finance authority; due date; limitation; school district not able to redeem notes within 372 days of issuance; multi-year repayment agreement; notes issued for next succeeding fiscal year; maturity; failure to receive state school aid; number of borrowings; obtaining line of credit.

Sec. 1225. (1) Subject to restrictions of this section, a school board or intermediate school board may borrow money and issue notes of the school district or intermediate school district for the borrowed money to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge money to be received by it from


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

state school aid for the payment of notes issued under this section. A pledge of state school aid by a school district or intermediate school district for the payment of notes issued pursuant to this section is valid and binding from the time when the pledge is made. A pledge made pursuant to this section for the benefit of the holders of notes or for the benefit of others is perfected without delivery, recording, or notice. Notes issued pursuant to this section are full faith and credit obligations of the school district or intermediate school district and are payable from tax levies or from unencumbered funds of the school district or intermediate school district in event of the unavailability or insufficiency of state school aid for any reason.

(2) A school district or intermediate school district for which an emergency manager has been appointed pursuant to the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, or a school district or intermediate school district that has an approved deficit elimination plan or an enhanced deficit elimination plan required under section 102 of the state school aid act of 1979, MCL 388.1702, may enter into an agreement with the Michigan finance authority in accordance with section 17a(4) of the state school aid act of 1979, MCL 388.1617a, providing for the direct payment on behalf of the school district or intermediate school district to the Michigan finance authority, or to a trustee designated by the Michigan finance authority, of state school aid pledged and to be used for the sole purpose of paying the principal of and interest on the notes issued pursuant to this section and secured by state school aid.

(3) Notes issued under this section shall become due not later than 372 days after the date on which they are issued, except as otherwise provided in this section. Notes issued within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356.

(4) A school district or intermediate school district that is not able to redeem its notes within 372 days after the date on which the notes were issued may enter into a multi-year agreement with a lending institution to repay its obligation. A repayment agreement shall not be executed without the prior approval of an authorized representative of the state board or, for notes sold to the Michigan finance authority only, without the approval of an authorized representative of the department of treasury.

(5) During the last 4 months of a fiscal year, notes may be issued pledging state school aid for the next succeeding fiscal year. Except as otherwise provided in this subsection, the notes shall not exceed 50% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 50% of the apportionment for the then current fiscal year. The notes shall mature not later than 372 days after the date of issuance.

(6) Notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Failure of a school district or intermediate school district to receive state school aid does not affect the validity or enforceability of a note issued under this section.

(7) A school board or intermediate school board, including, but not limited to, the school board of a community district, may make more than 1 borrowing under this section during a school year.

(8) In addition to other powers under this section, with the approval of the state treasurer, a school board or intermediate school board, including, but not limited to, the school board of a community district, may obtain a line of credit to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge not more than 30% of the state school aid apportioned to the school district or intermediate school district for that fiscal year for repayment of funds received pursuant to a line of credit obtained under this subsection. However, the school board or intermediate school board shall not borrow against the line of credit an amount greater than the difference, as of the date of the borrowing, between the total state school aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. To obtain approval for obtaining a line of credit under this subsection, a school board or intermediate school board shall apply to the state treasurer in the form and manner prescribed by the state treasurer, and shall provide information as requested by the state treasurer for evaluating the application. The state treasurer shall approve or disapprove an application and notify the school board or intermediate school board within 20 business days after receiving a proper application. If the state treasurer disapproves an application, the state treasurer shall include the reasons for disapproval in the notification to the school board or intermediate school board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1980, Act 88, Imd. Eff. Apr. 8, 1980;—Am. 1981, Act 42, Imd. Eff. May 13, 1981;—Am. 1981, Act 226, Imd. Eff. Jan. 7, 1982;—Am. 1982, Act 306, Imd. Eff. Oct. 13, 1982;—Am. 1992, Act 14, Imd. Eff. Mar. 10, 1992;—Am. 1994, Act 103, Imd. Eff. Apr. 18, 1994;—Am. 1997, Act 152, Imd. Eff. Dec. 22, 1997;—Am. 2002, Act 246, Eff. May 1, 2002;—Am. 2006, Act 285, Imd. Eff. July 10, 2006;—Am. 2012, Act 1, Imd. Eff. Feb. 7, 2012;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Compiler's note:** For creation of Michigan public educational facilities authority within department of treasury; transfer of certain


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

powers and duties from Michigan strategic fund and Michigan strategic fund board of directors to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; transfer of certain powers and duties of Michigan municipal bond authority and Michigan municipal bond authority board of trustees to Michigan public and educational facilities authority and Michigan public education facilities authority board of trustees, see E.R.O. No. 2002-3, compiled at MCL 12.192 of the Michigan Compiled Laws.

**Popular name:** Act 451

### 380.1226 Statement of assessed valuation of school district.

Sec. 1226. Each county treasurer shall furnish the state board on or before May 1 following the receipt of the assessment rolls a statement of the assessed valuation of each school district and fraction of a school district within the county upon forms furnished by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1227 Estimates of necessary taxes; insurance reserve funds; adoption of budget; apportionment of school taxes.

Sec. 1227. (1) The board of a school district shall prepare annual estimates of the amount of taxes necessary for the school district's needs for the ensuing fiscal year. The estimates shall specify the amount required for the "general fund", the amount required for the "capital projects fund", and the amount required for the "debt retirement fund", in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and outstanding bonding resolutions.

(2) The school board may include in the "capital projects fund" an amount not exceeding in 1 year .01% of the school district's taxable value to establish and maintain a school district insurance reserve fund from which school buildings or other school property damaged or destroyed by fire, lightning, or otherwise may be repaired, rebuilt, or replaced by other buildings or property to be used in its place. Taxes shall not be levied for this purpose while the insurance reserve fund exceeds or equals .1% of the school district's taxable value. The board shall carry the insurance reserves forward as an encumbered reserve and may add to the reserve in the manner prescribed in this section. Insurance reserve funds may be invested in the manner provided in section 1223. Income from the investment shall be considered a part of the "general fund". If an emergency is declared by a 2/3 vote of the members elected to and serving on the board, the insurance reserve funds may be borrowed for the emergency, but the funds shall be returned to the insurance reserve fund from the collection of taxes in the next ensuing fiscal year.

(3) The school board shall adopt a budget in the same manner and form as required for its estimates and, subject to limitations under law, determine the amount of tax levy necessary for the budget. The board shall certify the amount to the city and township before the date required by law.

(4) The proper officials of the city and township shall apportion the school taxes in the school district in the same manner as the other taxes of the city or township are apportioned. Except as otherwise provided under part 26, the amount apportioned shall be assessed, levied, collected, and returned for each portion of the school district in the same manner as taxes of the city or township in which the portion of the school district is located.

**History:** Add. 1995, Act 289, Eff. July 1, 1996;—Am. 2002, Act 66, Imd. Eff. Mar. 15, 2002.

**Popular name:** Act 451

### 380.1228 Contract between school or intermediate district and public school academy to provide services.

Sec. 1228. The board of a school district or intermediate school district may enter into an agreement with a public school academy to provide services to the public school academy or to pupils of the public school academy, or for the public school academy to provide services to the school district or intermediate school district or to pupils of the school district or intermediate school district. The services may be provided on a cooperative basis. A school district or intermediate school district may charge the public school academy, or a public school academy may charge the school district or intermediate school district, for services described in this section.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1229 Employment of superintendent and administrators; notification of contract nonrenewal; meeting with board; contract with intermediate school district or another person to serve as superintendent of schools.

Sec. 1229. (1) Except as otherwise provided in subsection (4), the board of a school district, other than a


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

school district that was organized as a primary school district during the 1995-1996 school year, or of an intermediate school district shall employ a superintendent of schools, who shall meet the requirements of section 1246. The superintendent shall not be a member of the board. Employment of a superintendent shall be by written contract. The term of the superintendent's contract shall be fixed by the board, not to exceed 5 years. If written notice of nonrenewal of the contract of a superintendent is not given at least 90 days before the termination of the contract, the contract is renewed for an additional 1-year period. However, for the superintendent of a community district, the minimum time period for the written notice required under this subsection is 30 days.

(2) The board of a school district or intermediate school district may employ assistant superintendents, principals, assistant principals, guidance directors, and other administrators who do not assume tenure in that position under 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191. The employment shall be by written contract. The term of the employment contract shall be fixed by the board, not to exceed 3 years. The board shall prescribe the duties of an individual described in this subsection. If written notice of nonrenewal of the contract of an individual described in this subsection is not given at least 60 days before the termination date of the contract, the contract is renewed for an additional 1-year period. However, for an individual described in this subsection who is employed by a community district, the minimum time period for the written notice required under this subsection is 30 days.

(3) A notification of nonrenewal of contract of an individual described in subsection (2) may be given only for a reason that is not arbitrary or capricious. The board shall not issue a notice of nonrenewal under this section unless the affected individual has been provided with not less than 30 days' advance notice that the board is considering the nonrenewal together with a written statement of the reasons the board is considering the nonrenewal. However, for an individual described in subsection (2) who is employed by a community district, the minimum time period for the advance notice required under this subsection is 7 days. After the issuance of the written statement, but before the nonrenewal statement is issued, the affected individual shall be given the opportunity to meet with not less than a majority of the board to discuss the reasons stated in the written statement. The meeting shall be open to the public or a closed session, as the affected individual elects under section 8 of the open meetings act, 1976 PA 267, MCL 15.268. If the board fails to provide for a meeting with the board, or if a court finds that the reason for nonrenewal is arbitrary or capricious, the affected individual's contract is renewed for an additional 1-year period. This subsection does not apply to the nonrenewal of the contract of a superintendent of schools described in subsection (1).

(4) A school district, instead of directly employing a superintendent of schools, may contract with its intermediate school district for the intermediate superintendent to serve as the superintendent of schools for the school district or for the intermediate school district to provide another person to serve as superintendent of schools for the school district or may contract with another person, including, but not limited to, the superintendent of another school district, to serve as superintendent of schools for the school district. If a school district does not operate a public school directly on its own, the school district is not required to employ a superintendent.

**History:** Add. 1995, Act 289, Eff. Mar. 28, 1996;—Am. 2011, Act 105, Imd. Eff. July 19, 2011;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.1229a Removal of person as superintendent of public instruction; settlement prohibited; limitations.

Sec. 1229a. (1) If a person employed by this state as superintendent of public instruction is removed from that position, the state board, or another state agency, shall not enter into a settlement agreement concerning that removal unless the agreement is in settlement of a lawsuit filed against this state.

(2) The state board shall not grant administrative leave for more than a total of 6 months to a person employed, or previously employed, as state superintendent of public instruction.

(3) The state board shall not offer a contract for a person to be employed by this state as superintendent of public instruction, or extend the contract of a superintendent of public instruction, within 6 months before a general election at which state board members are elected or within 2 months after a general election at which state board members are elected. The state board shall not offer a contract for employment of a superintendent of public instruction in excess of 3 years and shall not extend a contract in increments of more than 1 year. This subsection does not prohibit the state board from employing an interim superintendent of public instruction at any time there is a vacancy.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**380.1230 Offer of full-time, part-time, or contract employment; criminal history check; employment as conditional employee; conditions; voiding contract and terminating employment; position as substitute teacher or substitute bus drivers; report received by another district; consent; request; conducting criminal history check; report; disclosure of conviction of listed offense or felony; verification; use; disclosure; violation as misdemeanor; penalty; exception; verification information; definitions.**

Sec. 1230. (1) Except as otherwise provided in this section, upon an offer of initial employment being made by the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school to an individual for any full-time or part-time employment or when school officials learn that an individual is being assigned to regularly and continuously work under contract in any of its schools, the district, public school academy, or nonpublic school shall request from the criminal records division of the department of state police a criminal history check on the individual and, before employing the individual as a regular employee or allowing the individual to regularly and continuously work under contract in any of its schools, shall have received from the department of state police the report described in subsection (8).

(2) If the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to hire an individual or to allow an individual to regularly and continuously work under contract for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee or conditionally allow the individual to regularly and continuously work under contract under this subsection without first receiving the report described in subsection (8) if all of the following apply:

(a) The board or governing body requests the criminal history check required under subsection (1) before conditionally employing the individual or conditionally allowing the individual to regularly and continuously work under contract in any of its schools.

(b) The individual signs a statement identifying all crimes for which he or she has been convicted, if any, and agreeing that, if the report described in subsection (8) is not the same as the individual's statement, his or her employment contract is voidable at the option of the board or governing body. The department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the report described in subsection (8) is not the same as the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher or substitute bus driver, or for an individual who regularly and continuously works under contract in more than 1 school district, intermediate school district, public school academy, or nonpublic school, if the applicant or individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check with another district, public school academy, or nonpublic school, then instead of requesting a criminal history check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use a report received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the applicant or individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to the applicant or individual.

(5) If an applicant is being considered for employment by more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the report described in subsection (8) with another district, public school academy, or nonpublic school, a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the report described in subsection (8) from another district, public school academy, or nonpublic school.

(6) An applicant for employment shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal history check required under this section.

(7) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the criminal records division of the department of state police for a criminal history check required


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(8) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal history check on an individual under this section, the criminal records division of the department of state police shall conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the individual maintained by the criminal records division of the department of state police. A school district, intermediate school district, public school academy, or nonpublic school that receives a report from the department of state police under this subsection shall retain that report in the individual's employment records.

(9) If the report received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (8), or a report received under section 1230a, 1230d(7), 1535a(15), or 1539b(15), discloses that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the report received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (8), or a report received under section 1230a, 1230d(7), 1535a(15), or 1539b(15), discloses that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the governing board or governing body, if any, of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing. If a school district, intermediate school district, public school academy, or nonpublic school receives results described in this subsection, within 60 days after receiving those results the school district, intermediate school district, public school academy, or nonpublic school shall submit to the department in the form and manner prescribed by the department a report detailing the information and any action taken as a result by the school district, intermediate school district, public school academy, or nonpublic school. The department shall maintain a copy of this report for at least 6 years.

(10) Criminal history record information received from the criminal records division of the department of state police under subsection (8) shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in the position for which he or she has applied or been assigned and for the purposes of subsections (3), (4), (5), and (12). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose the report or its contents received under this section, except a misdemeanor conviction involving sexual or physical abuse or any felony conviction, to any person who is not directly involved in evaluating the applicant's qualifications for employment or assignment. However, for the purposes of subsections (4) and (5), a person described in this subsection may confirm to an employee of another district, public school academy, or nonpublic school that a report under subsection (8) has revealed that an individual does not have any criminal history or may disclose that no report under subsection (8) has been received concerning the individual, and for the purposes of subsections (4), (5), and (12), a person described in this subsection may provide a copy of the report under subsection (8) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. For an individual who is regularly and continuously working under contract, if the individual agrees in writing, a district, public school academy, or nonpublic school may provide a copy of the results received under this section concerning the individual to an appropriate representative of the individual’s employer. A representative of the individual’s employer who receives a copy of a report, or receives results of a report from another source as authorized by this subsection, shall not disclose the report or its contents or the results of the report to any person outside of the employer’s business or to any of the employer’s personnel who are not directly involved in evaluating the individual’s qualifications for employment or assignment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than $10,000.00, but is not subject to the penalties under section 1804. As used in this subsection, "misdemeanor conviction involving sexual or physical abuse" includes, but is not limited to, a misdemeanor conviction for a listed offense; a misdemeanor conviction for violation of section 617a of the Michigan vehicle code, 1949 PA 300,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

MCL 257.617a; a misdemeanor conviction for violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d, 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145, 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor conviction of section 6 of 1979 PA 53, MCL 752.796; or a misdemeanor conviction for violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(11) Subject to subsection (12), if the criminal history check required under this section has been completed for a particular individual and the results reported to a school district, intermediate school district, public school academy, or nonpublic school as provided under this section, then another criminal history check is not required under this section for that individual as long as the individual remains employed with no separation from service by any school district, intermediate school district, public school academy, or nonpublic school in this state or remains regularly and continuously working under contract with no separation from service for the same employer in any school district, intermediate school district, public school academy, or nonpublic school in this state. For the purposes of this subsection, an employee is not considered to have a separation from service in any of the following circumstances:

(a) The employee is laid off or placed on a leave of absence by his or her employer and returns to active employment with the same employer within 1 year after being laid off or placed on the leave of absence.

(b) The employee transfers to another school district, intermediate school district, public school academy, or nonpublic school and remains continuously employed by any school district, intermediate school district, public school academy, or nonpublic school in this state.

(12) If an individual described in subsection (11) is an applicant for employment in a different school district, intermediate school district, public school academy, or nonpublic school than the one that originally received the results of the criminal history check or that currently is in possession of the results of the criminal history check, or is being assigned to regularly and continuously work under contract in a different school district, intermediate school district, public school academy, or nonpublic school than the one that originally received the results of the criminal history check or that currently is in possession of the results of the criminal history check, then all of the following apply:

(a) If the results of the individual's criminal history check have not already been forwarded to the new school district, intermediate school district, public school academy, or nonpublic school, the new school district, intermediate school district, public school academy, or nonpublic school shall request the school district, intermediate school district, public school academy, or nonpublic school that has the results to forward them to the new school district, intermediate school district, public school academy, or nonpublic school. Upon receipt of such a request, a school district, intermediate school district, public school academy, or nonpublic school that has the results shall forward them to the requesting school district, intermediate school district, public school academy, or nonpublic school.

(b) If the results of the individual's criminal history check are not received by the new school district, intermediate school district, public school academy, or nonpublic school under this subsection or otherwise, then this section applies to the individual to the same extent as if he or she has had a separation from service.

(c) If the results of the individual's criminal history check are received by the new school district, intermediate school district, public school academy, or nonpublic school under this subsection or otherwise, then that school district, intermediate school district, public school academy, or nonpublic school shall perform a criminal history check on that individual using the department of state police's internet criminal history access tool (ICHAT), ensuring that this criminal history check is based on the personal identifying information, including at least the individual's name, sex, and date of birth, that was associated with the results received from the previous school district, intermediate school district, public school academy, or nonpublic school.

(d) If the search of the department of state police's ICHAT under subdivision (c) reveals that the individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If a search of the department of state police's ICHAT under subdivision (c) reveals that the individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body, if any, of the school district,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing.

(13) Subsection (1) does not apply to an individual who is being employed by or assigned to regularly and continuously work under contract in a school of a school district, intermediate school district, public school academy, or nonpublic school if the individual is not more than 19 years of age and is enrolled as a general education pupil of a school district, intermediate school district, public school academy, or nonpublic school or is not more than 26 years of age and is enrolled in special education programs or services in a school district, intermediate school district, public school academy, or nonpublic school. However, before employing the individual or assigning the individual to regularly and continuously work under contract in a school, the school district, intermediate school district, public school academy, or nonpublic school shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT). If a search of the department of state police's ICHAT reveals that the individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If a search of the department of state police's ICHAT reveals that the individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body, if any, of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing.

(14) For the purposes of subsections (9) and (13), the department shall make available to school districts, intermediate school districts, public school academies, and nonpublic schools information on how to verify a conviction using public records.

(15) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

(c) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(d) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(e) "Regularly and continuously work under contract" means any of the following:

(*i*) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(*ii*) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(f) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

**History:** Add. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1993, Act 68, Imd. Eff. June 21, 1993;—Am. 1993, Act 284, Eff. Apr. 1, 1994;—Am. 2005, Act 129, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 583, Imd. Eff. Jan. 16, 2009.

**Popular name:** Act 451

### 380.1230a Criminal records check through federal bureau of investigation; employment as conditional employee; voiding contract and terminating employment; application as substitute teacher or substitute bus drivers; obtaining copy of results from another district, public school academy, or nonpublic school; consent; form and manner of request; use and disclosure of results; violation as misdemeanor; penalty; definition;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**initiation of criminal records check by department of state police; disclosure that individual convicted of listed offense or other felony; verification; exception; verification information; definitions.**

Sec. 1230a. (1) In addition to the criminal history check required under section 1230, the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school shall request the department of state police to conduct a criminal records check through the federal bureau of investigation on an applicant for, or an individual who is hired for, any full-time or part-time employment or who is assigned to regularly and continuously work under contract in any of its schools. Except as otherwise provided in this section, a board or governing body shall not employ an individual or allow an individual to regularly and continuously work under contract in any of its schools until after the board or governing body receives the results of the criminal records check. A board or governing body requesting a criminal records check under this section shall require the individual to submit his or her fingerprints to the department of state police for that purpose. The department of state police may charge a fee for conducting the criminal records check. Subject to section 1230g, a board or governing body shall require an individual to submit his or her fingerprints for the purposes of this section only at the time the individual initially applies for employment with the board or governing body or is initially employed by the board or governing body or is initially assigned to regularly and continuously work under contract in any of its schools.

(2) If the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to hire an individual or to allow an individual to regularly and continuously work under contract for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee or conditionally allow the individual to regularly and continuously work under contract under this subsection without first receiving the results of the criminal records check under subsection (1) if all of the following apply:

(a) The board or governing body requests the criminal records check under subsection (1) before conditionally employing the individual or conditionally allowing the individual to regularly and continuously work under contract in any of its schools.

(b) The individual signs a statement identifying all crimes for which he or she has been convicted, if any, and agreeing that, if the results of the criminal records check under subsection (1) reveal information that is inconsistent with the individual's statement, his or her employment contract is voidable at the option of the board or governing body. The department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the results of the criminal records check under subsection (1) reveal information that is inconsistent with the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher or substitute bus driver, or for an individual who regularly and continuously works under contract in more than 1 school district, intermediate school district, public school academy, or nonpublic school, if the applicant or individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal records check with another district, public school academy, or nonpublic school, then instead of requesting a criminal records check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the applicant or individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to the applicant or individual.

(5) If an applicant is being considered for employment by more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal records check from another district, public school academy, or nonpublic school.

(6) An applicant for employment shall give written consent at the time of application for the criminal


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

records division of the department of state police to conduct the criminal records check required under this section.

(7) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for a criminal records check under this section on a form and in a manner prescribed by the department of state police.

(8) The results of a criminal records check under this section shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in the position for which he or she has applied or been assigned and for the purposes of subsections (3), (4), (5), and (12). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results received under this section, except a misdemeanor conviction involving sexual or physical abuse or any felony conviction, to any person who is not directly involved in evaluating the individual's qualifications for employment or assignment. However, for the purposes of subsections (4), (5), and (12) a person described in this subsection may provide a copy of the results received under this section concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. For an individual who is regularly and continuously working under contract, if the individual agrees in writing, a district, public school academy, or nonpublic school may provide a copy of the results received under this section concerning the individual to an appropriate representative of the individual’s employer. A representative of the individual’s employer who receives a copy of the results, or receives the results from another source as authorized by this subsection, shall not disclose the results to any person outside of the employer’s business or to any of the employer’s personnel who are not directly involved in evaluating the individual’s qualifications for employment or assignment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than $10,000.00, but is not subject to the penalties under section 1804. As used in this subsection, "misdemeanor conviction involving sexual or physical abuse" includes, but is not limited to, a misdemeanor conviction for a listed offense; a misdemeanor conviction for violation of section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a; a misdemeanor conviction for violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d, 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145, 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor conviction of section 6 of 1979 PA 53, MCL 752.796; or a misdemeanor conviction for violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(9) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal records check on an individual under this section, the criminal records division of the department of state police shall initiate the criminal records check through the federal bureau of investigation. After conducting the criminal records check required under this section for a school district, intermediate school district, public school academy, or nonpublic school, the criminal records division of the department of state police shall provide the results of the criminal records check to the district, public school academy, or nonpublic school. A school district, intermediate school district, public school academy, or nonpublic school that receives results from the department of state police under this subsection shall retain those results in the individual's employment records.

(10) If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (9), or a report received under section 1230, 1230d(7), 1535a(15), or 1539b(15), disclose that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (9), or a report received under section 1230, 1230d(7), 1535a(15), or 1539b(15), disclose that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the governing board or governing body, if any, of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing. If a school district, intermediate school district, public school academy, or nonpublic


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

school receives results described in this subsection, within 60 days after receiving those results the school district, intermediate school district, public school academy, or nonpublic school shall submit to the department in the form and manner prescribed by the department a report detailing the information and any action taken as a result by the school district, intermediate school district, public school academy, or nonpublic school. The department shall maintain a copy of this report for at least 6 years.

(11) Subject to subsection (12), if the criminal records check required under this section has been completed for a particular individual and the results reported to a school district, intermediate school district, public school academy, or nonpublic school as provided under this section, then another criminal records check is not required under this section for that individual as long as the individual remains employed with no separation from service by any school district, intermediate school district, public school academy, or nonpublic school in this state or remains regularly and continuously working under contract with no separation from service for the same employer in any school district, intermediate school district, public school academy, or nonpublic school in this state. For the purposes of this subsection, an employee is not considered to have a separation from service in any of the following circumstances:

(a) The employee is laid off or placed on a leave of absence by his or her employer and returns to active employment with the same employer within 1 year after being laid off or placed on the leave of absence.

(b) The employee transfers to another school district, intermediate school district, public school academy, or nonpublic school and remains continuously employed by any school district, intermediate school district, public school academy, or nonpublic school in this state.

(12) If an individual described in subsection (11) is an applicant for employment in a different school district, intermediate school district, public school academy, or nonpublic school than the one that originally received the results of the criminal records check or that currently is in possession of the results of the criminal records check, or is being assigned to regularly and continuously work under contract in a different school district, intermediate school district, public school academy, or nonpublic school than the one that originally received the results of the criminal records check or that currently is in possession of the results of the criminal records check, then all of the following apply:

(a) If the results of the individual's criminal records check have not already been forwarded to the new school district, intermediate school district, public school academy, or nonpublic school, the new school district, intermediate school district, public school academy, or nonpublic school shall request the school district, intermediate school district, public school academy, or nonpublic school that has the results to forward them to the new school district, intermediate school district, public school academy, or nonpublic school. Upon receipt of such a request, a school district, intermediate school district, public school academy, or nonpublic school that has the results shall forward them to the requesting school district, intermediate school district, public school academy, or nonpublic school.

(b) If the results of the individual's criminal records check are not received by the new school district, intermediate school district, public school academy, or nonpublic school under this subsection or otherwise, then this section applies to the individual to the same extent as if he or she has had a separation from service.

(13) Subsection (1) does not apply to an individual who is being employed by or assigned to regularly and continuously work under contract in a school of a school district, intermediate school district, public school academy, or nonpublic school if the individual is not more than 19 years of age and is enrolled as a general education pupil of a school district, intermediate school district, public school academy, or nonpublic school or is not more than 26 years of age and is enrolled in special education programs or services in a school district, intermediate school district, public school academy, or nonpublic school. However, before employing the individual or assigning the individual to regularly and continuously work under contract in a school, the school district, intermediate school district, public school academy, or nonpublic school shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT). If a search of the department of state police's ICHAT reveals that the individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If a search of the department of state police's ICHAT reveals that the individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

writing.

(14) For the purposes of subsections (10) and (13), the department shall make available to school districts, intermediate school districts, public school academies, and nonpublic schools information on how to verify a conviction using public records.

(15) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Regularly and continuously work under contract" means any of the following:

(*i*) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(*ii*) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(e) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

**History:** Add. 1995, Act 83, Eff. Aug. 1, 1995;—Am. 2005, Act 138, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 583, Imd. Eff. Jan. 16, 2009.

**Popular name:** Act 451

### 380.1230b Applicant for employment; information regarding unprofessional conduct to be provided by previous employer; signed statement authorizing disclosure; request; immunity from civil liability; prohibition; use of information; violation of subsection (5) as misdemeanor; effect of contract or agreement; other information; definitions.

Sec. 1230b. (1) Before hiring an applicant for employment, a school district, local act school district, public school academy, intermediate school district, or nonpublic school shall request the applicant for employment to sign a statement that does both of the following:

(a) Authorizes the applicant's current or former employer or employers to disclose to the school district, local act school district, public school academy, intermediate school district, or nonpublic school any unprofessional conduct by the applicant and to make available to the school district, local act school district, public school academy, intermediate school district, or nonpublic school copies of all documents in the employee's personnel record maintained by the current or former employer relating to that unprofessional conduct.

(b) Releases the current or former employer, and employees acting on behalf of the current or former employer, from any liability for providing information described in subdivision (a), as provided in subsection (3), and waives any written notice required under section 6 of the Bullard-Plawecki employee right to know act, Act No. 397 of the Public Acts of 1978, being section 423.506 of the Michigan Compiled Laws.

(2) Before hiring an applicant for employment, a school district, local act school district, public school academy, intermediate school district, or nonpublic school shall request at least the applicant's current employer or, if the applicant is not currently employed, the applicant's immediately previous employer to provide the information described in subsection (1)(a), if any. The request shall include a copy of the statement signed by the applicant under subsection (1).

(3) Not later than 20 business days after receiving a request under subsection (2), an employer shall provide the information requested and make available to the requesting school district, local act school district, public school academy, intermediate school district, or nonpublic school copies of all documents in the employee's personnel record relating to the unprofessional conduct. An employer, or an employee acting on behalf of the employer, that discloses information under this section in good faith is immune from civil liability for the disclosure. An employer, or an employee acting on behalf of the employer, is presumed to be acting in good faith at the time of a disclosure under this section unless a preponderance of the evidence establishes 1 or more of the following:

(a) That the employer, or employee, knew the information disclosed was false or misleading.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) That the employer, or employee, disclosed the information with a reckless disregard for the truth.

(c) That the disclosure was specifically prohibited by a state or federal statute.

(4) The board or governing body of a school district, local act school district, public school academy, intermediate school district, or nonpublic school shall not hire an applicant who does not sign the statement described in subsection (1).

(5) Information received under this section shall be used by a school district, local act school district, public school academy, intermediate school district, or nonpublic school only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied. Except as otherwise provided by law, a board member or employee of a school district, local act school district, public school academy, intermediate school district, or nonpublic school shall not disclose the information to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than $10,000.00, but is not subject to the penalties under section 1804.

(6) The board or an official of a school district, local act school district, public school academy, intermediate school district, or nonpublic school shall not enter into a collective bargaining agreement, individual employment contract, resignation agreement, severance agreement, or any other contract or agreement that has the effect of suppressing information about unprofessional conduct of an employee or former employee or of expunging information about that unprofessional conduct from personnel records. Any provision of a contract or agreement that is contrary to this subsection is void and unenforceable. This subsection does not restrict the expungement from a personnel file of information about alleged unprofessional conduct that has not been substantiated.

(7) This section does not prevent a school district, local act school district, public school academy, intermediate school district, or nonpublic school from requesting or requiring an applicant for employment to provide information other than that described in this section.

(8) As used in this section:

(a) "Personnel record" means that term as defined in section 1 of Act No. 397 of the Public Acts of 1978, being section 423.501 of the Michigan Compiled Laws.

(b) "Unprofessional conduct" means 1 or more acts of misconduct; 1 or more acts of immorality, moral turpitude, or inappropriate behavior involving a minor; or commission of a crime involving a minor. A criminal conviction is not an essential element of determining whether or not a particular act constitutes unprofessional conduct.

**History:** Add. 1996, Act 189, Imd. Eff. May 8, 1996.

**Popular name:** Act 451

### 380.1230c Notice of conviction of listed offense; report to department; employment prohibited; definitions.

Sec. 1230c. (1) If a school official of a school district, intermediate school district, public school academy, or nonpublic school has notice from an authoritative source that an individual has been convicted of a listed offense, the board of the school district or intermediate school district, board of directors of the public school academy, or governing board of the nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ that individual in any capacity or allow that person to regularly and continuously work under contract in any of its schools. If a school district, intermediate school district, public school academy, or nonpublic school receives notice described in this subsection, within 60 days after receiving that notice the school district, intermediate school district, public school academy, or nonpublic school shall submit to the department in the form and manner prescribed by the department a report detailing the information received and any action taken as a result by the school district, intermediate school district, public school academy, or nonpublic school. The department shall maintain a copy of this report for at least 6 years.

(2) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(c) "Regularly and continuously work under contract" means any of the following:

(*i*) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*ii*) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(d) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

**History:** Add. 2005, Act 129, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007.

**Popular name:** Act 451

### 380.1230d Employee or applicant for employment of school district, intermediate school district, public school academy, or nonpublic school charged with crime; requirements; violation of subsection (1) or (2); person not convicted of crime; forwarding of form; development and implementation of automated program; report; definitions.

Sec. 1230d. (1) If a person who is employed in any capacity by a school district, intermediate school district, public school academy, or nonpublic school; who has applied for a position with a school district, intermediate school district, public school academy, or nonpublic school and has had an initial criminal history check under section 1230 or criminal records check under section 1230a; or who is regularly and continuously working under contract in a school district, intermediate school district, public school academy, or nonpublic school, is charged with a crime listed in section 1535a(1) or 1539b(1) or a violation of a substantially similar law of another state, a political subdivision of this state or another state, or of the United States, the person shall report to the department and to the school district, intermediate school district, public school academy, or nonpublic school that he or she has been charged with the crime. All of the following apply to this reporting requirement:

(a) The person shall make the report on a form prescribed by the department.

(b) The person shall submit the report to the department and to the superintendent of the school district or intermediate school district or chief administrator of the public school academy or nonpublic school.

(c) The person shall submit the report within 3 business days after being arraigned for the crime.

(2) If a person who is employed in any capacity by or is regularly and continuously working under contract in a school district, intermediate school district, public school academy, or nonpublic school enters a plea of guilt or no contest to or is the subject of a finding of guilt by a judge or jury of any crime after having been initially charged with a crime described in section 1535a(1) or 1539b(1), then the person immediately shall disclose to the court, on a form prescribed by the state court administrative office, that he or she is employed by or regularly and continuously working under contract in a school district, intermediate school district, public school academy, or nonpublic school. The person shall immediately provide a copy of the form to the prosecuting attorney in charge of the case, to the superintendent of public instruction, and to the superintendent or chief administrator of the school district, intermediate school district, public school academy, or nonpublic school.

(3) A person who violates subsection (1) or (2) is guilty of a crime, as follows:

(a) If the person violates either subsection (1) or (2) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(b) If the person violates either subsection (1) or (2) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(4) A person who violates subsection (1) or (2) may be discharged from his or her employment or have his or her contract terminated. If the board of a school district or intermediate school district or board of directors of a public school academy finds, after providing notice and the opportunity for a hearing, that a person employed by the school district, intermediate school district, or public school academy has violated subsection (1) or (2), the board or board of directors may discharge the person from his or her employment.

(5) If a person submits a report that he or she has been charged with a crime, as required under subsection (1), and the person is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that charge, then the person may request the department and the school district, intermediate school district, public school academy, or nonpublic school to delete the report from its records concerning the person. Upon receipt of the request from the person and of documentation verifying that the person was not convicted of any crime after the completion of judicial proceedings resulting from that charge, the department or a school district, intermediate school district, public school academy, or nonpublic school shall delete the report from its records concerning the person.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(6) If the prosecuting attorney in charge of a case receives a form as provided under subsection (2), the prosecuting attorney shall notify the superintendent of public instruction and the superintendent or chief administrator of any school district, intermediate school district, public school academy, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under subsection (2), the court shall notify the superintendent of public instruction and the superintendent or chief administrator of any school district, intermediate school district, public school academy, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of sentencing, even if the court is maintaining the file as a nonpublic record.

(7) The department of technology, management, and budget shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of registered educational personnel, and of any other list maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of registered educational personnel has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(8) If a school district, intermediate school district, public school academy, or nonpublic school receives a report under this section of a conviction, within 60 days after receiving the report the school district, intermediate school district, public school academy, or nonpublic school shall submit to the department in the form and manner prescribed by the department a report detailing the information received and any action taken as a result by the school district, intermediate school district, public school academy, or nonpublic school. The department shall maintain a copy of this report for at least 6 years.

(9) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Regularly and continuously work under contract" means any of the following:

(*i*) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(*ii*) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(e) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

**History:** Add. 2005, Act 131, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

## 380.1230e List of registered educational personnel; definitions.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 1230e. (1) Not later than January 1, 2007, the department shall include in its list of registered educational personnel all individuals who are employed by a school district, intermediate school district, public school academy, or nonpublic school and all individuals who are assigned to regularly and continuously work under contract in a school operated by a school district, intermediate school district, public school academy, or nonpublic school.

(2) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Regularly and continuously work under contract" means any of the following:

(*i*) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(*ii*) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(c) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

**History:** Add. 2006, Act 680, Imd. Eff. Jan. 10, 2007.

**Compiler's note:** Act 451

### 380.1230f Fingerprints submitted under MCL 380.1230a and 380.1230g; maintenance in AFIS database.

Sec. 1230f. The department of information technology shall work with the department of state police to establish a system for the department of state police to save and maintain in its automated fingerprint identification system (AFIS) database all fingerprints that are submitted to the department of state police under sections 1230a and 1230g. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under section 1230a or 1230g and stored in the AFIS database, the department of state police shall notify the department.

**History:** Add. 2005, Act 130, Eff. Jan. 1, 2006.

**Popular name:** Act 451

### 380.1230g Individual employed or working under contract; criminal history check or records check; use of results received by another district; consent; request; use of results for limited purpose; "misdemeanor conviction involving sexual or physical abuse" defined; duties of department of state police; verification; disclosure of conviction for listed offense or other felony; exception; definitions.

Sec. 1230g. (1) Not later than July 1, 2008, the board of a school district or intermediate school district, the board of directors of a public school academy, or the governing body of a nonpublic school shall do both of the following for each individual who, as of December 1, 2005, is either a full-time or part-time employee of the school district, intermediate school district, public school academy, or nonpublic school or is assigned to regularly and continuously work under contract in any of its schools and who either is still a full-time or part-time employee of the school district, intermediate school district, public school academy, or nonpublic school on the date that the criminal history and criminal records checks under this section are initiated or is still assigned to regularly and continuously work under contract in any of its schools on the date that the criminal history and criminal records checks under this section are initiated:

(a) Request from the criminal records division of the department of state police a criminal history check on the individual.

(b) Request the department of state police to conduct a criminal records check on the individual through the federal bureau of investigation. The board, board of directors, or governing board shall require the individual to submit his or her fingerprints to the department of state police for the purposes of this subdivision. The department of state police may charge a fee for conducting the criminal records check.

(2) For an individual employed or regularly and continuously working under contract as a substitute teacher or substitute bus driver, if the individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check or criminal records check with another district, public school academy, or nonpublic school, then instead of requesting a criminal history check and


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

criminal records check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school to confirm that the individual does not have any criminal history. Alternatively, a school district, intermediate school district, public school academy, or nonpublic school may use results maintained by the department to confirm that the individual does not have any criminal history. If confirmation is not available from any of these sources, subsection (1) applies to the individual.

(3) If an individual described in subsection (1) is employed by or regularly and continuously working under contract in more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check or criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal history check or criminal records check from another district, public school academy, or nonpublic school.

(4) An individual described in subsection (1) shall give written consent for the criminal records division of the department of state police to conduct the criminal history check and criminal records check required under this section and shall submit his or her fingerprints to the department of state police for the purposes of the criminal records check. If an individual does not comply with this subsection or otherwise fails to cooperate with a school district, intermediate school district, public school academy, or nonpublic school that is seeking to comply with subsection (1) concerning the individual, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity and shall not allow the individual to regularly and continuously work under contract in any of its schools.

(5) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for the criminal history check and criminal records check under this section on a form and in a manner prescribed by the department of state police.

(6) The results of a criminal history check and criminal records check under this section shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in his or her position and for the purposes of subsections (2) and (3). A member of the board of a school district or intermediate school district, of the board of directors of a public school academy, or of the governing body of a nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results received under this section, except a misdemeanor conviction involving sexual or physical abuse or any felony conviction, to any person who is not directly involved in evaluating the individual's qualifications for employment or assignment. However, for the purposes of subsections (2) and (3), a person described in this subsection may provide a copy of the results received under this section concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. For an individual who is regularly and continuously working under contract, if the individual agrees in writing, a district, public school academy, or nonpublic school may provide a copy of the results received under this section concerning the individual to an appropriate representative of the individual’s employer. A representative of the individual’s employer who receives a copy of the results, or receives the results from another source as authorized by this subsection, shall not disclose the results to any person outside of the employer’s business or to any of the employer’s personnel who are not directly involved in evaluating the individual’s qualifications for employment or assignment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than $10,000.00, but is not subject to the penalties under section 1804. As used in this subsection, "misdemeanor conviction involving sexual or physical abuse" includes, but is not limited to, a misdemeanor conviction for a listed offense; a misdemeanor conviction for violation of section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a; a misdemeanor conviction for violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d, 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145, 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor conviction of section 6 of 1979 PA 53, MCL 752.796; or a misdemeanor conviction for violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(7) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal history check and criminal records check on an individual under this section, the criminal records division of the department of state police shall do both of the following:

(a) Conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

or nonpublic school. The report shall contain any criminal history record information on the individual that is maintained by the criminal records division of the department of state police. A school district, intermediate school district, public school academy, or nonpublic school that receives a report from the department of state police under this subdivision shall retain that report in the individual's employment records.

(b) Initiate the criminal records check through the federal bureau of investigation. After conducting the criminal records check required under this section for a school district, intermediate school district, public school academy, or nonpublic school, the criminal records division of the department of state police shall provide the results of the criminal records check to the district, public school academy, or nonpublic school. A school district, intermediate school district, public school academy, or nonpublic school that receives results from the department of state police under this subdivision shall retain those results in the individual's employment records.

(8) If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7), or a report received under section 1230a, 1230d(7), 1535a(15), or 1539b(15), disclose that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7), or a report received under section 1230a, 1230d(7), 1535a(15), or 1539b(15), disclose that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the governing board or governing body, if any, of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing. If a school district, intermediate school district, public school academy, or nonpublic school receives results described in this subsection, within 60 days after receiving those results the school district, intermediate school district, public school academy, or nonpublic school shall submit to the department in the form and manner prescribed by the department a report detailing the information received and any action taken as a result by the school district, intermediate school district, public school academy, or nonpublic school. The department shall maintain a copy of this report for at least 6 years.

(9) If the criminal history check and criminal records check required under this section have been completed for a particular individual and the results reported to a school district, intermediate school district, public school academy, or nonpublic school as provided under this section, then another criminal history check or criminal records check is not required under this section for that individual as long as the individual remains employed with no separation from service by any school district, intermediate school district, public school academy, or nonpublic school in this state or remains regularly and continuously working under contract with no separation from service for the same employer in any school district, intermediate school district, public school academy, or nonpublic school in this state. For the purposes of this subsection, an employee is not considered to have a separation from service in any of the following circumstances:

(a) The employee is laid off or placed on a leave of absence by his or her employer and returns to active employment with the same employer within 1 year after being laid off or placed on the leave of absence.

(b) The employee transfers to another school district, intermediate school district, public school academy, or nonpublic school and remains continuously employed by any school district, intermediate school district, public school academy, or nonpublic school in this state.

(10) Subsection (1) does not apply to an individual who is an employee or is assigned to regularly and continuously work under contract in a school of a school district, intermediate school district, public school academy, or nonpublic school if the individual is not more than 19 years of age and is enrolled as a general education pupil of a school district, intermediate school district, public school academy, or nonpublic school or is not more than 26 years of age and is enrolled in special education programs or services in a school district, intermediate school district, public school academy, or nonpublic school. However, the school district, intermediate school district, public school academy, or nonpublic school shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT). If a search of the department of state police's ICHAT reveals that the individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity, as provided under section 1230c, and shall not


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

allow the individual to regularly and continuously work under contract in any of its schools. If a search of the department of state police's ICHAT reveals that the individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall take steps to verify that information using public records and, if the information is verified using public records, shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approves the employment or work assignment in writing.

(11) For the purposes of subsections (8) and (10), the department shall make available to school districts, intermediate school districts, public school academies, and nonpublic schools information on how to verify a conviction using public records.

(12) As used in this section:

(a) "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Regularly and continuously work under contract" means any of the following:

(*i*) To work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(*ii*) To work at school on a more than intermittent or sporadic basis as an individual under a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

(e) "School property" means that term as defined in section 33 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

**History:** Add. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 583, Imd. Eff. Jan. 16, 2009.

**Popular name:** Act 451

### 380.1230h Disclosure.

Sec. 1230h. (1) A record prepared by a state agency under section 1230d(7), 1535a(15), or 1539b(15) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. However, subject to subsections (2) and (3), a record described in this subsection is only exempt from disclosure as provided in this subsection until the expiration of 15 business days after the date the record is received by a school district, intermediate school district, public school academy, or nonpublic school.

(2) If information described in subsection (1) is determined during the 15 business days exemption period to be inaccurate, then that information is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) After the 15 business days exemption period under subsection (1), all of the following apply:

(a) A state agency shall disclose information in a record described in subsection (1) if the information concerns a conviction that is the type of conviction that is allowed to be disclosed to the public under section 1230(10), 1230a(8), or 1230g(6).

(b) If the information concerns a type of conviction other than a conviction described in subdivision (a), the information is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. However, a state agency shall disclose the information to the public upon request, sorted and identified by school district, intermediate school district, public school academy, or nonpublic school, except that the state agency shall ensure that the information does not include any personal identifying information.

(4) This section does not affect any other rights, duties, or exemptions under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, or under any other law.

**History:** Add. 2006, Act 84, Imd. Eff. Mar. 31, 2006.

**Popular name:** Act 451

### 380.1230i Dropout recovery program.

Sec. 1230i. (1) If a school district or public school academy partners with an education management


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

organization for a dropout recovery program as described under section 23a of the state school aid act of 1979, MCL 388.1623a, the school district or public school academy shall ensure that the education management organization provides all of the following information to the school district or public school academy on a quarterly basis:

(a) All of the following information regarding each eligible pupil enrolled in the program:

(*i*) The name of each eligible pupil.

(*ii*) How each eligible pupil is eligible under section 23a(3)(c) of the state school aid act of 1979, MCL 388.1623a.

(*iii*) The number of credits each eligible pupil will need to earn a diploma.

(*iv*) The anticipated program completion date for each eligible pupil.

(b) The names of all former eligible pupils who are no longer enrolled in the program who earned a diploma or enrolled in a public school since the last submission of information by the education management organization under this subsection.

(c) The names of all former eligible pupils who are no longer enrolled in the program who did not earn a diploma or did not enroll in a public school since the last submission of information by the education management organization under this subsection.

(d) The names of all individuals serving as teachers of record in the program and all individuals serving as advocates for eligible pupils enrolled in the program.

(2) A school district or public school academy that operates a dropout recovery program as described under section 23a of the state school aid act of 1979, MCL 388.1623a, shall annually, in a form and manner prescribed by the department, provide all of the following information to the department:

(a) The number of eligible pupils enrolled in the program.

(b) The average number of months an eligible pupil is enrolled in the program.

(c) The number of eligible pupils who earned a diploma through the program for the immediately preceding school year.

(d) The number of eligible pupils who ended their enrollment in the program and who enrolled in a public school during the immediately preceding school year.

(e) The average number of credit hours an eligible pupil earns in the program.

(f) A breakdown of the types of eligible pupils enrolled in the program with the breakdown based on the eligibility factors under section 23a(3)(c) of the state school aid act of 1979, MCL 388.1623a, and the number of pupils that meet each eligibility factor under section 23a(3)(c) of the state school aid act of 1979, MCL 388.1623a.

(g) The name of the education management organization that the school district or public school academy partners with for the program, if applicable.

(h) The school district's or public school academy's administrator or the department that oversees the program.

(i) The amount the school district or public school academy pays to the education management organization for each enrolled eligible pupil, if applicable, and additional costs or fees paid by the school district or public school academy related to the program.

(j) If the school district or public school academy partners with an education management organization for the program, a copy of the contract between the school district or public school academy and the education management organization regarding the partnership.

(3) As used in this section, "advocate", "education management organization", "eligible pupil", and "teacher of record" mean those terms as defined in section 23a of the state school aid act of 1979, MCL 388.1623a.

**History:** Add. 2020, Act 23, Imd. Eff. Jan. 31, 2020.

**Popular name:** Act 451

### 380.1231 Hiring of teachers; teachers' contracts generally; teacher of record; dropout recovery program.

Sec. 1231. (1) Except as otherwise provided in subsections (5) and (6), the board of a school district shall hire and contract with qualified teachers. Contracts with teachers must be in writing and signed on behalf of the school district by a majority of the board, by the president and secretary of the board, or by the superintendent of schools or an authorized representative of the board. The contracts must specify the wages agreed upon.

(2) The board of a school district shall file a teacher's contract with the secretary of the board and shall furnish a duplicate copy of the contract to the teacher.

(3) Except as otherwise provided under this act, a contract with a teacher is not valid unless the individual


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

holds a valid teaching certificate or is engaged to teach under section 1233b at the time the contractual period begins or the individual is engaged to teach in a community district under section 1233c. A contract terminates if the certificate expires by limitation and is not renewed immediately or if it is suspended or revoked by proper legal authority.

(4) The board of a school district, after a teacher has been employed at least 2 consecutive years by the board, may enter into a continuing contract with a certificated teacher or a teacher engaged to teach under section 1233b or, for a community district, with an individual engaged to teach in a community district under section 1233c.

(5) The board of a school district that is a community district may employ or contract for, or both, qualified teachers and other qualified instructional personnel at a public school that formerly operated as an achievement school as necessary to carry out the purposes of the community district.

(6) If a school district partners with an education management organization for a dropout recovery program as described under section 23a of the state school aid act of 1979, MCL 388.1623a, the teacher of record for that program may be employed by or contracted through the education management organization.

(7) As used in this section:

(a) "Achievement school" means a public school formerly within the education achievement system that was operated, managed, authorized, established, or overseen by the achievement authority.

(b) "Education management organization" means that term as defined in section 23a of the state school aid act of 1979, MCL 388.1623a.

(c) "Teacher" does not include a substitute teacher.

(d) "Teacher of record" means that term as defined in section 23a of the state school aid act of 1979, MCL 388.1623a.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 735, Eff. Mar. 31, 2003;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 235, Eff. Sept. 25, 2018;—Am. 2020, Act 23, Imd. Eff. Jan. 31, 2020.

**Popular name:** Act 451

### 380.1232 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to teachers' contracts.

**Popular name:** Act 451

### 380.1233 Teaching or counseling by noncertificated teacher; prohibition; exceptions; notice to superintendent of public instruction; waiving student teaching as requirement for vocational certification; employment as substitute teacher; renewal of school counselor credential; career counseling; professional development; approval by department; rules.

Sec. 1233. (1) Except as otherwise provided by law, and subject to sections 1233b and 1233c, the board of a school district or intermediate school district shall not permit a teacher who does not hold a valid teaching certificate to teach in a grade or department of the school.

(2) The board of a school district or intermediate school district shall not allow an individual to serve in a counseling role in the school district or intermediate school district, as the role is defined by the superintendent of public instruction, unless the individual meets 1 or more of the following:

(a) The individual holds a valid teaching certificate with a school counseling endorsement.

(b) The individual meets all of the following:

(*i*) Holds a master's degree awarded after completion of an approved school counselor education program that includes at least all of the following skills and content areas or their equivalent:

(A) Guidance services--philosophy, principles, and practices.

(B) Individual and group analysis--nature and range of human characteristics and appraisal methods.

(C) Guidance information--vocational development theory, educational and occupational information.

(D) Counseling theory and practice--individual and group procedures, administration and coordination relationships, professional relationships, and ethics.

(E) Supervised experiences--laboratory, practicum, or internship.

(F) Evaluation--statistics and research methodology, follow-up evaluation, and measurement methods.

(*ii*) Has successfully completed the department's guidance counselor examination.

(*iii*) Has been recommended by an approved school counselor education program to provide services as a school counselor.

(c) The individual meets both of the following:

(*i*) Has at least 5 years of successful experience serving in a school counseling role in another state within the immediately preceding 7-year period.

(*ii*) Has successfully completed the department's guidance counselor examination.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) Except for teachers engaged to teach under section 1233b and teachers engaged to teach in a community district under section 1233c, the intermediate superintendent shall notify the superintendent of public instruction immediately of the names of noncertificated teachers teaching in violation of subsection (1) and the names of individuals serving in counseling roles in violation of subsection (2), the employing district, and the amount of time the noncertificated teachers or unqualified individuals were employed.

(4) A vocational teacher preparation institution shall utilize the employment experience of an annually authorized teacher for the purpose of waiving student teaching as a requirement for vocational certification if the annually authorized teacher is supervised by the teacher preparation institution.

(5) The board of a school district or intermediate school district may employ an individual without a teaching certificate as a substitute teacher if either of the following requirements are met, if applicable:

(a) The individual has at least 60 semester hours of college credit or an associate degree from a college, university, or community college. The 60 semester hours do not need to be from the same college, university, or community college.

(b) For substitute teaching a course in an industrial technology education program or a career and technical education program, the individual is engaged to substitute teach in a subject matter or field in which the individual has achieved expertise, as determined by the board of a school district or intermediate school district and satisfies all of the following, if applicable:

(*i*) Has a high school diploma or a high school equivalency certificate as defined in section 4 of the state school aid act of 1979, MCL 388.1604.

(*ii*) For substitute teaching in a subject matter or field in which a professional license or certification is required, at least 1 of the following:

(A) Holds a professional license or certification in that same subject matter or field.

(B) Previously held a professional license or certification in that same subject matter or field that expired not more than 2 years before the noncertificated substitute teacher's initial employment under this section and was in good standing immediately before the license or certification expired.

(*iii*) Has at least 2 cumulative years of professional experience in that same subject matter or field in the immediately preceding 10 years.

(6) Beginning February 6, 2020, the department shall not renew an individual's school counselor credential unless the department determines that, within the time period since the individual's school counselor credential was issued or last renewed, whichever is most recent, the individual has completed at least 25 hours of professional development approved by the department under subsection (8) covering counseling about the college preparation and selection process and at least 25 hours of professional development approved by the department under subsection (8) covering career counseling. For the purposes of this subsection, career counseling includes, but is not limited to, exploration of military career options and the skilled trades as well as other careers and pathways that lead to industry credentials awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to obtain employment or advance within an occupation. The hours of professional development required under this subsection covering career counseling must include at least 5 hours covering military career options. The hours of professional development required under this subsection are a part of and not in addition to professional development requirements under department rule.

(7) An individual may complete the professional development hours for the purposes of subsection (6) as part of the professional development provided by a school district, intermediate school district, public school academy, or nonpublic school under section 1527 if the content and curriculum of the professional development provided under section 1527 are approved by the department under subsection (8).

(8) The department shall approve the professional development for the purposes of subsection (6). The department shall only approve a professional development program or course for the purposes of subsection (6) if the department determines that the content and curriculum for the professional development meet standards that are developed by the department in consultation with the department of talent and economic development and groups representing school counselors, college admissions professionals, financial aid officers, employers, and others as determined appropriate by the department. The department shall develop these standards by July 1, 2018 and shall facilitate the involvement in the development of the standards of the groups required under this subsection.

(9) The superintendent of public instruction shall promulgate or modify rules as necessary to implement subsections (6) to (8).

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1987, Act 56, Imd. Eff. June 22, 1987;—Am. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2000, Act 288, Imd. Eff. July 10, 2000;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2017, Act 151, Eff. Feb. 6, 2018;—Am. 2018, Act 235, Eff. Sept. 25, 2018;—Am. 2018, Act 236, Eff. Sept. 25, 2018;—Am. 2018, Act 418, Eff. Mar. 20, 2019.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1233a Employment counseling and placement services; agreement to establish joint or cooperative service; assistance; MCL 338.2006 inapplicable.

Sec. 1233a. (1) Counseling or guidance staff employed by a school district, which for purposes of this section may include noncertified, nonendorsed personnel, shall devote an appropriate portion of working time and effort to employment counseling and placement services for pupils 16 to 19 years of age who do not intend to enroll in an institution of higher education after graduating from high school or who require or desire employment in conjunction with their continued education.

(2) A school district may enter into an agreement with 1 or more school districts, with the intermediate school district to which the school district is constituent, or with any other appropriate unit of local government to establish a joint or cooperative employment counseling or placement service. Upon the request of a school district, the Michigan employment security commission, the department of labor, or any other appropriate state agency shall provide assistance in establishing or conducting the service. A school district operating a placement service shall not be subject to section 6 of Act No. 301 of the Public Acts of 1974, being section 338.2006 of the Michigan Compiled Laws, and shall not charge a fee or any other consideration.

**History:** Add. 1978, Act 536, Imd. Eff. Dec. 21, 1978.

**Popular name:** Act 451

### 380.1233b Teaching of certain courses by noncertificated, nonendorsed teacher; requirements; effect of ability to engage certificated, endorsed teacher; waiving student teaching.

Sec. 1233b. (1) Subject to subsection (2) and except as provided in subsection (3), the board of a school district or intermediate school district or the board of directors of a public school academy may engage a full-time or part-time noncertificated, nonendorsed teacher to teach a course in computer science, a foreign language, mathematics, biology, chemistry, engineering, physics, robotics, or in another subject area determined by the state board to be appropriate to be included under this section and so designated by the state board, or any combination of these subject areas, in grades 9 through 12, or in an industrial technology education program or a career and technical education program.

(2) Subject to subsections (3) and (6), a noncertificated, nonendorsed teacher is qualified to teach under this section if he or she meets at least 1 of the following minimum requirements:

(a) All of the following:

(*i*) Possesses an earned bachelor's degree from an accredited postsecondary institution.

(*ii*) Has a major or a graduate degree in the field of specialization in which he or she will teach.

(*iii*) If the teacher desires to teach for more than 1 year, has passed a subject area examination, if a subject area examination exists, in the field of specialization in which he or she will teach.

(*iv*) Except in the case of individuals engaged to teach a foreign language, has, in the 5-year period immediately preceding the date of hire, not less than 2 years of occupational experience in the field of specialization in which he or she will teach.

(b) For teaching a course in an industrial technology education program or a career and technical education program, is engaged to teach in a subject matter or field in which the teacher has achieved expertise, as determined by the board of a school district or intermediate school district or board of directors of a public school academy, and satisfies all of the following:

(*i*) Has a high school diploma or a high school equivalency certificate as defined in section 4 of the state school aid act of 1979, MCL 388.1604.

(*ii*) For teaching in a subject matter or field in which a professional license or certification is required, at least 1 of the following:

(A) Holds a professional license or certification in that same subject matter or field.

(B) Previously held a professional license or certification in that same subject matter or field that expired no more than 2 years before the noncertificated, nonendorsed teacher's initial employment under this section and was in good standing immediately before the license or certification expired.

(*iii*) Has at least 2 cumulative years of professional experience in that same subject matter or field in the immediately preceding 10 years.

(3) The requirements listed in subsection (2) for a teacher engaged to teach under this section shall be in addition to any other requirements established by the board of a school district or intermediate school district or board of directors of a public school academy, as applicable.

(4) Except as provided in subsection (5), the board of a school district or intermediate school district or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

board of directors of a public school academy shall not engage a full-time or part-time noncertificated, nonendorsed teacher to teach a course described in subsection (1) if the district or public school academy is able to engage a certificated, endorsed teacher.

(5) Subject to subsection (6), if the board of a school district or intermediate school district or board of directors of a public school academy is able to engage a certificated, endorsed teacher to teach a course described in subsection (1), the board or board of directors may employ or continue to employ a noncertificated, nonendorsed teacher to teach the course if the noncertificated, nonendorsed teacher meets at least 1 of the following:

(a) Both of the following:

(*i*) The noncertificated, nonendorsed teacher is annually and continually enrolled and completing credit in an approved teacher preparation program leading to a provisional teaching certificate.

(*ii*) The noncertificated, nonendorsed teacher has a planned program leading to teacher certification on file with the employing school district or intermediate school district or public school academy, his or her teacher preparation institution, and the department.

(b) Is engaged to teach in an industrial technology education program or a career and technical education program and meets the requirements under subsection (2)(b).

(6) The board of a school district or intermediate school district or board of directors of a public school academy may employ a noncertificated, nonendorsed teacher who meets the requirements of subsection (2)(b) to teach in an industrial technology education program or a career and technical education program for up to 10 years. The superintendent of public instruction may permit the board or board of directors to employ the teacher for more than 10 years.

(7) If the noncertificated, nonendorsed teacher completes 3 years of successful classroom teaching, as determined by regular observation and review by school district, intermediate school district, or public school academy personnel and teacher preparation institution personnel, the department and a teacher preparation institution shall utilize the teaching experience of a noncertificated, nonendorsed teacher for the purpose of waiving student teaching as a condition for receiving a continued employment authorization in the school district, intermediate school district, or public school academy and a provisional teaching certificate.

(8) An individual engaged to teach under this section is subject to the requirements of sections 1526 and 1527.

**History:** Add. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2018, Act 233, Eff. Sept. 25, 2018;—Am. 2018, Act 235, Eff. Sept. 25, 2018.

**Popular name:** Act 451

### 380.1233c Engagement of noncertificated, nonendorsed teacher to teach in community district schools; conditions; waiving of student teaching.

Sec. 1233c. (1) Beginning after an initial elected school board for the community district has been elected and takes office under section 384, a community district may engage a full-time or part-time noncertificated, nonendorsed teacher to teach in its schools if the appropriate official of the community district determines that, due to the individual's combination of education and experience, it would be appropriate and in the best interests of the pupils of the community district.

(2) If a noncertificated, nonendorsed teacher engaged to teach under this section completes 3 years of successful classroom teaching, as determined by regular observation and review by school district and teacher preparation institution personnel, the department and a teacher preparation institution shall utilize the teaching experience of the noncertificated, nonendorsed teacher for the purpose of waiving student teaching as a condition for receiving a provisional teaching certificate.

**History:** Add. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.1234 Exchange teachers; compensation, rights, and privileges.

Sec. 1234. A teacher employed by a school district of this state, while the teacher is performing teaching duties in another state, a foreign country, or a territory of the United States or a foreign country with the consent of the employing school board in exchange for the services of a teacher of another state, a foreign country, or a territory of the United States or a foreign country, is entitled to the same compensation, rights, and privileges, including retirement benefits, as though the teacher were continuously performing normal teaching duties for the employing school board consenting to the exchange.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1997, Act 58, Imd. Eff. July 7, 1997.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1235 Sabbatical leave.

Sec. 1235. (1) After a teacher has been employed at least 7 consecutive years by the board of a school district, and at the end of each additional period of 7 or more consecutive years of employment, the board may grant the teacher a sabbatical leave for professional improvement for not to exceed 2 semesters at 1 time, if the teacher holds a permanent, life, or continuing certificate or is engaged in teaching in a college maintained by the board. During the sabbatical leave, the teacher shall be considered to be in the employ of the board, shall have a contract, and may be paid compensation as provided in the regulations of the board. The board shall not be liable for death or injuries sustained by the teacher while on sabbatical leave.

(2) A teacher shall be allowed credit toward retirement for time spent on sabbatical leave under regulations established by the Michigan public school employee's retirement board.

(3) Upon return from a sabbatical leave a teacher shall be restored to the teacher's position held prior to sabbatical leave or to a position of like nature, seniority, status, and pay. The teacher shall be entitled to other benefits provided under regulations of the board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1236 Substitute teachers; leave time, salary, and privileges; applicability of subsections (1) and (2); contract; "day" defined.

Sec. 1236. (1) Subject to subsection (3), if a teacher is employed as a substitute teacher with an assignment to 1 specific teaching position, then after 60 days of service in that assignment the teacher shall be granted for the duration of that assignment leave time and other privileges granted to regular teachers by the school district, including a salary not less than the minimum salary on the current salary schedule for that district.

(2) Subject to subsections (3) and (4), a teacher employed as a substitute teacher for 150 days or more during a legal school year of not less than 180 days, or employed as a substitute teacher for 180 days or more by an intermediate school district that operates any program for 220 days or more as required by administrative rule, shall be given during the balance of the school year or during the next succeeding legal school year only the first opportunity to accept or reject a contract for which the substitute teacher is certified, after all other teachers of the school district are reemployed in conformance with the terms of a master contract of an authorized bargaining unit and the employer.

(3) Subsections (1) and (2) do not apply to a substitute teacher who is contracted or employed by a person or entity that contracts with a school district or intermediate school district pursuant to section 1236a.

(4) Subsection (2) does not apply to a substitute teacher who is fulfilling the teaching duties of a teacher who is unable to teach due to a terminal illness.

(5) As used in this section, "day" means the working day of the regular, full-time teacher for whom the substitute teacher substitutes. A quarter-day, half-day, or other fractional day of substitute service shall be counted only as that fraction. However, a fraction of a day that is acknowledged by the school district and paid as a full day shall be counted as a full day for purposes of this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1986, Act 72, Imd. Eff. Apr. 7, 1986;—Am. 1995, Act 289, Eff. Mar. 28, 1996;—Am. 2002, Act 735, Eff. Mar. 31, 2003.

**Popular name:** Act 451

### 380.1236a Person or entity furnishing substitute teachers; contract; "entity" defined.

Sec. 1236a. (1) The board of a school district or intermediate school district may enter into a contract with a person or entity to furnish substitute teachers to the school district or intermediate school district as necessary to carry out the operations of the school district or intermediate school district.

(2) A contract entered into under this section shall include the following provisions:

(a) Assurance that the person or entity will furnish the school district or intermediate school district with qualified teachers in accordance with this act and rules promulgated under this act.

(b) Assurance that the person or entity will not furnish to the school district or intermediate school district any teacher who, if employed directly by the school district or intermediate school district, would be ineligible for employment by the school district or intermediate school district as a substitute teacher under this act.

(c) A description of the level of compensation and fringe benefits to be provided to employees of the person or entity who are assigned to the school district or intermediate school district as substitute teachers.

(d) A description of the type and amounts of insurance coverage to be secured and maintained by the person or entity and the school district or intermediate school district under the contract.

(e) Assurance that the person or entity, before assigning an individual to serve as a substitute teacher in the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

school district or intermediate school district, will comply with sections 1230 and 1230a with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a substitute teacher and will provide the board of the school district or intermediate school district with the criminal history record information obtained under section 1230 and with the results of the criminal records check under section 1230a. The department of state police shall provide information to a person or entity requesting information under this subdivision to the same extent as if the person or entity were a school district making the request under section 1230 or 1230a.

(3) A school district or intermediate school district that contracts with a person or entity to furnish substitute teachers under this section may purchase liability insurance to indemnify and protect the school district or intermediate school district and the person or entity against losses or liabilities incurred by the school district or intermediate school district and person or entity arising out of any claim for personal injury or property damage caused by the school district or intermediate school district, its officers, employees, or agents. A school district or intermediate school district may pay premiums for the insurance out of its operating funds. The existence of any policy of insurance indemnifying the school district or intermediate school district and person or entity against liability for damages is not a waiver of any defense otherwise available to the school district or intermediate school district in the defense of the claim.

(4) As used in this section, "entity" means a partnership, nonprofit or business corporation, labor organization, limited liability company, or any other association, corporation, trust, or other legal entity.

**History:** Add. 2002, Act 735, Eff. Mar. 31, 2003.

**Popular name:** Act 451

### 380.1237 Employment of individual who does not hold teaching certificate to provide speech and language services.

Sec. 1237. Notwithstanding any other provision of this act or a rule to the contrary, a school district, local act school district, intermediate school district, or public school academy may employ an individual who does not hold a teaching certificate to provide speech and language services if the individual meets the requirements for speech-language certification by the American speech-language-hearing association. However, except for a teacher engaged to teach in a community district under section 1233c, an individual who does not hold a teaching certificate shall not be assigned to serve as a classroom teacher.

**History:** Add. 2000, Act 387, Imd. Eff. Jan. 3, 2001;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.1240 Law enforcement agency; creation.

Sec. 1240. (1) Subject to subsection (3), the board of a school district that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent decennial census may create a law enforcement agency in accordance with and as provided under the public body law enforcement agency act, 2004 PA 378, MCL 28.581 to 28.590.

(2) Subject to subsection (3), if the board of a school district creates a law enforcement agency under subsection (1), the board may grant to law enforcement officers of that law enforcement agency the same powers, immunities, and authority as are granted by law to peace officers and police officers to detect crime and to enforce the criminal laws of this state and to enforce state laws, local ordinances, and the ordinances and regulations of the school district, as provided under the public body law enforcement agency act, 2004 PA 378, MCL 28.581 to 28.590. Law enforcement officers to whom the authority of peace officers and police officers is granted under that act are considered peace officers of this state and have the authority of police officers provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, and as provided under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(3) If a school district operates a law enforcement agency under this section and becomes a qualifying school district under section 12b, the qualifying school district's law enforcement agency shall be transferred by operation of law on the transfer date to the community district created under part 5b. Beginning on the transfer date, the community district may operate a law enforcement agency in accordance with this section.

(4) For purposes of this section, a community district's membership is considered to be the same as the membership of the qualifying school district whose law enforcement agency is transferred under subsection (3).

(5) As used in this section, "transfer date" means that term as defined in section 12b.

**History:** Add. 2004, Act 380, Imd. Eff. Oct. 12, 2004;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.1241 Liaison for school safety commission; requirements; duties.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 1241. (1) The board of a school district or intermediate school district, the board of directors of a public school academy, or the governing body of a nonpublic school shall designate a liaison to work with the school safety commission created under section 5 of the comprehensive school safety plan act and the office of school safety created by law. A liaison designated under this section shall be an individual who is employed by the school district, intermediate school district, public school academy, or nonpublic school or who is assigned to regularly and continuously work under contract in a school operated by the school district, intermediate school district, public school academy, or nonpublic school.

(2) A liaison designated under this section shall work with the school safety commission and the office of school safety to identify model practices for determining school safety measures.

**History:** Add. 2018, Act 549, Eff. Mar. 28, 2019.

**Popular name:** Act 451

### 380.1246 Superintendent, principal, assistant principal, administrator of instructional programs, or chief business official; conditions for employment; continuing education; rules; time period to meet certification requirements.

Sec. 1246. (1) A school district, public school academy, or intermediate school district shall not continue to employ a person as a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs or as a chief business official unless the person meets 1 or more of the following requirements, as applicable:

(a) For a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs, or a chief business official, who was employed as a school administrator in this state on or before the effective date of the amendatory act that added this subdivision, has completed the continuing education requirements prescribed by rule under subsection (2).

(b) Subject to subsection (3), for a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs and who is initially employed as a school administrator in this state after the effective date of the amendatory act that added this subdivision, possesses a valid Michigan school administrator's certificate issued under section 1536.

(2) The superintendent of public instruction shall promulgate rules establishing continuing education requirements as a condition for continued employment for persons described in subsection (1)(a). The rules shall prescribe a minimum amount of continuing education that shall be completed within 5 years after initial employment and shall be completed each subsequent 5-year period to meet the requirements of subsection (1)(a) for continued employment.

(3) A school district, public school academy, or intermediate school district may employ as a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs a person who is enrolled in a program leading to certification as a school administrator under section 1536 not later than 6 months after he or she begins the employment. A person employed as a school administrator pursuant to this subsection has 3 years to meet the certification requirements of section 1536, or the school district, public school academy, or intermediate school district shall not continue to employ the person as a school administrator described in this subsection.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1986, Act 163, Imd. Eff. July 7, 1986;—Am. 1991, Act 63, Imd. Eff. July 3, 1991;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1994, Act 413, Imd. Eff. Dec. 29, 1994;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 148, Imd. Eff. June 15, 2004;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

**Administrative rules:** R 380.1201 of the Michigan Administrative Code.

### 380.1247, 380.1248 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to employment and duties of administrators, building principals, assistants, and employees.

**Popular name:** Act 451

### 380.1248 Personnel decisions resulting in elimination of position; policies; collective bargaining agreement; expiration; action brought by teacher; remedy.

Sec. 1248. (1) For teachers, as defined in section 1 of article I of 1937 (Ex Sess) PA 4, MCL 38.71, all of the following apply to policies regarding personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position by a school district or intermediate school district:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) Subject to subdivision (c), the board of a school district or intermediate school district shall not adopt, implement, maintain, or comply with a policy that provides that length of service or tenure status is the primary or determining factor in personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position.

(b) Subject to subdivision (c), the board of a school district or intermediate school district shall ensure that the school district or intermediate school district adopts, implements, maintains, and complies with a policy that provides that all personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting in the elimination of a position, are based on retaining effective teachers. The policy shall ensure that a teacher who has been rated as ineffective under the performance evaluation system under section 1249 is not given any preference that would result in that teacher being retained over a teacher who is evaluated as minimally effective, effective, or highly effective under the performance evaluation system under section 1249. Effectiveness shall be measured by the performance evaluation system under section 1249, and the personnel decisions shall be made based on the following factors:

(*i*) Individual performance shall be the majority factor in making the decision, and shall consist of but is not limited to all of the following:

(A) Evidence of student growth, which shall be the predominant factor in assessing an employee's individual performance.

(B) The teacher's demonstrated pedagogical skills, including at least a special determination concerning the teacher's knowledge of his or her subject area and the ability to impart that knowledge through planning, delivering rigorous content, checking for and building higher-level understanding, differentiating, and managing a classroom; and consistent preparation to maximize instructional time.

(C) The teacher's management of the classroom, manner and efficacy of disciplining pupils, rapport with parents and other teachers, and ability to withstand the strain of teaching.

(D) The teacher's attendance and disciplinary record, if any.

(*ii*) Significant, relevant accomplishments and contributions. This factor shall be based on whether the individual contributes to the overall performance of the school by making clear, significant, relevant contributions above the normal expectations for an individual in his or her peer group and having demonstrated a record of exceptional performance.

(*iii*) Relevant special training. This factor shall be based on completion of relevant training other than the professional development or continuing education that is required by the employer or by state law, and integration of that training into instruction in a meaningful way.

(c) Except as otherwise provided in this subdivision, length of service or tenure status shall not be a factor in a personnel decision described in subdivision (a) or (b). However, if that personnel decision involves 2 or more employees and all other factors distinguishing those employees from each other are equal, then length of service or tenure status may be considered as a tiebreaker.

(2) If a collective bargaining agreement is in effect for employees of a school district or intermediate school district as of the effective date of this section and if that collective bargaining agreement prevents compliance with subsection (1), then subsection (1) does not apply to that school district or intermediate school district until after the expiration of that collective bargaining agreement.

(3) If a teacher brings an action against a school district or intermediate school district based on this section, the teacher's sole and exclusive remedy shall be an order of reinstatement commencing 30 days after a decision by a court of competent jurisdiction. The remedy in an action brought by a teacher based on this section shall not include lost wages, lost benefits, or any other economic damages.

**History:** Add. 2011, Act 102, Imd. Eff. July 19, 2011.

**Compiler's note:** For transfer of powers and duties of governor's council on educator effectiveness to department of technology, management and budget, and renaming to Michigan council for educator effectiveness, see E.R.O. No. 2012-2, compiled at MCL 18.444.

**Popular name:** Act 451

### 380.1249 Performance evaluation system for teachers and school administrators; requirements; posting information about evaluation tools on public website; effect of collective bargaining agreement; establishment and maintenance of list of teacher evaluation tools; rules; training to be paid from educator evaluation reserve fund;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**operation or applicability of MCL 380.1248 not affected; "teacher" defined.**

Sec. 1249. (1) Subject to subsection (4), with the involvement of teachers and school administrators, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system that does all of the following:

(a) Evaluates the teacher's or school administrator's job performance at least annually while providing timely and constructive feedback.

(b) Establishes clear approaches to measuring student growth and provides teachers and school administrators with relevant data on student growth.

(c) Evaluates a teacher's or school administrator's job performance, using multiple rating categories that take into account student growth and assessment data. Student growth must be measured using multiple measures that may include student learning objectives, achievement of individualized education program goals, nationally normed or locally developed assessments that are aligned to state standards, research-based growth measures, or alternative assessments that are rigorous and comparable across schools within the school district, intermediate school district, or public school academy. If the performance evaluation system implemented by a school district, intermediate school district, or public school academy under this section does not already include the rating of teachers as highly effective, effective, minimally effective, and ineffective, then the school district, intermediate school district, or public school academy shall revise the performance evaluation system not later than September 19, 2011 to ensure that it rates teachers as highly effective, effective, minimally effective, or ineffective.

(d) Uses the evaluations, at a minimum, to inform decisions regarding all of the following:

(*i*) The effectiveness of teachers and school administrators, ensuring that they are given ample opportunities for improvement.

(*ii*) Promotion, retention, and development of teachers and school administrators, including providing relevant coaching, instruction support, or professional development.

(*iii*) Whether to grant tenure or full certification, or both, to teachers and school administrators using rigorous standards and streamlined, transparent, and fair procedures.

(*iv*) Removing ineffective tenured and untenured teachers and school administrators after they have had ample opportunities to improve, and ensuring that these decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

(2) The board of a school district or intermediate school district or board of directors of a public school academy shall ensure that the performance evaluation system for teachers meets all of the following:

(a) The performance evaluation system must include at least an annual year-end evaluation for all teachers. An annual year-end evaluation must meet all of the following:

(*i*) For the 2018-2019 school year, 25% of the annual year-end evaluation must be based on student growth and assessment data. Beginning with the 2019-2020 school year, 40% of the annual year-end evaluation must be based on student growth and assessment data.

(*ii*) For core content areas in grades and subjects in which state assessments are administered, 50% of student growth must be measured using the state assessments, and the portion of student growth not measured using state assessments must be measured using multiple research-based growth measures or alternative assessments that are rigorous and comparable across schools within the school district, intermediate school district, or public school academy. Student growth also may be measured by student learning objectives or nationally normed or locally adopted assessments that are aligned to state standards, or based on achievement of individualized education program goals.

(*iii*) The portion of a teacher's annual year-end evaluation that is not based on student growth and assessment data, as described under subparagraph (*i*), must be based primarily on a teacher's performance as measured by the evaluation tool developed or adopted by the school district, intermediate school district, or public school academy under subdivision (f).

(*iv*) The portion of a teacher's evaluation that is not measured using student growth and assessment data, as described under subparagraph (*i*), or using the evaluation tool developed or adopted by the school district, intermediate school district, or public school academy, as described under subparagraph (*iii*), must incorporate criteria enumerated in section 1248(1)(b)(*i*) to (*iii*) that are not otherwise evaluated under subparagraph (*i*) or (*iii*).

(b) If there are student growth and assessment data available for a teacher for at least 3 school years, the annual year-end evaluation must be based on the student growth and assessment data for the most recent 3-consecutive-school-year period. If there are not student growth and assessment data available for a teacher for at least 3 school years, the annual year-end evaluation must be based on all student growth and assessment


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

data that are available for the teacher.

(c) The annual year-end evaluation must include specific performance goals that will assist in improving effectiveness for the next school year and are developed by the school administrator or his or her designee conducting the evaluation, in consultation with the teacher, and any recommended training identified by the school administrator or designee, in consultation with the teacher, that would assist the teacher in meeting these goals. For a teacher described in subdivision (d), the school administrator or designee shall develop, in consultation with the teacher, an individualized development plan that includes these goals and training and is designed to assist the teacher to improve his or her effectiveness.

(d) The performance evaluation system must include a midyear progress report for a teacher who is in the first year of the probationary period prescribed by section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, or who received a rating of minimally effective or ineffective in his or her most recent annual year-end evaluation. The midyear progress report must be used as a supplemental tool to gauge a teacher's improvement from the preceding school year and to assist a teacher to improve. All of the following apply to the midyear progress report:

(*i*) The midyear progress report must be based at least in part on student achievement.

(*ii*) The midyear progress report must be aligned with the teacher's individualized development plan under subdivision (c).

(*iii*) The midyear progress report must include specific performance goals for the remainder of the school year that are developed by the school administrator conducting the annual year-end evaluation or his or her designee and any recommended training identified by the school administrator or designee that would assist the teacher in meeting these goals. At the midyear progress report, the school administrator or designee shall develop, in consultation with the teacher, a written improvement plan that includes these goals and training and is designed to assist the teacher to improve his or her rating.

(*iv*) The midyear progress report must not take the place of an annual year-end evaluation.

(e) The performance evaluation system must include classroom observations to assist in the performance evaluations. All of the following apply to these classroom observations:

(*i*) A classroom observation must include a review of the teacher's lesson plan and the state curriculum standard being used in the lesson and a review of pupil engagement in the lesson.

(*ii*) A classroom observation does not have to be for an entire class period.

(*iii*) Unless a teacher has received a rating of effective or highly effective on his or her 2 most recent annual year-end evaluations, there must be at least 2 classroom observations of the teacher each school year. At least 1 observation must be unscheduled.

(*iv*) The school administrator responsible for the teacher's performance evaluation shall conduct at least 1 of the observations. Other observations may be conducted by other observers who are trained in the use of the evaluation tool that is used under subdivision (f). These other observers may be teacher leaders.

(*v*) A school district, intermediate school district, or public school academy shall ensure that, within 30 days after each observation, the teacher is provided with feedback from the observation.

(f) For the purposes of conducting annual year-end evaluations under the performance evaluation system, by the beginning of the 2016-2017 school year, the school district, intermediate school district, or public school academy shall adopt and implement 1 or more of the evaluation tools for teachers that are included on the list under subsection (5). However, if a school district, intermediate school district, or public school academy has 1 or more local evaluation tools for teachers or modifications of an evaluation tool on the list under subsection (5), and the school district, intermediate school district, or public school academy complies with subsection (3), the school district, intermediate school district, or public school academy may conduct annual year-end evaluations for teachers using 1 or more local evaluation tools or modifications. The evaluation tools must be used consistently among the schools operated by a school district, intermediate school district, or public school academy so that all similarly situated teachers are evaluated using the same evaluation tool.

(g) The performance evaluation system must assign an effectiveness rating to each teacher of highly effective, effective, minimally effective, or ineffective, based on his or her score on the annual year-end evaluation described in this subsection.

(h) As part of the performance evaluation system, and in addition to the requirements of section 1526, a school district, intermediate school district, or public school academy is encouraged to assign a mentor or coach to each teacher who is described in subdivision (d).

(i) The performance evaluation system may allow for exemption of student growth data for a particular pupil for a school year upon the recommendation of the school administrator conducting the annual year-end evaluation or his or her designee and approval of the school district superintendent or his or her designee, intermediate superintendent or his or her designee, or chief administrator of the public school academy, as


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

applicable.

(j) The performance evaluation system must provide that, if a teacher is rated as ineffective on 3 consecutive annual year-end evaluations, the school district, intermediate school district, or public school academy shall dismiss the teacher from his or her employment. This subdivision does not affect the ability of a school district, intermediate school district, or public school academy to dismiss a teacher from his or her employment regardless of whether the teacher is rated as ineffective on 3 consecutive annual year-end evaluations.

(k) The performance evaluation system must provide that, if a teacher is rated as highly effective on 3 consecutive annual year-end evaluations, the school district, intermediate school district, or public school academy may choose to conduct a year-end evaluation biennially instead of annually. However, if a teacher is not rated as highly effective on 1 of these biennial year-end evaluations, the teacher shall again be provided with annual year-end evaluations.

(*l*) The performance evaluation system must provide that, if a teacher who is not in a probationary period prescribed by section 1 of article II of 1937 (Ex Sess) PA 4, MCL 38.81, is rated as ineffective on an annual year-end evaluation, the teacher may request a review of the evaluation and the rating by the school district superintendent, intermediate superintendent, or chief administrator of the public school academy, as applicable. The request for a review must be submitted in writing within 20 days after the teacher is informed of the rating. Upon receipt of the request, the school district superintendent, intermediate superintendent, or chief administrator of the public school academy, as applicable, shall review the evaluation and rating and may make any modifications as appropriate based on his or her review. However, the performance evaluation system must not allow for a review as described in this subdivision more than twice in a 3-school-year period.

(m) The school district, intermediate school district, or public school academy shall provide training to teachers on the evaluation tool or tools used by the school district, intermediate school district, or public school academy in its performance evaluation system and on how each evaluation tool is used. This training may be provided by a school district, intermediate school district, or public school academy, or by a consortium consisting of 2 or more of these.

(n) A school district, intermediate school district, or public school academy shall ensure that training is provided to all evaluators and observers. The training must be provided by an individual who has expertise in the evaluation tool or tools used by the school district, intermediate school district, or public school academy, which may include either a consultant on that evaluation tool or framework or an individual who has been trained to train others in the use of the evaluation tool or tools. This subdivision does not prohibit a school district, intermediate school district, public school academy, or consortium consisting of 2 or more of these, from providing the training in the use of the evaluation tool or tools if the trainer has expertise in the evaluation tool or tools.

(3) A school district, intermediate school district, or public school academy shall post on its public website all of the following information about the evaluation tool or tools it uses for its performance evaluation system for teachers:

(a) The research base for the evaluation framework, instrument, and process or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (5), the research base for the listed evaluation tool and an assurance that the adaptations or modifications do not compromise the validity of that research base.

(b) The identity and qualifications of the author or authors or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (5), the identity and qualifications of a person with expertise in teacher evaluations who has reviewed the adapted or modified evaluation tool.

(c) Either evidence of reliability, validity, and efficacy or a plan for developing that evidence or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (5), an assurance that the adaptations or modifications do not compromise the reliability, validity, or efficacy of the evaluation tool or the evaluation process.

(d) The evaluation frameworks and rubrics with detailed descriptors for each performance level on key summative indicators.

(e) A description of the processes for conducting classroom observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.

(f) A description of the plan for providing evaluators and observers with training.

(4) If a collective bargaining agreement was in effect for teachers or school administrators of a school district, intermediate school district, or public school academy as of July 19, 2011, if that same collective bargaining agreement is still in effect as of November 5, 2015, and if that collective bargaining agreement prevents compliance with subsection (1), then subsection (1) does not apply to that school district,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) The department shall establish and maintain a list of teacher evaluation tools that have demonstrated evidence of efficacy and that may be used for the purposes of this section. That list initially must include at least the evaluation models recommended in the final recommendations released by the Michigan council on educator effectiveness in July 2013. The list must include a statement indicating that school districts, intermediate school districts, and public school academies are not limited to only using the evaluation tools that are included on the list. A school district, intermediate school district, or public school academy is not required to use an evaluation tool for teacher evaluations that is the same as it uses for school administrator evaluations or that has the same author or authors as the evaluation tool it uses for school administrator evaluations. The department shall promulgate rules establishing standards and procedures for adding an evaluation tool to or removing an evaluation tool from the list. These rules must include a process for a school district, intermediate school district, or public school academy to submit its own evaluation tool for review for placement on the list.

(6) The training required under subsection (2) must be paid for from the funds available in the educator evaluation reserve fund created under section 95a of the state school aid act of 1979, MCL 388.1695a.

(7) This section does not affect the operation or applicability of section 1248.

(8) As used in this section, "teacher" means an individual who has a valid Michigan teaching certificate or authorization or who is engaged to teach under section 1233b; who is employed, or contracted for, by a school district, intermediate school district, or public school academy; and who is assigned by the school district, intermediate school district, or public school academy to deliver direct instruction to pupils in any of grades K to 12 as a teacher of record.

**History:** Add. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2010, Act 336, Imd. Eff. Dec. 21, 2010;—Am. 2011, Act 102, Imd. Eff. July 19, 2011;—Am. 2014, Act 257, Imd. Eff. June 30, 2014;—Am. 2015, Act 173, Imd. Eff. Nov. 5, 2015;—Am. 2016, Act 170, Imd. Eff. June 14, 2016;—Am. 2018, Act 235, Eff. Sept. 25, 2018;—Am. 2019, Act 6, Imd. Eff. Apr. 30, 2019.

**Compiler's note:** Former MCL 380.1249, which pertained to review of official transcripts and procedures for changing grades, was repealed by Act 289 of 1995, Eff. July 1, 1996.

For transfer of powers and duties of governor's council on educator effectiveness to department of technology, management and budget, and renaming to Michigan council for educator effectiveness, see E.R.O. No. 2012-2, compiled at MCL 18.444.

**Popular name:** Act 451

### 380.1249a Assignment of pupil to teacher rated as ineffective; notification.

Sec. 1249a. (1) Beginning with the 2018-2019 school year, subject to subsection (2), a school district, intermediate school district, or public school academy shall not assign a pupil to be taught in the same subject area for 2 consecutive years by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations under section 1249.

(2) Beginning with the 2018-2019 school year, if a school district, intermediate school district, or public school academy is unable to comply with subsection (1) and plans to assign a pupil to be taught in the same subject area for 2 consecutive years by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations under section 1249, the board of the school district or intermediate school district or board of directors of the public school academy in which the pupil is enrolled shall notify the pupil's parent or legal guardian that the board or board of directors is unable to comply with subsection (1) and that the pupil has been assigned to be taught in the same subject area for a second consecutive year by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations. The notification shall be in writing, shall be delivered to the parent or legal guardian not later than July 15 immediately preceding the beginning of the school year for which the pupil is assigned to the teacher, and shall include an explanation of why the board or board of directors is unable to comply with subsection (1).

**History:** Add. 2011, Act 102, Imd. Eff. July 19, 2011;—Am. 2015, Act 173, Imd. Eff. Nov. 5, 2015.

**Compiler's note:** For transfer of powers and duties of governor's council on educator effectiveness to department of technology, management and budget, and renaming to Michigan council for educator effectiveness, see E.R.O. No. 2012-2, compiled at MCL 18.444.

**Popular name:** Act 451

### 380.1249b Performance evaluation system for school administrators; requirements; posting information about measures used for performance evaluation; establishment and maintenance of list of school administrator evaluation tools; rules; training to be paid from educator evaluation reserve fund.

Sec. 1249b. (1) The board of a school district or intermediate school district or board of directors of a public school academy shall ensure that the performance evaluation system for building-level school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

administrators and for central-office-level school administrators who are regularly involved in instructional matters meets all of the following:

(a) The performance evaluation system must include at least an annual evaluation for all school administrators described in this subsection by the school district superintendent or his or her designee, intermediate superintendent or his or her designee, or chief administrator of the public school academy, as applicable. However, a superintendent or chief administrator shall be evaluated by the board or board of directors or, if the superintendent or chief administrator is not employed directly by the board or board of directors, by the designee of the board or board of directors.

(b) For the 2018-2019 school year, 25% of the annual evaluation must be based on student growth and assessment data. Beginning with the 2019-2020 school year, 40% of the annual evaluation must be based on student growth and assessment data. The student growth and assessment data to be used for the school administrator annual evaluation are the aggregate student growth and assessment data that are used in teacher annual year-end evaluations in each school in which the school administrator works as an administrator or, for a central-office-level school administrator, for the entire school district or intermediate school district.

(c) For the purposes of conducting annual evaluations under the performance evaluation system, the school district, intermediate school district, or public school academy shall develop or adopt and implement an evaluation tool for school administrators. The portion of a school administrator's annual evaluation that is not based on student growth must be based primarily on the school administrator's performance as measured by this evaluation tool.

(d) The portion of the annual evaluation that is not based on student growth and assessment data as provided under subdivision (b) or on an evaluation tool as provided under subdivision (c) must be based on at least the following for each school in which the school administrator works as an administrator or, for a central-office-level school administrator, for the entire school district or intermediate school district:

(*i*) If the school administrator conducts teacher performance evaluations, the school administrator's proficiency in using the evaluation tool for teachers used by the school district, intermediate school district, or public school academy under section 1249. If the school administrator designates another person to conduct teacher performance evaluations, the evaluation of the school administrator on this factor must be based on the designee's proficiency in using the evaluation tool for teachers used by the school district, intermediate school district, or public school academy under section 1249, with the designee's performance to be counted as if it were the school administrator personally conducting the teacher performance evaluations.

(*ii*) The progress made by the school or school district in meeting the goals set forth in the school's school improvement plan or the school district's school improvement plans.

(*iii*) Pupil attendance in the school or school district.

(*iv*) Student, parent, and teacher feedback, as available, and other information considered pertinent by the superintendent or other school administrator conducting the performance evaluation or the board or board of directors.

(e) For the purposes of conducting annual evaluations under the performance evaluation system, by the beginning of the 2016-2017 school year, the school district, intermediate school district, or public school academy shall adopt and implement 1 or more of the evaluation tools for school administrators that are included on the list under subsection (3). However, if a school district, intermediate school district, or public school academy has 1 or more local evaluation tools for school administrators or modifications of an evaluation tool on the list under subsection (3), and the school district, intermediate school district, or public school academy complies with subsection (2), the school district, intermediate school district, or public school academy may conduct annual year-end evaluations for school administrators using 1 or more local evaluation tools or modifications.

(f) The evaluation tool and other measures used by the school district, intermediate school district, or public school academy in its performance evaluation system for school administrators must be used consistently across the schools operated by a school district, intermediate school district, or public school academy so that all similarly situated school administrators are evaluated using the same measures.

(g) The performance evaluation system must assign an effectiveness rating to each school administrator described in this subsection of highly effective, effective, minimally effective, or ineffective.

(h) The performance evaluation system must ensure that if a school administrator described in this subsection is rated as minimally effective or ineffective, the person or persons conducting the evaluation shall develop and require the school administrator to implement an improvement plan to correct the deficiencies. The improvement plan must recommend professional development opportunities and other actions designed to improve the rating of the school administrator on his or her next annual evaluation.

(i) The performance evaluation system must provide that, if a school administrator described in this subsection is rated as ineffective on 3 consecutive annual evaluations, the school district, intermediate school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district, or public school academy shall dismiss the school administrator from his or her employment. This subdivision does not affect the ability of a school district, intermediate school district, or public school academy to dismiss a school administrator from his or her employment regardless of whether the school administrator is rated as ineffective on 3 consecutive annual evaluations.

(j) The performance evaluation system must provide that, if a school administrator is rated as highly effective on 3 consecutive annual evaluations, the school district, intermediate school district, or public school academy may choose to conduct an evaluation biennially instead of annually. However, if a school administrator is not rated as highly effective on 1 of these biennial evaluations, the school administrator shall again be provided with annual evaluations.

(k) The school district, intermediate school district, or public school academy shall provide training to school administrators on the measures used by the school district, intermediate school district, or public school academy in its performance evaluation system for school administrators and on how each of the measures is used. This training may be provided by a school district, intermediate school district, or public school academy, or by a consortium consisting of 2 or more of these.

(*l*) A school district, intermediate school district, or public school academy shall ensure that training is provided to all evaluators and observers. The training must be provided by an individual who has expertise in the evaluation tool or tools used by the school district, intermediate school district, or public school academy, which may include either a consultant on that evaluation tool or framework or an individual who has been trained to train others in the use of the evaluation tool or tools. This subdivision does not prohibit a school district, intermediate school district, public school academy, or consortium consisting of 2 or more of these, from providing the training in the use of the evaluation tool or tools if the trainer has expertise in the evaluation tool or tools.

(2) A school district, intermediate school district, or public school academy shall post on its public website all of the following information about the measures it uses for its performance evaluation system for school administrators:

(a) The research base for the evaluation framework, instrument, and process or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (3), the research base for the listed evaluation tool and an assurance that the adaptations or modifications do not compromise the validity of that research base.

(b) The identity and qualifications of the author or authors or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (3), the identity and qualifications of a person with expertise in teacher evaluations who has reviewed the adapted or modified evaluation tool.

(c) Either evidence of reliability, validity, and efficacy or a plan for developing that evidence or, if the school district, intermediate school district, or public school academy adapts or modifies an evaluation tool from the list under subsection (3), an assurance that the adaptations or modifications do not compromise the reliability, validity, or efficacy of the evaluation tool or the evaluation process.

(d) The evaluation frameworks and rubrics, with detailed descriptors for each performance level on key summative indicators.

(e) A description of the processes for collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.

(f) A description of the plan for providing evaluators and observers with training.

(3) The department shall establish and maintain a list of school administrator evaluation tools that have demonstrated evidence of efficacy and that may be used for the purposes of this section. That list initially must include at least the 2 evaluation models recommended in the final recommendations released by the Michigan council on educator effectiveness in July 2013. The list must include a statement indicating that school districts, intermediate school districts, and public school academies are not limited to only using the evaluation tools that are included on the list. A school district, intermediate school district, or public school academy is not required to use an evaluation tool for school administrator evaluations that is the same as it uses for teacher evaluations or that has the same author or authors as the evaluation tool it uses for teacher evaluations. The department shall promulgate rules establishing standards and procedures for adding an evaluation tool to or removing an evaluation tool from the list. These rules must include a process for a school district, intermediate school district, or public school academy to submit its own evaluation tool for review for placement on the list.

(4) The training required under subsection (1) must be paid for from the funds available in the educator evaluation reserve fund created under section 95a of the state school aid act of 1979, MCL 388.1695a.

**History:** Add. 2015, Act 173, Imd. Eff. Nov. 5, 2015;—Am. 2019, Act 5, Imd. Eff. Apr. 30, 2019.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1250 Compensation including job performance and accomplishments as factors; effect of collective bargaining agreement; length of service or achievement of advanced degree as factor.

Sec. 1250. (1) Except as otherwise provided in this section, a school district, public school academy, or intermediate school district shall implement and maintain a method of compensation for its teachers and school administrators that includes job performance and job accomplishments as a significant factor in determining compensation and additional compensation. The assessment of job performance shall incorporate a rigorous, transparent, and fair evaluation system that evaluates a teacher's or school administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria.

(2) If a collective bargaining agreement is in effect for teachers or school administrators of a school district, public school academy, or intermediate school district as of January 4, 2010, and if that collective bargaining agreement prevents compliance with subsection (1), then subsection (1) does not apply to that school district, public school academy, or intermediate school district until after the expiration of that collective bargaining agreement.

(3) For teachers and school administrators who are hired by a community district after September 1, 2019, the community district shall implement and maintain a method of compensation that includes job performance and job accomplishments as the primary factor in determining compensation and additional compensation. A teacher's or school administrator's job performance shall be evaluated based on the teacher's annual evaluation under section 1249 or the school administrator's annual evaluation under section 1249b, as applicable.

(4) For teachers and school administrators who are hired by a community district after September 1, 2019, the community district shall not use length of service or achievement of an advanced degree as a factor in compensation levels or adjustments in compensation except as follows:

(a) For a teacher with a secondary level teaching certificate who has a subject area endorsement and who teaches in that subject area, an advanced degree achieved in that subject area may be considered as a factor in the teacher's base compensation.

(b) For a teacher with an elementary level teaching certificate who teaches in an elementary grade, an advanced degree in elementary education may be considered as a factor in the teacher's base compensation.

**History:** Add. 1995, Act 289, Eff. July 1, 1996;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2016, Act 192, Imd. Eff. June 21, 2016;—Am. 2018, Act 601, Eff. Mar. 29, 2019.

**Popular name:** Act 451

### 380.1251 School psychological service; rules; reports and information.

Sec. 1251. (1) The board of a school district may establish and employ personnel necessary to provide an adequate school psychological service. School psychological service is a related nonclassroom function and shall be operated under rules promulgated by the state board, which shall establish the educational and experience requirements for, and certify as qualified and issue certificates to, the personnel for the services.

(2) The state board may require reports and information from participating school districts.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1987, Act 169, Eff. Mar. 30, 1988.

**Popular name:** Act 451

**Administrative rules:** R 340.1151 et seq. of the Michigan Administrative Code.

### 380.1252 Professional nursing services; rules; reports; section inapplicable to certain nursing services.

Sec. 1252. (1) The board of a school district may employ registered nurses necessary to provide professional nursing services. The services shall be operated under rules promulgated by the state board which shall establish the certification requirements for registered nurses in the services.

(2) The state board may require reports and information from school districts offering nursing services.

(3) This section does not apply to nursing services provided by a county or district health department.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 340.1161 et seq. of the Michigan Administrative Code.

### 380.1253 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to employment and duties of attorneys.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1254 Expenses of board members and employees; expenditures and policies as public record; payment; credit or debit card.

Sec. 1254. (1) Except as provided in subsection (3) and section 1217a, the board of a school district or intermediate school district, the board of directors of a public school academy, or an authority board of an education achievement authority may pay the actual and necessary expenses incurred by its members and employees in the discharge of official duties or in the performance of functions authorized by the board. The expenditure, and the policy described in subsection (2)(b) that establishes specific categories of reimbursable expenses, shall be a public record and shall be made available to a person upon request.

(2) The board of a school district or intermediate school district, the board of directors of a public school academy, or an authority board of an education achievement authority shall not approve payment of an expense incurred by a board member under subsection (1) unless 1 or both of the following conditions are met:

(a) The board, by a majority vote of its members at an open meeting, approved reimbursement of the specific expense before the expense was incurred.

(b) The expense is consistent with a policy adopted by the board, by a majority vote of its members at a regular board meeting, establishing specific categories of reimbursable expenses and the board, by a majority vote of its members at an open meeting, approves the reimbursement before it is actually paid.

(3) The board of a school district or intermediate school district, the board of directors of a public school academy, or an authority board of an education achievement authority shall not provide, allow, or obtain credit cards for, issue credit cards to, or provide to a board member a debit card or similar instrument that pledges payment of funds from an account of the school district, intermediate school district, public school academy, or education achievement authority except in compliance with law.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1988, Act 257, Imd. Eff. July 15, 1988;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2014, Act 477, Eff. Apr. 12, 2015.

**Popular name:** Act 451

### 380.1255 School district; compliance with public employees health benefit act.

Sec. 1255. If the board of a school district provides medical, optical, or dental benefits to employees and their dependents, the board shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

**History:** Add. 2007, Act 107, Imd. Eff. Oct. 1, 2007.

**Compiler's note:** Former MCL 380.1255, which pertained to economic benefits for employees, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1255a Medical benefit plan for 100 or more public employees; contract provisions; medical benefit plan for fewer than 100 employees; effect of subsection (1); "medical benefit plan" defined.

Sec. 1255a. (1) If a school district, intermediate school district, or public school academy has 100 or more employees in a medical benefit plan, or participates in an arrangement or letter of intent described in section 15(2) of the public employees health benefit act, 2007 PA 106, MCL 124.85, for a medical benefit plan for 100 or more public employees, the board of the school district or intermediate school district or board of directors of the public school academy shall not enter into a contract for that medical benefit plan unless the contract provides for 1 of the following:

(a) That the school district, intermediate school district, or public school academy is a policyholder for the medical benefit plan and, at all times during the period of the contract, the school district, intermediate school district, or public school academy will have access by electronic means to at least all of the claims utilization and cost information described in section 15 of the public employees health benefit act, 2007 PA 106, MCL 124.85.

(b) That, within 10 business days after making a written request, the school district, intermediate school district, or public school academy will be given access by electronic means to at least all of the claims utilization and cost information described in section 15 of the public employees health benefit act, 2007 PA 106, MCL 124.85.

(2) For a medical benefit plan provided by a school district, intermediate school district, or public school academy for fewer than 100 employees, subsection (1) does not affect the ability of the school district, intermediate school district, or public school academy to be a policyholder for the medical benefit plan.

(3) As used in this section, "medical benefit plan" means that term as defined in section 3 of the public


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

employees health benefit act, 2007 PA 106, MCL 124.73.

**History:** Add. 2011, Act 95, Imd. Eff. July 15, 2011.

### 380.1256 Inspecting, monitoring, removing, or treating asbestos or material containing asbestos; contractual agreement to provide legal representation against civil liability.

Sec. 1256. (1) If the duties of a person employed by a board of a school district include inspecting, monitoring, removing, or treating asbestos or material containing asbestos, or supervising those activities, the board may contractually agree to provide legal representation and indemnification against civil liability with regard to claims or actions resulting from or arising out of the person's negligence or alleged negligence in performing those duties while in the course of his or her employment and while acting within the scope of his or her authority.

(2) A contractual agreement authorized under this section may be entered into at any time before or after the person begins performing the duties described in subsection (1).

**History:** Add. 1989, Act 203, Imd. Eff. Oct. 23, 1989.

**Popular name:** Act 451

### 380.1260 Repealed. 2018, Act 7, Imd. Eff. Jan. 26, 2018.

**Compiler's note:** The repealed section pertained to deed restrictions or other prohibitions.

**Popular name:** Act 451

### 380.1261-380.1262a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to care, management, and acquisition of property, and the commencement of construction.

**Popular name:** Act 451

### 380.1263 Building schools; requirements; compliance; review and approval; submission of site plan to local zoning authority; "high school building" and "local zoning authority" defined.

Sec. 1263. (1) The board of a school district shall not build a school upon a site without having prior title in fee to the site, a lease for not less than 99 years, or a lease for not less than 50 years from the United States government, or this state, or a political subdivision of this state.

(2) The board of a school district shall not build a frame school on a site for which it does not have a title in fee or a lease for 50 years without securing the privilege of removing the school.

(3) The governing board of a public school shall not design or build a school building to be used for instructional or noninstructional school purposes or design and implement the design for a school site unless the design or construction is in compliance with 1937 PA 306, MCL 388.851 to 388.855a. The superintendent of public instruction has sole and exclusive jurisdiction over the review and approval of plans and specifications for the construction, reconstruction, or remodeling of school buildings used for instructional or noninstructional school purposes and, subject to subsection (4), of site plans for those school buildings.

(4) Unless the site is located within a city or village, the governing board of a public school shall not build or expand a high school building on a site without first submitting the site plan to the local zoning authority for administrative review as provided under this subsection. Not later than 60 days after receiving the site plan, the local zoning authority shall respond to the governing board with either a written notice that the local zoning authority concurs with the site plan or with written suggested changes to the site plan. If the local zoning authority does not respond to the governing board with either of these options, the governing board shall be considered to have received a written notice of concurrence from the local zoning authority. If there are written suggested changes, then not later than 45 days after receiving the written suggested changes, the governing board shall respond to the local zoning authority with a revised site plan that incorporates the changes or with an explanation of why the changes are not being made. This subsection applies to expansion of a high school building only if the expansion will result in the square footage of the high school building being increased by at least 20%. This subsection does not apply to temporary structures or facilities that are necessary due to unexpected enrollment increases and that are used for not more than 2 years.

(5) If mutually agreed by the governing board and the local zoning authority, the time periods in subsection (4) may be extended.

(6) The communication required under subsection (4) between a governing board and a local zoning authority is for informational purposes only and does not require the governing board to make any changes in its site plan. Once the process prescribed under subsection (4) is complete, this section does not require any further interaction between the governing board and a local zoning authority.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(7) A local zoning authority shall not charge a governing board a fee for the process prescribed under subsection (4) that exceeds $250.00 for an administrative review or $1,500.00 for total costs incurred by a local zoning authority under subsection (4) for the specific project involved.

(8) As used in this section:

(a) "High school building" means any structure or facility that is used for instructional purposes, that offers at least 1 of grades 9 to 12, and that includes an athletic field or facility.

(b) "Local zoning authority" means the zoning authority for the jurisdiction in which the construction or expansion of a high school building is to occur.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1990, Act 159, Imd. Eff. July 2, 1990;—Am. 2006, Act 276, Imd. Eff. July 7, 2006.

**Popular name:** Act 451

### 380.1263a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to leasing, renovating, and maintaining school buildings.

**Popular name:** Act 451

### 380.1264 Construction of new school building or renovation of existing school building; consultation with law enforcement agency required; "school building" defined.

Sec. 1264. (1) A school district, intermediate school district, or public school academy shall not commence the construction of a new school building or the major renovation of an existing school building unless the school district, intermediate school district, or public school academy consults on the plans for the construction or major renovation regarding school safety issues with the law enforcement agency that is or will be the first responder for that school building.

(2) As used in this section, "school building" means either of the following:

(a) A building intended to be used to provide instruction for pupils.

(b) A recreational or athletic structure or field intended to be used by pupils.

**History:** Add. 2018, Act 437, Eff. Mar. 21, 2019.

**Compiler's note:** Former MCL 380.1264, which pertained to managing libraries or museums, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1264a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to establishing library media centers.

**Popular name:** Act 451

### 380.1265, 380.1266 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to acquiring sites under the urban renewal program and using funds for neighborhood facilities.

**Popular name:** Act 451

### 380.1267 School buildings; construction, addition, repair, or renovation; bids; exception; advertising; security; opening and reading of bids; rejection of bids; readvertising; local policy giving preference to Michigan-based business; applicability of section; adjustment of maximum amount; "Michigan-based business" defined.

Sec. 1267. (1) Before commencing construction of a new school building, or addition to or repair or renovation of an existing school building, except repair in emergency situations, the board of a school district or intermediate school district or board of directors of a public school academy, shall obtain competitive bids on all the material and labor required for the complete construction of a proposed new building or addition to or repair or renovation of an existing school building.

(2) The board, intermediate school board, or board of directors shall advertise for the bids required under subsection (1) by placing an advertisement for bids at least once in a newspaper of general circulation in the area where the building or addition is to be constructed or where the repair or renovation of an existing building is to take place and by posting an advertisement for bids for at least 2 weeks on the department of management and budget website on a page on the website maintained for this purpose or on a website maintained by a school organization and designated by the department of management and budget for this purpose. If the department of management and budget designates a school organization website for this purpose, the department of management and budget shall indicate this fact on its website and include a link on its website to the school organization website.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) The advertisement for bids shall do all of the following:

(a) Specify the date and time by which all bids must be received by the board, intermediate school board, or board of directors.

(b) State that the board, intermediate school board, or board of directors will not consider or accept a bid received by the board, intermediate school board, or board of directors after the date and time specified for bid submission.

(c) Identify the time, date, and place of a public meeting at which the board, intermediate school board, or board of directors or its designee will open and read aloud each bid received by the board, intermediate school board, or board of directors by the date and time specified in subdivision (a).

(d) State that the bid shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the bidder and any member of the board, intermediate school board, or board of directors or the superintendent of the school district, intermediate superintendent of the intermediate school district, or chief executive officer of the public school academy. A board, intermediate school board, or board of directors shall not accept a bid that does not include this sworn and notarized disclosure statement.

(4) The board, intermediate school board, or board of directors shall require each bidder for a contract under this section to file with the board, intermediate school board, or board of directors security in an amount not less than 1/20 of the amount of the bid conditioned to secure the school district from loss or damage by reason of the withdrawal of the bid or by the failure of the bidder to enter a contract for performance, if the bid is accepted by the board, intermediate school board, or board of directors.

(5) The board, intermediate school board, or board of directors shall not open, consider, or accept a bid that the board, intermediate school board, or board of directors receives after the date and time specified for bid submission in the advertisement for bids described in subsection (3).

(6) At a public meeting identified in the advertisement for bids described in subsection (3), the board, intermediate school board, or board of directors or its designee shall open and read aloud each bid that the board, intermediate school board, or board of directors received at or before the time and date for bid submission specified in the advertisement for bids. The board, intermediate school board, or board of directors may reject any or all bids, and if all bids are rejected, shall readvertise in the manner required by this section.

(7) The board of a school district or intermediate school district or board of directors of a public school academy may adopt and implement a local policy that gives a preference to a Michigan-based business in awarding a contract under this section. The policy may provide for a preference based on the status of the primary contractor as a Michigan-based business or based on the status of 1 or more subcontractors of the primary contractor as Michigan-based businesses, or both. A policy adopted under this subsection shall be consistent with federal statutes and regulations and shall not be applied to a contract that is to be paid with federal funds. Upon request by a school district, intermediate school district, or public school academy that has adopted and implemented a policy described in this subsection, the department of treasury shall disclose to that school district, intermediate school district, or public school academy verifying information as described in section 268(3) of the management and budget act, 1984 PA 431, MCL 18.1268. The adoption, implementation, or application of a policy described in this subsection, or a decision not to adopt, implement, or apply such a policy, does not create a cause of action.

(8) This section does not apply to buildings, renovations, or repairs costing less than $20,959.00 or to repair work normally performed by school district, intermediate school board, or public school academy employees. The maximum amount specified in this subsection shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar.

(9) As used in this section, "Michigan-based business" means a business that would qualify for a preference in a procurement contract with this state under section 268 of the management and budget act, 1984 PA 431, MCL 18.1268.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1982, Act 431, Imd. Eff. Dec. 29, 1982;—Am. 1990, Act 159, Imd. Eff. July 2, 1990;—Am. 1994, Act 278, Imd. Eff. July 11, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 232, Imd. Eff. July 21, 2004;—Am. 2008, Act 540, Imd. Eff. Jan. 13, 2009.

**Popular name:** Act 451

**380.1268 Repealed. 1995, Act 289, Eff. July 1, 1996.**



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** The repealed section pertained to school property as community or recreation center.

**Popular name:** Act 451

### 380.1269 Insuring school district or public school academy property.

Sec. 1269. The board of a school district other than a first class school district shall insure school district property unless otherwise directed by the school electors. The governing board of a public school academy shall insure public school academy property. The insurance may be obtained from mutual, stock, or other responsible companies licensed to do business in this state.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1270 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to accident or medical insurance program for pupils.

**Popular name:** Act 451

### 380.1272 Meal program for pupils.

Sec. 1272. The board of a school district may use general funds to provide the necessary personnel, equipment, supplies, and food to furnish meals for regularly enrolled pupils, and may accept produce and financial reimbursement from the state to supplement the resources of the district. The board may provide the meal program by contract or it may engage directly in the business. The board may charge a fee for each meal furnished in accordance with sections 1272a to 1272d.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1991, Act 167, Imd. Eff. Dec. 19, 1991.

**Popular name:** Act 451

### 380.1272a Lunch program; breakfast program.

Sec. 1272a. (1) The board of a K to 12 school district shall, and the board of another school district may, establish and operate a program under which lunch is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the school district.

(2) The board of a K to 12 school district shall establish and operate a program under which breakfast is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the school district unless no more than 20% of the pupils enrolled in the school building in the immediately preceding school year met the income eligibility criteria for free or reduced-price lunch under the federally funded school lunch program, as determined using October claims reported to the department by December 31 of the immediately preceding school year, and, after a public hearing on the issue, which shall be held annually with notice to parents and pupils, the board decides not to operate such a program in that school building and publishes a public justification report explaining its decision. The board of another school district may establish and operate a school breakfast program.

(3) To the extent permitted by federal law, the department shall encourage innovative cost effective models of breakfast distribution designed to maximize pupil participation.

**History:** Add. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1990, Act 35, Imd. Eff. Mar. 22, 1990;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1272b School meal programs; nutritional standards; fees; free and reduced price meals; free milk; confidentiality; discrimination; planning and evaluation of meals and other foods; fund-raising activities during school hours; sale of food and beverage items not meeting nutritional standards; number and frequency; upper limit.

Sec. 1272b. (1) In all school meal programs established and operated under section 1272a, all of the following apply:

(a) Subject to subsection (2), nutritional standards prescribed by the United States Department of Agriculture pursuant to section 9 of the national school lunch act, 42 USC 1758, shall be met and maintained.

(b) The board of a school district or board of directors of a public school academy may charge a fee for meals or milk, but the fee shall not exceed the actual average daily cost, including necessary supervision, of the meal or milk and accessories, less the amount of food and financial assistance received by the board or board of directors for the meal or milk.

(c) The board of a school district or board of directors of a public school academy shall provide free and reduced price meals and free milk to all pupils eligible under the maximum standards prescribed by the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

United States Department of Agriculture pursuant to section 9 of the national school lunch act, 42 USC 1758; shall ensure the confidentiality of all information contained in applications for eligibility; and shall further ensure that eligible pupils are not discriminated against or overtly identified in any manner.

(d) The board of a school district or board of directors of a public school academy shall provide for parent and pupil participation in the planning and evaluation of school meals and other foods sold or dispensed on school premises.

(2) In all school meal programs established and operated under section 1272a, the department shall take all steps necessary to ensure maximum state and local control over the implementation of the programs, including, but not limited to, establishing an upper limit on the number and frequency of fund-raising activities that may take place in a public school during school hours that allow the sale of food or beverage items that do not meet the nutritional standards. The department shall ensure that this upper limit is not less than 2 fund-raising activities per week. For the purposes of this upper limit, an ongoing fund-raising activity that is scheduled to take place at more than 1 time during a school day or throughout the school day shall be considered to be a single fund-raising activity.

**History:** Add. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 2015, Act 42, Eff. Sept. 1, 2015.

**Popular name:** Act 451

### 380.1272c Applicability of MCL 380.1272a.

Sec. 1272c. The requirements of section 1272a shall not apply:

(a) In a school year in which the federal subsidy per meal falls below the 1975-76 level or the state subsidy per meal served is less than the figures specified in section 1272d(b) and (c).

(b) In a school district during a school year when the state board finds that a financial emergency exists which renders the school district unable to comply fully with the requirements. The board of the school district may apply, in writing, to the state board, not later than July 1 for a subsequent school year, demonstrating the need for noncompliance and describing the programs and services that can be provided and the efforts being undertaken to alleviate the emergency. If the state board finds that an emergency exists, it shall approve the noncompliance or prescribe conditions for partial compliance. The state board may extend the filing date for good cause.

**History:** Add. 1977, Act 43, Imd. Eff. June 29, 1977.

**Popular name:** Act 451

### 380.1272d Duties of department of education.

Sec. 1272d. The department of education shall do all of the following:

(a) Prescribe a uniform reporting system for the collection, compilation, and analysis of data relative to the administration of this section and section 1272a.

(b) Pay a school district for each free meal served pursuant to section 1272b(c) an amount calculated by subtracting the federal reimbursement rate for a free meal from the actual cost of the meal, but not to exceed 5 cents per meal.

(c) Pay a school district for each reduced price meal served pursuant to section 1272b(c) an amount calculated by subtracting the sum of the federal reimbursement rate for a reduced price meal and the fee charged from the actual average cost of the meal, but not to exceed 2 cents per meal.

(d) For 1982-83 and thereafter, payments required by subdivisions (b) and (c) to a school district shall be credited to the state's matching share required by section 7 of the national school lunch act, 42 U.S.C. 1756.

(e) Designate a reimbursable cost per breakfast equal to the lesser of the school district's actual costs or 100% of the cost of a breakfast served by an efficiently operated breakfast program, as determined by the department. The department shall allocate, and the legislature shall appropriate as part of the annual department appropriations and allocations, all reasonable and necessary direct and indirect costs of an efficiently operated breakfast program or the school district's actual costs, whichever is less, incurred by a school district in the operation of a breakfast program, which costs would not have been incurred without the operation of a breakfast program, to any extent that they exceed state and federal breakfast subsidies and permissible pupil breakfast fees. These costs shall be reimbursed on a per-breakfast-served basis and may include, but shall not be limited to, compensation for needed additional personnel and supervision of both participating and nonparticipating pupils. In a school year in which the total amount of reimbursements under this subsection, as determined by the department, are not appropriated, the requirements of section 1272a(2) shall not apply to the affected school district.

**History:** Add. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1980, Act 508, Imd. Eff. Jan. 22, 1981;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 1982, Act 306, Imd. Eff. Oct. 13, 1982;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1273 Meal program.

Sec. 1273. The board may enter into contracts to provide material, personnel, and equipment necessary to establish and operate a low cost, nutritionally sound meal program for persons 60 years of age or older and their spouses. Receipts and expenditures shall be maintained separate from the school general fund and food service accounts to insure the district's recovery of total program cost through a nominal charge to participants, through federal, state, local, or private grants or reimbursement, or a combination thereof.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1274 Procurement of supplies, materials, and equipment; written policies; competitive bids; approval of purchase; adjustment of maximum amount; local policy giving preference to Michigan-based business; items purchased through cooperative bulk purchasing program; acquisition of equipment; payment; purchase of heating and cooking equipment; "Michigan-based business" defined.

Sec. 1274. (1) The board of a school district or board of directors of a public school academy shall adopt written policies governing the procurement of supplies, materials, and equipment.

(2) Except as otherwise provided in subsection (4) or (5), a school district or public school academy shall not purchase an item or a group of items in a single transaction costing $20,959.00 or more unless competitive bids are obtained for those items and the purchase of those items is approved by the school board or board of directors. The maximum amount specified in this subsection shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar.

(3) The board of a school district or board of directors of a public school academy may adopt and implement a local policy that gives a preference to a Michigan-based business in awarding a contract under this section. The policy may provide for a preference based on the status of the primary contractor as a Michigan-based business or based on the status of 1 or more subcontractors of the primary contractor as Michigan-based businesses, or both. A policy adopted under this subsection shall be consistent with federal statutes and regulations and shall not be applied to a contract that is to be paid with federal funds. Upon request by a school district or public school academy that has adopted and implemented a policy described in this subsection, the department of treasury shall disclose to that school district or public school academy verifying information as described in section 268(3) of the management and budget act, 1984 PA 431, MCL 18.1268. The adoption, implementation, or application of a policy described in this subsection, or a decision not to adopt, implement, or apply such a policy, does not create a cause of action.

(4) A school district or public school academy is not required to obtain competitive bids for items purchased through the cooperative bulk purchasing program operated by the department of management and budget under section 263(3) of the management and budget act, 1984 PA 431, MCL 18.1263.

(5) A school district or public school academy is not required to obtain competitive bids for purchasing food unless the food is purchased in a single transaction costing $100,000.00 or more.

(6) The board of a school district or local act school district or board of directors of a public school academy may acquire by purchase, lease, or rental, with or without option to purchase, equipment necessary for the operation of the school program, including, but not limited to, heating, water heating, and cooking equipment for school buildings, and may pay for the equipment from operating funds of the district or public school academy. Heating and cooking equipment may be purchased on a title retaining contract or other form of agreement creating a security interest and pledging in payment money in the general fund or funds received from state school aid. The contracts may extend for not more than 10 years.

(7) As used in this section, "Michigan-based business" means a business that would qualify for a preference in a procurement contract with this state as determined under section 268 of the management and budget act, 1984 PA 431, MCL 18.1268.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1982, Act 489, Eff. Mar. 30, 1983;—Am. 1983, Act 140, Imd. Eff. July 18, 1983;—Am. 1990, Act 159, Imd. Eff. July 2, 1990;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 2004, Act 588, Imd. Eff. Jan. 4, 2005;—Am. 2008, Act 343, Imd. Eff. Dec. 23, 2008;—Am. 2008, Act 540, Imd. Eff. Jan. 13, 2009.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**380.1274a Energy conservation improvements and operational improvements; payment; contract; bond; terms; removal or treatment of asbestos or other material injurious to health; issuance of bonds; competitive bidding requirements; reports; forms; payments under lease-purchase agreement; termination; definitions.**

Sec. 1274a. (1) The board of a school district or intermediate school district may contract with a qualified provider for the acquisition or financing of energy conservation improvements or operational improvements to school facilities or infrastructure. These improvements or the financing or refunding of the improvements may be paid from operating funds of the school district, from the proceeds of bonds or notes issued for energy conservation improvements or operational improvements to school facilities, or from an installment contract or lease-purchase agreement, or the board or intermediate school board may enter into 1 or more energy saving performance contracts. These contracts may contain a written financial guarantee providing that the costs of improvements will be paid only if the energy savings or operational savings are sufficient to cover them. Energy conservation improvements to school facilities may include, but are not limited to, adding square footage to existing school facilities; building envelope improvements; heating, ventilating, and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor, pump, or fan replacements; domestic water use reductions; information technology improvements associated with an energy conservation improvement to school facilities; municipal utility improvements associated with an energy conservation improvement to school facilities; and upgrading other energy consuming equipment or appliances. Operational improvements include, but are not limited to, adding square footage to existing school facilities, or installing equipment or providing services that result in decreased, eliminated, or avoided operating or maintenance costs. Operational improvements do not have to be energy conservation related.

(2) A school board or intermediate school board that contracts for energy conservation improvements or operational improvements to school facilities under subsection (1) may require the qualified provider to furnish a bond that guarantees energy cost savings or operational savings for a specified period of time.

(3) If a school board or intermediate school board enters into an energy saving performance contract under this section, all of the following apply:

(a) The bids for the contract shall provide a detailed breakdown of the energy performance savings or operational savings to be derived each year and for the duration of the energy saving performance contract, including at least all of the following:

(*i*) A description of the guaranteed energy use savings or operational savings, and tasks to be performed under the energy saving performance contract.

(*ii*) The combined total net cost of all of the energy conservation measures or operational improvements in the project.

(*iii*) The projected energy savings and operating and maintenance cost savings resulting from the project.

(*iv*) The useful life of each energy conservation measure or operational improvement.

(*v*) The simple payback period.

(b) The qualified provider shall certify that measurement and verification techniques for determining cost savings will be performed in accordance with the protocols promulgated by the International Performance Measurement and Verification Protocol, Inc., now known as Efficiency Valuation Organization.

(4) The board of a school district or intermediate school district may provide for the removal or treatment of asbestos or other material injurious to health for school facilities and may pay for the improvements from operating funds of the school district or from the proceeds of bonds or notes issued for that purpose.

(5) Issuance of bonds for the purposes authorized by this section shall be considered as issued for capital expenditures for all purposes including section 16 of article IX of the state constitution of 1963. A lease-purchase agreement issued pursuant to this subsection is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and is not a municipal security or a debt as those terms are defined in that act.

(6) Energy conservation improvements or operational improvements to school facilities, or substance removal or treatment authorized by this section is subject to the competitive bidding requirements of section 1267.

(7) If energy conservation improvements or operational improvements to school facilities are made by a school district or intermediate school district as provided in this section, the school board or intermediate school board shall determine the following information and shall report the following information to the state treasurer within 60 days after the completion of the improvements:

(a) Name of each facility to which an improvement was made and a description of the energy conservation improvements or operational improvements to school facilities.

(b) Actual energy consumption during the 12-month period before commencement of the energy


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

conservation improvement.

(c) Project costs and expenditures, including the total of all lease payments over the duration of the lease-purchase agreement.

(d) Estimated annual energy savings or operational savings, including projected savings over the duration of the installment contract.

(8) If energy conservation improvements or operational improvements to school facilities are made as provided in this section, the school board or intermediate school board shall report to the state treasurer by July 1 of each of the 5 years after the improvements are completed the actual annual energy consumption or operational savings of each facility to which improvements were made. The forms for the reports required by this section shall be furnished by the state treasurer.

(9) An installment contract described in this section may include a lease-purchase agreement, which may be a multiyear contractual obligation that provides for automatic renewal unless positive action is taken by the board of the school district or intermediate school district to terminate that contract. Payments under a lease-purchase agreement are a current operating expense subject to annual appropriations of funds by the board of the school district or intermediate school district and shall obligate the board of the school district or intermediate school district only for those sums payable during the fiscal year of contract execution or any renewal year thereafter. The board of the school district or intermediate school district may make payments under a lease-purchase agreement from any legally available funds or from a combination of energy or operational savings, capital contributions, future replacement costs avoided, or billable revenue enhancements that result from energy conservation improvements or operational improvements to school facilities, if the board of the school district or intermediate school district has determined that those funds are sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the energy conservation improvements or operational improvements to school facilities. The lease-purchase agreement terminates immediately and absolutely and without further obligation on the part of the board of the school district or intermediate school district at the close of the fiscal year in which it was executed or renewed or at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of the board of the school district or intermediate school district under the lease-purchase agreement. During the term of the lease-purchase agreement, the board of the school district or intermediate school district is the vested owner of the energy conservation improvements or operational improvements and may grant a security interest in the energy conservation improvements or operational improvements to the provider of the lease-purchase agreement. The board of the school district or intermediate school district shall not be obligated under a lease-purchase agreement for more than 20 years after either the date of the final completion of the energy conservation improvements or operational improvements to school facilities or the end of the useful life of the aggregate energy conservation improvements or operational improvements to school facilities, whichever occurs first. Upon the termination of the lease-purchase agreement and the satisfaction of the obligations of the board of the school district or intermediate school district, the provider of the lease-purchase agreement shall release its security interest in the energy conservation improvements or operational improvements.

(10) As used in this section:

(a) "Energy saving performance contract" means an agreement for the evaluation, recommendation, and implementation of energy conservation measures or operational improvements including, but not limited to, an energy audit or detailed energy study; the design, installation, operation, and maintenance of 1 or more energy conservation measures; energy management services; and an energy savings guarantee.

(b) "Qualified provider" means an individual or a business entity that is experienced in performing design, analysis, and installation of energy conservation improvements or operational improvements and facility energy management measures and that will provide these services under the contract with a guarantee or on a performance basis.

**History:** Add. 1982, Act 431, Imd. Eff. Dec. 29, 1982;—Am. 1985, Act 22, Imd. Eff. May 20, 1985;—Am. 1990, Act 227, Imd. Eff. Oct. 8, 1990;—Am. 2003, Act 255, Imd. Eff. Dec. 29, 2003;—Am. 2017, Act 23, Eff. Apr. 27, 2017;—Am. 2018, Act 135, Imd. Eff. May 10, 2018.

**Compiler's note:** For transfer of functions relating to energy policy from the Energy Administration, Department of Commerce, to the Public Service Commission, Department of Commerce, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.

For transfer of powers and duties of the public service commission pertaining to energy conservation improvement reports from the public service commission to the state treasurer, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

**Popular name:** Act 451

### 380.1274b Purchase, storage, or use of free flowing elemental mercury or instrument that


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**contains mercury; restrictions; absence of mercury-free alternative for instrument; disposal of mercury and instruments containing mercury.**

Sec. 1274b. (1) Except as otherwise provided in subsection (2), the board of a school district, local act school district, or intermediate school district; governing board of a nonpublic school; or board of directors of a public school academy shall ensure that after December 31, 2004 the school district, intermediate school district, nonpublic school, or public school academy does not purchase, store, or use free flowing elemental mercury for any experiment, display, or other purpose and does not purchase, store, or use an instrument that contains mercury, including, but not limited to, a thermometer, barometer, or sphygmomanometer, or manometer containing mercury.

(2) After December 31, 2004, if no reasonably acceptable, mercury-free alternative exists for an instrument used by the school district, intermediate school district, nonpublic school, or public school academy, then the school district, intermediate school district, nonpublic school, or public school academy may use the instrument that contains the lowest mercury content available on the market.

(3) The board of a school district, local act school district, or intermediate school district; governing board of a nonpublic school; or board of directors of a public school academy shall ensure that the school district, intermediate school district, nonpublic school, or public school academy disposes of mercury and instruments containing mercury in accordance with applicable state and federal law.

**History:** Add. 2000, Act 376, Imd. Eff. Jan. 2, 2001.

**Popular name:** Act 451

### 380.1275 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to counseling, information, and services pertaining to controlled substances and alcoholism.

**Popular name:** Act 451

### 380.1276 Pedestrian overpasses; acquisition or construction; payment of costs; contracts; approval.

Sec. 1276. The board of a school district or a local act school district may acquire by purchase or lease or may construct pedestrian overpasses for the safe conduct of pupils enroute to and from school. The costs may be paid by the school district and by the highway authority having jurisdiction of the public highway in amounts agreed upon by the board and the highway authority. The board may pay its share out of the general funds of the school district, or may purchase the overpasses on title retaining contracts. The contracts shall not be entered into or issued for more than 10 years. A pedestrian overpass shall not be constructed over a public highway without the prior approval of the highway authorities having jurisdiction over the highway.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1277 School improvement plan.

Sec. 1277. (1) Considering criteria established by the state board, in addition to the requirements specified in section 1280 for accreditation under that section, if the board of a school district wants all of the schools of the school district to be accredited under section 1280, the board shall adopt and implement and, not later than September 1 each year, shall make available to the department a copy of a 3- to 5-year school improvement plan and continuing school improvement process for each school within the school district. The school improvement plans shall include, but are not limited to, a mission statement, goals based on student academic objectives for all students, curriculum alignment corresponding with those goals, evaluation processes, staff development, development and utilization of community resources and volunteers, the role of adult and community education, libraries and community colleges in the learning community, and building level decision making. School board members, school building administrators, teachers and other school employees, pupils, parents of pupils attending that school, and other residents of the school district shall be invited and allowed to voluntarily participate in the development, review, and evaluation of the district's school improvement plans. Upon request of the board of a school district, the department and the intermediate school district shall assist the school district in the development and implementation of district school improvement plans. Educational organizations may also provide assistance for these purposes. School improvement plans described in this section shall be updated annually by each school and by the board of the school district.

(2) School improvement plans shall include at least all of the following additional matters:

(a) Goals centered on student academic learning.

(b) Strategies to accomplish the goals.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) Evaluation of the plan.

(d) Development of alternative measures of assessment that will provide authentic assessment of pupils' achievements, skills, and competencies.

(e) Methods for effective use of technology as a way of improving learning and delivery of services and for integration of evolving technology in the curriculum.

(f) Ways to make available in as many fields as practicable opportunities for structured on-the-job learning, such as apprenticeships and internships that involve active, direct, and hands-on learning, combined with classroom instruction that enhances a pupil's employability, including, but not limited to, instruction relating to problem solving, personal management, organizational and negotiation skills, and teamwork.

(g) A requirement that each school operated by the school district provide to pupils a variety of age-appropriate career informational resources in grades K to 12 and an opportunity to do each of the following:

(*i*) During grade levels that the board of the school district considers appropriate, complete 1 or more experiences in a field of a pupil's interests or aptitude and participate in a follow-up process that provides the pupil with sufficient reflection of those experiences.

(*ii*) During grades K to 12, discuss career interests, options, and preparations with a school counselor or, as considered appropriate by the board of the school district, another knowledgeable adult.

(h) Programs that will provide pupils in grades 6 to 12 work-based learning activities that ensure those pupils make connections with workers or experts in a variety of fields.

(i) Programs or instruction that ensure every pupil in grade 12 knows how to develop and use a resume, letter of reference, school record, and talent portfolio, as described in section 1278b.

(3) Each intermediate school board shall adopt and implement and, not later than September 1 each year, shall make available to the department a copy of a 3- to 5-year intermediate school district school improvement plan and continuing school improvement process for the intermediate school district. Constituent and intermediate school board members, school building administrators, teachers and other school employees, pupils, parents of pupils, and residents of the intermediate school district shall be invited and allowed to voluntarily participate in the development, review, and evaluation of the intermediate school district's school improvement plan. Upon request of the intermediate school board, the department shall assist the intermediate school district in the development and implementation of an intermediate school district school improvement plan. An intermediate school district school improvement plan described in this section shall be updated annually by the intermediate school board. An intermediate school district school improvement plan shall include at least all of the following:

(a) Methods to assist districts in improving pupils' academic learning.

(b) Assurance that all pupils have reasonable access to all programs offered by the intermediate school district, including, but not limited to, transportation if necessary.

(c) A plan for professional development that supports academic learning.

(d) Methods to assist school districts in integrating applied academics and career and employability skills into all curricular areas.

(e) Ways to make available in as many fields as practicable opportunities for structured on-the-job learning, such as apprenticeships and internships, combined with classroom instruction.

(f) Collaborative efforts with supporting agencies that enhance academic learning.

(g) Long-range cost containment measures, including additional services that might be provided at reduced costs by the intermediate school district or through cooperative programs, and cost reduction programs such as interdistrict cooperation in special education and other programs and services.

(h) To the extent that it would improve school effectiveness, specific recommendations on consolidation or enhanced interdistrict cooperation, or both, along with possible sources of revenue.

(i) Evaluation of the plan.

**History:** Add. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1993, Act 339, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 1997, Act 179, Imd. Eff. Dec. 30, 1997;—Am. 2016, Act 532, Eff. Apr. 9, 2017;—Am. 2018, Act 231, Eff. Dec. 24, 2018.

**Popular name:** Act 451

### 380.1277a Accreditation of schools in school district; requirements.

Sec. 1277a. (1) Beginning in the 1994-95 school year, in addition to the requirements specified in section 1280 for accreditation under that section, if the board of a school district wants all of the schools in the school district to be accredited under section 1280, the board shall ensure all of the following:

(a) That all information assembled regarding each school building within the school district to prepare the school's annual educational report, as described in section 1204a, is disaggregated by gender and is provided


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to the individuals participating in the development of the district's school improvement plan under section 1277.

(b) That all gender equity issues raised by the disaggregated information described in subdivision (a) are addressed as part of the planning, development, implementation, evaluation, and updating of the school improvement plan of each school within the school district under section 1277 or, if such an issue is not addressed, that an explanation is made to the community of the reason or reasons why the issue is not addressed. An explanation for not addressing a gender equity issue may be included in the school's annual educational report under section 1204a.

(2) Upon request by a school district, intermediate school district, or school, the department shall provide advice and technical assistance to the district or school on meeting the requirements of this section.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451

### 380.1277b Workgroup.

Sec. 1277b. The senate majority leader and speaker of the house of representatives shall convene a bipartisan workgroup to make recommendations to the senate and house standing committees on education on measures to be taken to improve educational quality in all public schools for all pupils. This workgroup shall focus on student growth and submit its recommendations not later than March 30, 2012.

**History:** Add. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.1278 Core academic curriculum.

Sec. 1278. (1) In addition to the requirements for accreditation under section 1280 specified in that section, if the board of a school district wants all of the schools of the school district to be accredited under section 1280, the board shall provide to all pupils attending public school in the district a core academic curriculum in compliance with subsection (3) in each of the curricular areas specified in the state board recommended model core academic curriculum content standards developed under subsection (2). The state board model core academic curriculum content standards shall encompass academic and cognitive instruction only. For purposes of this section, the state board model core academic curriculum content standards shall not include attitudes, beliefs, or value systems that are not essential in the legal, economic, and social structure of our society and to the personal and social responsibility of citizens of our society.

(2) Recommended model core academic curriculum content standards shall be developed and periodically updated by the state board, shall be in the form of knowledge and skill content standards that are recommended as state standards for adoption by public schools in local curriculum formulation and adoption, and shall be distributed to each school district in the state. The recommended model core academic curriculum content standards shall set forth desired learning objectives in math, science, reading, history, geography, economics, American government, and writing for all children at each stage of schooling and be based upon the "Michigan K-12 Program Standards of Quality" to ensure that high academic standards, academic skills, and academic subject matters are built into the instructional goals of all school districts for all children. The state board shall ensure that the recommended model core academic curriculum content standards for history for grades 8 to 12 include learning objectives concerning genocide, including, but not limited to, the Holocaust and the Armenian Genocide. The state board also shall ensure that the state assessment program and the Michigan merit examination are based on the state recommended model core curriculum content standards, are testing only for proficiency in basic and advanced academic skills and academic subject matter, and are not used to measure pupils' values or attitudes.

(3) The board of each school district, considering academic curricular objectives defined and recommended pursuant to subsection (2), shall do both of the following:

(a) Establish a core academic curriculum for its pupils at the elementary, middle, and secondary school levels. The core academic curriculum shall define academic objectives to be achieved by all pupils and shall be based upon the school district's educational mission, long-range pupil goals, and pupil performance objectives. The core academic curriculum may vary from the model core academic curriculum content standards recommended by the state board pursuant to subsection (2).

(b) After consulting with teachers and school building administrators, determine the aligned instructional program for delivering the core academic curriculum and identify the courses and programs in which the core academic curriculum will be taught.

(4) The board may supplement the core academic curriculum by providing instruction through additional classes and programs.

(5) For all pupils, the subjects or courses, and the delivery of those including special assistance, that


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

constitute the curriculum the pupils engage in shall assure the pupils have a realistic opportunity to learn all subjects and courses required by the district's core academic curriculum. A subject or course required by the core academic curriculum pursuant to subsection (3) shall be provided to all pupils in the school district by a school district, a consortium of school districts, or a consortium of 1 or more school districts and 1 or more intermediate school districts.

(6) To the extent practicable, the state board may adopt or develop academic objective-oriented high standards for knowledge and life skills, and a recommended core academic curriculum, for special education pupils for whom it may not be realistic or desirable to expect achievement of initial mastery of the state board recommended model core academic content standards objectives or of a high school diploma.

(7) The state board shall make available to all nonpublic schools in this state, as a resource for their consideration, the model core academic curriculum content standards developed for public schools pursuant to subsection (2) for the purpose of assisting the governing body of a nonpublic school in developing its core academic curriculum.

(8) Excluding special education pupils, pupils having a learning disability, and pupils with extenuating circumstances as determined by school officials, a pupil who does not score satisfactorily on the fourth or seventh grade state assessment program reading test shall be provided special assistance reasonably expected to enable the pupil to bring his or her reading skills to grade level within 12 months.

(9) Any course that would have been considered a nonessential elective course under Snyder v Charlotte School Dist, 421 Mich 517 (1984), on April 13, 1990 shall continue to be offered to resident pupils of nonpublic schools on a shared time basis.

(10) As used in this section, "Armenian Genocide", "genocide", and "Holocaust" mean those terms as defined in section 1168.

**History:** Add. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 596, Imd. Eff. Jan. 5, 2005;—Am. 2016, Act 170, Imd. Eff. June 14, 2016.

**Popular name:** Act 451

### 380.1278a Requirements for high school diploma.

Sec. 1278a. (1) Except as otherwise provided in this section or section 1278b, beginning with pupils entering grade 8 in 2006, the board of a school district or board of directors of a public school academy shall not award a high school diploma to a pupil unless the pupil meets all of the following:

(a) Has successfully completed all of the following credit requirements of the Michigan merit standard before graduating from high school:

(*i*) At least 4 credits in mathematics that are aligned with subject area content expectations developed by the department and approved by the state board under section 1278b, including completion of at least algebra I, geometry, and algebra II, or an integrated sequence of this course content that consists of 3 credits, and an additional mathematics credit, such as trigonometry, statistics, precalculus, calculus, applied math, accounting, business math, a retake of algebra II, or a course in financial literacy as described in section 1165. A pupil may complete algebra II over 2 years with 2 credits awarded or over 1.5 years with 1.5 credits awarded for the purposes of this section and section 1278b. A pupil also may partially or fully fulfill the algebra II requirement by completing a department-approved formal career and technical education program or curriculum, such as a program or curriculum in electronics, machining, construction, welding, engineering, computer science, or renewable energy, and in that program or curriculum successfully completing the same content as the algebra II benchmarks assessed on the department-prescribed state high school assessment, as determined by the department. The department shall post on its website guidelines for implementation of the immediately preceding sentence. Each pupil must successfully complete at least 1 mathematics course during his or her final year of high school enrollment. This subparagraph does not require completion of mathematics courses in any particular sequence.

(*ii*) At least 3 credits in social science that are aligned with subject area content expectations developed by the department and approved by the state board under section 1278b, including completion of at least 1 credit in United States history and geography, 1 credit in world history and geography, 1/2 credit in economics, and the civics course described in section 1166(2). The 1/2-credit economics requirement may be satisfied by completion of at least a 1/2-credit course in personal economics that includes a financial literacy component as described in section 1165, if that course covers the subject area content expectations for economics developed by the department and approved by the state board under section 1278b.

(*iii*) At least 1 credit in subject matter that includes both health and physical education aligned with guidelines developed by the department and approved by the state board under section 1278b, or at least 1/2 credit in health aligned with guidelines developed by the department and approved by the state board under section 1278b and at least 1/2 credit awarded by the school district or public school academy for approved


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

participation in extracurricular athletics or other extracurricular activities involving physical activity.

(*iv*) At least 1 credit in visual arts, performing arts, or applied arts, as defined by the department, that is aligned with guidelines developed by the department and approved by the state board under section 1278b. A school district or public school academy is strongly encouraged to offer visual arts and performing arts courses.

(*v*) The credit requirements specified in section 1278b(1).

(b) Meets the online course or learning experience requirement of this subsection. A school district or public school academy shall provide the basic level of technology and internet access required by the state board to complete the online course or learning experience. For a pupil to meet this requirement, the pupil shall meet either of the following, as determined by the school district or public school academy:

(*i*) Has successfully completed at least 1 course or learning experience that is presented online, as defined by the department.

(*ii*) The pupil's school district or public school academy has integrated an online experience throughout the high school curriculum by ensuring that each teacher of each course that provides the required credits of the Michigan merit curriculum has integrated an online experience into the course.

(2) In addition to the requirements under subsection (1), beginning with pupils entering grade 3 in 2006, the board of a school district or board of directors of a public school academy shall not award a high school diploma to a pupil unless the pupil has successfully completed during grades K to 12 at least 2 credits that are grade-appropriate in a language other than English or course work or other learning experiences that are substantially equivalent to 2 credits in a language other than English, based on guidelines developed by the department. A pupil may partially or fully fulfill 1 credit of this requirement by completing a department-approved formal career and technical education program or curriculum or by completing visual or performing arts instruction that is in addition to the requirements under subsection (1)(a)(*iv*). The board of a school district or board of directors of a public school academy is strongly encouraged to ensure that all pupils complete at least 1 credit in a language other than English in grades K to 6. For the purposes of this subsection, both of the following apply:

(a) American Sign Language is considered to be a language other than English.

(b) The pupil may meet all or part of this requirement with online course work.

(3) The requirements under this section and section 1278b for a high school diploma are in addition to any local requirements imposed by the board of a school district or board of directors of a public school academy. The board of a school district or board of directors of a public school academy, as a local requirement for a high school diploma, may require a pupil to complete the Michigan merit examination under section 1279g or may require a pupil to participate in the MIAccess assessments if appropriate for the pupil.

(4) For the purposes of this section and section 1278b, all of the following apply:

(a) A pupil is considered to have completed a credit if the pupil successfully completes the subject area content expectations or guidelines developed by the department that apply to the credit. For a career and technical education credit, a school district or public school academy may supplement those content expectations and guidelines with additional guidelines developed by the school district or public school academy.

(b) A school district or public school academy shall base its determination of whether a pupil has successfully completed the subject area content expectations or guidelines developed by the department that apply to a credit at least in part on the pupil's performance on the assessments developed or selected by the department under section 1278b or on 1 or more assessments developed or selected by the school district or public school academy that measure a pupil's understanding of the subject area content expectations or guidelines that apply to the credit.

(c) A school district or public school academy shall also grant a pupil a credit if the pupil earns a qualifying score, as determined by the department, on the assessments developed or selected for the subject area by the department under section 1278b or the pupil earns a qualifying score, as determined by the school district or public school academy, on 1 or more assessments developed or selected by the school district or public school academy that measure a pupil's understanding of the subject area content expectations or guidelines that apply to the credit.

(5) If a high school is designated by the superintendent of public instruction as a specialty school and the high school meets the requirements of subsection (6), then the pupils of the high school are not required to successfully complete the 4 credits in English language arts required under section 1278b(1)(a) or the 3 credits in social science required under subsection (1)(a)(*ii*) and the school district or public school academy is not required to ensure that each pupil is offered the curriculum necessary for meeting those English language arts or social science credit requirements. The superintendent of public instruction may designate up to 15 high schools that meet the requirements of this subsection as specialty schools. Subject to this maximum


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

number, the superintendent of public instruction shall designate a high school as a specialty school if the superintendent of public instruction finds that the high school meets all of the following criteria:

(a) The high school incorporates a significant reading and writing component throughout its curriculum.

(b) The high school uses a specialized, innovative, and rigorous curriculum in such areas as performing arts, foreign language, extensive use of internships, or other learning innovations that conform to pioneering innovations among other leading national or international high schools.

(6) A high school that is designated by the superintendent of public instruction as a specialty school under subsection (5) is only exempt from requirements as described under subsection (5) as long as the superintendent of public instruction finds that the high school continues to meet all of the following requirements:

(a) The high school clearly states to prospective pupils and their parents that it does not meet the requirements of the Michigan merit standard under this section and section 1278b but is a designated specialty school that is exempt from some of those requirements and that a pupil who enrolls in the high school and subsequently transfers to a high school that is not a specialty school meeting the requirements of this subsection will be required to comply with the requirements of the Michigan merit standard under this section and section 1278b.

(b) For the most recent year for which the data are available, the mean scores on both the mathematics and science portions of the ACT examination for the pupils of the high school exceed by at least 10% the mean scores on the mathematics and science portions of the ACT examination for the pupils of the school district in which the greatest number of the pupils of the high school reside.

(c) For the most recent year for which the data are available, the high school had a graduation rate of at least 85%, as determined by the department.

(d) For the most recent year for which the data are available, at least 75% of the pupils who graduated from the high school the preceding year are enrolled in a postsecondary institution.

(e) All pupils of the high school are required to meet the mathematics credit requirements of subsection (1)(a)(*i*), with no modification of these requirements under section 1278b(5), and each pupil is offered the curriculum necessary to meet this requirement.

(f) All pupils of the high school are required to meet the science credit requirements of section 1278b(1)(b) and are also required to successfully complete at least 1 additional science credit, for a total of at least 4 science credits, with no modification of these requirements under section 1278b(5), and each pupil is offered the curriculum necessary to meet this requirement.

**History:** Add. 2006, Act 124, Imd. Eff. Apr. 20, 2006;—Am. 2008, Act 316, Imd. Eff. Dec. 18, 2008;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2014, Act 208, Eff. (sine die);—Am. 2014, Act 293, Imd. Eff. Sept. 30, 2014;—Am. 2015, Act 186, Eff. Feb. 14, 2016;—Am. 2018, Act 232, Imd. Eff. June 27, 2018;—Am. 2020, Act 158, Imd. Eff. Sept. 17, 2020.

**Compiler's note:** Former MCL 380.1278a, which pertained to pupil performance standards, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1278b Award of high school diploma; credit requirements; personal curriculum; annual report.

Sec. 1278b. (1) Except as otherwise provided in this section or section 1278a, beginning with pupils entering grade 8 in 2006, as part of the requirements under section 1278a the board of a school district or board of directors of a public school academy shall not award a high school diploma to a pupil unless the pupil has successfully completed all of the following credit requirements of the Michigan merit standard before graduating from high school:

(a) At least 4 credits in English language arts that are aligned with subject area content expectations developed by the department and approved by the state board under this section.

(b) At least 3 credits in science that are aligned with subject area content expectations developed by the department and approved by the state board under this section, including completion of at least biology and either chemistry, physics, anatomy, or agricultural science, or successfully completing a program or curriculum that provides the same content as the chemistry or physics benchmarks, as determined by the department. A student may fulfill the requirement for the third science credit by completing a department-approved computer science program or curriculum or formal career and technical education program or curriculum. The legislature strongly encourages pupils to complete a fourth credit in science, such as forensics, astronomy, Earth science, agricultural science, environmental science, geology, physics, chemistry, physiology, or microbiology.

(c) The credit requirements specified in section 1278a(1)(a)(*i*) to (*iv*).

(2) If a pupil successfully completes 1 or more of the high school credits required under subsection (1) or


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

under section 1278a(1) before entering high school, the pupil shall be given high school credit for that credit.

(3) For the purposes of this section and section 1278a, the department shall do all of the following:

(a) Develop subject area content expectations that apply to the credit requirements of the Michigan merit standard that are required under subsection (1)(a) and (b) and section 1278a(1)(a)(*i*) and (*ii*) and develop guidelines for the remaining credit requirements of the Michigan merit standard that are required under this section and section 1278a(1)(a), for the online course or learning experience required under section 1278a(1)(b), and for the requirements for a language other than English under section 1278a(2). All of the following apply to these subject area content expectations and guidelines:

(*i*) All subject area content expectations shall be consistent with the state board recommended model core academic curriculum content standards under section 1278. Subject area content expectations or guidelines shall not include attitudes, beliefs, or value systems that are not essential in the legal, economic, and social structure of our society and to the personal and social responsibility of citizens of our society. The subject area content expectations shall require pupils to demonstrate critical thinking skills.

(*ii*) The subject area content expectations and the guidelines must be approved by the state board under subsection (4).

(*iii*) The subject area content expectations shall state in clear and measurable terms what pupils are expected to know upon completion of each credit.

(*iv*) The department shall complete the development of the subject area content expectations that apply to algebra I and the guidelines for the online course or learning experience under section 1278a(1)(b) not later than August 1, 2006.

(*v*) The department shall complete development of the subject area content expectations or guidelines that apply to each of the other credits required in the Michigan merit standard under subsection (1) and section 1278a(1)(a) not later than 1 year before the beginning of the school year in which a pupil entering high school in 2007 would normally be expected to complete the credit.

(*vi*) If the department has not completed development of the subject area content expectations that apply to a particular credit required in the Michigan merit standard under subsection (1) or section 1278a(1)(a) by the date required under this subdivision, a school district or public school academy may align the content of the credit with locally adopted standards.

(*vii*) Until all of the subject area content expectations and guidelines have been developed by the department and approved by the state board, the department shall submit a report at least every 6 months to the senate and house standing committees responsible for education legislation on the status of the development of the subject area content expectations and guidelines. The report shall detail any failure by the department to meet a deadline established under subparagraph (*iv*) or (*v*) and the reasons for that failure.

(b) Develop and implement a process for developing the subject area content expectations and guidelines required under this section. This process shall provide for all of the following:

(*i*) Soliciting input from all of the following groups:

(A) Recognized experts in the relevant subject areas.

(B) Representatives from 4-year colleges or universities, community colleges, and other postsecondary institutions.

(C) Teachers, administrators, and school personnel who have specialized knowledge of the subject area.

(D) Representatives from the business community.

(E) Representatives from vocational and career and technical education providers.

(F) Government officials, including officials from the legislature.

(G) Parents of public school pupils.

(*ii*) A review of the subject area content expectations or guidelines by national experts.

(*iii*) An opportunity for the public to review and provide input on the proposed subject area content expectations or guidelines before they are submitted to the state board for approval. The time period allowed for this review and input shall be at least 15 business days.

(c) Determine the basic level of technology and internet access required for pupils to complete the online course or learning experience requirement of section 1278a(1)(b), and submit that determination to the state board for approval.

(d) Develop and make available material to assist school districts and public school academies in implementing the requirements of this section and section 1278a. This shall include developing guidelines for alternative instructional delivery methods as described in subsection (7).

(4) The state board shall approve subject area content expectations and guidelines developed by the department under subsection (3) before those subject area content expectations and guidelines may take effect. The state board also shall approve the basic level of technology and internet access required for pupils to complete the online course or learning experience requirement of section 1278a(1)(b).


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(5) The parent or legal guardian of a pupil who has completed grade 9, a teacher who is currently teaching the pupil, who currently teaches in or whose expertise is in a subject area proposed to be modified by the personal curriculum, or who is determined by the principal to have qualifications otherwise relevant to developing a personal curriculum, or a school counselor or school employee qualified to act in a counseling role under section 1233 or 1233a may request a personal curriculum under this subsection for the pupil that modifies certain of the Michigan merit standard requirements under subsection (1) or section 1278a(1)(a). If the request for a personal curriculum is made by the pupil's parent or legal guardian or, if the pupil is at least age 18 or is an emancipated minor, by the pupil, the school district or public school academy shall develop a personal curriculum for the pupil. A teacher, school counselor, or school employee qualified to act in a counseling role under section 1233 or 1233a may contact a pupil's parent or legal guardian to discuss the possibility and potential benefits of a personal curriculum under this subsection for the pupil. If all of the requirements under this subsection for completing a personal curriculum are met, then the board of a school district or board of directors of a public school academy may award a high school diploma to a pupil who successfully completes his or her personal curriculum even if it does not meet the requirements of the Michigan merit standard required under subsection (1) and section 1278a(1)(a). All of the following apply to a personal curriculum:

(a) The personal curriculum shall be developed by a group that includes at least the pupil, at least 1 of the pupil's parents or the pupil's legal guardian, and a teacher described in this subdivision or the pupil's high school counselor or another designee qualified to act in a counseling role under section 1233 or 1233a selected by the high school principal. In addition, for a pupil who receives special education services, a school psychologist should also be included in this group. The teacher included in the group developing the personal curriculum shall be a teacher who is currently teaching the pupil, who currently teaches in or whose expertise is in a subject area being modified by the personal curriculum, or who is determined by the principal to have qualifications otherwise relevant to the group. This subdivision does not require an in-person meeting of the group.

(b) The personal curriculum shall incorporate as much of the subject area content expectations of the Michigan merit standard required under subsection (1) and section 1278a(1)(a) as is practicable for the pupil; shall establish measurable goals that the pupil must achieve while enrolled in high school and shall provide a method to evaluate whether the pupil achieved these goals; and shall be aligned with the pupil's educational development plan developed under subsection (11).

(c) Before it takes effect, the personal curriculum must be agreed to by the pupil's parent or legal guardian and by the superintendent of the school district or chief executive of the public school academy or his or her designee.

(d) The pupil's parent or legal guardian shall be in communication with each of the pupil's teachers to monitor the pupil's progress toward the goals contained in the pupil's personal curriculum.

(e) Revisions may be made in the personal curriculum if the revisions are developed and agreed to in the same manner as the original personal curriculum.

(f) The English language arts credit requirements of subsection (1)(a) and the science credit requirements of subsection (1)(b) are not subject to modification as part of a personal curriculum under this subsection.

(g) The mathematics credit requirements of section 1278a(1)(a)(*i*) may be modified as part of a personal curriculum if the pupil successfully completes at least 3-1/2 total credits of the mathematics credits required under that section before completing high school, including algebra I and geometry, and successfully completes at least 1 mathematics credit during his or her final 2 years of high school. The algebra II credit required under that section may be modified as part of a personal curriculum under this subsection if the pupil meets 1 or more of the following:

(*i*) Successfully completes the same content as 1 semester of algebra II, as determined by the department.

(*ii*) Elects to complete the same content as algebra II over 2 years, with a credit awarded for each of those 2 years, and successfully completes that content.

(*iii*) Enrolls in a formal career and technical education program or curriculum and in that program or curriculum successfully completes the same content as the algebra II benchmarks assessed on the department-prescribed state high school assessment, as determined by the department.

(*iv*) Successfully completes 1 semester of statistics, functions and data analysis, or technical mathematics.

(h) The social science credit requirements of section 1278a(1)(a)(*ii*) may be modified as part of a personal curriculum only if all of the following are met:

(*i*) The pupil has successfully completed 2 credits of the social science credits required under section 1278a(1), including the civics course described in section 1166(2).

(*ii*) The modification requires the pupil to complete 1 additional credit in English language arts, mathematics, or science or 1 additional credit in a language other than English, or requires the pupil to


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

complete a formal career and technical education program. This additional credit must be in addition to the number of those credits otherwise required under subsection (1) and section 1278a(1) or under section 1278a(2).

(i) The health and physical education credit requirement under section 1278a(1)(a)(*iii*) may be modified as part of a personal curriculum only if the modification requires the pupil to complete 1 additional credit in English language arts, mathematics, or science or 1 additional credit in a language other than English, or requires the pupil to complete a formal career and technical education program. This additional credit must be in addition to the number of those credits otherwise required under subsection (1) and section 1278a(1) or under section 1278a(2).

(j) The visual arts, performing arts, or applied arts credit requirement under section 1278a(1)(a)(*iv*) may be modified as part of a personal curriculum only if the modification requires the pupil to complete 1 additional credit in English language arts, mathematics, or science or 1 additional credit in a language other than English, or requires the pupil to complete a formal career and technical education program. This additional credit must be in addition to the number of those credits otherwise required under subsection (1) and section 1278a(1) or under section 1278a(2).

(k) If the parent or legal guardian of a pupil requests as part of the pupil's personal curriculum a modification of the Michigan merit standard requirements that would not otherwise be allowed under this section and demonstrates that the modification is necessary because the pupil is a child with a disability, the school district or public school academy may allow that additional modification to the extent necessary because of the pupil's disability if the group under subdivision (a) determines that the modification is consistent with both the pupil's educational development plan under subsection (11) and the pupil's individualized education program. If the superintendent of public instruction has reason to believe that a school district or a public school academy is allowing modifications inconsistent with the requirements of this subdivision, the superintendent of public instruction shall monitor the school district or public school academy to ensure that the school district's or public school academy's policies, procedures, and practices are in compliance with the requirements for additional modifications under this subdivision. As used in this subdivision, "child with a disability" means that term as defined in 20 USC 1401.

(*l*) If a pupil transfers to a school district or public school academy from out of state or from a nonpublic school, the pupil's parent or legal guardian may request, as part of the pupil's personal curriculum, a modification of the Michigan merit standard requirements that would not otherwise be allowed under this section. The school district or public school academy may allow this additional modification for a transfer pupil if all of the following are met:

(*i*) The transfer pupil has successfully completed at least the equivalent of 2 years of high school credit out of state or at a nonpublic school. The school district or public school academy may use appropriate assessment examinations to determine what credits, if any, the pupil has earned out of state or at a nonpublic school that may be used to satisfy the curricular requirements of the Michigan merit standard and this subdivision.

(*ii*) The transfer pupil's personal curriculum incorporates as much of the subject area content expectations of the Michigan merit standard as is practicable for the pupil.

(*iii*) The transfer pupil's personal curriculum requires the pupil to successfully complete at least 1 mathematics course during his or her final year of high school enrollment. In addition, if the transfer pupil is enrolled in the school district or public school academy for at least 1 full school year, both of the following apply:

(A) The transfer pupil's personal curriculum shall require that this mathematics course is at least algebra I.

(B) If the transfer pupil demonstrates that he or she has mastered the content of algebra I, the transfer pupil's personal curriculum shall require that this mathematics course is a course normally taken after completing algebra I.

(*iv*) The transfer pupil's personal curriculum includes the civics course described in section 1166(2).

(m) If a pupil is at least age 18 or is an emancipated minor, the pupil may act on his or her own behalf under this subsection.

(n) This subsection does not apply to a pupil enrolled in a high school that is designated as a specialty school under section 1278a(5) and that is exempt under that section from the English language arts requirement under subsection (1)(a) and the social science credit requirement under section 1278a(1)(a)(*ii*).

(o) The department or a school district or public school academy shall not limit or discourage the number of pupils with a personal curriculum on any basis other than the best interests of each individual pupil.

(p) A school district or public school academy annually shall notify each of its pupils and a parent or legal guardian of each of its pupils that all pupils are entitled to a personal curriculum under this subsection. The annual notice shall include an explanation of what a personal curriculum is and state that if a personal


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

curriculum is requested, the public school or public school academy will grant that request. The school district or public school academy shall provide this annual notice to parents and legal guardians by sending a written notice to each pupil's home or by including the notice in a newsletter, student handbook, or similar communication that is sent to a pupil's home, and also shall post the notice on the school district's or public school academy's website.

(6) If a pupil receives special education services, the pupil's individualized education program, in accordance with the individuals with disabilities education act, title VI of Public Law 91-230, shall identify the appropriate course or courses of study and identify the supports, accommodations, and modifications necessary to allow the pupil to progress in the curricular requirements of this section and section 1278a, or in a personal curriculum as provided under subsection (5), and meet the requirements for a high school diploma.

(7) The board of a school district or board of directors of a public school academy that operates a high school shall ensure that each pupil is offered the curriculum necessary for the pupil to meet the curricular requirements of this section and section 1278a. The board or board of directors may provide this curriculum by providing the credits specified in this section and section 1278a, by using alternative instructional delivery methods such as alternative course work, humanities course sequences, career and technical education, industrial technology courses, or vocational education, or by a combination of these. School districts and public school academies that operate career and technical education programs are encouraged to integrate the credit requirements of this section and section 1278a into those programs.

(8) If the board of a school district or board of directors of a public school academy wants its high school to be accredited under section 1280, the board or board of directors shall ensure that all elements of the curriculum required under this section and section 1278a are made available to all affected pupils. If a school district or public school academy does not offer all of the required credits, the board of the school district or board of directors of the public school academy shall ensure that the pupil has access to the required credits by another means, such as enrollment in a postsecondary course under the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524; enrollment in an online course; a cooperative arrangement with a neighboring school district or with a public school academy; or granting approval under section 6(6) of the state school aid act of 1979, MCL 388.1606, for the pupil to be counted in membership in another school district.

(9) If a pupil is not successfully completing a credit required for graduation under this section and section 1278a, or is identified as being at risk of withdrawing from high school, then the pupil's school district or public school academy shall notify the pupil's parent or legal guardian or, if the pupil is at least age 18 or is an emancipated minor, the pupil, of the availability of tutoring or other supplemental educational support and counseling services that may be available to the pupil under existing state or federal programs, such as those programs or services available under section 31a of the state school aid act of 1979, MCL 388.1631a, or under the no child left behind act of 2001, Public Law 107-110.

(10) To the extent required by the no child left behind act of 2001, Public Law 107-110, the board of a school district or public school academy shall ensure that all components of the curricular requirements under this section and section 1278a are taught by highly qualified teachers. If a school district or public school academy demonstrates to the department that the school district or public school academy is unable to meet the requirements of this section because the school district or public school academy is unable to hire enough highly qualified teachers, the department shall work with the school district or public school academy to develop a plan to allow the school district or public school academy to hire enough highly qualified teachers to meet the requirements of this section.

(11) The board of a school district or board of directors of a public school academy shall provide the opportunity for each pupil to develop an educational development plan during grade 7, and shall ensure that each pupil reviews his or her educational development plan during grade 8 and revises it as appropriate before he or she begins high school. The board of a school district or board of directors of a public school academy shall also ensure that each pupil reviews and revises his or her educational development plan as appropriate during each year of high school. An educational development plan shall be developed, reviewed, and revised by the pupil under the supervision of the pupil's school counselor or another designee qualified to act in a counseling role under section 1233 or 1233a selected by the school principal and shall be based on high school readiness scores and a career pathways program or similar career exploration program. An educational development plan shall be designed to assist pupils to identify career development goals as they relate to academic requirements. During the process of developing and reviewing a pupil's educational development plan, the pupil shall be advised that many of the curricular requirements of this section and section 1278a may be fulfilled through career and technical education. In addition, during the process of developing and reviewing an educational development plan, the pupil shall be provided with all of the following:

(a) Information on various types of careers and current and projected job openings in this state and those


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

jobs' actual and projected wages.

(b) An opportunity to explore careers specific to a pupil's interests and identify career pathways and goals for achieving success in those careers, including, but not limited to, the level and type of educational preparation necessary to accomplish those goals.

(c) An opportunity to develop a talent portfolio. A talent portfolio shall be developed and revised throughout the implementation of a pupil's educational development plan. A talent portfolio shall include, but is not limited to, a record of the pupil's experiences, proficiencies, certifications, or accomplishments that demonstrate talents or marketable skills. The department, in conjunction with the department of talent and economic development, shall develop and make available to the public schools model information materials that districts or public school academies may use to comply with this subdivision.

(12) Except as otherwise provided in this subsection, if a school district or public school academy is unable to implement all of the curricular requirements of this section and section 1278a for pupils entering grade 9 in 2007 or is unable to implement another requirement of this section or section 1278a, the school district or public school academy may apply to the department for permission to phase in 1 or more of the requirements of this section or section 1278a. To apply, the school district or public school academy shall submit a proposed phase-in plan to the department. The department shall approve a phase-in plan if the department determines that the plan will result in the school district or public school academy making satisfactory progress toward full implementation of the requirements of this section and section 1278a. If the department disapproves a proposed phase-in plan, the department shall work with the school district or public school academy to develop a satisfactory plan that may be approved. However, if legislation is enacted that adds section 1290 to allow school districts and public school academies to apply for a contract that waives certain state or federal requirements, then this subsection does not apply but a school district or public school academy may take action as described in subsection (13). This subsection does not apply to a high school that is designated as a specialty school under section 1278a(5) and that is exempt under that section from the English language arts requirement under subsection (1)(a) and the social science credit requirement under section 1278a(1)(a)(*ii*).

(13) If a school district or public school academy does not offer all of the required credits or provide options to have access to the required credits as provided under subsection (8) and if legislation is enacted that adds section 1290 to allow school districts and public school academies to apply for a contract that waives certain state or federal requirements, then the school district or public school academy is encouraged to apply for a contract under section 1290. The purpose of a contract described in this subsection is to improve pupil performance.

(14) This section and section 1278a do not prohibit a pupil from satisfying or exceeding the credit requirements of the Michigan merit standard under this section and section 1278a through advanced studies such as accelerated course placement, advanced placement, dual enrollment in a postsecondary institution, or participation in the international baccalaureate program or an early college/middle college program.

(15) Not later than April 1 of each year, the department shall submit an annual report to the legislature that evaluates the overall success of the curriculum required under this section and section 1278a, the rigor and relevance of the course work required by the curriculum, the ability of public schools to implement the curriculum and the required course work, and the impact of the curriculum on pupil success, and that details any activities the department has undertaken to implement this section and section 1278a or to assist public schools in implementing the requirements of this section and section 1278a.

**History:** Add. 2006, Act 123, Imd. Eff. Apr. 20, 2006;—Am. 2006, Act 623, Imd. Eff. Jan. 3, 2007;—Am. 2007, Act 141, Imd. Eff. Nov. 14, 2007;—Am. 2009, Act 204, Imd. Eff. Jan. 4, 2010;—Am. 2010, Act 80, Eff. July 1, 2011;—Am. 2014, Act 209, Eff. Mar. 31, 2015;—Am. 2018, Act 230, Eff. Dec. 24, 2018.

**Compiler's note:** Former MCL 380.1278b, which pertained to academic performance standards committee, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1278c Information on career and technical education programs; availability; posting on website; providing information to pupils; in-demand occupations; credit for completion of program; "state licensed proprietary school" defined.

Sec. 1278c. (1) If a school district, intermediate school district, or public school academy requests information from the department on career and technical education programs or other programs described in section 1278b that may be available or that may be used to help fulfill the requirements of sections 1278a and 1278b, the department shall provide that information within a reasonable time. In addition, the department shall compile and post on its website all of the following information concerning best practices in career and technical education:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) A detailed description of the ways that career and technical education may be used to help fulfill the requirements of sections 1278a and 1278b, including, but not limited to, the role of career and technical education in a personal curriculum under section 1278b.

(b) Information highlighting and describing successful career and technical education programs being operated by school districts and intermediate school districts.

(c) A listing and description of the various types of career and technical education programs that are provided around this state and the subject areas and disciplines that are covered by these programs.

(d) Illustrations of how school districts, intermediate school districts, and public school academies can and do work with local business entities, public-private partnerships, trade organizations, nonprofit organizations, state licensed proprietary schools, universities, or community colleges to provide quality career and technical education.

(e) The various ways in which school districts and public school academies have embedded the course content from credits required under the Michigan merit standard under sections 1278a and 1278b into career and technical education and other alternative instructional delivery methods in order to deliver the curricular requirements of sections 1278a and 1278b.

(2) As part of the process of developing an educational development plan under section 1278b, the board of a school district or board of directors of a public school academy shall ensure that pupils are provided with all of the following:

(a) Information about how they can fulfill the requirements of sections 1278a and 1278b with career and technical education or another program approved by the department.

(b) The most recent analysis of in-demand occupations in the region in which the school district, intermediate school district, or public school academy is located, provided by the department of technology, management, and budget, bureau of labor market information and strategic initiatives. The information regarding in-demand occupations may be provided to pupils electronically.

(3) Not later than September 1 of each year, the department of technology, management, and budget shall publish on its website and send to school districts, intermediate school districts, and public school academies the most recent analysis of in-demand occupations described in subsection (2)(b).

(4) School districts, public school academies, and intermediate school districts are strongly encouraged to establish programs in which, upon completion of the program and graduation from high school, the completion of the program is credited toward achievement of a professional certificate, training, apprenticeship, or college credit in a specific career and technical field.

(5) As used in this section, "state licensed proprietary school" means a proprietary school licensed under the proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103.

**History:** Add. 2014, Act 288, Eff. Mar. 31, 2015;—Am. 2018, Act 242, Eff. Sept. 26, 2018.

**Popular name:** Act 451

### 380.1278d STEM endorsement; requirements.

Sec. 1278d. If a pupil successfully completes all of the following credit requirements while in grades 7 to 12, a school district or public school academy may notate a pupil's transcript or diploma to indicate that the pupil has earned a STEM endorsement:

(a) All applicable requirements of the Michigan merit standard for a high school diploma under sections 1278a and 1278b.

(b) At least 6 credits in mathematics. At least 5 of these credits must be in courses that are either listed in section 1278a(1)(a)(*i*) or that cover the same content standards as a course listed in section 1278a(1)(a)(*i*), including a credit for precalculus or calculus.

(c) At least 6 credits in science. At least 4 of these credits must be in courses that are either listed in section 1278b(1)(b) or that cover the same content standards as a course listed in section 1278b(1)(b).

(d) At least 1/2 credit featuring significant course work involving technology activities and at least 1/2 credit featuring significant course work involving engineering activities. These credits may be gained through separate technology and engineering course work or in conjunction with course work associated with the credits required under subdivisions (b) and (c).

**History:** Add. 2018, Act 241, Eff. Sept. 26, 2018.

**Popular name:** Act 451

### 380.1279 Repealed. 2016, Act 532, Eff. Apr. 9, 2017.

**Compiler's note:** The repealed section pertained to state administration of state assessments to high school pupils.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1279a Report of irregularities; notice to school district or public school academy.

Sec. 1279a. If the superintendent of public instruction has reason to suspect that there are irregularities in a school district's or public school academy's administration of, or preparation of pupils for, a Michigan educational assessment program (MEAP) test or the Michigan merit examination, the superintendent of public instruction shall not report the suspected irregularities to any person or entity not involved in the scoring or administration of the test before notifying the school district or public school academy of the suspected irregularities and allowing at least 5 business days for school officials to respond.

**History:** Add. 2002, Act 592, Eff. Dec. 23, 2002;—Am. 2004, Act 596, Imd. Eff. Jan. 5, 2005.

**Compiler's note:** Former MCL 380.1279a, which pertained to pupil assessment, use of criteria based strategies, and pupil portfolios, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1279b Credit awarded to pupil not enrolled in course.

Sec. 1279b. The board of a school district shall grant high school credit in any course to a pupil enrolled in high school, but who is not enrolled in the course, who has exhibited a reasonable level of mastery of the subject matter of the course by attaining a grade of not less than C+ in a final exam in the course, or, if there is no final exam, by exhibiting that mastery through the basic assessment used in the course which may consist of a portfolio, performance, paper, project, or presentation. For the purpose of earning credit under this section, any high school pupil may take the final examination in any course. Credit earned under this section shall be based on a "pass" grade and shall not be included in a computation of grade point average for any purpose. Credit earned under this section may or may not be counted toward graduation, as the board of the school district may determine, but the board's determination shall apply equally to all such credit for all pupils and credit earned under this section shall be counted toward fulfillment of a requirement for a subject area course and shall be counted toward fulfillment of a requirement as to course sequence. Once credit is earned under this section, a pupil may not receive credit thereafter for a course lower in course sequence concerning the same subject area.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451

### 380.1279c Use of tests to measure pupils' values or attitudes prohibited.

Sec. 1279c. The state board, the superintendent of public instruction, the board of each school district, and each public school academy shall ensure that the Michigan educational assessment program (MEAP) tests and the Michigan merit examination are not used to measure pupils' values or attitudes.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 596, Imd. Eff. Jan. 5, 2005.

**Compiler's note:** For transfer of powers and duties relating to Michigan educational assessment program from department of treasury to superintendent of public instruction by type II transfer, see E.R.O. No. 2003-2, compiled at MCL 388.997.

**Popular name:** Act 451

### 380.1279d Report of irregularities to any person or entity involved in scoring or administration.

Sec. 1279d. If the superintendent of public instruction or any other state agency has reason to suspect that there are irregularities in a school district's or public school academy's administration of, or preparation of pupils for, a Michigan educational assessment program (MEAP) test or the Michigan merit examination, the superintendent of public instruction or other state agency shall not report the suspected irregularities to any person or entity not involved in the scoring or administration of the test before notifying the school district or public school academy of the suspected irregularities and allowing at least 5 business days for school officials to respond.

**History:** Add. 2002, Act 640, Imd. Eff. Dec. 23, 2002;—Am. 2004, Act 399, Imd. Eff. Oct. 15, 2004;—Am. 2004, Act 596, Imd. Eff. Jan. 5, 2005.

**Compiler's note:** Former MCL 380.1279d, which pertained to the student portfolio, was repealed by Act 289 of 1995, Eff. July 1, 1996.

For transfer of powers and duties relating to Michigan educational assessment program from department of treasury to superintendent of public instruction by type II transfer, see E.R.O. No. 2003-2, compiled at MCL 388.997.

**Popular name:** Act 451

### 380.1279e High school credit in foreign language.

Sec. 1279e. The board of a school district shall grant high school credit in a foreign language to a pupil


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

enrolled in high school who has demonstrated proficiency in a foreign language outside of a public or private high school curriculum. Proficiency may be demonstrated by a competency test or other criteria established by the board.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451

### 380.1279f Repealed. 1997, Act 177, Eff. June 30, 2001.

**Compiler's note:** The repealed section pertained to qualifications for postsecondary courses.

**Popular name:** Act 451

### 380.1279g Michigan merit examination; definitions.

Sec. 1279g. (1) The board of a school district or board of directors of a public school academy shall comply with this section and shall administer the Michigan merit examination to pupils in grade 11, and to pupils in grade 12 who did not take the complete Michigan merit examination in grade 11, as provided in this section.

(2) For the purposes of this section, the department of technology, management, and budget shall contract with 1 or more providers to develop, supply, and score the Michigan merit examination. The Michigan merit examination shall consist of all of the following:

(a) Assessment instruments that measure English language arts, mathematics, reading, and science and are used by colleges and universities in this state for entrance or placement purposes. This shall include a writing component in which the pupil produces an extended writing sample. The Michigan merit examination shall not require any other extended writing sample.

(b) One or more tests from 1 or more test developers that assess a pupil's ability to apply at least reading and mathematics skills in a manner that is intended to allow employers to use the results in making employment decisions. The department of technology, management, and budget and the superintendent of public instruction shall ensure that any test or tests selected under this subdivision have all the components necessary to allow a pupil to be eligible to receive the results of a nationally recognized evaluation of workforce readiness if the pupil's test performance is adequate.

(c) A social studies component.

(d) Any other component that is necessary to obtain the approval of the United States Department of Education to use the Michigan merit examination for the purposes of the no child left behind act of 2001, Public Law 107-110, or the every student succeeds act, Public Law 114-95.

(3) In addition to all other requirements of this section, all of the following apply to the Michigan merit examination:

(a) The department of technology, management, and budget and the superintendent of public instruction shall ensure that any contractor used for scoring the Michigan merit examination supplies an individual report for each pupil that will identify for the pupil's parents and teachers whether the pupil met expectations or failed to meet expectations for each standard, to allow the pupil's parents and teachers to assess and remedy problems before the pupil moves to the next grade.

(b) The department of technology, management, and budget and the superintendent of public instruction shall ensure that any contractor used for scoring, developing, or processing the Michigan merit examination meets quality management standards commonly used in the assessment industry, including at least meeting level 2 of the capability maturity model developed by the Software Engineering Institute of Carnegie Mellon University for the first year the Michigan merit examination is offered to all grade 11 pupils and at least meeting level 3 of the capability maturity model for subsequent years.

(c) The department of technology, management, and budget and the superintendent of public instruction shall ensure that any contract for scoring, administering, or developing the Michigan merit examination includes specific deadlines for all steps of the assessment process, including, but not limited to, deadlines for the correct testing materials to be supplied to schools and for the correct results to be returned to schools, and includes penalties for noncompliance with these deadlines.

(d) The superintendent of public instruction shall ensure that the Michigan merit examination meets all of the following:

(*i*) Is designed to test pupils on grade level content expectations or course content expectations, as appropriate, in all subjects tested.

(*ii*) Complies with requirements of the no child left behind act of 2001, Public Law 107-110, or the every student succeeds act, Public Law 114-95, as applicable.

(*iii*) Is consistent with the code of fair testing practices in education prepared by the joint committee on testing practices of the American Psychological Association.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*iv*) Is factually accurate. If the superintendent of public instruction determines that a question is not factually accurate and should be excluded from scoring, the state board and the superintendent of public instruction shall ensure that the question is excluded from scoring.

(4) A school district or public school academy that operates a high school shall include on each pupil's high school transcript all of the following:

(a) For each high school graduate who has completed the Michigan merit examination under this section, the pupil's scaled score on each subject area component of the Michigan merit examination.

(b) The number of school days the pupil was in attendance at school each school year during high school and the total number of school days in session for each of those school years.

(5) The superintendent of public instruction shall work with the provider or providers of the Michigan merit examination to produce Michigan merit examination subject area scores for each pupil participating in the Michigan merit examination, including scaling and merging of test items for the different subject area components. The superintendent of public instruction shall design and distribute to school districts, public school academies, intermediate school districts, and nonpublic schools a simple and concise document that describes the scoring for each subject area and indicates the scaled score ranges for each subject area.

(6) The Michigan merit examination shall be administered each year after March 1 and before June 1 to pupils in grade 11. The superintendent of public instruction shall ensure that the Michigan merit examination is scored and the scores are returned to pupils, their parents or legal guardians, and schools not later than the beginning of the pupil's first semester of grade 12. The returned scores shall indicate at least the pupil's scaled score for each subject area component and the range of scaled scores for each subject area. In reporting the scores to pupils, parents, and schools, the superintendent of public instruction shall provide standards-specific, meaningful, and timely feedback on the pupil's performance on the Michigan merit examination.

(7) A school district or public school academy shall administer the complete Michigan merit examination to a pupil only once and shall not administer the complete Michigan merit examination to the same pupil more than once. If a pupil does not take the complete Michigan merit examination in grade 11, the school district or public school academy shall administer the complete Michigan merit examination to the pupil in grade 12. If a pupil chooses to retake the college entrance examination component of the Michigan merit examination, as described in subsection (2)(a), the pupil may do so through the provider of the college entrance examination component and the cost of the retake is the responsibility of the pupil unless all of the following are met:

(a) The pupil has taken the complete Michigan merit examination.

(b) The pupil meets the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769j.

(c) The pupil has applied to the provider of the college entrance examination component for a scholarship or fee waiver to cover the cost of the retake and that application has been denied.

(d) After taking the complete Michigan merit examination, the pupil has not already received a free retake of the college entrance examination component paid for either by this state or through a scholarship or fee waiver by the provider.

(8) The superintendent of public instruction shall ensure that the length of the Michigan merit examination and the combined total time necessary to administer all of the components of the Michigan merit examination are the shortest possible that will still maintain the degree of reliability and validity of the Michigan merit examination results determined necessary by the superintendent of public instruction. The superintendent of public instruction shall ensure that the maximum total combined length of time that schools are required to set aside for pupils to answer all test questions on the Michigan merit examination does not exceed 8 hours if the superintendent of public instruction determines that sufficient alignment to applicable Michigan merit curriculum content standards can be achieved within that time limit.

(9) A school district or public school academy shall provide accommodations to a pupil with disabilities for the Michigan merit examination, as provided under section 504 of title V of the rehabilitation act of 1973, 29 USC 794; subtitle A of title II of the Americans with disabilities act of 1990, 42 USC 12131 to 12134; the individuals with disabilities education act amendments of 1997, Public Law 105-17; and the implementing regulations for those statutes. The provider or providers of the Michigan merit examination and the superintendent of public instruction shall mutually agree upon the accommodations to be provided under this subsection.

(10) To the greatest extent possible, the Michigan merit examination shall be based on grade level content expectations or course content expectations, as appropriate. Not later than July 1, 2008, the department shall identify specific grade level content expectations to be taught before and after the middle of grade 11, so that teachers will know what content will be covered within the Michigan merit examination.

(11) A child who is a student in a nonpublic school or home school may take the Michigan merit


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

examination under this section. To take the Michigan merit examination, a child who is a student in a home school shall contact the school district in which the child resides, and that school district shall administer the Michigan merit examination, or the child may take the Michigan merit examination at a nonpublic school if allowed by the nonpublic school. Upon request from a nonpublic school, the superintendent of public instruction shall direct the provider or providers to supply the Michigan merit examination to the nonpublic school and the nonpublic school may administer the Michigan merit examination. If a school district administers the Michigan merit examination under this subsection to a child who is not enrolled in the school district, the scores for that child are not considered for any purpose to be scores of a pupil of the school district.

(12) In contracting under subsection (2), the department of technology, management, and budget shall consider a contractor that provides electronically-scored essays with the ability to score constructed response feedback in multiple languages and provide ongoing instruction and feedback.

(13) The purpose of the Michigan merit examination is to assess pupil performance in mathematics, science, social studies, and English language arts for the purpose of improving academic achievement and establishing a statewide standard of competency. The assessment under this section provides a common measure of data that will contribute to the improvement of Michigan schools' curriculum and instruction by encouraging alignment with Michigan's curriculum framework standards and promotes pupil participation in higher level mathematics, science, social studies, and English language arts courses. These standards are based upon the expectations of what pupils should learn through high school and are aligned with national standards.

(14) In addition to the other requirements of this section and the requirements of 1970 PA 38, MCL 388.1081 to 388.1086, beginning with assessments conducted during the 2016-2017 school year, the superintendent of public instruction shall ensure that the Michigan merit examination social studies component and the M-STEP and any successor state assessment for social studies, as appropriate, include questions related to the learning objectives in the state board recommended model core academic curriculum standards concerning genocide, including, but not limited to, the Holocaust and the Armenian Genocide.

(15) As used in this section:

(a) "Armenian Genocide", "genocide", and "Holocaust" mean those terms as defined in section 1168.

(b) "English language arts" means reading and writing.

(c) "Social studies" means United States history, world history, world geography, economics, and American government.

**History:** Add. 2004, Act 596, Imd. Eff. Jan. 5, 2005;—Am. 2008, Act 349, Imd. Eff. Dec. 23, 2008;—Am. 2016, Act 170, Imd. Eff. June 14, 2016.

**Popular name:** Act 451

### 380.1279h Academic credit for internship; requirements; reflection project; appeal.

Sec. 1279h. (1) Subject to subsections (4) and (5), the board of a school district or board of directors of a public school academy shall grant high school credit to a pupil in grades 9 to 12 for the completion of an internship or work experience if the pupil attends the internship or work experience at least 4 hours per week for the same number of weeks as are necessary to earn credit in a traditional course in that school district or public school academy. The board or board of directors, or its designee, shall not require a pupil to attend the internship or work experience more than 10 hours per week.

(2) If a pupil engages in an internship or work experience qualifying for credit under this section that is determined to be academically appropriate by the board or board of directors, or its designee, and if the pupil's parent or legal guardian grants permission, the board or board of directors, or its designee, shall ensure that the pupil is excused from at least 1 period of instructional time during each day that the pupil attends the internship or work experience, as determined appropriate by the board or board of directors, or its designee.

(3) The board or board of directors, or its designee, shall exercise oversight of the pupil's internship or work experience as necessary to ensure that the pupil meets the requirements under this section.

(4) A board or board of directors may deny high school credit to a pupil under this section if any of the following apply, as determined by the board or board of directors, or its designee:

(a) The pupil has a history of course failure or is not on track to graduate in 4 years.

(b) The pupil previously earned credit under this section for an internship or work experience with the same employer, unless the new internship or work experience is materially different than the internship or work experience for which the pupil previously earned credit, as determined by the board or board of directors, or its designee.

(c) The pupil failed to request credit for engaging in an internship or work experience before the pupil's school schedule for the current term was determined.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(d) The pupil previously engaged in an internship or work experience under this section but failed to satisfy the requirements under subsection (1) for the previous internship or work experience.

(e) The pupil fails to complete a reflection project, if required by the board or board of directors, or its designee, under subsection (5).

(f) The internship or work experience is not consistent with the pupil's educational development plan under section 1278b, as determined by the board or board of directors, or its designee.

(g) The employer for which the internship or work experience is performed is unable to demonstrate that it complies with all applicable general liability coverage requirements of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(h) The cost of oversight under subsection (3) exceeds 16.67% of the minimum foundation allowance for the current fiscal year for the school district or public school academy in which the pupil is enrolled, as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(5) The board or board of directors may require a pupil engaging in an internship or work experience under this section to complete a reflection project. If a board or board of directors requires a reflection project under this subsection, the reflection project may include, but is not limited to, all of the following:

(a) A copy of the pupil's time card from the internship or work experience.

(b) A resume that includes the internship or work experience.

(c) A written summary of the internship or work experience.

(6) If a board or board of directors denies a pupil credit for an internship or work experience under this section, the pupil may appeal the denial by submitting an appeal letter to the superintendent of the intermediate school district in which the pupil's school is located. An appeal letter under this subsection must include the board's or board of directors' reasons for the denial and the pupil's argument for reversing the denial. The superintendent shall uphold or reverse the denial within 5 business days of receipt of the appeal letter. If the superintendent reverses the denial, the board or board of directors shall award the pupil credit for the internship or work experience.

(7) This section shall not be construed to affect the applicability of any existing state or federal law concerning the employment of minors.

**History:** Add. 2018, Act 184, Eff. Sept. 11, 2018.

**Popular name:** Act 451

### 380.1280 Accreditation.

Sec. 1280. (1) The board of a school district that does not want to be subject to the measures described in this section shall ensure that each public school within the school district is accredited.

(2) As used in subsection (1), and subject to subsection (6), "accredited" means certified by the superintendent of public instruction as having met or exceeded standards established under this section for 6 areas of school operation: administration and school organization, curricula, staff, school plant and facilities, school and community relations, and school improvement plans and student performance. The building-level evaluation used in the accreditation process shall include, but is not limited to, school data collection, self-study, visitation and validation, determination of performance data to be used, and the development of a school improvement plan.

(3) The department shall develop and distribute to all public schools proposed accreditation standards. Upon distribution of the proposed standards, the department shall hold statewide public hearings for the purpose of receiving testimony concerning the standards. After a review of the testimony, the department shall revise and submit the proposed standards to the superintendent of public instruction. After a review and revision, if appropriate, of the proposed standards, the superintendent of public instruction shall submit the proposed standards to the senate and house committees that have the responsibility for education legislation. Upon approval by these committees, the department shall distribute to all public schools the standards to be applied to each school for accreditation purposes. The superintendent of public instruction shall review and update the accreditation standards annually using the process prescribed under this subsection.

(4) The superintendent of public instruction shall develop and distribute to all public schools standards for determining that a school is eligible for summary accreditation under subsection (6). The standards shall be developed, reviewed, approved, and distributed using the same process as prescribed in subsection (3) for accreditation standards, and shall be finally distributed and implemented not later than December 31, 1994.

(5) The standards for accreditation or summary accreditation under this section shall include as criteria pupil performance on Michigan education assessment program (MEAP) tests and on the Michigan merit examination under section 1279g and, until the Michigan merit examination has been fully implemented, the percentage of pupils achieving state endorsement under section 1279, but shall not be based solely on pupil performance on MEAP tests or the Michigan merit examination or on the percentage of pupils achieving state


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

endorsement under section 1279. The standards shall also include as criteria multiple year change in pupil performance on MEAP tests and the Michigan merit examination and, until after the Michigan merit examination is fully implemented, multiple year change in the percentage of pupils achieving state endorsement under section 1279. If it is necessary for the superintendent of public instruction to revise accreditation or summary accreditation standards established under subsection (3) or (4) to comply with this subsection, the revised standards shall be developed, reviewed, approved, and distributed using the same process as prescribed in subsection (3).

(6) If the superintendent of public instruction determines that a public school has met the standards established under subsection (4) or (5) for summary accreditation, the school is considered to be accredited without the necessity for a full building-level evaluation under subsection (2).

(7) If the superintendent of public instruction determines that a school has not met the standards established under subsection (4) or (5) for summary accreditation but that the school is making progress toward meeting those standards, or if, based on a full building-level evaluation under subsection (2), the superintendent of public instruction determines that a school has not met the standards for accreditation but is making progress toward meeting those standards, the school is in interim status and is subject to a full building-level evaluation as provided in this section.

(8) If a school has not met the standards established under subsection (4) or (5) for summary accreditation and is not eligible for interim status under subsection (7), the school is unaccredited and subject to the measures provided in this section.

(9) Beginning with the 2002-2003 school year, if at least 5% of a public school's answer sheets from the administration of the Michigan educational assessment program (MEAP) tests are lost by the department or by a state contractor and if the public school can verify that the answer sheets were collected from pupils and forwarded to the department or the contractor, the department shall not assign an accreditation score or school report card grade to the public school for that subject area for the corresponding year for the purposes of determining state accreditation under this section. The department shall not assign an accreditation score or school report card grade to the public school for that subject area until the results of all tests for the next year are available.

(10) Subsection (9) does not preclude the department from determining whether a public school or a school district has achieved adequate yearly progress for the school year in which the answer sheets were lost for the purposes of the no child left behind act of 2001, Public Law 107-110. However, the department shall ensure that a public school or the school district is not penalized when determining adequate yearly progress status due to the fact that the public school's MEAP answer sheets were lost by the department or by a state contractor, but shall not require a public school or school district to retest pupils or produce scores from another test for this purpose.

(11) The superintendent of public instruction shall annually review and evaluate for accreditation purposes the performance of each school that is unaccredited and as many of the schools that are in interim status as permitted by the department's resources.

(12) The superintendent of public instruction shall, and the intermediate school district to which a school district is constituent, a consortium of intermediate school districts, or any combination thereof may, provide technical assistance, as appropriate, to a school that is unaccredited or that is in interim status upon request of the board of the school district in which the school is located. If requests to the superintendent of public instruction for technical assistance exceed the capacity, priority shall be given to unaccredited schools.

(13) A school that has been unaccredited for 3 consecutive years is subject to 1 or more of the following measures, as determined by the superintendent of public instruction:

(a) The superintendent of public instruction or his or her designee shall appoint at the expense of the affected school district an administrator of the school until the school becomes accredited.

(b) A parent, legal guardian, or person in loco parentis of a child who attends the school may send his or her child to any accredited public school with an appropriate grade level within the school district.

(c) The school, with the approval of the superintendent of public instruction, shall align itself with an existing research-based school improvement model or establish an affiliation for providing assistance to the school with a college or university located in this state.

(d) The school shall be closed.

(14) The superintendent of public instruction shall evaluate the school accreditation program and the status of schools under this section and shall submit an annual report based upon the evaluation to the senate and house committees that have the responsibility for education legislation. The report shall address the reasons each unaccredited school is not accredited and shall recommend legislative action that will result in the accreditation of all public schools in this state.

(15) Beginning with the 2008-2009 school year, a high school shall not be accredited by the department


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

unless the department determines that the high school is providing or has otherwise ensured that all pupils have access to all of the elements of the curriculum required under sections 1278a and 1278b. If it is necessary for the superintendent of public instruction to revise accreditation or summary accreditation standards established under subsection (3) or (4) to comply with the changes made to this section by the amendatory act that added this subsection, the revised standards shall be developed, reviewed, approved, and distributed using the same process as prescribed in subsection (3).

**History:** Add. 1990, Act 25, Eff. Apr. 13, 1990;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 1997, Act 180, Imd. Eff. Dec. 30, 1997;—Am. 2003, Act 275, Imd. Eff. Jan. 8, 2004;—Am. 2006, Act 123, Imd. Eff. Apr. 20, 2006.

**Popular name:** Act 451

### 380.1280a Specialized or alternative school or program.

Sec. 1280a. The board of a school district or intermediate school district that operates or participates in a consortium that operates an alternative educational program pursuant to section 1301, a vocational-technical skills center or other separate vocational education program, or any other type of specialized or alternative school or program shall ensure that the requirements of sections 1204a, 1277a, 1278, and 1280 are met for each of those schools or programs.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451

### 380.1280b Grades 1 to 5; yearly test or assessment.

Sec. 1280b. (1) Subject to subsection (2), the board of a school district, or board of directors of a public school academy that operates any of grades 1 to 5, shall administer each school year to all pupils in grades 1 to 5 a nationally-recognized norm-referenced test or another assessment, which may include a locally-adopted assessment, approved by the superintendent of public instruction at the request of the school district or public school academy.

(2) A school district or public school academy may use the Michigan literacy progress profile to assess literacy in grades 1 to 3 as part of its compliance with subsection (1).

(3) If a school is designated for participation in the national assessment of education progress program, the school shall participate as designated.

(4) An elementary school that is not in compliance with subsection (1) or a school that does not comply with subsection (3) shall not be accredited under section 1280.

**History:** Add. 2000, Act 230, Imd. Eff. June 27, 2000.

**Popular name:** Act 451

### 380.1280c Repealed. 2018, Act 601, Eff. June 30, 2019.

**Compiler's note:** The repealed section pertained to the identification of the lowest achieving schools in this state and placing those schools under supervision.

**Popular name:** Act 451

### 380.1280e Notice of adequate yearly status; notice of accreditation status.

Sec. 1280e. The board of a school district or intermediate school district or board of directors of a public school academy shall do both of the following:

(a) Within 20 days after the board or board of directors is informed by the appropriate authority of the adequate yearly progress status of its schools for the purposes of the no child left behind act of 2001, Public Law 107-110, for the most recent school year for which it is available, post a notice of the adequate yearly progress status of each school it operates on the homepage of its website.

(b) Within 20 days after the board or board of directors is informed by the department of the accreditation status of its schools for the purposes of section 1280 for the most recent school year for which it is available, post a notice of the accreditation status of each school it operates on the homepage of its website.

**History:** Add. 2011, Act 277, Eff. Mar. 28, 2012.

**Popular name:** Act 451

### 380.1280f Grade 3; English language arts proficiency; assessment; duties of school district or public school academy board; pupils exhibiting reading deficiency; reading intervention programs; summer reading camps; pupils enrolled in grade 3 during 2019-2020 school year; enrollment in grade 4; pupil not promoted to grade 4; good cause exemption; procedure; repeating grade 3; limitation; staffing plan; federal funds; English language


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**learners; additional intervention services; retention report; definitions.**

Sec. 1280f. (1) The department shall do all of the following to help ensure that more pupils will achieve a score of at least proficient in English language arts on the grade 3 state assessment:

(a) Approve 3 or more valid and reliable screening, formative, and diagnostic reading assessment systems for selection and use by school districts and public school academies in accordance with the following:

(*i*) Each approved assessment system shall provide a screening assessment, monitoring capabilities for monitoring progress toward a growth target, and a diagnostic assessment.

(*ii*) In determining which assessment systems to approve for use by school districts and public school academies, the department shall also consider at least the following factors:

(A) The time required to conduct the assessments, with the intention of minimizing the impact on instructional time.

(B) The level of integration of assessment results with instructional support for teachers and pupils.

(C) The timeliness in reporting assessment results to teachers, administrators, and parents.

(b) Recommend or develop an early literacy coach model with the following features:

(*i*) An early literacy coach shall support and provide initial and ongoing professional development to teachers in all of the following:

(A) Each of the 5 major reading components listed in subsection (3)(a)(*iv*)(B) as needed, based on an analysis of pupil performance data.

(B) Administering and analyzing instructional assessments.

(C) Providing differentiated instruction and intensive intervention.

(D) Using progress monitoring.

(E) Identifying and addressing reading deficiency.

(*ii*) An early literacy coach shall also do all of the following:

(A) Model effective instructional strategies for teachers.

(B) Facilitate study groups.

(C) Train teachers in data analysis and using data to differentiate instruction.

(D) Coach and mentor colleagues.

(E) Work with teachers to ensure that evidence-based reading programs such as comprehensive core reading programs, supplemental reading programs, and comprehensive intervention reading programs are implemented with fidelity.

(F) Train teachers to diagnose and address reading deficiency.

(G) Work with teachers in applying evidence-based reading strategies in other content areas, including, but not limited to, prioritizing time spent on those teachers, activities, and roles that will have the greatest impact on pupil achievement and prioritizing coaching and mentoring in classrooms.

(H) Help to increase instructional density to meet the needs of all pupils.

(I) Help lead and support reading leadership teams at the school.

(J) Continue to increase his or her knowledge base in best practices in reading instruction and intervention.

(K) For each teacher who teaches in a classroom for grades K to 3, model for the teacher, and coach the teacher in, instruction with pupils in whole and small groups.

(*iii*) In the context of performing the functions described in subparagraph (*ii*), an early literacy coach shall not be asked to perform administrative functions that will confuse his or her role for teachers.

(*iv*) An early literacy coach must meet all of the following:

(A) Have experience as a successful classroom teacher.

(B) Have sufficient knowledge of scientifically based reading research, special expertise in quality reading instruction and infusing reading strategies into content area instruction, and data management skills.

(C) Have a strong knowledge base in working with adults.

(D) Have a minimum of a bachelor's degree and advanced coursework in reading or have completed professional development in evidence-based literacy instructional strategies.

(*v*) An early literacy coach shall not be assigned a regular classroom teaching assignment, but shall be expected to work frequently with pupils in whole and small group instruction or tutoring in the context of modeling and coaching in or outside of teachers' classrooms.

(2) Subject to subsection (14), beginning in the 2017-2018 school year, the board of a school district or board of directors of a public school academy shall do all of the following to ensure that more pupils will achieve a score of at least proficient in English language arts on the grade 3 state assessment:

(a) Select 1 valid and reliable screening, formative, and diagnostic reading assessment system from the assessment systems approved by the department under subsection (1)(a). A school district or public school academy shall use this assessment system for pupils in grades K to 3 to screen and diagnose difficulties,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

inform instruction and intervention needs, and assess progress toward a growth target. A school district or public school academy periodically shall assess a pupil's progress in reading skills at least 3 times per school year in grades K to 3. The first of these assessments for a school year shall be conducted within the first 30 school days of the school year.

(b) For any pupil in grades K to 3 who exhibits a reading deficiency at any time, based upon the reading assessment system selected and used under subdivision (a), provide an individual reading improvement plan for the pupil within 30 days after the identification of the reading deficiency. The individual reading improvement plan shall be created by the pupil's teacher, school principal, and parent or legal guardian and other pertinent school personnel, and shall describe the reading intervention services the pupil will receive to remedy the reading deficiency. A school district or public school academy shall provide intensive reading intervention for the pupil in accordance with the individual reading improvement plan until the pupil no longer has a reading deficiency.

(c) If a pupil in grades K to 3 is identified as having an early literacy delay or reading deficiency, provide written notice to the pupil's parent or legal guardian of the delay or reading deficiency in writing and provide tools to assist the parent or legal guardian to engage in intervention and to address or correct any reading deficiency at home.

(d) Require a school principal or chief administrator to do all of the following:

(*i*) For a teacher in grades K to 3, target specific areas of professional development based on the reading development needs data for incoming pupils.

(*ii*) Differentiate and intensify professional development for teachers based on data gathered by monitoring teacher progress in improving pupil proficiency rates among their pupils.

(*iii*) Establish a collaborative system within the school to improve reading proficiency rates in grades K to 3.

(*iv*) Ensure that time is provided for teachers to meet for professional development.

(e) Utilize, at least, early literacy coaches provided through the intermediate school district in which the school district or public school academy is located, as provided for under section 35a(4) of the state school aid act of 1979, MCL 388.1635a. However, a public school academy may use an early literacy coach provided by the public school academy, at the expense of the public school academy, rather than using an early literacy coach provided through an intermediate school district if the early literacy coach and the usage of the early literacy coach otherwise meet the requirements of this section.

(3) Subject to subsection (14), a school district or public school academy shall provide reading intervention programs for pupils in grades K to 3, including at least all of the following:

(a) For pupils who exhibit a reading deficiency, a reading intervention program intended to ensure that pupils are proficient readers by the end of grade 3 and that includes some or all of the following features:

(*i*) Is provided to each pupil in grades K to 3 who is identified with a reading deficiency based on screening and diagnostic tools, and identifies and addresses the pupil's reading deficiency.

(*ii*) Periodically screens and monitors the progress of each pupil's reading skills, at least 3 times per year.

(*iii*) Provides evidence-based core reading instruction that is comprehensive and meets the majority of the general education classroom needs.

(*iv*) Provides reading intervention that meets, at a minimum, the following specifications:

(A) Assists pupils exhibiting a reading deficiency in developing the ability to read at grade level.

(B) Provides intensive development in the 5 major reading components: phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(C) Is systematic, explicit, multisensory, and sequential.

(D) Is implemented during regular school hours in addition to regular classroom reading instruction.

(*v*) Provides parents, legal guardians, or other providers of care for the pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

(*vi*) Documents efforts by the pupil's school to engage the pupil's parent or legal guardian and whether or not those efforts were successful.

(*vii*) Documents any dissenting opinions expressed by school personnel or a parent or legal guardian concerning the individual reading improvement plan provided for the pupil under subsection (2)(b).

(b) For grade 3 pupils exhibiting a reading deficiency as determined by the pupil's teacher through the diagnostic reading assessment system selected by the school district or public school academy under subsection (2)(a), a reading intervention program intended to correct the identified area or areas of reading deficiency and that includes all of the following features as needed by the individual pupil:

(*i*) Is evidence-based and has proven results in accelerating pupil reading achievement within the same school year.

(*ii*) Provides more dedicated time than the pupil's previous school year in evidence-based reading


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

instruction and intervention.

(*iii*) Provides daily targeted small group or 1-to-1 reading intervention based on pupil needs as determined by assessment data, including explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.

(*iv*) Provides administration of ongoing progress monitoring assessments to frequently monitor pupil progress.

(*v*) Provides supplemental evidence-based reading intervention delivered by a teacher, tutor, or volunteer with specialized reading training that is provided before school, after school, during school hours but outside of regular English language arts classroom time, or any combination of these.

(*vi*) Provides parents, legal guardians, or other providers of care for a pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

(*vii*) Documents efforts by the pupil's school to engage the pupil's parent or legal guardian and whether or not those efforts were successful.

(*viii*) Documents any dissenting opinions expressed by school personnel or a parent or legal guardian concerning the individual reading improvement plan provided for the pupil under subsection (2)(b).

(c) Subject to subsection (15), for pupils identified as English language learners by the pupil's teacher or by the diagnostic reading assessment selected by the school district or public school academy under subsection (2)(a), intervention services that include at least all of the following:

(*i*) Ongoing assessments that provide actionable data for teachers to use in interventions.

(*ii*) Instruction in academic vocabulary.

(*iii*) Instruction in the 5 major reading components listed in subdivision (a)(*iv*)(B).

(*iv*) Common English language development strategies such as modeling, guided practice, and comprehensive input.

(4) For all pupils exhibiting a reading deficiency as determined by the pupil's teacher through the diagnostic reading assessment system selected by the school district or public school academy under subsection (2)(a), school districts and public school academies are encouraged to offer summer reading camps staffed with highly effective teachers of reading, as determined by the teacher evaluation system under section 1249, providing reading intervention services and supports to correct pupils' identified areas of reading deficiency.

(5) Beginning with pupils enrolled in grade 3 during the 2019-2020 school year, all of the following apply:

(a) Subject to subsection (6), the superintendent of the school district or chief administrator of the public school academy in which the pupil is enrolled shall ensure that a pupil whose parent or legal guardian has been provided with the notification under subdivision (d) is not enrolled in grade 4 until 1 of the following occurs:

(*i*) The pupil achieves a reading score that is less than 1 grade level behind as determined by the department based on the grade 3 state English language arts assessment.

(*ii*) The pupil demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment approved by the superintendent of public instruction.

(*iii*) The pupil demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

(b) Subject to subsection (6), if a child younger than 10 years of age seeks to enroll for the first time in a school district or public school academy in grade 4, the superintendent of the school district or chief administrator of the public school academy shall not allow the child to enroll in grade 4 unless 1 of the following occurs:

(*i*) The child achieves a grade 3 reading score as determined by the department based on the reading portion of the grade 3 state English language arts assessment.

(*ii*) The child demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment approved by the superintendent of public instruction.

(*iii*) The child demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

(c) Not later than May 23 of each year or not later than 14 days after the department finalizes the scoring for the grade 3 state assessments, whichever is earlier, the department shall provide CEPI with the grade 3 state assessment scores for every grade 3 pupil enrolled in a public school in this state who was administered 1 or more of those assessments.

(d) Not later than June 1 of each year or not later than 14 days after CEPI receives the grade 3 state assessment results from the department under subdivision (c), whichever is earlier, using those state


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

assessment results, CEPI shall identify each pupil completing grade 3 that year who is subject to not being advanced to grade 4 due to the operation of subdivision (a)(*i*) and who is not eligible to enroll in grade 4 under subsection (6)(a), and shall notify the parent or legal guardian and the school district or public school academy of each of these pupils that the pupil is subject to being retained in grade 3. A school district or public school academy may also make its own notification to a parent or guardian in addition to the notification by CEPI. The notification by CEPI to a parent or legal guardian shall be by certified mail. The notification by CEPI shall clearly state at least all of the following:

(*i*) That, based on standardized testing, this state has determined that the pupil may be required to be retained in grade 3 as provided under state law, with a reference to this section along with an explanation that even if the pupil is not eligible to enroll in grade 4 based on state assessments, the pupil may still be allowed to enroll in grade 4 if he or she demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment or through a pupil portfolio.

(*ii*) That the parent or legal guardian has the right to request a good cause exemption under this section that, if granted, will allow the pupil to enroll in grade 4 in the next school year.

(*iii*) That the parent or legal guardian must request the good cause exemption within 30 days after the date of the notification by CEPI and must direct the request to the school district or public school academy in which the parent or legal guardian intends to enroll the pupil for grade 4.

(*iv*) That the parent or legal guardian has the right to request a meeting with school officials to discuss the retention requirement under state law and the standards and processes for a good cause exemption from that requirement.

(e) If a parent or legal guardian receives a notification from CEPI under subdivision (d), the parent or legal guardian may request a meeting with school officials to discuss the retention requirement under state law and the standards and processes for a good cause exemption from that requirement. If a parent or legal guardian requests a meeting described in this subdivision, the school official to whom the request is made shall ensure that an appropriate school official is made available to the parent or legal guardian for such a meeting.

(f) If a pupil is not enrolled in grade 4 at the beginning of a school year due to the operation of this subsection, then before placing the child in grade 4 during the school year, an appropriate school official of the pupil's school district or public school academy shall provide written notification to the pupil's parent or legal guardian of the proposed placement.

(6) Subject to subsection (11), if a pupil or child demonstrates both of the following, then subsection (5)(a) and (b) do not apply and he or she may be enrolled in grade 4:

(a) That he or she is proficient in all subject areas assessed on the grade 3 state assessment other than English language arts, as evidenced by his or her scores on those assessments.

(b) That he or she is proficient in science and social studies as shown through a pupil portfolio and as determined by the teacher who provided the grade 3 instruction to the pupil in science or social studies, as applicable.

(7) For a pupil who is not promoted to grade 4 or a child who is not enrolled in grade 4 due to the operation of subsection (5), and for a pupil or child described in subsection (6) or (11), the school district or public school academy shall provide a reading intervention program that is intended to correct the pupil's specific reading deficiency, as identified by a valid and reliable assessment. This program shall include effective instructional strategies necessary to assist the pupil in becoming a successful reader, and all of the following features, as appropriate for the needs of the individual pupil:

(a) Assigning to a pupil 1 or more of the following:

(*i*) A highly effective teacher of reading as determined by the teacher evaluation system under section 1249.

(*ii*) The highest evaluated grade 3 teacher in the school as determined by the teacher evaluation system under section 1249.

(*iii*) A reading specialist.

(b) Reading programs that are evidence-based and have proven results in accelerating pupil reading achievement within the same school year.

(c) Reading instruction and intervention for the majority of pupil contact time each day that incorporates opportunities to master the grade 4 state standards in other core academic areas, if applicable.

(d) Daily targeted small group or 1-to-1 reading intervention that is based on pupil needs, determined by assessment data, and on identified reading deficiencies and that includes explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.

(e) Administration of ongoing progress monitoring assessments to frequently monitor pupil progress toward a growth target.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(f) Supplemental evidence-based reading intervention delivered by a teacher or tutor with specialized reading training that is provided before school, after school, during regular school hours but outside of regular English language arts classroom time, or any combination of these.

(g) Providing parents, legal guardians, or other providers of care for the pupil with a "Read at Home" plan, including parent, guardian, or care provider training workshops and regular home reading.

(8) If the superintendent of the pupil's school district or chief administrator of the pupil's public school academy, or his or her designee, grants a good cause exemption from the requirements of subsection (5)(a) for a pupil, then a pupil may be promoted to grade 4 without meeting the requirements of subsection (5)(a). A good cause exemption may be granted only according to the procedures under subsection (10) and only for 1 of the following:

(a) The pupil is a student with an individualized education program or with a section 504 plan and the pupil's individualized education program team or section 504 coordinator, as applicable, makes the decision to exempt the pupil from the requirements of subsection (5)(a) based upon the team's or coordinator's knowledge of the pupil.

(b) The pupil is a limited English proficient student who has had less than 3 years of instruction in an English language learner program.

(c) The pupil has received intensive reading intervention for 2 or more years but still demonstrates a reading deficiency and was previously retained in kindergarten, grade 1, grade 2, or grade 3.

(d) The pupil has been continuously enrolled in his or her current school district or public school academy for less than 2 years and there is evidence that the pupil was not provided with an appropriate individual reading improvement plan under subsection (2)(b) by the school district or public school academy in which the pupil was previously enrolled.

(e) The pupil's parent or legal guardian has requested a good cause exemption within the time period provided under subsection (10)(d) and the superintendent or chief administrator, or his or her designee, determines that the good cause exemption is in the best interests of the pupil.

(9) Subject to subsection (14), if a pupil is promoted to grade 4 due to a good cause exemption granted under subsection (8), the pupil remains eligible for reading intervention services designed to enable the pupil to achieve proficiency in reading. The services for a pupil described in this subsection shall be similar to those provided to pupils in grade 3 under this section.

(10) The superintendent of a school district or chief administrator of a public school academy, or his or her designee, shall grant a good cause exemption under subsection (8) only through the following procedure:

(a) For a good cause exemption under subsection (8)(a) to (d), at the request of the pupil's parent or legal guardian or upon the teacher's own initiative, the pupil's grade 3 teacher submits to the superintendent or chief administrator, or his or her designee, a recommendation for a good cause exemption along with documentation that indicates that a good cause exemption under subsection (8)(a) to (d) applies to the pupil.

(b) For a pupil enrolled in a school operated by a school district, the superintendent or his or her designee shall review and discuss the recommendation with the pupil's grade 3 teacher and, if the pupil has an individualized education program, with the pupil's individualized education program team. After this discussion, the superintendent or his or her designee shall make a determination in writing of whether or not to grant the good cause exemption for the pupil. The decision by the superintendent or his or her designee is final.

(c) For a pupil enrolled in a public school academy, the chief administrator of the public school academy, or his or her designee, shall review and discuss the recommendation with the pupil's grade 3 teacher and, if the pupil has an individualized education program, with the pupil's individualized education program team. After this discussion, the chief administrator or his or her designee shall make a determination in writing of whether or not to grant the good cause exemption for the pupil. The decision by the chief administrator or his or her designee is final.

(d) For a pupil for whom a request has been received from the pupil's parent or legal guardian, as described in subsection (8)(e), if the request is received within 30 days after the notification by CEPI under subsection (5)(d), the superintendent of the school district or chief administrator of the public school academy, as applicable, or his or her designee, shall review the request and any supporting information and shall consider whether or not the good cause exemption is in the best interests of the pupil. After this consideration, he or she shall make a determination in writing of whether or not to grant the good cause exemption. This determination shall be made and communicated to the parent or legal guardian at least 30 days before the first day of school for the school year. The decision of the superintendent or chief administrator, or his or her designee, is final.

(e) The superintendent of the pupil's school district or chief administrator of the pupil's public school academy, or his or her designee, shall notify the pupil's parent or legal guardian of the determination and


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

decision under subdivision (b), (c), or (d), as applicable.

(11) For a pupil or child described in subsection (6) or a pupil who has been granted a good cause exemption under subsection (8), the school district or public school academy shall provide intensive reading intervention, as described under subsection (7), for the pupil until he or she no longer has a reading deficiency.

(12) A school district or public school academy shall not require a pupil to repeat grade 3 more than once due to the operation of this section.

(13) Beginning June 4, 2019, if a school district or public school academy cannot furnish the number of teachers needed to satisfy 1 or more of the criteria set forth in this section for a school year, then by the August 15 before the beginning of that school year the school district or public school academy shall develop a staffing plan for providing services under this section. The school district or public school academy shall post the staffing plan on its website for the applicable school year. The staffing plan shall include at least all of the following:

(a) A description of the criteria that will be used to assign a pupil who has been identified as not proficient in English language arts to a teacher.

(b) The credentials or training held by teachers currently teaching at the school.

(c) How the school district or public school academy will meet the requirements under this section.

(14) This section does not require or state an intention to require a school district or public school academy to supplant state funds with federal funds for implementing or supporting the activities under this section and does not prohibit a school district or public school academy from continuing to use federal funds for any of the purposes or activities described in this section.

(15) For pupils identified as English language learners by the pupil's teacher or by the diagnostic reading assessment selected by the school district or public school academy under subsection (2)(a), if available staff resources allow, a school district or public school academy is encouraged to provide the following intervention services in addition to those required under subsection (3)(c):

(a) Instruction in the pupil's native language, with withdrawal of that instruction as appropriate as the pupil improves his or her English language skills. A school district or public school academy is encouraged to provide this support for at least pupils whose native language is Spanish, Chinese, Hindi, Korean, or Arabic.

(b) Opportunities for speech production.

(c) Common English language development strategies such as modeling, guided practice, and comprehensive input.

(d) Feedback for the pupil, including explanations in his or her native language.

(16) Beginning in 2020, not later than September 1 of each year, a school district or public school academy shall submit a retention report to the center for educational performance and information in the form and manner prescribed by the center. The retention report shall contain at least all of the following information for the most recent school year:

(a) The number of pupils retained in grade 3 due to the operation of this section.

(b) The number of pupils promoted to grade 4 due to a good cause exemption under subsection (8), disaggregated by each of the specific exemptions listed in that subsection.

(17) As used in this section:

(a) "Evidence-based" means based in research and with proven efficacy.

(b) "Individualized education program" means that term as described in R 340.1721e of the Michigan administrative code.

(c) "Kindergarten" includes a classroom for young 5-year-olds, commonly referred to as "young 5s" or "developmental kindergarten".

(d) "Reading deficiency" means scoring below grade level or being determined to be at risk of reading failure based on a screening assessment, diagnostic assessment, standardized summative assessment, or progress monitoring.

(e) "Reading leadership team" means a collaborative system led by a school building's principal or program director and consisting of a cross-section of faculty who are interested in working to improve literacy instruction across the curriculum.

(f) "Section 504 plan" means a plan under section 504 of title V of the rehabilitation act of 1973, 29 USC 794.

**History:** Add. 2016, Act 306, Imd. Eff. Oct. 6, 2016.

**Popular name:** Act 451

### 380.1280g Statewide system of accountability measurements; implementation and administration; listing of schools; alternative education campus summary status; letter


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**grades and rankings; peer review panel; status report.**

Sec. 1280g. (1) Not later than August 1, 2019, the department shall develop a statewide system of accountability measurements to improve the national educational ranking of this state. All of the following apply to the statewide system of accountability measurements:

(a) Not later than September 1, 2019, and not later than September 1 of each subsequent year, the department shall assign a letter grade of A, B, C, D, or F for each of the following indicators for each public school:

(*i*) Pupil proficiency in mathematics and English language arts, as measured by the percentage of all pupils who achieve proficiency on the applicable state assessment, as determined by the department.

(*ii*) Pupils who achieve adequate growth in mathematics and English language arts on the applicable state assessment. The measure of adequate growth under this subdivision may incorporate reporting of pupil growth measures, as reported by the model value-added growth and projection analytics system implemented by the department, and shall be based on any of the following, as determined by the department:

(A) Pupil growth measured from fall to spring of the same school year or from the spring of one school year to the spring of the next school year, as appropriate based on the timing of applicable state assessments.

(B) Pupils who scored proficient on the immediately preceding applicable state assessment and who at least maintained a score of proficient on the most recent applicable state assessment.

(C) Pupils who scored less than proficient on the immediately preceding applicable state assessment and who demonstrate growth sufficient to reach proficiency in 3 school years.

(*iii*) Pupils who are English language learners and who achieve adequate growth toward proficiency in the English language, as determined by the department and as required under the every student succeeds act, Public Law 114-95.

(*iv*) The graduation rate of pupils enrolled in high school, as applicable and as defined by and reported to CEPI.

(*v*) The academic performance of the public school's pupils on the applicable state assessment compared to pupil performance on the applicable state assessment for all public schools serving a similar pupil population. The department shall determine similar pupil population using demographic factors that the commission considers to have a strong correlation to academic achievement.

(b) Not later than September 1, 2019, and not later than September 1 of each subsequent year, the department shall assign a ranking of significantly above average, above average, average, below average, or significantly below average to each public school for each of the following indicators:

(*i*) The rate of pupils who are chronically absent as defined by and reported to CEPI.

(*ii*) The participation rate for each applicable state assessment, based on pupils who are assigned to take each applicable state assessment. For purposes of this subparagraph, the department shall not consider a pupil who meets both of the following:

(A) Is eligible for special education programs and services according to statute or rule or is a child with disabilities, as defined under the individuals with disabilities education act, Public Law 108-446.

(B) Is not required to participate in a state assessment.

(*iii*) Pupil subgroup performance compared to pupils in the same subgroup statewide, as required under the every student succeeds act, Public Law 114-95.

(c) Letter grades and rankings under subdivisions (a) and (b) shall be reported in a form and manner prescribed by the department.

(d) The department shall develop standards for identifying public schools as falling into categories of performance and adequate achievement. The standards developed under this subdivision must meet all of the following:

(*i*) The department shall develop standards for identifying the lowest achieving public schools as comprehensive support and improvement schools, as required under the every student succeeds act, Public Law 114-95. Subject to subdivision (*ii*), a public school that meets any of the following shall be identified as a comprehensive support and improvement school:

(A) Is a high school that graduates less than 2/3 of its pupils.

(B) Receives the lowest grade on all of the indicators under subdivision (a)(*i*), (*ii*), and (*v*).

(C) Meets any other criteria for a comprehensive support and improvement school under the every student succeeds act, Public Law 114-95, as determined by the department.

(*ii*) The number of public schools in this state identified as comprehensive support and improvement schools shall not exceed a number equal to 5% of all public schools in this state.

(*iii*) The department shall develop standards for identifying high achieving public schools as reward schools. A public school that meets any of the following shall be identified as a reward school:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(A) Is a high school that graduates at least 99% of its pupils.

(B) Receives the highest grade on any of the indicators under subdivision (a)(*i*), (*ii*), or (*v*).

(C) Meets any other criteria for identification as a reward school, as determined by the department.

(*iv*) The department shall also develop standards for all of the following:

(A) Identifying public schools in which 1 or more groups of pupils are consistently underperforming as targeted support and improvement schools, as described in the every student succeeds act, Public Law 114-95.

(B) Identifying public schools in which the performance of 1 or more groups of pupils would place those pupils in the bottom 5% of Title I schools, as described in the every student succeeds act, Public Law 114-95.

(C) Identifying public schools in any other categorization required under the every student succeeds act, Public Law 114-95, as determined by the department.

(e) The department shall monitor the effectiveness of the statewide system of accountability measurements developed under this subsection and shall make changes to the system as the department determines necessary to make the system more effective and to ensure compliance with the requirements under this section. As part of this monitoring process, the department shall develop and implement processes for receiving and considering input from the public and the educational community.

(f) Not later than December 1, 2019, the department shall develop accountability measures to impose on public schools that have been identified as comprehensive support and improvement schools under this section. For the purposes of the accountability measures developed under this section, a public school that was included on the list of the lowest achieving 5% of public schools in this state under section 1280c(1) is considered to have been identified as a comprehensive support and improvement school for that school year.

(g) Not later than July 1, 2020, the department shall implement the accountability measures developed under subdivision (f).

(2) Beginning in the 2019-2020 school year, the department shall implement and administer the statewide system of accountability measurements under subsection (1).

(3) Not later than September 1, 2019, and not later than September 1 every 3 years thereafter, the superintendent of public instruction shall publish a list of the public schools in this state that the department has identified as comprehensive support and improvement schools under this section for that school year, and a list of the public schools that the department has identified as reward schools under this section for that school year. A public school identified as a comprehensive support and improvement school under this section is considered to be among the lowest achieving public schools in this state.

(4) The department shall designate a public school as an alternative education campus and shall not assign grades or rankings under subsection (1) for the public school if the public school meets at least 1 of the following:

(a) Is a center program.

(b) Is a strict discipline academy established under sections 1311b to 1311m.

(c) Is a program for adjudicated youth.

(d) Serves any other specialized pupil population with special needs, as determined by the department.

(5) Beginning September 1, 2019, and not later than September 1 of each subsequent year, the department shall issue a summary status for each public school designated as an alternative education campus under subsection (4). The summary status shall indicate whether the public school is in compliance with applicable law and whether pupils enrolled in the public school are making meaningful, measurable academic progress toward educational goals established by the governing body of the public school and approved by the superintendent of public instruction.

(6) The accountability system developed under this section replaces the accountability system under section 390.

(7) Not later than August 1, 2019, the department shall submit its proposed standards for determining letter grades and rankings under this section to a peer review panel consisting of 5 individuals with expertise in school accountability systems. Not later than August 15, 2019, the peer review panel shall submit its findings to the department and to the standing committees of the senate and house of representatives having jurisdiction over education legislation. The peer review panel must consist of the following 5 members:

(a) Three members appointed by the governor.

(b) One member appointed by the senate majority leader.

(c) One member appointed by the speaker of the house of representatives.

(8) At least annually, the department shall present to the standing committees of the senate and house of representatives having jurisdiction over education legislation, in the form and manner prescribed by those committees, a status update on the statewide system of accountability measurements under this section.

(9) As used in this section:

(a) "Center program" means that term as defined in section 6 of the state school aid act of 1979, MCL


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

388.1606.

(b) "CEPI" means the center for educational performance and information created in section 94a of the state school aid act of 1979, MCL 388.1694a.

**History:** Add. 2018, Act 601, Eff. Mar. 29, 2019.

**Popular name:** Act 451

**Compiler's note:** In subsection (1)(a)(v), the reference to "the commission" evidently should read "the department."

### 380.1281 State board; duties generally; examination and audit of official records and accounts; action to compel accounting; waiver from compliance with rules.

Sec. 1281. (1) The state board shall:

(a) Require each board, each public school academy board of directors, each intermediate school board, and the officers of each of those boards to observe the laws relating to schools.

(b) Require each board to maintain school or to provide educational opportunities for resident children for the statutory period.

(c) Prescribe appropriate uniform pupil and finance accounting records for use in school districts, public school academies, and intermediate school districts and promulgate rules for their adoption.

(d) Require each board, each public school academy board of directors, and each intermediate school board to carry out the state board's recommendations relative to the safety of school buildings, equipment, and appurtenances, including any condition that may endanger the health or life of pupils.

(2) The state board may examine and audit the official records and accounts of school districts, public school academies, and intermediate school districts, and may compel proper accounting by legal action instituted by direction of the attorney general.

(3) Upon application by a school district, public school academy, university school, or intermediate school district, the state board may grant to the school district, public school academy, university school, or intermediate school district a limited time waiver from a state board or department rule interpreting or implementing a provision of this act. The state board may grant a waiver only if the school district, public school academy, university school, or intermediate school district demonstrates that it can address the intent of the rule in a more effective, efficient, or economical manner or that the waiver is necessary to stimulate improved pupil performance. A waiver shall not be granted for more than 3 years, but may be renewed. The state board may place conditions on a waiver or its renewal. The state board may revoke a waiver if it determines that the waiver no longer meets the criteria of this subsection, compromises equal opportunities for learning, or is detrimental to the educational interests of pupils. The state board may not grant a waiver from the duty to comply with a provision of this act, and may not grant a waiver from the duty to comply with another state statute unless and to the extent that a waiver is specifically allowed by that other state statute.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

**Administrative rules:** R 340.1 et seq.; R 340.351 et seq.; and R 340.851 et seq. of the Michigan Administrative Code.

### 380.1281a Legislative declarations; cost study to determine per pupil resources to provide public education; contract; report; completion.

Sec. 1281a. (1) The legislature finds and declares all of the following:

(a) Section 2 of article VIII of the state constitution of 1963 requires that "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law.". That section further requires that "Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.".

(b) Since at least 1970, this state has required the statewide assessment of educational progress in local public elementary and secondary schools under 1970 PA 38, MCL 388.1081 to 388.1086.

(c) In addition to long-standing state requirements, this state is also subject to various federal requirements with respect to elementary and secondary education, including the requirement that Michigan students be proficient and make adequate yearly progress as provided under title 20 of the United States Code.

(d) Under the state constitution of 1963, long-standing state law, and federal law, Michigan children have the right to a free, quality, equitable public education.

(2) The department of technology, management, and budget shall enter into a contract for a comprehensive statewide cost study to determine the sufficient resources per pupil to provide a public education that enables a pupil to demonstrate successful completion, in terms of proficiency, of all of the credit requirements of the Michigan merit standard under sections 1278a and 1278b. The department of technology, management, and budget shall also ensure that the study meets all of the following:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) Considers whether public resources being committed to public education are distributed in such a way that all children have an equal opportunity to succeed in school.

(b) Is conducted by a vendor who is qualified to conduct the study. The vendor must have proven experience in utilizing multiple national-level research approaches, including at least all of the following types of analysis: successful school district, professional judgment, and evidence-based. The vendor must have a proven ability to combine the data generated from these research approaches to assess at least all of the following:

(*i*) How strongly the identified data or costs are associated with achieving this state's student performance goals including, but not limited to, required proficiency in reading and mathematics, and whether this association is sufficient to establish a cause-and-effect relationship.

(*ii*) The degree to which the data or costs took into consideration efficiency and lowest possible cost of resource delivery.

(*iii*) The transparency and reliability of the data generated.

(*iv*) How well the data could be applied to recognize existing public school and pupil cost pressure differences.

(c) Includes at least all of the following:

(*i*) A determination of the educational resources and related expenditures that are required to provide a quality elementary and secondary education for each pupil in the public schools. The study shall include examining exemplary school districts that are high-performing and low-spending school districts. As part of the determination under this subparagraph, a review shall be conducted of school district efforts in support of public schools.

(*ii*) An examination of the potential utility of geographic cost-of-education indexing in this state.

(*iii*) An investigation of additional categories of funding that may be necessary to meet needs unique to schools and pupils, including, but not limited to, the following:

(A) Socioeconomic status.

(B) Limited English proficiency.

(C) Pupils with special education needs.

(D) Scarcity and density of population.

(E) Issues related to the rural, urban, or suburban nature of the school district.

(*iv*) An examination of the impact of food service costs, transportation costs, costs associated with community services, adult education costs, school building construction and maintenance and other capital costs, and debt service costs.

(*v*) A determination of the cost impact of pupil population growth and decline.

(3) Not later than 30 days after the completion of the study required under this section, the department of technology, management, and budget shall submit to the legislature, the governor, and the legislative auditor general a report containing a detailed summary of the findings from the study.

(4) The department of technology, management, and budget shall ensure that the study required under this section is completed within 1 year after the effective date of this section. The department of technology, management, and budget shall develop a request for proposals and award the contract required under this section in time for this deadline for completion of the study to be met and shall include this deadline in the request for proposals and in the contract.

**History:** Add. 2014, Act 555, Eff. Mar. 31, 2015.

**Popular name:** Act 451

### 380.1281b Reports required to be submitted under act.

Sec. 1281b. All of the following apply to reports required to be submitted under this act by the state board, superintendent of public instruction, department, department of treasury, center for educational performance and information, or any other state department or agency:

(a) The state board, superintendent of public instruction, department, department of treasury, center for educational performance and information, or any other state department or agency shall not require, or promulgate a rule requiring, a new report to be submitted unless state or federal law specifically requires or authorizes the report.

(b) The state board, superintendent of public instruction, department, department of treasury, center for educational performance and information, or any other state department or agency shall not require, or promulgate a rule requiring, any modifications or additions to a report that, as of the effective date of this section, is already required to be submitted unless 1 or both of the following apply:

(*i*) State or federal law specifically requires or authorizes the modification or addition.

(*ii*) The modification or addition will reduce or eliminate a reporting requirement.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) If the state board, superintendent of public instruction, department, department of treasury, center for educational performance and information, or any other state department or agency requires, or promulgates a rule requiring, a new report or additional information to be submitted under the conditions specified under subdivisions (a) and (b), the state board, superintendent of public instruction, department, department of treasury, center for educational performance and information, or other state department or agency shall ensure that the new report or additional information may be submitted electronically.

**History:** Add. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.1282 Grades, schools, and departments; courses of study; opportunity to achieve state endorsement; special assistance.

Sec. 1282. (1) The board of a school district shall establish and carry on the grades, schools, and departments it considers necessary or desirable for the maintenance and improvement of its schools and determine the courses of study to be pursued.

(2) The board of a school district shall provide a core academic curriculum, learning processes, special assistance particularly for students with reading disorders or who have demonstrated marked difficulty in achieving success on standardized tests, and sufficient access to each of these so that all pupils have a fair opportunity to achieve a state endorsement under section 1279. The board shall use Michigan education assessment program (MEAP) test results as an indicator of which pupils need special assistance to have a fair opportunity to achieve state endorsement under section 1279 and of whether the school district's curriculum is adequately aligned to prepare pupils to achieve that state endorsement. This special assistance may include at least 1 meeting attended by at least the pupil and a member of the school district's staff or a local or intermediate school district consultant who is knowledgeable in the measurement and evaluation of pupils. The school district may provide the meeting as a group meeting for pupils in similar circumstances. If the pupil is a minor, the school district shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the meeting and shall mail a notice of the meeting to the pupil's parent, legal guardian, or person in loco parentis. The purpose of this meeting and any subsequent meeting under this subsection should be to determine an educational program for the pupil designed to assist the pupil to be prepared to achieve state endorsement under section 1279. In addition, the school district may provide for subsequent meetings with the pupil conducted by a counselor or teacher designated by the pupil's principal, and shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the subsequent meetings. The school district may provide special programs for the pupil or develop a program using the educational programs regularly provided by the school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1997, Act 181, Imd. Eff. Dec. 30, 1997.

**Popular name:** Act 451

### 380.1282a Repealed. 2001, Act 121, Imd. Eff. Sept. 28, 2001.

**Compiler's note:** The repealed section pertained to literacy and mathematics skills.

**Popular name:** Act 451

### 380.1283 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to attendance areas.

**Popular name:** Act 451

### 380.1284 Length of school year; certification; strikes or teachers' conferences; rules.

Sec. 1284. (1) The board of a school district or of a public school academy shall determine the length of the school year. However, if the board does not want the school district's or public school academy's state school aid payments to be withheld as described in section 101 of the state school aid act of 1979, MCL 388.1701, the board shall ensure that the school district or public school academy provides at least the minimum amount of pupil instruction during each school year required under section 101 of the state school aid act of 1979, MCL 388.1701.

(2) Not later than August 1 of each year, the board of each school district and the board of directors of each public school academy shall certify to the state board the number of hours of pupil instruction in the previous school year.

(3) Time during which there is no pupil instruction because of strikes or teachers' conferences shall not be counted as pupil instruction.

(4) The superintendent of public instruction shall promulgate rules for the implementation of this section.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1992, Act 143, Imd. Eff. July 15, 1992;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 1997, Act 53, Imd. Eff. July 1, 1997;—Am. 2006, Act 534, Imd. Eff. Dec. 29, 2006.

**Popular name:** Act 451

**Administrative rules:** R 340.1 et seq. of the Michigan Administrative Code.

### 380.1284a Common school calendar; exceptions; definitions.

Sec. 1284a. (1) Not later than July 1, 2008, an intermediate school district, in cooperation with its constituent districts, shall adopt a common school calendar to apply to all of its constituent districts and to its intermediate school district programs. The intermediate school district shall post the common school calendar on its website. The common school calendar shall meet all of the following:

(a) Shall be in compliance with sections 1284 and 1284b.

(b) Shall identify the dates for each school year when school will not be in session for a winter holiday break and a spring break. The common school calendar shall identify these dates specifically for at least the next 5 school years, but may describe these dates more generally for school years thereafter as long as the dates may be readily determined.

(2) Beginning with the 2008-2009 school year, except as otherwise provided in this section, the board of each constituent district and the intermediate school board shall ensure that its school calendar complies with the common school calendar adopted under subsection (1).

(3) In addition to the requirements under subsection (1), a common school calendar adopted under subsection (1) is encouraged to identify common dates for professional development days.

(4) If a collective bargaining agreement that provides a complete school calendar is in effect for employees of a school district or intermediate school district as of the effective date of this section, and if that school calendar is not in compliance with the common school calendar adopted under subsection (1), then subsection (2) does not apply to that school district or intermediate school district until after the expiration of that collective bargaining agreement.

(5) If as of the effective date of this section an intermediate school district or school district is operating a year-round school or program or is operating a school that is an international baccalaureate academy that provides 1,160 hours of pupil instruction per school year, then subsection (2) does not apply to that school or program. If after the effective date of this section an intermediate school district or school district begins operating a year-round school or program, the intermediate school district or school district may apply to the superintendent of public instruction for a waiver from the requirements of subsection (2) for that school or program. The application shall be in writing in the form and manner prescribed by the department and shall provide justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1). Upon application, if the superintendent of public instruction determines that a school or program is a bona fide year-round school or program established for educational reasons and that there is sufficient justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1), the superintendent of public instruction shall grant the waiver. The superintendent of public instruction shall establish standards for determining a bona fide year-round school or program for the purposes of this subsection.

(6) If an intermediate school district or school district is operating or begins operating a school or program on a trimester schedule, the intermediate school district or school district may apply to the superintendent of public instruction for a waiver from the requirements of subsection (2) for that school or program. The application shall be in writing in the form and manner prescribed by the department and shall provide justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1). Upon application, if the superintendent of public instruction determines that a school or program is operating on a bona fide trimester schedule established for educational reasons and that there is sufficient justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1), the superintendent of public instruction shall grant the waiver. The superintendent of public instruction shall establish standards for determining a bona fide trimester schedule for the purposes of this subsection.

(7) This section does not apply to a public school that operates all of grades 6 to 12 at a single site, that aligns its high school curriculum with advanced placement courses as the capstone of the curriculum, and that ends its second academic semester concurrently with the end of the advanced placement examination period.

(8) In addition to the other exceptions under this section, the superintendent of public instruction may grant a waiver from a requirement under this section for a school district that applies for the waiver in writing in the form and manner prescribed by the superintendent of public instruction and provides sufficient justification for the waiver, as determined by the superintendent of public instruction.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(9) As used in this section:

(a) "Board" means the board of a school district or board of directors of a public school academy.

(b) "Constituent district" means a constituent district of the intermediate school district or a public school academy that is located within the boundaries of the intermediate school district and that receives services from the intermediate school district.

(c) "School district" means a school district or a public school academy.

**History:** Add. 2007, Act 101, Imd. Oct. 1, 2007.

**Compiler's note:** Former MCL 380.1284a, which pertained to common calendars within intermediate school districts, was repealed by Act 289 of 1985, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1284b School in session before Labor day; prohibition; effect of collective bargaining agreement; year-round school or program; waiver; exception; "Labor day" defined.

Sec. 1284b. (1) Until subsection (2) applies to the school district, public school academy, or intermediate school district, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that the district's or public school academy's schools are not in session on the Friday before Labor day.

(2) Except as otherwise provided in this section, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that the district's or public school academy's school year does not begin before Labor day.

(3) If a collective bargaining agreement that provides a complete school calendar is in effect for employees of a school district, public school academy, or intermediate school district as of the effective date of the amendatory act that added subsection (2), and if that school calendar is not in compliance with subsection (2), then subsection (2) does not apply to that school district, public school academy, or intermediate school district until after the expiration of that collective bargaining agreement.

(4) If a school district, intermediate school district, or public school academy is operating a year-round school or program as of September 29, 2005 or is operating as of that date a school that is an international baccalaureate academy that provides 1,160 hours of pupil instruction per school year, then subsection (2) does not apply to that school or program. If a school district, intermediate school district, or public school academy begins operating a year-round school or program after September 29, 2005, the school district, intermediate school district, or public school academy may apply to the superintendent of public instruction for a waiver from the requirements of subsection (2). Upon application, if the superintendent of public instruction determines that a school or program is a bona fide year-round school or program established for educational reasons, the superintendent of public instruction shall grant the waiver. The superintendent of public instruction shall establish standards for determining a bona fide year-round school or program for the purposes of this subsection.

(5) If an intermediate school district contracts with a constituent district or public school academy to provide programs or services for pupils of the constituent district or public school academy; operates a program or service within a building owned by a constituent district or a public school academy located within the intermediate school district's boundaries; or otherwise provides instructional programs or services for pupils of a constituent district or public school academy, and if the school district's or public school academy's school year begins before Labor day under subsection (3) or (4), then the intermediate school district may provide programs or services according to the school district's or public school academy's calendar.

(6) This section does not apply to a public school that operates all of grades 6 to 12 at a single site, that aligns its high school curriculum with advanced placement courses as the capstone of the curriculum, and that ends its second academic semester concurrently with the end of the advanced placement examination period.

(7) This section does not prohibit a school district, intermediate school district, or public school academy from offering or requiring professional development for its personnel that is conducted before Labor day.

(8) As used in this section, "Labor day" means the first Monday in September.

**History:** Add. 1999, Act 141, Eff. Mar. 10, 2000;—Am. 2001, Act 167, Imd. Eff. Nov. 26, 2001;—Am. 2005, Act 144, Imd. Eff. Sept. 29, 2005;—Am. 2006, Act 235, Imd. Eff. June 26, 2006.

**Popular name:** Act 451

### 380.1285 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to establishment and operation of child care centers.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**380.1285a Child care center subject to fire prevention or fire safety requirements; requirements for operation of before- or after-school program.**

Sec. 1285a. (1) If a school district or intermediate school district operates a child care center, as defined in section 1 of 1973 PA 116, MCL 722.111, then, except as provided in this subsection, the child care center is subject to the requirements of 1973 PA 116, MCL 722.111 to 722.128. If a child care center established and operated by a school district or intermediate school district is located in a school building that is approved and inspected by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or other similar authority as provided in section 3 of 1937 PA 306, MCL 388.853, for school purposes and is in compliance with school fire safety rules, as determined by the bureau of fire services or a fire inspector certified pursuant to section 2b of the fire prevention code, 1941 PA 207, MCL 29.2b, the child care center is not subject to any fire prevention or fire safety requirements under 1973 PA 116, MCL 722.111 to 722.128. Beginning July 1, 2003, as used in this subsection, "child care center" does not include a program described in subsection (2) that has been granted an exemption from child care center approval by the department of human services as provided under section 1(2) of 1973 PA 116, MCL 722.111.

(2) Beginning July 1, 2003, if a school district, public school academy, or intermediate school district operates or contracts for the operation of a before- or after-school program for children in grades K to 8, and if the program is exempt from child care center approval as provided under section 1(2) of 1973 PA 116, MCL 722.111, all of the following apply to the operation of the program:

(a) The program shall meet all of the following staffing requirements:

(*i*) Shall have at least 2 adult program staff members present at all times when children are present.

(*ii*) Shall have a child to adult program staff member ratio that meets the following:

(A) For children in grades K to 3, is no greater than the lesser of either 20 children to 1 adult program staff member or the average pupil to teacher ratio during school hours in that school district, public school academy, or intermediate school district in regular K to 3 classrooms.

(B) For children in grades 4 to 8, is no greater than the lesser of either 25 children to 1 adult program staff member or the average pupil to teacher ratio during school hours in that school district, public school academy, or intermediate school district in regular grade 4 to 8 classrooms.

(*iii*) Within 3 months after he or she begins to work in the program, each adult program staff member shall hold valid certification in cardiopulmonary resuscitation and basic first aid issued by the American red cross, American heart association, or a comparable organization or institution approved by the department.

(b) The program shall be located at school in facilities comparable to rooms used by pupils during the regular school day.

(c) The program shall provide daily activities and relationships that offer each child in the program opportunities for physical development; social development, including positive self-concept; and intellectual development.

(d) If food is served, the food service shall comply with the same nutrition requirements that apply to food service by the school district, public school academy, or intermediate school district during the regular school day.

(e) If the school district, public school academy, or intermediate school district uses its employees to staff the program, before assigning a staff member to work in the program, the school district, public school academy, or intermediate school district shall comply with sections 1230 and 1230a with respect to that individual to the same extent as if the individual were being hired as a teacher. If the school district, public school academy, or intermediate school district contracts for the operation or staffing of the program, the contract shall contain assurance that the contracting person or entity, before assigning an individual to work in the program, will comply with sections 1230 and 1230a with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a teacher. The department of state police shall provide information to a school district, public school academy, intermediate school district, or contracting person or entity requesting information under this subdivision to the same extent as if the school district, public school academy, intermediate school district, or person or entity were a school district making the request under section 1230 or 1230a.

(f) The board of the school district or intermediate school district or board of directors of the public school academy, in consultation with the director of the program and the principal of the school at which the program is operated, shall develop, adopt, and annually review a policy concerning the program that, at a minimum, addresses safety procedures for the program, including first aid, food safety, discipline, dispensing and storage of medication, and access to student emergency information and telephones.

(g) Not later than September 1 of each school year, the board of the school district or intermediate school district or board of directors of the public school academy shall adopt and submit to the secretary of the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

intermediate school board a resolution affirming that the program and the corresponding policies comply with this section. This submission shall include a copy of the policy under subdivision (f).

(h) The board of the school district or intermediate school district or board of directors of the public school academy shall make copies of the policy under subdivision (f), and of any annual reviews or revisions, available to the public.

(3) Not later than April 1, 2003, the department, in consultation with the department of human services, shall develop and make available to the public model standards for before- or after-school programs operated under subsection (2) that address human relationships; indoor environment; outdoor environment; activities; safety, health, and nutrition; and administration. In developing these model standards, the department shall give substantial consideration to similar factors in the requirements placed on child care centers under 1973 PA 116, MCL 722.111 to 722.128. A school district, public school academy, or intermediate school district is not required to follow these model standards.

(4) Beginning July 1, 2003, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that any written information published or distributed by the school district, public school academy, or intermediate school district concerning a before- or after-school program it operates under subsection (2) includes a statement in at least 10-point type notifying the public whether the program follows or deviates from the model standards developed under subsection (3).

**History:** Add. 1996, Act 285, Imd. Eff. June 17, 1996;—Am. 2002, Act 695, Eff. Mar. 31, 2003;—Am. 2006, Act 198, Imd. Eff. June 19, 2006.

**Compiler's note:** For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

**Popular name:** Act 451

### 380.1286, 380.1287 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to provision of facilities, equipment, and teachers for kindergarten classes and vocational education programs.

**Popular name:** Act 451

### 380.1288 Course requiring wearing of industrial quality personal protective devices.

Sec. 1288. If participating in a course or visiting a course would result in a pupil, teacher, or visitor being exposed to danger of physical harm, each pupil and teacher participating in the course and each visitor to the course shall wear industrial quality personal protective devices, which have been sanitized prior to use, while participating in or visiting the course or participating in or visiting safety training required for the course. The board of a school district or intermediate school district or board of directors of a public school academy shall furnish the protective devices for pupils, teachers, and visitors to the classrooms, laboratories, and field sites used for the course or training.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

**Administrative rules:** R 390.1301 et seq. of the Michigan Administrative Code.

### 380.1289 Participation of female pupils in interscholastic athletic activities.

Sec. 1289. Female pupils shall be permitted to compete for a position in all interscholastic athletic activities. If a school has a girls' team in an interscholastic athletic activity, a female shall be permitted to compete for a position on any other team for that activity. This subsection shall not be construed to prevent or interfere with the selection of competing teams solely on the basis of athletic ability.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1291 Local school security task force.

Sec. 1291. The board of a school district may establish a local school security task force for the school district to perform functions at the local level similar to those performed at the state level by the school security task force created under the school security task force act. The local school security task force shall include representatives of parents, teachers and other school employees, school administrators, law enforcement officials, pupils, and other members of the community affected by weapons in schools. A school district may use school operating funds for the activities of its local school security task force. This section does not require a school district to establish a local school security task force, or create liability for a school district that does not establish a local school security task force.

**History:** Add. 1993, Act 320, Eff. Apr. 1, 1994.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1291[1] Michigan information network.

Sec. 1291. (1) Not later than June 30, 1995, the department of management and budget shall prepare a state plan for creation of a Michigan information network linking each local and intermediate school district, public school academy, community college, independent nonprofit college or university located in this state, and state public university and each state, local, or regional library on an equal basis by fiber optic or coaxial cable or other comparable system allowing a world-class statewide interactive video and data access and exchange system.

(2) All educational entities in this state are encouraged to participate in the Michigan information network created in subsection (1) and in similar networks or systems and are encouraged to use computer, telecommunications, and other interactive technology to develop and use distance learning for educational purposes.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1994, Act 416, Eff. Mar. 30, 1995.

**Compiler's note:** Section 1291, as added by Act 335 of 1993, was compiled as MCL 380.1291[1] to distinguish it from another section 1291, deriving from Act 320 of 1993 and pertaining to local school security task force.

For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

**Popular name:** Act 451

### 380.1293 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to adult education courses.

**Popular name:** Act 451

### 380.1294 Parent involvement plan; adoption; distribution; review.

Sec. 1294. (1) Not later than January 1, 2005, the board of a school district or intermediate school district or the board of directors of a public school academy shall adopt and implement a parent involvement plan designed to encourage parental participation.

(2) The board or board of directors shall provide a copy of the parent involvement plan to the parent or legal guardian of each pupil. The board or board of directors may provide the copy of the policy by including the policy in its student handbook or a similar publication that is distributed to all pupils and parents.

(3) The board or board of directors shall provide a copy of the parent involvement plan to the department upon request by the department.

(4) The department shall review parental involvement practices that have been implemented by public schools in this state and elsewhere and shall post information at the department website about successful parental involvement policies and practices.

**History:** Add. 2004, Act 107, Imd. Eff. May 20, 2004.

**Popular name:** Act 451

### 380.1295 Parental involvement contracts.

Sec. 1295. (1) School districts are encouraged to develop and implement parental involvement contracts with parents of pupils. These parental involvement contracts should be voluntary and should be designed to encourage and facilitate a parent's involvement in his or her child's education.

(2) Not later than 90 days after the effective date of this section, the department shall develop and make available to school districts a model parental involvement contract that may be used for the purposes of subsection (1). The model parental involvement contract shall establish a learning partnership between parent, teacher, and pupil, and shall address at least all of the following:

(a) That the pupil's parent or guardian will do all of the following:

(*i*) Review homework assignments and offer assistance when needed.

(*ii*) Ensure that the pupil gets to school each day, on time and ready to learn.

(*iii*) Demonstrate interest in the pupil's well-being by attending school functions and supporting the pupil's school activities.

(*iv*) Make every effort to attend parent-teacher conferences.

(b) That the pupil will do all of the following:

(*i*) Participate in class discussions and complete assignments in a manner that is accurate, neat, and timely.

(*ii*) Come to school each school day and be on time.

(*iii*) Pay attention in class and complete assigned lessons.

(*iv*) Obey the rules and codes of conduct set for the classroom.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*v*) Respect teachers, school administrators, and other pupils at all times by not antagonizing, intimidating, or threatening them.

(c) That the teacher will do all of the following:

(*i*) Set high standards for quality instruction that promote development of grade-appropriate academic skills.

(*ii*) Keep accurate attendance records and inform the parent or guardian promptly if an attendance problem starts to develop.

(*iii*) Teach pupils how to study and review basic concepts taught in class.

(*iv*) Maintain a welcome atmosphere and scheduling flexibility toward parent or guardian visits and participation.

(d) That the contract should include a way for the pupil's parent or guardian to explain any obstacles that prevent him or her from complying with the contract.

(3) If a parental involvement contract includes an explanation described in subsection (2)(d), school officials shall consider accessing possible resources to help overcome the obstacles identified by the parent or guardian.

**History:** Add. 2001, Act 29, Imd. Eff. June 28, 2001.

**Popular name:** Act 451

### 380.1296 Auxiliary services for pupils in nonpublic schools; use of state school aid; scope of auxiliary services; rules.

Sec. 1296. The board of a school district that provides auxiliary services specified in this section to its resident pupils in the elementary and secondary grades shall provide the same auxiliary services on an equal basis to pupils in the elementary and secondary grades at nonpublic schools. The board may use state school aid to pay for the auxiliary services. The auxiliary services shall include health and nursing services and examinations; street crossing guards services; national defense education act testing services; teacher of speech and language services; school social work services; school psychological services; teacher consultant services for students with a disability and other ancillary services for students with a disability; remedial reading; and other services determined by the legislature. Auxiliary services shall be provided under rules promulgated by the superintendent of public instruction.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

**Administrative rules:** R 340.291 et seq. of the Michigan Administrative Code.

### 380.1297 Educational program for certain children; board as agent for federal government; payment of per capita operation and capital outlay costs; deduction of allotments; approval; section inapplicable to land attached under MCL 380.1298.

Sec. 1297. (1) The board of a school district may serve as an agent for the federal government in providing the district's educational program, either within its own district or upon the premises of a military encampment or hospital over which the federal government has taken exclusive jurisdiction, to pupils of parents or guardians who live on land over which the federal government has exclusive jurisdiction.

(2) The federal government shall pay the full per capita operation costs for each pupil educated by the school district on its own premises, and the full per capita operation costs, plus all costs for capital outlay, for each pupil educated by the district upon the premises of the federal government. In determining the per capita cost, allotments made for a pupil on a membership basis from state school aid shall be deducted.

(3) The state board shall approve the items included or excluded in determining the operation and capital outlay costs.

(4) This section does not apply if land is attached pursuant to section 1298.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1298 Attachment of land under exclusive federal jurisdiction; hearing; rights and privileges of pupils.

Sec. 1298. Land over which the federal government is exercising exclusive jurisdiction may be attached for educational purposes by the state board after a hearing to a school district offering educational programs for pupils residing on the land. The pupils shall be residents of the district entitled to all the educational rights and privileges of other resident pupils.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1299 Limited open forum; equal access and opportunity; definitions.

Sec. 1299. (1) A public school that operates 1 or more of grades 7 to 12 and that has a limited open forum shall not deny equal access or a fair opportunity to, or discriminate against, any pupil or pupils who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at the meeting. A public school has a limited open forum whenever the public school grants an offering to or opportunity for 1 or more noncurriculum-related student groups to meet on school premises during noninstructional time. A public school shall be considered to offer a fair opportunity to pupils who wish to conduct a meeting within the limited open forum if the public school uniformly provides for all of the following:

(a) The meeting is voluntary and student-initiated.

(b) There is no sponsorship of the meeting by the public school, the government, or either's agents or employees.

(c) Employees or agents of the public school or government are present at religious meetings only in a nonparticipatory capacity.

(d) The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.

(e) Persons not affiliated with the public school may not direct, conduct, control, or regularly attend activities of student groups.

(2) Subsection (1) does not authorize this state or any political subdivision of this state to do any of the following:

(a) Influence the form or content of any prayer or other religious activity.

(b) Require any person to participate in prayer or other religious activity.

(c) Expend public funds beyond the incidental cost of providing the space for student-initiated meetings.

(d) Compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee.

(e) Sanction meetings that are otherwise unlawful.

(f) Limit the rights of groups of pupils which are not of a specified numerical size.

(g) Abridge the constitutional rights of any person.

(3) Subsection (1) does not limit the authority of a public school to maintain order and discipline on school premises, to protect the well-being of pupils and faculty, and to assure that attendance of pupils at meetings is voluntary.

(4) As used in this section:

(a) "Meeting" includes those activities of student groups that are permitted under a public school's limited open forum and are not directly related to the school curriculum.

(b) "Noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

(c) "Public school" includes a public school's employees and persons or entities under contract with the public school.

(d) "Sponsorship" includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

**History:** Add. 1995, Act 289, Eff. July 1, 1996;—Am. 1996, Act 283, Imd. Eff. June 17, 1996.

**Popular name:** Act 451

### 380.1300 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to regulations.

**Popular name:** Act 451

### 380.1300a Sexual harassment policy.

Sec. 1300a. Not later than January 1, 1995, the board of each school district shall adopt and implement a written sexual harassment policy. At a minimum, the policy shall prohibit sexual harassment by school district employees, board members and pupils directed toward other employees or pupils and shall specify penalties for violation of the policy.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1301 Pregnant persons; expulsion or exclusion from public school prohibited; withdrawal; alternative educational program or program of special services; rules.

Sec. 1301. (1) A person who has not completed high school may not be expelled or excluded from a public school because of being pregnant.

(2) A pregnant person who is under the compulsory school age may withdraw from a regular public school program in accordance with rules promulgated by the state board.

(3) The board of a local or intermediate school district may provide an accredited alternative educational program for school age expectant parents and school age parents and their children, or provide a program of special services within the conventional school setting, or contract with another school district offering the educational program.

(4) The state board shall promulgate rules to implement this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1980, Act 109, Imd. Eff. May 10, 1980.

**Popular name:** Act 451

**Administrative rules:** R 340.1121 et seq. of the Michigan Administrative Code.

### 380.1302 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to eligibility requirements for driver education courses.

**Popular name:** Act 451

### 380.1303 Pocket pager, electronic communication device, or other personal communication device; applicability of subsection (1).

Sec. 1303. (1) Until the end of the 2003-2004 school year, unless the board or board of directors adopts its own local policy to the contrary, the board of a school district or board of directors of a public school academy shall not permit any pupil to carry a pocket pager, electronic communication device, or other personal communication device in school except for health or other unusual reasons approved by the board or board of directors. A board or board of directors may develop penalties that it considers appropriate for a pupil who violates this prohibition or its own policy.

(2) Beginning with the 2004-2005 school year, subsection (1) does not apply and the board of a school district or board of directors of a public school academy may adopt and implement its own local policy concerning whether or not a pupil may carry a pocket pager, electronic communication device, or other personal communication device in school.

**History:** Add. 1988, Act 215, Imd. Eff. July 1, 1988;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 132, Imd. Eff. Aug. 1, 2003.

### 380.1305 Bomb threat; search by school employee.

Sec. 1305. If a public or nonpublic school is closed or vacated due to a bomb threat, a school official shall not require a school employee to remain in or to search the school unless the governing body that operates the school has ensured that employee has received appropriate training approved by the appropriate law enforcement agency dealing with bomb threats.

**History:** Add. 2004, Act 56, Imd. Eff. Apr. 12, 2004.

### 380.1306 School lockers; no presumption of privacy; search policy; assistance of law enforcement agency; model policy; admissibility of evidence.

Sec. 1306. (1) A pupil who uses a locker that is the property of a school district, local act school district, intermediate school district, or public school academy is presumed to have no expectation of privacy in that locker or that locker's contents.

(2) If the board of a school district, local act school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, then not later than 180 days after the effective date of this section the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. This policy shall provide that, in the course of a search conducted pursuant to the policy, the privacy rights of the pupil shall be respected regarding any items that are not illegal or against school policy. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board or board of directors shall also provide a copy of the policy to the department upon request by the department.

(3) A public school principal or his or her designee may search a pupil's locker and the locker's contents at any time in accordance with the policy under subsection (2).

(4) A law enforcement agency having jurisdiction over the school may assist school personnel in conducting a search of a pupil's locker and the locker's contents if that assistance is at the request of the school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

principal or his or her designee and the search is conducted in accordance with the policy under subsection (2).

(5) Not later than 90 days after the effective date of this section, the superintendent of public instruction shall develop and make available a model policy on searches of pupils' lockers and locker contents that may be adopted for the purposes of this section.

(6) Any evidence obtained as a result of a search of a pupil's locker or locker's contents shall not be inadmissible in any court or administrative proceedings because the search violated this section, violated the policy under subsection (2), or because no policy was adopted.

**History:** Add. 2000, Act 87, Imd. Eff. May 1, 2000.

**Popular name:** Act 451

### 380.1307 Use of seclusion and restraint in public schools; uniform policy; objectives; right or remedy under state or federal law.

Sec. 1307. (1) It is the intent of the legislature that sections 1307 to 1307h shall provide for a uniform policy regarding the use of seclusion and restraint in the public schools that accomplishes the following objectives:

(a) Promotes the care, safety, welfare, and security of the school community and the dignity of each pupil.

(b) Encourages the use of proactive, effective, evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instructional time for all pupils.

(c) Ensures that seclusion and physical restraint are used only as a last resort in an emergency situation and are subject to diligent assessment, monitoring, documentation, and reporting by trained personnel.

(d) Clearly defines the terms "seclusion", "restraint", "emergency seclusion", and "emergency physical restraint" and clearly states the procedures for the use of emergency seclusion and emergency physical restraint.

(2) Sections 1307 to 1307h do not limit any right or remedy of an individual under state or federal law.

**History:** Add. 2016, Act 394, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307a Use of seclusion and restraint in public schools; adoption and implementation of local policy; noncompliance as violation of act.

Sec. 1307a. Not later than December 1, 2016, the department shall develop a state policy regarding the use of seclusion and restraint in the public schools that includes all of the elements under sections 1307b to 1307h, along with guidelines as the department considers appropriate. Not later than the beginning of the 2017-2018 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a local policy that is consistent with the state policy under this section. A person who fails to comply with this section or who fails to comply with any of the requirements of the state policy developed under this section is considered to have failed to comply with and to have violated this act.

**History:** Add. 2016, Act 395, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307b Statement of prohibited practices.

Sec. 1307b. The state policy under section 1307a shall include a clear statement that all of the following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:

(a) Corporal punishment, as defined in section 1312.

(b) The deprivation of basic needs.

(c) Child abuse.

(d) Seclusion, other than emergency seclusion.

(e) The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort. A noxious substance or stimulus is prohibited whether it is generally acknowledged or is specific to the pupil.

(f) Mechanical restraint.

(g) Chemical restraint.

(h) Any restraint that negatively impacts breathing.

(i) Prone restraint.

(j) Physical restraint, other than emergency physical restraint.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(k) Any other type of restraint.

**History:** Add. 2016, Act 396, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307c Emergency seclusion and emergency physical restraint; state policy; provisions.

Sec. 1307c. The state policy under section 1307a shall include at least all of the following provisions concerning use of emergency seclusion and emergency physical restraint:

(a) Emergency seclusion and emergency physical restraint may be used only under emergency situations and only if essential to providing for the safety of the pupil or safety of another.

(b) Emergency seclusion and emergency physical restraint may not be used in place of appropriate less restrictive interventions.

(c) Emergency seclusion and emergency physical restraint shall be performed in a manner that, based on research and evidence, is safe, appropriate, and proportionate to and sensitive to the pupil's severity of behavior, chronological and developmental age, physical size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse or other trauma.

(d) A requirement that school personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.

(e) A requirement that the school district, intermediate school district, or public school academy must ensure that substitute teachers are informed of and understand the procedures regarding use of emergency seclusion and emergency physical restraint. This requirement may be satisfied using online training and an online acknowledgment of understanding developed or approved by the department and completed by the substitute teacher.

(f) Emergency seclusion should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency seclusion is ended and generally no longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil. If an emergency seclusion lasts longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil, all of the following are required:

(*i*) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.

(*ii*) Documentation to explain the extension beyond the time limit.

(g) Emergency physical restraint should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency physical restraint is ended and generally no longer than 10 minutes. If an emergency physical restraint lasts longer than 10 minutes, all of the following are required:

(*i*) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.

(*ii*) Documentation to explain the extension beyond the time limit.

(h) While using emergency seclusion or emergency physical restraint, school personnel must do all of the following:

(*i*) Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.

(*ii*) Continually observe the pupil in emergency seclusion or emergency physical restraint for indications of physical distress and seek medical assistance if there is a concern.

(*iii*) Document observations.

(*iv*) Ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency physical restraint does not interfere with the pupil's ability to communicate using the pupil's primary mode of communication.

(*v*) Ensure that at all times during the use of emergency seclusion or emergency physical restraint there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.

**History:** Add. 2016, Act 397, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307d Documentation and reporting of seclusion and restraint; state policy; provisions.

Sec. 1307d. The state policy under section 1307a shall include at least all of the following provisions


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

concerning documentation and reporting of seclusion and restraint:

(a) Each use of seclusion or restraint and the reason for each use shall be documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately and documented in a written report for each use of seclusion or restraint, including multiple uses within a given day, with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.

(b) After any use of seclusion or restraint, school personnel must make reasonable efforts to debrief and consult with the parent or guardian, or with the parent or guardian and the pupil, as appropriate, regarding the determination of future actions. The debriefing and consultation shall be done in accordance with department guidelines and documented on forms developed by the department.

(c) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel are encouraged to do all of the following:

(*i*) Conduct a functional behavioral assessment.

(*ii*) Develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of seclusion and restraint.

(*iii*) Develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least the parent or guardian; the pupil, if appropriate; the individuals responsible for implementation of the positive behavioral intervention and support plan; and individuals knowledgeable in positive behavioral intervention and support.

**History:** Add. 2016, Act 398, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307e Development and implementation of emergency intervention plan; state policy; provisions.

Sec. 1307e. The state policy under section 1307a shall include at least all of the following provisions concerning development and implementation of an emergency intervention plan:

(a) If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan should be developed in partnership with the parent or guardian by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion and emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint. The emergency intervention plan should be developed and implemented by taking all of the following documented steps:

(*i*) Describe in detail the emergency intervention procedures.

(*ii*) Describe in detail the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.

(*iii*) Make inquiry to the pupil's medical personnel, with parental consent, regarding any known medical or health contraindications for the use of emergency seclusion or emergency physical restraint.

(*iv*) Conduct a peer review by knowledgeable school personnel.

(*v*) Provide the parent or guardian with all of the following, in writing and orally:

(A) A detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation.

(B) An explanation of what constitutes an emergency situation as defined in section 1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition.

(C) A detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion and emergency physical restraint.

(D) A detailed explanation of the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.

(E) A description of possible discomforts or risks.

(F) Answers to any questions.

(b) A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency seclusion or emergency physical restraint could be used.

(c) Emergency seclusion or emergency physical restraint must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency seclusion or emergency physical restraint.

**History:** Add. 2016, Act 399, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307f Data collection; state policy; provisions.

Sec. 1307f. The state policy under section 1307a shall include at least all of the following provisions concerning data collection:

(a) A school district or public school academy, or an intermediate school district program in which pupils are enrolled, in accordance with department guidelines, shall collect and report data on and related to the use of restraint and seclusion in the school district, public school academy, or intermediate school district program. In collecting and reporting this data, a school district, public school academy, or intermediate school district program shall use existing data collection and reporting systems whenever possible. Incidents of use shall, at a minimum, be reported by race, age, grade, gender, disability status, medical condition, identity of the school personnel initiating the use of the restraint or seclusion, and identity of the school or program where the use occurred.

(b) All of the following should occur with respect to the data collected under subdivision (a):

(*i*) The data should be analyzed by the school and school district, public school academy, or intermediate school district in which the pupil is enrolled to determine the efficacy of the school's schoolwide system of behavioral support.

(*ii*) The data should be analyzed by the school and school district, public school academy, or intermediate school district in the context of attendance, suspension, expulsion, and dropout data.

(*iii*) The data should be analyzed by the school and school district, public school academy, or intermediate school district for the purposes of continuous improvement of training and technical assistance toward the elimination of seclusion and restraint.

(*iv*) The data should be analyzed by the school and school district, public school academy, or intermediate school district on a schedule determined by the department.

(*v*) The data should be reported electronically to the department in accordance with department guidelines by the school district, public school academy, or intermediate school district.

(c) The department shall make available redacted, aggregate data on the reported use of seclusion and restraint, compiled by school district, public school academy, and intermediate school district on a quarterly basis.

**History:** Add. 2016, Act 400, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307g Training; state policy; provisions.

Sec. 1307g. The state policy under section 1307a shall include at least all of the following provisions concerning training, which may include online training that is developed or approved by the department:

(a) In accordance with department guidelines, a school district, intermediate school district, or public school academy shall implement a comprehensive training framework that includes awareness training for all school personnel who have regular contact with pupils and comprehensive training for key identified personnel as described in subdivision (b).

(b) A school district, intermediate school district, or public school academy shall identify sufficient key personnel to ensure that trained personnel are generally available for an emergency situation. Before using emergency seclusion or emergency physical restraint with pupils, key identified personnel who may have to respond to an emergency situation shall be trained in all of subparagraphs (*i*) to (*xvi*) as follows and should be trained in all of subparagraphs (*xvii*) to (*xx*) as follows:

(*i*) Proactive practices and strategies that ensure the dignity of pupils.

(*ii*) De-escalation techniques.

(*iii*) Techniques to identify pupil behaviors that may trigger emergency situations.

(*iv*) Related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion or restraint is used.

(*v*) Instruction in the use of emergency seclusion and emergency physical restraint.

(*vi*) Identification of events and environmental factors that may trigger emergency situations.

(*vii*) Instruction on the state policy on the use of seclusion and restraint.

(*viii*) Description and identification of dangerous behaviors.

(*ix*) Methods for evaluating the risk of harm to determine whether the use of emergency seclusion or emergency physical restraint is warranted.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*x*) Types of seclusion.

(*xi*) Types of restraint.

(*xii*) The risk of using seclusion or restraint in consideration of a pupil's known and unknown physical or mental health conditions or psychological limitations.

(*xiii*) The effects of seclusion and restraint on all pupils.

(*xiv*) How to monitor for and identify the physical signs of distress and the implications for pupils generally and for pupils with particular physical or mental health conditions or psychological limitations.

(*xv*) How to obtain appropriate medical assistance.

(*xvi*) Cardiopulmonary resuscitation and first aid.

(*xvii*) Conflict resolution.

(*xviii*) Mediation.

(*xix*) Social skills training.

(*xx*) Positive behavioral intervention and support strategies.

**History:** Add. 2016, Act 401, Eff. Mar. 29, 2017.

**Popular name:** Act 451

### 380.1307h Definitions.

Sec. 1307h. As used in sections 1307 to 1307h:

(a) "Chemical restraint" means the administration of medication for the purpose of restraint.

(b) "De-escalation techniques" means evidence- and research-based strategically employed verbal or nonverbal interventions used to reduce the intensity of threatening behavior before, during, and after a crisis situation occurs.

(c) "Documentation" means documentation developed by the department that is uniform across the state.

(d) "Emergency physical restraint" means a last resort emergency safety intervention involving physical restraint that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others. Emergency physical restraint does not include physical restraint that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support. Emergency physical restraint does not include a practice prohibited under section 1307b. Emergency physical restraint does not include physical restraint when contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.

(e) "Emergency seclusion" means a last resort emergency safety intervention involving seclusion that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others. To qualify as emergency seclusion, there must be continuous observation by school personnel of the pupil in seclusion, and the room or area used for confinement must comply with state and local fire and building codes; must not be locked; must not prevent the pupil from exiting the area if school personnel become incapacitated or leave that area; and must provide for adequate space, lighting, ventilation, viewing, and the safety and dignity of the pupil and others, in accordance with department guidelines. Emergency seclusion does not include the confinement of preschool children or of pupils who are severely self-injurious or suicidal; seclusion that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support; or a practice prohibited under section 1307b. Emergency seclusion does not include seclusion when contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.

(f) "Emergency situation" means a situation in which a pupil's behavior poses imminent risk to the safety of the individual pupil or to the safety of others. An emergency situation requires an immediate intervention.

(g) "Functional behavioral assessment" means an evidence- and research-based systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A functional behavioral assessment shall describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur, and identify the factors that are maintaining the behaviors over time.

(h) "Key identified personnel" means those individuals who have received the mandatory training described in section 1307g(b)(*i*) to (*xvi*).

(i) "Law enforcement officer" means an individual licensed under the Michigan commission on law


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(j) "Mechanical restraint" means the use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint.

(k) "Physical restraint" means restraint involving direct physical contact.

(*l*) "Positive behavioral intervention and support" means a framework to assist school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum of intensifying supports based on pupil need that unites examination of the function of the problem behavior and the teaching of alternative skill repertoires to enhance academic and social behavior outcomes for all pupils.

(m) "Positive behavioral intervention and support plan" means a pupil-specific support plan composed of individualized, functional behavioral assessment-based intervention strategies, including, as appropriate to the pupil, guidance or instruction for the pupil to use new skills as a replacement for problem behaviors, some rearrangement of the antecedent environment so that problems can be prevented and desirable behaviors can be encouraged, and procedures for monitoring, evaluating, and modifying the plan as necessary.

(n) "Prone restraint" means the restraint of an individual facedown.

(o) "Regularly and continuously work under contract" means that term as defined in section 1230.

(p) "Restraint" means an action that prevents or significantly restricts a pupil's movement. Restraint does not include the brief holding of a pupil in order to calm or comfort, the minimum contact necessary to physically escort a pupil from 1 area to another, the minimum contact necessary to assist a pupil in completing a task or response if the pupil does not resist or resistance is minimal in intensity or duration, or the holding of a pupil for a brief time in order to prevent an impulsive behavior that threatens the pupil's immediate safety, such as running in front of a car. Restraint does not include the administration of medication prescribed by and administered in accordance with the directions of a physician, an adaptive or protective device recommended by a physician or therapist when it is used as recommended, or safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation. Restraint does not include necessary actions taken to break up a fight, to stop a physical assault, as defined in section 1310, or to take a weapon from a pupil. Restraint does not include actions that are an integral part of a sporting event, such as a referee pulling football players off of a pile or a similar action.

(q) "Restraint that negatively impacts breathing" means any restraint that inhibits breathing, including floor restraints, facedown position, or any position in which an individual is bent over in such a way that it is difficult to breathe. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.

(r) "School personnel" includes all individuals employed in a public school or assigned to regularly and continuously work under contract or under agreement in a public school, or public school personnel providing service at a nonpublic school. Except for sections 1307d and 1307f, school personnel does not include a law enforcement officer assigned to regularly and continuously work under contract or under agreement in a public school.

(s) "Seclusion" means the confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving. Seclusion does not include the general confinement of pupils if that confinement is an integral part of an emergency lockdown drill required under section 19(5) of the fire prevention code, 1941 PA 207, MCL 29.19, or of another emergency security procedure that is necessary to protect the safety of pupils.

**History:** Add. 2016, Act 402, Eff. Mar. 29, 2017;—Am. 2017, Act 260, Eff. Mar. 28, 2018.

**Popular name:** Act 451

### 380.1308 Statewide school safety information policy.

Sec. 1308. (1) Not later than October 6, 1999, the superintendent of public instruction, attorney general, and director of the department of state police shall adopt, publish, and distribute to school boards, county prosecutors, and local law enforcement agencies the statewide school safety information policy described in subsection (2). Not later than January 6, 2000, each school board, county prosecutor, and local law enforcement agency shall do both of the following:

(a) Meet and confer as appropriate on the implementation of the statewide school safety information policy for each school district and on any related issues that are unique to the affected locality. The appropriate local law enforcement agency or agencies to be involved shall be determined locally, consistent with the statewide school safety information policy.

(b) Begin compliance with the statewide school safety information policy.

(2) The statewide school safety information policy required under subsection (1) shall identify the types of incidents occurring at school that must be reported to law enforcement agencies and shall establish procedures


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to be followed when such an incident occurs at school. The statewide school safety information policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under section 1313. The statewide school safety information policy shall address at least all of the following:

(a) Law enforcement protocols and priorities for the reporting process. The law enforcement protocols must be developed with the cooperation of the appropriate state or local law enforcement agency. The law enforcement priorities shall include at least investigation of reported incidents, identification of those involved in a reported incident, assistance in prevention of these types of incidents, and, when appropriate, assistance from a child protection agency.

(b) Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the intent of the actor and the circumstances surrounding the incident.

(c) Protocols for responding to reportable incidents, addressing at least all of the following:

(*i*) Initial notification and reporting by school officials.

(*ii*) The information to be provided by school officials.

(*iii*) Initial response by law enforcement agencies, which shall be specifically tailored for incidents in progress, incidents not in progress, and incidents involving delayed reporting. School officials shall be consulted to determine the extent of law enforcement involvement required by the situation.

(*iv*) Custody of actors.

(d) The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision shall require school officials to notify the parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.

(e) Any other matters that will facilitate reporting of incidents affecting school safety and the exchange of other information affecting school safety.

(3) A school board or its designee shall report to the appropriate state or local law enforcement agencies and prosecutors all information that is required to be reported to those officials under the statewide school safety information policy.

(4) If school officials of a school district determine that an incident has occurred at school that is required to be reported to law enforcement agencies according to the statewide school safety information policy under this section or under subsection (3), the superintendent of the school district, or his or her designee, immediately shall report that finding to the appropriate state or local law enforcement agency in the manner prescribed in the statewide school safety information policy.

(5) If provided in the statewide school safety information policy under this section, a local law enforcement agency that has jurisdiction over a school building of a school district shall report to the school officials of the school building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of the school property or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon request by a law enforcement agency, school officials shall provide the law enforcement agency with any information the law enforcement agency determines it needs to provide this report to school officials.

(6) If provided in the statewide school safety information policy under this section, the prosecuting attorney of a county shall notify a school district located in whole or in part in that county of any criminal or juvenile court action initiated or taken against a pupil of the school district, including, but not limited to, convictions, adjudications, and dispositions. This notification shall be made to either the school district superintendent or to the intermediate superintendent of the intermediate school district in which the county is located, as provided in the policy or by local agreement. If the notification is made to the intermediate superintendent, the intermediate superintendent shall forward the information to the superintendent of the school district in which the pupil is enrolled. Upon receipt of information under this subsection, a school district superintendent shall share the information with appropriate school building personnel. The prosecuting attorney may inquire of each school age individual involved in a court action described in this subsection whether the individual is a pupil in a school district and, if so, in which school district.

(7) If provided for in the statewide school safety information policy under this section, the appropriate court shall inform an appropriate school administrator of the name of the individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual may be contacted.

(8) A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety if the agreement or other measures are consistent with the statewide school safety information policy.

(9) A school board shall cooperate with local law enforcement agencies to ensure that detailed and accurate building plans, blueprints, and site plans, as appropriate, for each school building operated by the school board are provided to the appropriate local law enforcement agency.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(10) Reporting of information by a school district or school personnel under this section is subject to 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(11) If a pupil is involved in an incident reported to law enforcement according to the statewide school safety information policy under this section, then upon request by school officials, the pupil's parent or legal guardian shall execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of the incident.

(12) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(b) "School board" and "school district" mean those terms as defined in section 1311.

**History:** Add. 1999, Act 102, Imd. Eff. July 6, 1999;—Am. 2016, Act 363, Eff. Aug. 1, 2017.

**Popular name:** Act 451

### 380.1308a Report to department of state police on certain crimes occurring at school; exemption from freedom of information act; noncompliance.

Sec. 1308a. (1) A school district, intermediate school district, or public school academy shall provide a report to the department of state police, in a form and manner prescribed by the department of state police, on both of the following types of incidents regarding a school operated by the school district, intermediate school district, or public school academy within 24 hours after the incident occurs:

(a) An incident involving a crime that would be required to be reported under section 1310a(2).

(b) An incident, if known to the school, involving the attempted commission of a crime that would be required to be reported under section 1310a(2).

(2) At least quarterly, the office of school safety created by law shall compile a report on the information received under subsection (1) and make the report available to the school safety commission created under section 5 of the comprehensive school safety plan act, the department, and any law enforcement agency upon request.

(3) A report under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) If a school district, intermediate school district, or public school academy fails to comply with subsection (1), the department of state police may determine that the school district, intermediate school district, or public school academy is ineligible to receive any school safety grants from the department of state police for the fiscal year in which the noncompliance is discovered by the department of state police.

**History:** Add. 2018, Act 551, Eff. Mar. 28, 2019.

**Popular name:** Act 451

### 380.1308b Emergency operations plan; requirements; notice; exemption of certain information from freedom of information act; "school building" defined.

Sec. 1308b. (1) Beginning in the 2019-2020 school year, and at least biennially thereafter, a school district, intermediate school district, or public school academy shall, in conjunction with at least 1 law enforcement agency that has jurisdiction over the school district, intermediate school district, or public school academy, conduct a review of the emergency operations plan developed or adopted under subsection (2), including a review of the vulnerability assessment under subsection (3), or conduct a review of the statewide school safety information policy described under subsection (4), as applicable.

(2) Subject to subsection (3), not later than January 1, 2020, a school district, intermediate school district, or public school academy shall develop an emergency operations plan for each school building operated by the school district, intermediate school district, or public school academy with input from the public. The board of the school district or intermediate school district or the board of directors of the public school academy shall adopt the emergency operations plan by a majority vote of the members serving on the board or board of directors at a public meeting of the board or board of directors held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) The emergency operations plan developed and adopted under subsection (2) must include guidelines and procedures that address at least all of the following:

(a) School violence and attacks.

(b) Threats of school violence and attacks.

(c) Bomb threats.

(d) Fire.

(e) Weather-related emergencies.

(f) Intruders.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(g) Parent and pupil reunification.

(h) Threats to a school-sponsored activity or event whether or not it is held on school premises.

(i) A plan to train teachers on mental health and pupil and teacher safety.

(j) A plan to improve school building security.

(k) An active violence protocol.

(*l*) Continuity of operations after an incident.

(m) A vulnerability assessment.

(4) A school district, intermediate school district, or public school academy that adopts and implements a statewide school safety information policy under section 1308 that meets the requirements under subsection (3) is in compliance with subsection (2).

(5) A school district, intermediate school district, or public school academy shall provide notice to the department of a completed emergency operations plan review under subsection (1) not later than 30 days after the completion of the review, in a form and manner prescribed by the department. A school district, intermediate school district, or public school academy shall also provide notice to the department of the adoption of an emergency operations plan under subsection (2) not later than 30 days after the adoption of the emergency operations plan, in a form and manner prescribed by the department.

(6) At least annually, the department shall provide to the office of school safety within the department of state police a list of each school district, intermediate school district, or public school academy that has not developed and adopted an emergency operations plan under subsection (2).

(7) The office of school safety within the department of state police shall coordinate with a law enforcement agency that has jurisdiction over a school district, intermediate school district, or public school academy that has not developed and adopted an emergency operations plan under subsection (2) to notify the governing body of the school district, intermediate school district, or public school academy that the school district, intermediate school district, or public school academy has not developed and adopted an emergency operations plan.

(8) An emergency operations plan developed and adopted under subsection (2), any information provided to the department under subsection (5), and any information provided to the department of state police under subsection (6) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) As used in this section, "school building" means any of the following:

(a) A building intended to be used to provide instruction for pupils, including an addition to an existing building.

(b) A recreational or athletic structure or field intended to be used by pupils.

**History:** Add. 2018, Act 436, Eff. Mar. 21, 2019.

**Popular name:** Act 451

### 380.1309 Conduct constituting suspension; action by teacher; report; supervision; conference; return by student; adoption of local policy by school board; definitions.

Sec. 1309. (1) If a teacher in a public school has good reason to believe that a pupil's conduct in a class, subject, or activity constitutes conduct for which the pupil may be suspended from a class, subject, or activity according to the local policy required under subsection (2), the teacher may cause the pupil to be suspended from the class, subject, or activity for up to 1 full school day. The teacher shall immediately report the suspension and the reason for the suspension to the school principal and send the pupil to the school principal or the school principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, the pupil shall be under appropriate supervision. As soon as possible after a suspension under this section, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. During a suspension under this section, the pupil shall not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher of the class, subject, or activity and the school principal.

(2) A school board shall adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity by a teacher under this section. This policy shall be included in the school board's code of student conduct.

(3) As used in this section:

(a) "School board" means that term as defined in section 1311a.

(b) "School principal" means the chief administrator of a school.

**History:** Add. 1999, Act 103, Imd. Eff. July 6, 1999.



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1310 Physical assault at school against another pupil; suspension or expulsion; alternative education program; definitions.

Sec. 1310. (1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil and the physical assault is reported to the school board, school district superintendent, or building principal, then the school board or the designee of the school board as described in section 1311(1) on behalf of the school board shall suspend or expel the pupil from the school district for up to 180 school days. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this section to attend school in the school district during the expulsion.

(2) If an individual is expelled pursuant to this section, it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The office for safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under this section and pursuant to section 1311(2) or 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office for safe schools about the program or school and the types of pupils it serves. The office for safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

(3) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(b) "Physical assault" means intentionally causing or attempting to cause physical harm to another through force or violence.

(c) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(d) "School district" means a school district, intermediate school district, or public school academy.

**History:** Add. 1999, Act 102, Imd. Eff. July 6, 1999;—Am. 2000, Act 230, Imd. Eff. June 27, 2000;—Am. 2016, Act 365, Eff. Aug. 1, 2017.

**Popular name:** Act 451

### 380.1310a Report.

Sec. 1310a. (1) At least annually, each school board shall prepare and submit to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, a report stating the number of pupils expelled from the school district during the immediately preceding school year, with a brief description of the incident that caused each expulsion.

(2) In order to obtain an accurate local picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually, each school board shall post on its website, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district. In determining the form and manner of this report, the superintendent of public instruction shall consult with local and intermediate school districts and law enforcement officials. The reporting shall include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes including, but not limited to, theft and vandalism. For a property crime, the report shall include an estimate of the cost to the school district resulting from the property crime. The school crime reporting requirements of this subsection are intended to do all of the following:

(a) Help policymakers and program designers develop appropriate prevention and intervention programs.

(b) Provide the continuous assessment tools needed for revising and refining school safety programs.

(c) Assist schools and school districts to identify the most pressing safety issues confronting their school communities, to direct resources appropriately, and to enhance campus safety through prevention and intervention strategies.

(d) Foster the creation of partnerships among schools, school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and to assure a safe learning environment for every pupil.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) Each school building shall collect and keep current on a weekly basis the information required for the report under subsection (2) and must provide that information, within 7 days, upon request. At least annually, each school board shall make a copy disaggregated by school building, of the most recent report for the school district under subsection (2) available to the parent or legal guardian of each pupil enrolled in the school district.

(4) As used in this section, "at school", "school board", and "school district" mean those terms as defined in section 1310.

**History:** Add. 1999, Act 102, Imd. Eff. July 6, 1999;—Am. 2000, Act 230, Imd. Eff. June 27, 2000;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.1310b Policy prohibiting bullying; adoption and implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions; section to be known as "Matt Epling Safe School Law."

Sec. 1310b. (1) The board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a policy prohibiting bullying at school, as defined in this section.

(2) Subject to subsection (3), before adopting the policy required under subsection (1) or any modification to the policy, the board or board of directors shall hold at least 1 public hearing on the proposed policy or modification. This public hearing may be held as part of a regular board meeting. Subject to subsection (3), not later than 30 days after adopting or modifying the policy under subsection (1), the board or board of directors shall submit a copy of its policy to the department.

(3) If, as of March 31, 2015, a school district, intermediate school district, or public school academy has already adopted and implemented an existing policy prohibiting bullying at school and that policy is in compliance with subsections (1) and (5), the board of the school district or intermediate school district or board of directors of the public school academy is not required to adopt and implement a modified policy under subsection (1). However, this subsection applies to a school district, intermediate school district, or public school academy described in this subsection only if the board or board of directors submits a copy of its policy to the department not later than May 31, 2015.

(4) Not later than 1 year after the deadline under subsection (2) for districts and public school academies to submit copies of their modified policies to the department, the department shall submit a report to the senate and house standing committees on education summarizing the status of the implementation of the modifications to policies required under 2014 PA 478.

(5) A policy adopted pursuant to subsection (1) shall include at least all of the following:

(a) A statement prohibiting bullying of a pupil. Not later than October 1, 2015, this statement shall be modified as necessary to comply with 2014 PA 478 including, but not limited to, the inclusion of cyberbullying as a form of bullying.

(b) A statement prohibiting retaliation or false accusation against a target of bullying, a witness, or another person with reliable information about an act of bullying.

(c) A provision indicating that all pupils are protected under the policy and that bullying is equally prohibited without regard to its subject matter or motivating animus.

(d) The identification by job title of school officials responsible for ensuring that the policy is implemented.

(e) A statement describing how the policy is to be publicized.

(f) A procedure for providing notification to the parent or legal guardian of a victim of bullying and the parent or legal guardian of a perpetrator of the bullying.

(g) A procedure for reporting an act of bullying.

(h) A procedure for prompt investigation of a report of violation of the policy or a related complaint, identifying either the principal or the principal's designee as the person responsible for the investigation.

(i) A procedure for each public school to document any prohibited incident that is reported and a procedure to report all verified incidents of bullying and the resulting consequences, including discipline and referrals, to the board of the school district or intermediate school district or board of directors of the public school academy on an annual basis.

(j) An assurance of confidentiality for an individual who reports an act of bullying and procedures to safeguard that confidentiality.

(6) The legislature encourages a board or board of directors to include all of the following in the policy


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

required under this section:

(a) Provisions to form bullying prevention task forces, programs, teen courts, and other initiatives involving school staff, pupils, school clubs or other student groups, administrators, volunteers, parents, law enforcement, community members, and other stakeholders.

(b) A requirement for annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.

(c) A requirement for educational programs for pupils and parents on preventing, identifying, responding to, and reporting incidents of bullying and cyberbullying.

(d) Provisions for considering the use of restorative practices in the correction of bullying behavior, as described in section 1310c.

(7) The department shall establish a form and procedure for school districts and public school academies to report incidents of bullying to the department on an annual basis and shall make this information readily available to the public. A school district or public school academy shall report incidents of bullying to the department according to the form and procedures established by the department. The department shall ensure that the information collected and made available under this subsection does not include personally identifiable information about any individual who reports or is involved in a specific incident of bullying.

(8) A school employee, school volunteer, pupil, or parent or guardian who promptly reports in good faith an act of bullying to the appropriate school official designated in the school district's or public school academy's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. However, this immunity does not apply to a school official who is designated under subsection (5)(d), or who is responsible for remedying the bullying, when acting in that capacity.

(9) If the board of a school district or intermediate school district or board of directors of a public school academy amends or otherwise modifies its policy required under this subsection at any time after a copy of the policy was initially submitted to the department under subsection (2) or (3), the board or board of directors shall submit a copy of the modified policy to the department not later than 30 days after adopting the modification.

(10) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy.

(b) "Bullying" means any written, verbal, or physical act, or any electronic communication, including, but not limited to, cyberbullying, that is intended or that a reasonable person would know is likely to harm 1 or more pupils either directly or indirectly by doing any of the following:

(*i*) Substantially interfering with educational opportunities, benefits, or programs of 1 or more pupils.

(*ii*) Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.

(*iii*) Having an actual and substantial detrimental effect on a pupil's physical or mental health.

(*iv*) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(c) "Cyberbullying" means any electronic communication that is intended or that a reasonable person would know is likely to harm 1 or more pupils either directly or indirectly by doing any of the following:

(*i*) Substantially interfering with educational opportunities, benefits, or programs of 1 or more pupils.

(*ii*) Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.

(*iii*) Having an actual and substantial detrimental effect on a pupil's physical or mental health.

(*iv*) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(d) "Restorative practices" means that term as defined in section 1310c.

(e) "Telecommunications access device" and "telecommunications service provider" mean those terms as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(11) This section shall be known as "The Matt Epling Safe School Law".

**History:** Add. 2011, Act 241, Imd. Eff. Dec. 6, 2011;—Am. 2014, Act 478, Eff. Mar. 31, 2015;—Am. 2016, Act 362, Eff. Aug. 1, 2017.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1310c Restorative practices as alternative or in addition to suspension or expulsion; definitions.

Sec. 1310c. (1) A school board or its designee shall consider using restorative practices as an alternative or in addition to suspension or expulsion under this act. If a school board or its designee suspends or expels a pupil under this act, the school board or its designee shall consider using restorative practices in addition to suspension or expulsion. If a school board or its designee decides not to suspend or expel a pupil for a disciplinary issue, the school board or its designee shall consider using restorative practices to address the disciplinary issue.

(2) Restorative practices may include victim-offender conferences that are initiated by the victim; that are approved by the victim's parent or legal guardian or, if the victim is at least age 15, by the victim; that are attended voluntarily by the victim, a victim advocate, the offender, members or the school community, and supporters of the victim and the offender; and that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, may require the pupil to do 1 or more of the following: apologize; participate in community service, restoration, or counseling; or pay restitution. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants. Restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

(3) As used in this section:

(a) "Bullying" and "cyberbullying" mean those terms as defined in section 1310b.

(b) "Restorative practices" means practices that emphasize repairing the harm to the victim and the school community caused by a pupil's misconduct.

(c) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(d) "School district" means a school district, an intermediate school district, or a public school academy.

**History:** Add. 2016, Act 361, Eff. Aug. 1, 2017.

**Popular name:** Act 451

### 380.1310d Suspension or expulsion of pupil; factors; exercise of discretion; rebuttable presumption; section inapplicable for possession of firearm in weapon free school zone; consideration of factors mandatory; definitions.

Sec. 1310d. (1) Before suspending or expelling a pupil under section 1310, 1311(1), 1311(2), or 1311a, the board of a school district or intermediate school district or board of directors of a public school academy, or a superintendent, school principal, or other designee under section 1311(1), shall consider each of the following factors:

(a) The pupil's age.

(b) The pupil's disciplinary history.

(c) Whether the pupil is a student with a disability.

(d) The seriousness of the violation or behavior committed by the pupil.

(e) Whether the violation or behavior committed by the pupil threatened the safety of any pupil or staff member.

(f) Whether restorative practices will be used to address the violation or behavior committed by the pupil.

(g) Whether a lesser intervention would properly address the violation or behavior committed by the pupil.

(2) Except as provided in subsection (3), this section applies to give the board of a school district or intermediate school district or board of directors of a public school academy, or its designee, discretion over whether or not to suspend or expel a pupil under section 1310, 1311(1), 1311(2), or 1311a. In exercising this discretion with regard to a suspension of more than 10 days or an expulsion, there is a rebuttable presumption that a suspension or expulsion is not justified unless the board or board of directors, or its designee, can demonstrate that it considered each of the factors listed under subsection (1). For a suspension of 10 or fewer days, there is no rebuttable presumption, but the board or board of directors, or its designee, shall consider each of the factors listed under subsection (1).

(3) This section does not apply to a pupil being expelled under section 1311(2) for possessing a firearm in a weapon free school zone.

(4) Except as provided in subsection (3), consideration of the factors listed in subsection (1) is mandatory before suspending or expelling a student under section 1310, 1311(1), 1311(2), or 1311a. The method used for consideration of the factors is at the sole discretion of the board of a school district or intermediate school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district or board of directors of a public school academy, or its designee.

(5) As used in this section:

(a) "Expel" means to exclude a pupil from school for disciplinary reasons for a period of 60 or more school days.

(b) "Firearm" means that term as defined in section 1311.

(c) "Suspend" means to exclude a pupil from school for disciplinary reasons for a period of fewer than 60 school days.

(d) "Weapon free school zone" means that term as defined in section 1311.

**History:** Add. 2016, Act 360, Eff. Aug. 1, 2017.

**Popular name:** Act 451

### 380.1311 Suspension or expulsion of pupil.

Sec. 1311. (1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil who commits criminal sexual conduct against another pupil enrolled in the same school district or a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is a student with a disability, and the school district has not evaluated the pupil in accordance with rules of the superintendent of public instruction to determine if the pupil is a student with a disability, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

(2) Subject to subsection (3) and section 1310d, if a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, commits criminal sexual conduct in a school building or on school grounds, or pleads to, is convicted of, or is adjudicated for criminal sexual conduct against another pupil enrolled in the same school district, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (6). However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another individual for use as a weapon.

(b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(3) There is a rebuttable presumption that expulsion under subsection (2) for possession of a weapon is not justified if both of the following are met:

(a) The school board or its designee determines in writing that at least 1 of the factors listed in subsection (2)(a) to (d) has been established in a clear and convincing manner.

(b) The pupil has no history of suspension or expulsion.

(4) If an individual is expelled under subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled under subsection (2). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled under subsection (2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311m or a cyber school as defined in section 551, an individual expelled under subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (6). Except as otherwise provided by law, a program operated for individuals expelled under subsection (2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual expelled from a school district under subsection (2) is not placed in an alternative education program, strict discipline academy, or cyber school, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil expelled under subsection (2) than the amount of the foundation allowance the school district receives


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

for the pupil as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(5) If a school board expels an individual under subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(6) The parent or legal guardian of an individual expelled under subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled under subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled under subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(*i*) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(*ii*) The extent to which reinstatement of the individual would create a risk of school district liability or individual liability for the school board or school district personnel.

(*iii*) The age and maturity of the individual.

(*iv*) The individual's school record before the incident that caused the expulsion.

(*v*) The individual's attitude concerning the incident that caused the expulsion.

(*vi*) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(*vii*) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(7) A school board or school administrator that complies with subsection (2) is not liable for damages for expelling a pupil under subsection (2), and the authorizing body of a public school academy is not liable for damages for expulsion of a pupil by the public school academy under subsection (2).

(8) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (6).

(9) This section does not diminish any rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

(10) If a pupil expelled from a public school district under subsection (2) is enrolled by a public school district sponsored alternative education program or a public school academy during the period of expulsion, the public school academy or alternative education program shall immediately become eligible for the prorated share of either the public school academy or operating school district's foundation allowance or the expelling school district's foundation allowance, whichever is higher.

(11) If an individual is expelled under subsection (2), it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in such a program during the expulsion. The office of safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under subsection (2) and under section 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office of safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

(12) As used in this section:

(a) "Arson" means a felony violation of chapter X of the Michigan penal code, 1931 PA 328, MCL 750.71 to 750.79.

(b) "Criminal sexual conduct" means a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(c) "Dangerous weapon" means that term as defined in section 1313.

(d) "Firearm" means that term as defined in section 921 of title 18 of the United States Code, 18 USC 921.

(e) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(f) "School district" means a school district, intermediate school district, or public school academy.

(g) "Weapon free school zone" means that term as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1994, Act 328, Eff. Jan. 1, 1995;—Am. 1995, Act 250, Imd. Eff. Jan. 2, 1996;—Am. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2007, Act 138, Imd. Eff. Nov. 13, 2007;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2016, Act 364, Eff. Aug. 1, 2017;—Am. 2018, Act 145, Eff. Aug. 8, 2018.

**Popular name:** Act 451

### 380.1311a Physical assault by pupil against employee, volunteer, or contractor; expulsion; verbal assault or bomb threat; suspension or expulsion; alternative services; referral; reinstatement; immunity from liability; petition for reinstatement form; rights of pupils eligible for special education programs and services; eligibility of school for prorated


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**share of foundation allowance; report of assaults; responsibility for enrollment in educational program; definitions.**

Sec. 1311a. (1) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a physical assault at school against a person employed by or engaged as a volunteer or contractor by the school board and the physical assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the assault, by another person on the victim's behalf, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5). A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board.

(2) Subject to section 1310d, if a pupil enrolled in grade 6 or above commits a verbal assault, as defined by school board policy, at school against a person employed by or engaged as a volunteer or contractor by the school board and the verbal assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the verbal assault, by another person on the victim's behalf, or if a pupil enrolled in grade 6 or above makes a bomb threat or similar threat directed at a school building, other school property, or a school-related event, then the school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall suspend or expel the pupil from the school district for a period of time as determined in the discretion of the school board or its designee. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this subsection to attend school in the school district during the expulsion.

(3) If an individual is permanently expelled pursuant to this section, the expelling school district shall enter on the individual's permanent record that he or she has been permanently expelled pursuant to this section. Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to this section and section 1311(2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311m, an individual permanently expelled pursuant to this section is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to this section and section 1311(2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual permanently expelled from a school district pursuant to this section is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(u) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil permanently expelled pursuant to this section than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620.

(4) If a school board permanently expels an individual pursuant to this section, the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(5) The parent or legal guardian of an individual permanently expelled pursuant to this section or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) The individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) The individual shall not be reinstated before the expiration of 180 school days after the date of expulsion.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(*i*) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(*ii*) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.

(*iii*) The age and maturity of the individual.

(*iv*) The individual's school record before the incident that caused the expulsion.

(*v*) The individual's attitude concerning the incident that caused the expulsion.

(*vi*) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(*vii*) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with this section is not liable for damages for suspending or expelling a pupil pursuant to this section, and the authorizing body of a public school academy is not liable for damages for suspension or expulsion of a pupil by the public school academy pursuant to this section.

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5). The department may designate the form used for a petition for reinstatement under section 1311 as a form that may be used under this section.

(8) This section does not diminish any rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

(9) If a pupil expelled from a school district pursuant to this section is enrolled by a public school district sponsored alternative education program or a public school academy during the period of expulsion, the public school academy or the alternative education program is immediately eligible for the prorated share of either the public school academy's or operating school district's foundation allowance or the expelling school district's foundation allowance, whichever is higher.

(10) A school board or its designee shall report all assaults described in subsection (1) or (2) to appropriate state or local law enforcement officials and prosecutors as provided in the statewide school safety information policy under section 1308.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(11) If an individual is expelled pursuant to this section, it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The office for safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled pursuant to this section and pursuant to section 1311(2), and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office for safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

(12) As used in this section:

(a) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(b) "Physical assault" means intentionally causing or attempting to cause physical harm to another through force or violence.

(c) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(d) "School district" means a school district, intermediate school district, or public school academy.

**History:** Add. 1999, Act 104, Imd. Eff. July 6, 1999;—Am. 2000, Act 230, Imd. Eff. June 27, 2000;—Am. 2007, Act 138, Imd. Eff. Nov. 13, 2007;—Am. 2016, Act 366, Eff. Aug. 1, 2017.

**Popular name:** Act 451

### 380.1311b Strict discipline academy; powers; definitions.

Sec. 1311b. (1) A strict discipline academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A strict discipline academy is a body corporate and is a governmental agency. The powers granted to a strict discipline academy under sections 1311b to 1311*l* constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in sections 1311b to 1311*l*:

(a) "Authorizing body" means any of the following that issues a contract as provided in sections 1311b to 1311*l*:

(*i*) The board of a school district that operates grades K to 12.

(*ii*) An intermediate school board.

(*iii*) The board of a community college.

(*iv*) The governing board of a state public university.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the state board under section 1531.

(c) "Community college" means a community college organized under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or a federal tribally controlled community college that is recognized under the tribally controlled colleges and universities assistance act of 1978, 25 USC 1801 to 1852, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(d) "Contract" means the executive act taken by an authorizing body that evidences the authorization of a strict discipline academy and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on a strict discipline academy, as provided by sections 1311b to 1311*l*, and confirming the status of a strict discipline academy as a public school in this state.

(e) "Entity" means a partnership, nonprofit or business corporation, labor organization, or any other association, corporation, trust, or other legal entity.

(f) "State public university" means a university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2012, Act 620, Eff. Mar. 28, 2013.

**Popular name:** Act 451

### 380.1311c Repealed. 2014, Act 256, Imd. Eff. June 30, 2014.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** The repealed section pertained to submission of report by strict discipline academy.

### 380.1311d Strict discipline academy; organization of corporation; authorizing body; application; oversight; suspension of power; fees; presumption of legal organization.

Sec. 1311d. (1) A strict discipline academy shall be organized and administered under the direction of a board of directors in accordance with sections 1311b to 1311*l* and with bylaws adopted by the board of directors. A strict discipline academy corporation created to operate a strict discipline academy shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that the strict discipline academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a strict discipline academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) Any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more strict discipline academies under sections 1311b to 1311*l*:

(a) The board of a school district that operates grades K to 12. However, the board of a school district shall not issue a contract for a strict discipline academy to operate outside the school district's boundaries, and a strict discipline academy authorized by the board of a school district shall not operate outside that school district's boundaries.

(b) An intermediate school board. However, the board of an intermediate school district shall not issue a contract for a strict discipline academy to operate outside the intermediate school district's boundaries, and a strict discipline academy authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries.

(c) The board of a community college. However, except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a strict discipline academy to operate in a school district organized as a school district of the first class, a strict discipline academy authorized by the board of a community college shall not operate in a school district organized as a school district of the first class, the board of a community college shall not issue a contract for a strict discipline academy to operate outside the boundaries of the community college district, and a strict discipline academy authorized by the board of a community college shall not operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 strict discipline academy to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a strict discipline academy itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university.

(3) To obtain a contract to organize and operate 1 or more strict discipline academies, 1 or more persons or an entity may apply to an authorizing body described in subsection (2). The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 1311e, a list of the proposed members of the board of directors of the strict discipline academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(*i*) The name of the proposed strict discipline academy.

(*ii*) The purposes for the strict discipline academy corporation that will operate the strict discipline academy. This language shall provide that the strict discipline academy is established pursuant to sections 1311b to 1311*l* and that the strict discipline academy corporation is a governmental entity.

(*iii*) The name of the authorizing body.

(*iv*) The proposed time when the articles of incorporation will be effective.

(*v*) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the strict discipline academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(*i*) The governance structure of the strict discipline academy.

(*ii*) A copy of the educational goals of the strict discipline academy and the curricula to be offered and methods of pupil assessment to be used by the strict discipline academy. To the extent applicable, the progress of the pupils in the strict discipline academy shall be assessed using at least a Michigan education assessment


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

program (MEAP) test or an assessment instrument developed under section 1279 for a state-endorsed high school diploma.

(*iii*) The admission policy and criteria to be maintained by the strict discipline academy. The admission policy and criteria shall comply with section 1311g. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that a strict discipline academy is being created and adequate information on the admission policy, criteria, and process.

(*iv*) The school calendar and school day schedule.

(*v*) The age or grade range of pupils to be enrolled.

(*vi*) The type of pupils to be enrolled in the strict discipline academy, as described in section 1311g(3) and (4).

(f) Descriptions of staff responsibilities and of the strict discipline academy's governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the local and intermediate school districts in which the strict discipline academy will be located.

(h) An agreement that the strict discipline academy will comply with the provisions of sections 1311b to 1311*l* and, subject to the provisions of these sections, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) For a strict discipline academy authorized by a school district, an assurance that employees of the strict discipline academy will be covered by the collective bargaining agreements that apply to other employees of the school district employed in similar classifications in schools that are not strict discipline academies.

(j) A description of and address for the proposed physical plant in which the strict discipline academy will be located.

(4) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each strict discipline academy operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the authorizing body can certify that the strict discipline academy is in compliance with statute, rules, and the terms of the contract.

(5) If the state board finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more strict discipline academies operating under a contract issued by the authorizing body, the state board may suspend the power of the authorizing body to issue new contracts to organize and operate strict discipline academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(6) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a strict discipline academy in an amount that exceeds a combined total of 3% of the total state school aid received by the strict discipline academy in the school year in which the fees or expenses are charged. An authorizing body may provide other services for a strict discipline academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the strict discipline academy.

(7) A strict discipline academy shall be presumed to be legally organized if it has exercised the franchises and privileges of a strict discipline academy for at least 2 years.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999.

**Popular name:** Act 451

### 380.1311e Strict discipline academy; issuance of contract by authorizing body; placement of question on ballot; submission of contract and application to state board; selection, term, and number of members of board of directors; contract requirements; compliance with applicable law; immunity; exemption from tax; property acquisition and condemnation.

Sec. 1311e. (1) An authorizing body is not required to issue a contract to any person or entity. Contracts for strict discipline academies shall be issued on a competitive basis taking into consideration the resources available for the proposed strict discipline academy, the population to be served by the proposed strict discipline academy, and the educational goals to be achieved by the proposed strict discipline academy.

(2) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more strict discipline academies within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 1311d and shall be signed by a number of school electors of the school district equal to at least 15% of the total number of school electors of that school district. The petition shall be filed with the secretary of the board. If the board receives a petition meeting the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

requirements of this subsection, the board shall place the question of issuing the contract on the ballot at its next annual school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(3) Within 10 days after issuing a contract for a strict discipline academy, the board of the authorizing body shall submit to the state board a copy of the contract and of the application under section 1311d.

(4) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each strict discipline academy subject to its jurisdiction.

(5) A contract issued to organize and administer a strict discipline academy shall contain at least all of the following:

(a) The educational goals the strict discipline academy is to achieve and the methods by which it will be held accountable. To the extent applicable, the pupil performance of a strict discipline academy shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination developed under section 1279g, as applicable.

(b) A description of the method to be used to monitor the strict discipline academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract.

(d) All of the matters set forth in the application for the contract.

(e) For a strict discipline academy authorized by a school district, an agreement that employees of the strict discipline academy will be covered by the collective bargaining agreements that apply to employees of the school district employed in similar classifications in schools that are not strict discipline academies.

(f) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 1311*l*.

(g) A description of and address for the proposed physical plant in which the strict discipline academy will be located.

(h) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(i) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal shall include student growth as measured by assessments and other objective criteria as a significant factor in the decision of whether or not to renew the contract.

(6) A strict discipline academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(f) Except for part 6a, all provisions of this act that explicitly apply to public school academies established under part 6a.

(7) A strict discipline academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing a strict discipline academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(8) A strict discipline academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a strict discipline academy are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A strict discipline academy may not levy ad valorem property taxes or any other tax for any purpose. However, operation of 1 or more strict discipline academies by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or any other tax.

(9) A strict discipline academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a strict discipline academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.1311f Levy of taxes or issuance of bonds by school district.

Sec. 1311f. If a school district or intermediate school district applies for and obtains a contract to operate 1 or more strict discipline academies under sections 1311b to 1311*l*, the power of the school district or intermediate school district to levy taxes for any purpose under this act is not affected by the operation of a strict discipline academy by the school district or intermediate school district. Revenue from taxes levied by a school district or intermediate school district under this act or bonds issued by a school district or intermediate school district under this act may be used to support the operation or facilities of a strict discipline academy operated by the school district or intermediate school district in the same manner as that revenue may be used under this act by the school district or intermediate school district to support school district or intermediate school district operations and facilities. This section does not authorize a school district or intermediate school district to levy taxes or to issue bonds for any purpose that is not otherwise authorized under this act.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999.

**Popular name:** Act 451

### 380.1311g Strict discipline academy; location; tuition; admission policies or practices; enrollment; types of pupils; special education pupil; pupils committed to high-security or medium-security juvenile facility, mental health facility, or child caring institution; pupil ceasing to meet requirements under subsections (3) to (5); custody of or jurisdiction over child by department of corrections; residence requirements; grades.

Sec. 1311g. (1) A strict discipline academy may be located in all or part of an existing public school building. Except for a strict discipline academy that includes pupils who are the responsibility of a county juvenile agency, a strict discipline academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 1311d and in the contract.

(2) A strict discipline academy shall not charge tuition. Except as otherwise provided in subsection (6), a strict discipline academy shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a strict discipline academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district.

(3) A strict discipline academy shall be established under sections 1311b to 1311m specifically for enrolling 1 or more of the following types of pupils:

(a) Pupils placed in the strict discipline academy by a court or by the department of health and human services or a county juvenile agency under the direction of a court.

(b) Pupils who have been expelled under section 1311(2).

(c) Pupils who have been expelled under section 1311a or another provision of this act.

(d) Other pupils who have been expelled from school, or pupils who have been suspended from school for a suspension that is for a period in excess of 10 school days, and who are referred to the strict discipline academy by that pupil's school or placed in the strict discipline academy by the pupil's parent or legal guardian.

(4) In addition to the types of pupils specified in subsection (3), a strict discipline academy shall be open for enrollment of a special education pupil who does not meet the requirements of subsection (3) if the special education pupil's individualized education program team recommends that the special education pupil be placed in the strict discipline academy. As used in this subsection, "individualized education program team" means that term as defined in section 614 of the individuals with disabilities education act, 20 USC 1414.

(5) In addition to the types of pupils specified in subsections (3) and (4), a strict discipline academy may enroll a pupil who is placed in a high-security or medium-security juvenile facility, mental health facility, or child caring institution that is operated by a private agency or a pupil who became a resident of this state as an unaccompanied or resettled minor under the care of the department of health and human services and who is less than 22 years of age as of September 1 of the current school year.

(6) A strict discipline academy shall enroll only 1 or more of the types of pupils described in subsections (3) to (5). A pupil who is enrolled in a strict discipline academy under subsections (3) to (5) may, at the option


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

of his or her parent or legal guardian, continue to remain enrolled in the strict discipline academy after he or she ceases to meet the requirements for enrollment under subsections (3) to (5) as long as he or she meets the other applicable requirements for enrollment.

(7) A strict discipline academy is not required to keep any group of pupils described in subsections (3) to (5) physically separated from another group of those pupils, as might otherwise be required under section 1311, section 1311a, or another provision of this act.

(8) Strict discipline academies are not intended to enroll or otherwise be used to educate individuals who are committed to a high-security or medium-security juvenile facility operated by the department of health and human services or another state department or agency. Further, if the department of corrections or another state department or agency other than the department of health and human services has custody of or jurisdiction over a child, that state department or agency has the financial responsibility for educating the child.

(9) Except for a foreign exchange student who is not a United States citizen, a strict discipline academy shall not enroll a pupil who is not a resident of this state. Enrollment in the strict discipline academy may be open to all individuals who reside in this state who meet the admission policy under subsections (3) to (5) and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 1311d who meet the admission policy under subsections (3) to (5), except that admission to a strict discipline academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 1311d, shall be open to all pupils who reside in the county in which the federal military installation is located who meet the admission policy under subsections (3) to (5). For a strict discipline academy authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy under subsections (3) to (5). If there are more applications to enroll in the strict discipline academy than there are spaces available, pupils shall be selected to attend using a random selection process. However, a strict discipline academy may give enrollment priority to a sibling of a pupil enrolled in the strict discipline academy. A strict discipline academy shall allow any pupil who was enrolled in the strict discipline academy in the immediately preceding school year to enroll in the strict discipline academy in the appropriate grade unless the appropriate grade is not offered at that strict discipline academy.

(10) A strict discipline academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2005, Act 28, Imd. Eff. May 23, 2005;—Am. 2007, Act 21, Imd. Eff. June 19, 2007;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2014, Act 256, Imd. Eff. June 30, 2014;—Am. 2018, Act 42, Imd. Eff. Feb. 28, 2018.

**Popular name:** Act 451

### 380.1311h Strict discipline academy; additional powers.

Sec. 1311h. In addition to other powers set forth in sections 1311b to 1311*l*, a strict discipline academy may take action to carry out the purposes for which it was incorporated under sections 1311b to 1311*l*, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) To acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the strict discipline academy require.

(c) To receive and disburse funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the strict discipline academy.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the strict discipline academy in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by a strict discipline academy is not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the strict discipline academy, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999;—Am. 2012, Act 620, Eff. Mar. 28, 2013.

**Popular name:** Act 451

### 380.1311i School district subject to court desegregation order.

Sec. 1311i. If a strict discipline academy is operated by a school district that is subject to a court desegregation order, pupil selection at the strict discipline academy is subject to that order.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999.

**Popular name:** Act 451

### 380.1311j Use of certificated and noncertificated teachers; teaching techniques or methods.

Sec. 1311j. (1) Except as otherwise provided by law, a strict discipline academy shall use certificated teachers according to state board or superintendent of public instruction rule.

(2) A strict discipline academy operated by a state public university or community college may use noncertificated individuals to teach as follows:

(a) If the strict discipline academy is operated by a state public university, the strict discipline academy may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university and who has been granted institutional tenure, or has been designated as being on tenure track, by the state public university.

(b) For a strict discipline academy operated by a community college, the strict discipline academy may use as a classroom teacher a full-time member of the community college faculty who has at least 5 years' experience at that community college in teaching the subject matter that he or she is teaching at the strict discipline academy.

(c) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(3) A strict discipline academy may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods, and shall report those to the authorizing body and state board to be made available to the public. A strict discipline academy may use any instructional technique or delivery method that may be used by a school district.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999.

**Popular name:** Act 451

### 380.1311k Personnel.

Sec. 1311k. A strict discipline academy, with the approval of the authorizing body, may employ or contract with personnel as necessary for the operation of the strict discipline academy, prescribe their duties, and fix their compensation.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999.

**Popular name:** Act 451

### 380.1311*l* Authorizing body as fiscal agent; revocation of contract.

Sec. 1311*l*. (1) The authorizing body for a strict discipline academy is the fiscal agent for the strict discipline academy. A state school aid payment for a strict discipline academy shall be paid to the authorizing body that is the fiscal agent for that strict discipline academy, which shall then forward the payment to the strict discipline academy. An authorizing body has the responsibility to oversee a strict discipline academy's compliance with the contract and all applicable law. A contract issued under sections 1311b to 1311*l* may be revoked by the authorizing body that issued the contract if the authorizing body determines that 1 or more of the following has occurred:

(a) Failure of the strict discipline academy to abide by and meet the educational goals set forth in the contract.

(b) Failure of the strict discipline academy to comply with all applicable law.

(c) Failure of the strict discipline academy to meet generally accepted public sector accounting principles.

(d) The existence of 1 or more other grounds for revocation as specified in the contract.

(2) The decision of an authorizing body to 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 revokes a contract under this section is not liable for that action to the strict discipline academy, strict discipline academy corporation, a pupil of the strict discipline academy, the parent or guardian of a pupil of the strict discipline academy, or any other person.

**History:** Add. 1999, Act 23, Imd. Eff. May 12, 1999.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1311m Strict discipline academy; compliance with public employees health benefit act.

Sec. 1311m. If the board of directors of a strict discipline academy provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

**History:** Add. 2007, Act 107, Imd. Eff. Oct. 1, 2007.

**Popular name:** Act 451

### 380.1312 "Corporal punishment" defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

Sec. 1312. (1) As used in this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.

(3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) For self-defense or the defense of another.

(c) To prevent a pupil from inflicting harm on himself or herself.

(d) To quell a disturbance that threatens physical injury to any person.

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

(f) To protect property.

(5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.

(6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.

(7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.

(8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1988, Act 521, Eff. Mar. 30, 1989;—Am. 1992, Act 6, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2000, Act 461, Imd. Eff. Jan. 10, 2001.

**Popular name:** Act 451

### 380.1313 Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

Sec. 1313. (1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(3) A law enforcement agency that takes possession of a dangerous weapon under subsection (2) shall check all available local and state stolen weapon and stolen property files and the national crime information center stolen gun and property files to determine the legal owner of the dangerous weapon. If the dangerous weapon is a pistol, the law enforcement agency also shall check the state pistol registration records to determine the legal owner. If the law enforcement agency is able to determine the legal owner of the dangerous weapon, and if the legal owner did not knowingly provide the dangerous weapon to the pupil or lawfully provided the dangerous weapon to the pupil but did not know or have reason to know that the pupil would possess the dangerous weapon while in attendance at school or a school activity or while en route to or from school on a school bus, the law enforcement agency shall send by certified mail to the legal owner a notice that the agency is in possession of the dangerous weapon and that the legal owner has 90 days from receipt of the notice to claim the dangerous weapon.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

**History:** Add. 1987, Act 211, Imd. Eff. Dec. 22, 1987;—Am. 1995, Act 76, Eff. Aug. 1, 1995.

**Popular name:** Act 451

### 380.1316 Public school fraternity, sorority, or secret society prohibited; definition.

Sec. 1316. (1) A school official or a board of a school district shall not authorize, support, or permit the creation and existence of a public school fraternity, sorority, or secret society.

(2) A fraternity, sorority, or secret society is declared an obstruction to education and inimical to the public welfare.

(3) As used in this section, a "public school fraternity, sorority, or secret society" means an organization whose active membership is composed wholly or in part of pupils of the public schools of this state enrolled in 1 or more of the 12 grades and perpetuating itself by taking in additional members from the pupils enrolled in the public schools on the basis of the decision of its membership, rather than upon the right of a pupil who is qualified by the regulations of the school to be a member of and take part in class or group exercises, subjects required by the course of study, or program of school activities fostered and promoted by the board and superintendent of schools or by the board and intermediate superintendent for a school not employing a superintendent of schools.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1317 Public school employee or volunteer; prohibited conduct; exceptions; penalties; definitions.

Sec. 1317. (1) Except as otherwise provided in subsection (2), a public school employee or volunteer shall not do any of the following:

(a) Knowingly sell, market, distribute, or promote the use of a dietary supplement that contains a performance-enhancing compound to a pupil with whom the public school employee or volunteer has contact as part of his or her duties as a public school employee or activities as a public school volunteer.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains a performance-enhancing compound by a pupil with whom the public school employee or volunteer has contact as part of his or her duties as a public school employee or activities as a public school volunteer.

(2) This section does not prohibit a public school employee or volunteer from doing any of the following:

(a) Providing, endorsing, or promoting the use of a dietary supplement that contains a performance-enhancing compound to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains a performance-enhancing compound by, the public school employee's or volunteer's own child.

(b) Selling, marketing, distributing, or promoting the use of a dietary supplement that contains a performance-enhancing compound to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains a performance-enhancing compound by, a pupil as part of an activity that meets all of the following:

(*i*) Does not occur on school property or at a school-related function.

(*ii*) Is entirely separate from any aspect of the public school employee's employment as a public school employee or public school volunteer's activities as a public school volunteer.

(*iii*) Does not in any way involve information about or contacts with a pupil that the public school employee or volunteer has had direct or indirect access to through any aspect of the public school employee's employment as a public school employee or public school volunteer's activities as a public school volunteer.

(3) A person who violates this section is subject to the penalties under section 1804.

(4) As used in this section:

(a) "Dietary supplement" means that term as defined in section 201 of the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 321.

(b) "Performance-enhancing compound" means a manufactured product for oral ingestion, intranasal application, or inhalation that meets both of the following:

(*i*) Contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance that is not an essential vitamin or mineral.

(*ii*) Is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.

(c) "Public school employee" means a person employed by a school district, local act school district, intermediate school district, or public school academy. For the purposes of this section, public school employee also includes a person performing services on behalf of a school district, local act school district, intermediate school district, or public school academy pursuant to a contract.

(d) "Public school volunteer" means a person serving as a volunteer in any capacity in a public school.

**History:** Add. 1999, Act 187, Eff. Feb. 23, 2000.

**Popular name:** Act 451

### 380.1318 Use of performance-enhancing substances in interscholastic athletics; eligibility policy; list of drugs to be provided by department of community health.

Sec. 1318. (1) The board of a school district or board of directors of a public school academy shall ensure that its policies concerning a pupil's eligibility for participation in interscholastic athletics include use of a performance-enhancing substance by the pupil as a violation that will affect a pupil's eligibility, as determined by the board or board of directors. The governing body of a nonpublic school is encouraged to adopt an eligibility policy that meets the requirements of this section.

(2) For the purposes of this section, the department of community health shall develop, periodically update, and make available to school districts, public school academies, and nonpublic schools a list of performance-enhancing substances. The department of community health shall base the list on the list of banned drugs contained in bylaw 31.2.3.1 of the bylaws of the national collegiate athletic association.

**History:** Add. 2006, Act 215, Imd. Eff. June 26, 2006.

### 380.1321 Transportation for pupils; requirements; payment.

Sec. 1321. (1) Except as otherwise provided in this section, if a board of a school district provides transportation for its resident pupils, other than students with a disability transported under article 3 or other pupils who cannot safely walk to school, the school board shall provide transportation to and from school for each resident public or nonpublic school pupil if both of the following requirements are met:

(a) The school district provides transportation for the elementary school level, middle or junior high school level, or high school level, as defined by the local school board, in which the pupil is enrolled.

(b) The pupil attends either the public or the nearest state approved nonpublic school in the school district


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to which the pupil is eligible to be admitted.

(2) Transportation provided under subsection (1) shall be without charge to the resident pupil, the parent, guardian, or person standing in loco parentis to the pupil.

(3) A school district is not required to transport or pay for transportation of a resident pupil living within 1-1/2 miles, by the nearest traveled route, to the public or state approved nonpublic school in which the pupil is enrolled. A school district is not required to transport or pay for the transportation of a resident pupil attending a nonpublic school who lives in an area less than 1-1/2 miles from a public school in which public school pupils are not transported, except that the school district shall transport or pay for the transportation of the resident pupil from the public school within the area to the nonpublic school the pupil attends.

(4) A school district is not required to transport or pay for the transportation of resident pupils to state approved nonpublic schools located outside the district unless the school district transports some of its resident pupils, other than students with a disability under article 3, to public schools located outside the district, in which case the school district shall transport or pay for the transportation of resident pupils attending a state approved nonpublic school at least to the distance of the public schools located outside the district to which the district transports resident pupils and in the same general direction.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1982, Act 20, Imd. Eff. Mar. 4, 1982;—Am. 1990, Act 163, Imd. Eff. July 2, 1990;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2016, Act 428, Eff. Apr. 4, 2017.

**Popular name:** Act 451

### 380.1322 Transportation for pupils; routes; rules; construction of section; vehicles.

Sec. 1322. (1) A pupil attending public school or the nearest state approved nonpublic school available, to which nonpublic school the pupil may be admitted, shall be transported along the regular routes as determined by the board to public and state approved nonpublic schools. Transportation to public and the nearest state approved nonpublic school located within or outside the district to which nonpublic school the pupil is eligible to be admitted shall be provided under the rules promulgated by the state board. Rules shall not require the transportation or payment for transportation for nonpublic school pupils on days when public school pupils are not transported.

(2) This section shall not be construed to require or permit transportation of pupils to a state approved nonpublic school attending in the elementary grades when transportation is furnished by the school district for secondary pupils only, nor to require or permit the transportation of pupils to a state approved nonpublic school attending the secondary grades when transportation is furnished by the district for elementary pupils only.

(3) Vehicles used for the transportation of pupils shall be adequate and of ample capacity.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 340.281 et seq. of the Michigan Administrative Code.

### 380.1323 Transportation of nonpublic school pupils to and from auxiliary service sites; payment of costs; applicability of subsection (1).

Sec. 1323. (1) Except as otherwise provided in this section, the board of a school district that provides auxiliary services to pupils pursuant to section 1296 shall provide transportation from the nonpublic school to and from the site where the auxiliary services are provided to resident and nonresident nonpublic school pupils receiving those services, to the extent the reasonable costs of the transportation of nonspecial education pupils are paid for by the state, except for pupils whose transportation costs are being reimbursed under section 71 of the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being section 388.1671 of the Michigan Compiled Laws.

(2) The board of a school district that does not provide transportation for public school pupils, other than special education pupils, is not required to transport nonpublic school pupils to and from auxiliary service sites for nonspecial education auxiliary services.

(3) The requirements of subsection (1) do not apply if the superintendent of public instruction determines that a school district is in substantial compliance with section 1296 without the provision of transportation between the nonpublic school and the site where the auxiliary services are provided.

**History:** Add. 1986, Act 151, Imd. Eff. July 3, 1986.

**Popular name:** Act 451

### 380.1324 Transportation for pupils; contracts; price.

Sec. 1324. The board of a school district or board of directors of a public school academy may enter into a contract with the board of another school district or board of directors of a public school academy or with


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

private persons to furnish transportation for nonresident pupils attending public and state approved nonpublic schools located within the school district or in other school districts. The price paid for the transportation shall not be less than the actual cost of the transportation to the school district or public school academy furnishing transportation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 416, Eff. Mar. 30, 1995.

**Popular name:** Act 451

### 380.1325 School district, intermediate school district, or consortium of districts contracting with other districts to provide transportation for pupils.

Sec. 1325. (1) A school district, intermediate school district, or consortium consisting of any combination of local or intermediate districts may contract with the board of another district to provide transportation for the pupils of the other district either within or outside the other district.

(2) For purposes of providing the transportation, and subject to the requirements of this act for school buildings, supplies, and vehicles, a local or intermediate district or consortium that enters into a contract with another district to provide transportation as described in subsection (1) may do 1 or more of the following:

(a) Acquire 1 or more sites, acquire or construct 1 or more buildings, or improve or enlarge 1 or more existing buildings.

(b) Furnish, equip, operate, and maintain 1 or more buildings.

(c) Acquire school buses, other school vehicles, and related supplies.

**History:** Add. 1992, Act 140, Imd. Eff. July 15, 1992.

**Popular name:** Act 451

### 380.1331 Repealed. 1990, Act 189, Eff. Aug. 15, 1990.

**Compiler's note:** The repealed section pertained to transportation of pupils to educational programs at fairs, health clinics, and educational functions.

**Popular name:** Act 451

### 380.1332 Transportation for pupils; nonmandatory and noncredit events; fees; rules; additional school buses; insurance.

Sec. 1332. (1) The board of a school district may collect a fee for transporting pupils enrolled in grades K to 12 to or from nonmandatory and noncredit events sponsored by the school district. Fees charged shall cover expenses for the trips involved, under rules promulgated by the state board.

(2) A board of education shall not purchase additional school buses for the sole purpose of implementing this section.

(3) Insurance to indemnify the school district, its officers, or employees against liability for damages arising out of the use of school buses shall be obtained before fees or fares are charged.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 340.241 et seq. of the Michigan Administrative Code.

### 380.1333 Repealed. 2016, Act 532, Eff. Apr. 9, 2017.

**Compiler's note:** The repealed section pertained to use of school bus by an organization for transporting senior citizens, retired or disabled persons, or persons other than pupils.

**Popular name:** Act 451

### 380.1334 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to boarding of pupils.

**Popular name:** Act 451

### 380.1335 Boarding schools; licensing and regulation.

Sec. 1335. The state board shall license and regulate boarding schools.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 340.481 et seq. of the Michigan Administrative Code.

### 380.1336 Repealed. 1990, Act 189, Eff. Aug. 15, 1990.

**Compiler's note:** The repealed section pertained to transportation routes and walking distances for pupils.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1341 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to purchase of station wagons, passenger vans, and school bus.

**Popular name:** Act 451

### 380.1341a, 380.1341b Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to cost of purchasing pupil transportation vehicles, school buses, and rehabilitating school buses, and an additional allowance for vehicle rental and amortization.

**Popular name:** Act 451

### 380.1342 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to operation, storage, maintenance, and repair of school buses.

**Popular name:** Act 451

### 380.1343, 380.1344 Repealed. 1990, Act 189, Eff. Aug. 15, 1990.

**Compiler's note:** The repealed sections pertained to safety specifications for and painting of school buses.

**Popular name:** Act 451

### 380.1346 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to camps for recreational and instructional purposes.

**Popular name:** Act 451

### 380.1347 United States flag; purchase or possession; size; appliances; display.

Sec. 1347. (1) For each public school building it operates, the board of a school district shall purchase or possess a United States flag of a size of not less than 4 feet 2 inches by 8 feet, flag staff, and the necessary appliances for displaying the flag upon the flag staff; shall erect the flag staff on the public school building or on a conspicuous place upon the school grounds; and shall display the flag upon the flag staff at all times during school hours, inclement weather excepted, in which case the flag shall be prominently displayed within the school building.

(2) In addition to the display of the flag at the school required under subsection (1), the board or board of directors shall ensure that a United States flag is displayed in each classroom or other instructional site in which pupils recite the pledge of allegiance to the flag of the United States.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2012, Act 320, Eff. Mar. 28, 2013.

**Popular name:** Act 451

### 380.1347a Pledge of allegiance; recitation; definition.

Sec. 1347a. (1) Beginning with the 2013-2014 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that an opportunity to recite the pledge of allegiance to the flag of the United States is offered each school day to all public school pupils in each public school it operates.

(2) A pupil shall not be compelled, against the pupil's objections or those of the pupil's parent or legal guardian, to recite the pledge of allegiance.

(3) The board of a school district or intermediate school district or board of directors of a public school academy, and the school administrator in charge of a school building, shall ensure that a pupil is not subject to any penalty or bullying at school as a result of not reciting the pledge of allegiance.

(4) As used in this section, "pledge of allegiance to the flag of the United States" or "pledge of allegiance" means the pledge of allegiance to the flag prescribed in 4 USC 4.

**History:** Add. 2012, Act 321, Imd. Eff. Oct. 5, 2012.

### 380.1348, 380.1349 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to information between community and board and contract with yearbook photographer.

**Popular name:** Act 451

## PART 17
## BONDS AND NOTES

### 380.1351 Borrowing money and issuing bonds; purposes; limitations; bonds or notes as full faith and credit tax limited obligations.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 1351. (1) Until May 1, 1994, a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; participating in the administrative costs of an urban renewal program through which the school district desires to acquire a site or addition to a site for school purposes; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the purposes set forth in this subsection. In addition, until December 31, 1991 a school district may borrow money and issue bonds to defray all or part of the cost of purchasing textbooks.

(2) Except as otherwise provided in this subsection, a school district shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the district, exceeds 5% of the state equalized valuation of the taxable property within the district, unless the proposition of borrowing the money or issuing the bonds is submitted to a vote of the school electors of the district at a regular or special school election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a, to issue bonds under section 11i of the state school aid act of 1979, MCL 388.1611i, or, if the school district has fewer than 1,100 pupils in membership in 2006 and is located in a county with a population of less than 30,500 as of the 2000 decennial census, to issue qualified zone academy bonds. For the purposes of this subsection, the following types of bonds shall not be included in computing the total outstanding bonded indebtedness of a school district:

(a) Bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i.

(b) If the school district has fewer than 1,100 pupils in membership in 2006 and is located in a county with a population of less than 30,500 as of the 2000 decennial census, qualified zone academy bonds.

(3) A school district shall not issue bonds under this part for an amount greater than 15% of the total assessed valuation of the district, except as provided in section 1356. A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the 15% limitation. Bonds issued under this part are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that bonds issued for a purpose described in section 1274a may be sold at a public or publicly negotiated sale at the time or times, at the price or prices, and at a discount as determined by the board of the school district.

(4) Bonds or notes issued by a school district or intermediate school district under this part or section 442, 629, or 1274a shall be full faith and credit tax limited obligations of the district pledging the general funds, voted and allocated tax levies, or any other money available for such a purpose and shall not allow or provide for the levy of additional millage for payment of the bond or note without a vote of the qualified electorate of the district.

(5) As used in this section, "qualified zone academy bond" means that term as defined in section 1397e of the internal revenue code, 26 USC 1397e.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1985, Act 22, Imd. Eff. May 20, 1985;—Am. 1990, Act 352, Imd. Eff. Dec. 26, 1990;—Am. 1997, Act 152, Imd. Eff. Dec. 22, 1997;—Am. 2002, Act 67, Imd. Eff. Mar. 15, 2002;—Am. 2003, Act 299, Eff. Jan. 1, 2005;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007.

**Popular name:** Act 451

### 380.1351a Borrowing money and issuing bonds.

Sec. 1351a. (1) Beginning with bonds issued after May 1, 1994, a school district, including, but not limited to, a school district that is a community district or a qualifying school district, shall not borrow money and issue bonds of the district under section 1351(1). However, a school district, including, but not limited to, a school district that is a community district, may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, or equipping or reequipping, except for equipping or reequipping for technology, school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; furnishing or refurnishing new or remodeled school buildings; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; acquiring, installing, or equipping or reequipping school buildings for technology; or accomplishing a combination of the purposes set forth in this subsection. Section 1351(2) to (4) applies to bonds issued under this section.

(2) The proceeds of bonds issued under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, shall be used for capital expenditures and to pay costs of bond issuance, and shall not be


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

used for maintenance costs. Except as otherwise provided in this subsection, a school district that issues bonds under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, shall have an independent audit, using generally accepted accounting principles, of its bonding activities under these sections conducted within 120 days after completion of all projects financed by the proceeds of the bonds and shall submit the audit report to the department of treasury. For bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i, the independent audit required under this subsection may be conducted and submitted with the annual report required under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) A school district, including, but not limited to, a school district that is a community district, shall not borrow money and issue notes or bonds under this section to defray all or part of the costs of any of the following:

(a) Upgrades to operating system or application software.

(b) Media, including diskettes, compact discs, video tapes, and disks, unless used for the storage of initial operating system software or customized application software included in the definition of technology under this section.

(c) Training, consulting, maintenance, service contracts, software upgrades, troubleshooting, or software support.

(4) A resident of a school district, including, but not limited to, a school district that is a community district, has standing to bring suit against the school district to enforce the provisions of this section in a court having jurisdiction.

(5) As used in this section, "technology" means any of the following:

(a) Hardware and communication devices that transmit, receive, or compute information for pupil instructional purposes.

(b) The initial purchase of operating system software or customized application software, or both, accompanying the purchase of hardware and communication devices under subdivision (a).

(c) The costs of design and installation of the hardware, communication devices, and initial operating system software or customized application software authorized under this subsection.

**History:** Add. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 1994, Act 278, Imd. Eff. July 11, 1994;—Am. 1997, Act 152, Imd. Eff. Dec. 22, 1997;—Am. 2002, Act 65, Imd. Eff. Mar. 15, 2002;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.1351b Appreciation or sale at discount.

Sec. 1351b. Beginning with bonds issued after May 1, 1995, bonds issued under section 1351a shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

**History:** Add. 1994, Act 278, Imd. Eff. July 11, 1994.

**Popular name:** Act 451

### 380.1352 Borrowing money or issuing bonds; contract for legal representation.

Sec. 1352. The board of a school district or intermediate school district shall not contract for legal representation by an attorney or law firm in connection with borrowing money and issuing bonds under this act unless the board or intermediate school board does all of the following:

(a) Requests from the attorney or law firm and obtains before entering into the contract disclosure of whether the attorney or law firm also represents the underwriter of the bonds or any other party involved in the bond issue.

(b) If the disclosure under subdivision (a) indicates that the attorney or law firm represents the underwriter or another party involved in the bond issue, consents by majority vote of the board or intermediate school board to entering into the contract notwithstanding the attorney's or law firm's representation of the underwriter or other party as well as the board or intermediate school board.

(c) In its contract with the attorney or law firm, requires the attorney or law firm to submit itemized billings on at least a monthly basis that itemize at least time and services provided and any payments made by the attorney or law firm to third parties in connection with representation of the board or intermediate school board.

**History:** Add. 1994, Act 278, Imd. Eff. July 11, 1994.

**Popular name:** Act 451

### 380.1356 Operating deficit; notes or bonds as school financing stability bonds; resolution; determination of deficit amount; pledge as security; agreement; lien; revenues held in trust; maturity; interest; installments; redemption; valid and binding general obligations;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**payment; use of proceeds; review and approval of budget.**

Sec. 1356. (1) Notwithstanding section 1351, a school district that has an operating or projected operating deficit or that has outstanding state aid anticipation notes issued under section 1225 through the Michigan finance authority may, with the approval of the state treasurer, borrow and issue notes or bonds for the purpose of eliminating the deficit or refunding or refinancing the state aid anticipation notes and related multiyear repayment obligations in accordance with this section. Notes or bonds issued under this section shall be known as school financing stability bonds. This authority is in addition to and not in derogation of any power granted to a school district by any other provision of this act.

(2) Before a school district issues notes or bonds under this section, the board of the school district shall provide by resolution for the submission of the following certified and substantiated information to the department of treasury:

(a) There exists or will exist an operating deficit in the school district or the school district has outstanding state aid anticipation notes issued under section 1225 through the Michigan finance authority.

(b) If the school district has a deficit, during or before the fiscal year in which the application is made, the school district has made every available effort to offset the deficit.

(c) The school district has a plan approved by the state treasurer that outlines actions to be taken to balance future expenditures with anticipated revenues and to repay any bonds or notes issued under this section. The state treasurer may recognize a deficit elimination plan or an enhanced deficit elimination plan authorized under section 102 of the state school aid act of 1979, MCL 388.1702, as satisfying the requirements for an approved plan under this subdivision.

(3) The existence of an operating or projected operating deficit, the amount of the operating or projected operating deficit, and the amount necessary to refund or refinance any school aid anticipation notes issued under section 1225 through the Michigan finance authority shall be determined by the department of treasury, using normal school accounting practices. If a financial audit is required to arrive at a conclusive determination as to the amount of a deficit, the state treasurer shall charge all necessary expenses for the audit, including per diem and travel expenses, to the school district, and the school district shall make payment to the state treasurer for these expenses. A determination by the department of treasury under this subsection is final and conclusive.

(4) The notes or bonds may be issued in 1 or more series by resolution adopted by the school board, which resolution in each case shall make reference to the determination of the department of treasury under subsection (3). The amount of a note or bond issued shall not exceed the amount determined by the department of treasury under subsection (3).

(5) The school district may pledge as security for the repayment of principal and interest on notes or bonds issued under this section money from state school aid payments paid or payable to the school district, revenue from taxes levied by the school district for school operating purposes under section 1211, and other tax revenue or money of the district legally available as security. A pledge under this subsection is valid and binding from the time the pledge is made. A pledge under this subsection for the benefit of the holders of notes or bonds or for the benefit of others is perfected without delivery, recording, or notice. A school district may enter into an agreement with the department of treasury or the Michigan finance authority, or both, providing for the direct payment on behalf of the school district to the Michigan finance authority or a designated trustee of state school aid pledged for the repayment of principal and interest on notes or bonds issued under this section in the same manner as an agreement under section 17a(4) of the state school aid act of 1979, MCL 388.1617a. A school district also may provide for the deposit of revenues pledged for the payment of notes or bonds issued under this section in a separate account to pay principal and interest on notes or bonds, associated administrative costs, and any other obligations issued by the school district secured by the revenues. If the school district enters into an agreement with a person with a duty or obligation to collect for, pay, remit, disburse, or distribute to the school district all or a portion of the revenues pledged by the school district under this section, then the agreement must also provide for the direct payment of the revenues that the person has a duty or obligation to collect for, pay, remit, disburse, or distribute to the school district, and that the school district has pledged for payment of the notes or bonds issued under this section, to a trustee to be deposited in a trust account and used only for paying principal of and interest on the notes or bonds and related administrative costs and any other obligations issued or owing by the school district and secured by the revenues. If a school district has entered into an agreement with a trustee for the deposit of revenues pledged by a school district into a trust account, then after the issuance of the notes or bonds and before the deposit of the revenues of the school district into that trust account, the revenues of the school district to be deposited are held in trust for the benefit of the trustee and the notes or bonds by any persons coming into possession of the revenues. The revenues are held in trust for the benefit of the trustee and the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

notes or bonds whether the school district directly collects the revenues, another person collects the revenues, or any other person comes into possession of the revenues, and the revenues remain subject to the trust regardless of any subsequent transfer of the revenues until the revenues are deposited into the trust account. If the school district or other person holds a residual or other interest in the revenues held in trust and to be deposited with the trustee in the trust account, the interest is subordinate to a lien on the revenues in favor of the trustee for the purpose of ensuring delivery of the revenues to the trust account. The lien arises by operation of law and without further act or notice of any kind at the earliest time that the school district has or acquires any rights in the revenues pledged under the agreement, is and will remain paramount and superior to any other lien and interest of any kind, and is perfected without delivery, recording, or notice. The revenues held in trust and to be deposited into the trust account under this subsection are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the school district other than those expressly specified in the agreement described in this subsection.

(6) The notes or bonds shall mature serially with annual maturities not more than 25 years from their date and shall bear interest, payable annually or semiannually, at a rate or rates not exceeding a rate determined by the school board in the school district's borrowing resolution. The first principal installment on the notes or bonds shall be due not more than 18 months from the date of the issuance of the notes or bonds. The notes or bonds may be made subject to redemption before maturity with or without premium in a manner and at times provided in the resolution authorizing the issuance of the notes or bonds.

(7) Notes or bonds issued under this section are valid and binding general obligations of the school district, it being the intent and purpose that the notes or bonds and the interest on the notes or bonds be promptly paid when due from the first money available to the school district not pledged for other indebtedness and except to the extent that the use is restricted by the state constitution of 1963 or the laws of the United States. If a school district does not receive state school aid, the validity of a note or bond issued under this section is not affected.

(8) Except as otherwise provided in this section, and unless the state treasurer approves an exception, bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(9) The proceeds of the sale of notes or bonds authorized under this section, after payment of the costs of issuance of the notes or bonds and interest on the notes or bonds, shall be used solely for the purpose of paying necessary operating expenses of the school district, including the payment of principal of and interest on notes or bonds of the school district issued for operating purposes under this or any other act.

(10) A board of a school district that borrows under this section shall submit its budget for review and approval to the department of treasury. The department of treasury shall take necessary steps, subject to the school district's contracts and statutory obligations, to assure that the expenditures of a school district that receives money under this part shall not exceed revenues on an annual basis and that the school district maintains a balanced budget.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1981, Act 143, Imd. Eff. Nov. 3, 1981;—Am. 1983, Act 118, Imd. Eff. July 18, 1983;—Am. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 2002, Act 181, Imd. Eff. Apr. 23, 2002;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

**Popular name:** Act 451

### 380.1361 Bonds; election; ballot; surplusage.

Sec. 1361. (1) School district elections upon the issuance of bonds shall be held and conducted in accordance with this act and chapter XIV of the Michigan election law, MCL 168.301 to 168.315. Members of the school board shall not serve on a board of election inspectors.

(2) The question shall be submitted by ballot in substantially the following form:

```
    "Shall _____________________________________________________,
           (here state the legal name of the school district)
county/or counties of _________________ and state of Michigan,
borrow the sum of not to exceed dollars ($___________________)
and issue its bonds therefor, for the purpose of
_____________________________?
    Yes ( )
    No  ( )".
```

(3) Anything contained in the ballot not specified in this section shall be considered surplusage and of no legal effect.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1362 Bonds; issuance; conditions prescribed by school district board.

Sec. 1362. (1) The board of a school district that votes to borrow a sum of money may issue the bonds of the district.

(2) The board shall prescribe all of the following:

(a) The form of the bonds.

(b) The amount of the bonds, which shall not be less than $50.00 each.

(c) The time for payment of the bonds.

(d) The interest rates on the bonds.

(e) The manner in which the president and secretary of the board shall execute the bonds.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 68, Imd. Eff. Mar. 15, 2002.

**Popular name:** Act 451

### 380.1363 School districts subject to revised municipal finance act; handling moneys received to discharge indebtedness.

Sec. 1363. Money raised by taxes or otherwise received by a school district for the purpose of paying and discharging the principal and interest of the indebtedness is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 69, Imd. Eff. Mar. 15, 2002.

**Popular name:** Act 451

### 380.1364 Tax for payment of principal and interest.

Sec. 1364. The board of a school district which borrows money shall impose an annual tax on the taxable property in the district for the purpose of paying the principal borrowed, or a part thereof, and the interest thereon, to be levied and collected as other school taxes are levied and collected.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1371 Debt retirement fund; duties of treasurer.

Sec. 1371. The treasurer of the board of education shall have custody of money, securities, and other evidences of value belonging or pertaining to the debt retirement fund and shall pay out money of the fund, or transfer the securities or evidences of value therein, only upon the order of a majority of the members elected to and serving on the board, and upon a written order of the president and secretary of the board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1372 Debt retirement fund; record of moneys; securities, and transactions; reports.

Sec. 1372. The treasurer of a board of education shall keep a proper record of the moneys and securities on hand in the debt retirement fund and of the transactions relating thereto. The treasurer shall periodically, and when requested by the board, make a complete report concerning the same. The proper officers of the school district shall make reports concerning the transactions relating to the debt retirement fund as may be required by the state board or other authority in connection with the handling of the funds of the school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

## PART 18
## TUITION PUPILS

### 380.1401 Admission of nonresident pupils; determination of tuition rates; collection of tuition; limitations on tuition.

Sec. 1401. (1) The board of a school district may admit nonresident pupils to the schools of the district. The board shall determine the rates of tuition of the nonresident pupils and shall collect the tuition.

(2) Tuition for grades K to 6 shall not exceed 25% more than the operation cost per capita for the number of pupils in membership in grades K to 12.

(3) Tuition for grades 7 to 12 shall not exceed 12-1/2% more than 115% of the operation cost per capita for the number of pupils in membership in grades K to 12.

(4) In a school district not maintaining grades above the eighth grade, the tuition shall not exceed 25% more than the operation cost per capita for the number of pupils in membership in grades K to 8.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(5) The operation costs and membership figures of the preceding fiscal year shall be used. The per capita cost used shall not include moneys expended for school sites, school building construction, equipment, payment of bonds, or other purposes not properly included in operation costs as determined by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1406 High school tuition; payment; expense of transportation; discontinuance of high school; agreement.

Sec. 1406. (1) The board of a school district which does not maintain grades above the eighth grade shall pay the tuition of a pupil, resident of the district who has completed the eighth grade, to a school district maintaining a high school which is approved for the collection of high school tuition by the state board. The board of a school district which maintains grades above the eighth grade, which are not approved for the collection of tuition by the state board, may pay the tuition of a pupil resident of the district and eligible to attend the unapproved grades, to a school district approved for the grade attended for the collection of tuition by the state board. The board shall pay the expense of daily transportation during school days for pupils attending high school in other districts.

(2) If directed by a majority vote of the school electors, the board of a school district maintaining a legal high school under section 1407 shall discontinue the high school. The board shall pay the tuition and transportation for its high school pupils to other districts, upon agreement with each board of the school districts of attendance.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1407 “High school” defined.

Sec. 1407. A high school approved for the collection of high school tuition shall be a school district operating grades above the eighth grade having 1 of the following:

(a) Twelve grades with at least 3 teachers devoting their entire teaching time to the work of the seventh to twelfth grades.

(b) Twelve grades with at least 2 teachers devoting their entire teaching time to the work of the ninth to twelfth grades.

(c) Nine grades with at least 1 teacher devoting the teacher's entire teaching time to the work of the seventh to ninth grades.

(d) Ten grades with at least 1 teacher devoting the teacher's entire teaching time to the work of the ninth and tenth grades, or the eighth to tenth grades.

(e) Eleven grades with at least 2 teachers devoting their teaching time to the work of the ninth to eleventh grades, or the eighth to eleventh grades.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1408 High school tuition; payment; eligibility of pupils.

Sec. 1408. High school tuition for pupils who have completed 8 grades of work as evidenced by the written statement of the superintendent of the school district in which the pupils reside, or by the written statement of the intermediate superintendent for pupils residing in a district not employing a superintendent, shall be paid by the board of the resident district by agreement with the board of the district of attendance.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1411 Legal high schools and school districts in border states; payment of tuition and transportation; elementary grades; vocational-technical courses; state aid.

Sec. 1411. (1) In a state bordering on this state, the nearest and the next nearest approved high schools by the nearest traveled road, to the residence of a parent or guardian of a pupil of this state qualified to have tuition paid under section 1406 shall be considered legal high schools to which a school district not maintaining a legal high school is permitted to pay high school tuition and transportation if the high school maintains a school year of at least 9 months. If the eligible pupil desires to attend the high school in a border state, the entire tuition and transportation shall be paid as provided for the paying of the tuition and transportation to high schools in this state. If elementary grades are maintained in connection with the high school in a state bordering on this state, it shall be considered a legal school with which the board of a school district which votes to discontinue elementary grades wholly or in part may pay elementary tuition and


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

transportation.

(2) A school district in a state bordering this state, which maintains a class for special instruction of a vocational-technical education approved by the state board for residents of this state, shall be considered a legal school district with which the board of a school district which does not maintain the specialized instruction may contract to enroll resident pupils. The board shall pay for tuition and transportation of resident students as approved by the state board. While in attendance at an approved vocational-technical course the pupils may be counted in the resident district's membership for state aid under school district child accounting rules of this state.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1415 Use of general funds or state school aid for payment of tuition and transportation.

Sec. 1415. (1) The board of a school district may use general funds or funds received from state school aid for the purpose of paying tuition and transportation to another school district or districts of resident pupils, even though the grades in which the pupils may be enrolled are maintained within the district.

(2) The board of a school district may use general funds or state school aid for the purpose of paying tuition and transportation to another school district or districts of pupils in cases where the pupils live nearer established bus lines of another district or nearer by the nearest travelled road to the school in another district than to the school in their own district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1416 Crediting school taxes on tuition and transportation.

Sec. 1416. If nonresident pupils, their parents, or guardians pay school taxes in a school district and the pupils are admitted to schools in the district, the amount of the total current school taxes shall be credited on the pupils' tuition and transportation in a sum not to exceed the amount of the tuition and transportation. The pupils, their parents, or guardians shall be required to pay tuition and transportation only for the difference therein.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

## PART 19
## TEXTBOOKS

### 380.1421 “Textbook” defined.

Sec. 1421. As used in this part, "textbook" means a book which is selected and approved by the board of a school district and which contains a presentation of principles of a subject, or which is a literary work relevant to the study of a subject required for the use of classroom pupils.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1422 Selection, approval, purchase, and use of textbooks; textbooks as property of school district; loaning textbooks to pupils; deposit.

Sec. 1422. (1) The board of each school district shall select, approve, and purchase the textbooks to be used by the pupils of the schools on the subjects taught in the district.

(2) The textbooks shall be the property of the school district purchasing them and shall be loaned to pupils without charge. A board may require a reasonable and refundable deposit on textbooks.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1431 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to purchase of textbooks.

**Popular name:** Act 451

### 380.1432-380.1436 Repealed. 1990, Act 258, Imd. Eff. Oct. 15, 1990.

**Compiler's note:** The repealed sections pertained to contracts and bonds.

**Popular name:** Act 451

### 380.1437 Repealed. 1995, Act 289, Eff. July 1, 1996.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Compiler's note:** The repealed section pertained to sale of textbooks by unlawful inducement.

**Popular name:** Act 451

PART 20
LIBRARIES

### 380.1451 Public library; establishment; tax for support and maintenance; levy and collection; rate of tax authorized or voted; election.

Sec. 1451. (1) A school district, by a majority vote of the school electors at a regular or special school election, may establish a public library.

(2) The school electors of a school district in which a library is established may vote a district tax for the support of the public library at a regular or special school election of the district. The board of the school district may vote a tax for the maintenance and support of the public library.

(3) A tax authorized or voted under this part shall be levied and collected in the same manner as other school district taxes are levied and collected.

(4) The millage allowed under this section may be levied without a vote of the school electors of the school district until the millage authorization expires. The rate of a tax authorized or voted under this section shall not exceed the number of mills levied by the school district under this section in 1993 that were not included in the operating millage reported by the school district to the department as of April 1, 1993 or the number of mills levied by the school district under this section in 1993 that the school district does not want considered as operating millage reported by the school district as of April 1, 1994, whichever is greater.

(5) The board of a school district shall not hold an election to levy mills under this section after December 31, 1993.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.1451a Repealed. 1994, Act 258, Imd. Eff. July 5, 1994.

**Compiler's note:** The repealed section pertained to millage renewal or additional millage for operation of library.

**Popular name:** Act 451

### 380.1452 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to libraries.

**Popular name:** Act 451

### 380.1456 Repealed. 1977, Act 43, Imd. Eff. June 29, 1977.

**Compiler's note:** The repealed section pertained to donation or sale of library books.

**Popular name:** Act 451

PART 20A
COLLEGE LEVEL EQUIVALENT COURSES AND CREDIT

### 380.1471 Definitions.

Sec. 1471. As used in this part:

(a) "College level equivalent course" means a course offered in high school, for which a pupil receives high school credit, that is taught at a postsecondary instruction level and is designed to prepare a pupil for a college level equivalent credit examination in a particular subject area, and includes, but is not limited to, advanced placement and international baccalaureate courses.

(b) "College level equivalent credit examination" means an examination that is administered by an independent testing service and that is used by colleges and universities generally to award postsecondary credit for achievement of a particular score and includes, but is not limited to, advanced placement, DSST, and college-level examination program (CLEP) examinations.

**History:** Add. 1996, Act 159, Eff. July 1, 1996;—Am. 2018, Act 619, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 451

### 380.1472 College level equivalent courses; information to be provided; records to be included in pupil portfolios.

Sec. 1472. (1) The board of a school district or public school academy shall, at least annually, provide to each pupil in grade 8 or higher information about college level equivalent courses and college level equivalent


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

credit examinations, including, at least, information about registration, eligibility, and fees.

(2) If a school district or public school academy maintains pupil portfolios for high school pupils, each pupil's portfolio must include, in addition to the other records in the portfolio, all academic records and correspondence relating to the pupil's participation in a college level equivalent course or enrollment in a postsecondary course under the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524.

**History:** Add. 1996, Act 159, Eff. July 1, 1996;—Am. 2018, Act 619, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 451

### 380.1473 Manner of providing courses.

Sec. 1473. (1) The board of a school district, board of directors of a public school academy, or governing board of a nonpublic school shall consider providing college level equivalent courses either directly, through an intermediate district program, or by agreement in a consortium or cooperative program.

(2) If a public school pupil successfully completes a college level equivalent course that is offered by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network, and is offered by a school district, a regionally accredited college or university, or the Michigan virtual high school described in section 1481, and if the pupil has been sponsored in this process by a certificated teacher employed by the pupil's school district or public school academy, the school district or public school academy in which the pupil is enrolled shall do all of the following:

(a) Grant appropriate high school credit for completion of the course.

(b) Count that credit toward the graduation and subject area requirements of the school district or public school academy.

**History:** Add. 1996, Act 159, Eff. July 1, 1996;—Am. 2000, Act 230, Imd. Eff. June 27, 2000.

**Popular name:** Act 451

### 380.1474 College level equivalent course directory.

Sec. 1474. (1) The state board annually shall publish and distribute to school districts and public school academies, and upon request to nonpublic high schools, a college level equivalent course directory. Subject to subsection (2), the college level equivalent course directory shall list postsecondary institutions in the state that grant college level equivalent credit and, for each of those postsecondary institutions, shall describe the institution's college level equivalent credit policy and detail the specific courses and number of credits for which college level equivalent credit may be granted and the college level equivalent credit examination that must be completed and the score that must be achieved to qualify for college level equivalent credit for each of the courses.

(2) The state board shall not include information about a particular postsecondary institution in the college level equivalent course directory unless the chief academic officer of the institution, or his or her designee, reviews the information before publication and verifies in writing that it is accurate.

**History:** Add. 1996, Act 159, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1475 Federal tribally controlled community college board; requirements for participation in certain activities.

Sec. 1475. A federal tribally controlled community college board may provide college level courses or participate in other activities under this act only if all of the following are in effect:

(a) The members of the board of the federal tribally controlled community college execute the constitutional oath of office as a public officer of the state of Michigan.

(b) The members of the board of the federal tribally controlled community college certify to the state department of education that the members will act as a public educational body or officer of this state subject only to the constitution and laws of this state in exercising the powers or carrying out the functions and that their functions are under the exclusive control of the state.

(c) A member of the board of the federal tribally controlled community college acting as a public officer under this section shall be subject to removal or suspension by the superintendent of public instruction for violating the provisions of this section.

(d) This section does not authorize the use of any funds appropriated for a community college district established under the community college act, 1966 PA 331, MCL 389.11 to 389.84.

**History:** Add. 2000, Act 231, Imd. Eff. June 27, 2000.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

PART 20B
MICHIGAN VIRTUAL HIGH SCHOOL

### 380.1481 Michigan virtual university; goals; course offerings; duties; participation; funding; technical assistance.

Sec. 1481. (1) Not later than the beginning of the 2000-2001 school year, the Michigan virtual university shall develop, implement, and operate the Michigan virtual high school, as described in this section.

(2) The Michigan virtual high school shall have the following goals:

(a) Significantly expand curricular offerings for high schools across this state through agreements with school districts or licenses from other recognized providers.

(b) Create a statewide instructional model using interactive multimedia tools delivered by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network, for distributed learning at the high school level.

(c) Provide pupils with opportunities to develop skills and competencies through on-line learning.

(d) Offer high school teachers opportunities to learn new skills and strategies for developing and delivering instructional services.

(e) Accelerate this state's ability to respond to current and emerging educational demands.

(f) Grant high school diplomas through a dual enrollment method with school districts.

(g) Act as a broker for college level equivalent courses, as defined in section 1471, and dual enrollment courses from postsecondary education institutions.

(3) The Michigan virtual high school course offerings shall include, but are not limited to, all of the following:

(a) Information technology courses.

(b) College level equivalent courses, as defined in section 1471.

(c) Courses and dual enrollment opportunities.

(d) At-risk programs and services.

(e) General education development test preparation courses for adjudicated youth.

(f) Special interest courses.

(g) Professional development programs and services for teachers.

(4) In addition to its other duties under this section, the Michigan virtual university shall work with the department and other appropriate state agencies to explore the development and delivery of a full curriculum for migrant pupils that would be available through distance learning. The Michigan virtual university and the department shall submit a joint report on their findings under this subsection to the legislature not later than 1 year after the effective date of this section.

(5) Nonpublic school students and home-schooled children may participate in course offerings of the Michigan virtual high school to the same extent they are allowed to participate in school district course offerings under this act and the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

(6) The Michigan virtual university shall fund the Michigan virtual high school from appropriations made for this purpose and may also use funds received from other sources. The department shall provide technical assistance as requested by the Michigan virtual university for the purposes of this section.

**History:** Add. 2000, Act 230, Imd. Eff. June 27, 2000.

**Popular name:** Act 451

PART 21
HEALTH AND PHYSICAL EDUCATION

### 380.1501 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to definition of sex education.

**Popular name:** Act 451

### 380.1502 Health and physical education; establishment; course in physical education required; extracurricular athletics as meeting requirement.

Sec. 1502. (1) Health and physical education for pupils of both sexes shall be established and provided in all public schools of this state. Subject to subsection (2), each pupil attending public school in this state who is physically fit and capable of doing so shall take the course in physical education.

(2) A school district may credit a pupil's participation in extracurricular athletics or other extracurricular activities involving physical activity as meeting the physical education requirement for the pupil under


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

subsection (1).

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451

### 380.1503 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to health and physical education.

**Popular name:** Act 451

### 380.1504 Compulsory physical examination or medical treatment not authorized.

Sec. 1504. This act shall not be construed to authorize compulsory physical examination or compulsory medical treatment of pupils.

**History:** Add. 1996, Act 287, Imd. Eff. June 17, 1996.

**Popular name:** Act 451

### 380.1505 Sexual abuse of children; adoption and implementation of policy.

Sec. 1505. (1) The board of a school district or intermediate school district or board of directors of a public school academy may adopt and implement a policy addressing sexual abuse of children. If a board or board of directors adopts and implements a policy addressing sexual abuse of children, the policy shall be substantially consistent with the recommendations and guidelines set by the task force on the prevention of sexual abuse of children created under section 12b of the child protection law, 1975 PA 238, MCL 722.632b, and may address, but is not limited to, any of the following:

(a) Age-appropriate, evidence-based curriculum and instruction for pupils in grades pre-K to 5 concerning child sexual abuse awareness and prevention.

(b) Training for school personnel on child sexual abuse, including, but not limited to, training on supportive, appropriate response to disclosure of abuse.

(c) Providing educational information to parents or guardians on the warning signs of a child being sexually abused and information on needed assistance, referral, or resources. This information may be provided in the student handbook that is distributed to pupils and parents and guardians.

(d) Available counseling and resources for pupils affected by sexual abuse.

(e) Emotional and educational support for a pupil affected by sexual abuse to allow the pupil to continue to be successful in school.

(f) A review of the system that is in place in the school district, intermediate school district, or public school academy to educate and support school personnel who are required to report child abuse or neglect under section 3 of the child protection law, 1975 PA 238, MCL 722.623, and the process in place for making those mandatory reports. This review should include an analysis of the level of compliance with the mandatory reporting requirements and suggestions to improve compliance.

(2) Any instruction, training, or information provided pursuant to a policy adopted under subsection (1) shall be substantially consistent with the recommendations and guidelines set by the task force on the prevention of sexual abuse of children created under section 12b of the child protection law, 1975 PA 238, MCL 722.632b, and may address, but is not limited to, any of the following:

(a) Methods for increasing teacher, pupil, and parent awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse.

(b) Actions that a child who is a victim of sexual abuse may take to obtain assistance and intervention.

(c) Available counseling options for pupils affected by sexual abuse.

(3) Pupil instruction under this section is subject to section 1505a.

**History:** Add. 2012, Act 594, Imd. Eff. Jan. 9, 2013.

### 380.1505a Instruction to students on child sexual abuse.

Sec. 1505a. If a school district, intermediate school district, or public school academy provides instruction to pupils on child sexual abuse pursuant to the policy adopted under section 1505, both of the following apply:

(a) A pupil shall not be provided with the instruction unless the pupil's parent or guardian is notified in advance of the instruction and the content of the instruction, is given a prior opportunity to review the materials to be used in the instruction, and is notified in advance of his or her right to have the pupil excused from the instruction.

(b) Upon the written request of a pupil's parent or legal guardian, a pupil shall be excused from the instruction without penalty or loss of academic credit.

**History:** Add. 2012, Act 595, Imd. Eff. Jan. 9, 2013.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1506 Program of instruction in reproductive health; supervision; request to excuse pupil from attendance; “reproductive health” defined.

Sec. 1506. (1) A program of instruction in reproductive health shall be supervised by a registered physician, a registered nurse, or other person certified by the state board as qualified. Upon the written request of a pupil or the pupil's parent or guardian, a pupil shall be excused, without penalty or loss of academic credit, from attending classes in which the subject of reproductive health is under discussion.

(2) As used in subsection (1) and sections 1507 and 1508, "reproductive health" means that state of an individual's well-being which involves the reproductive system and its physiological, psychological, and endocrinological functions.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 226, Imd. Eff. Nov. 30, 1977.

**Popular name:** Act 451

### 380.1507 Instruction in sex education; instructors, facilities, and equipment; stressing abstinence from sex; elective class; notice to parent or guardian; request to excuse pupil from attendance; qualifications of teacher; sex education advisory board; public hearing; distribution of family planning drug or device prohibited; “family planning,”“class,” and “course” defined.

Sec. 1507. (1) The board of a school district may engage qualified instructors and provide facilities and equipment for instruction in sex education, including family planning, human sexuality, and the emotional, physical, psychological, hygienic, economic, and social aspects of family life. Instruction may also include the subjects of reproductive health and the recognition, prevention, and treatment of sexually transmitted disease. Subject to subsection (7) and section 1507b, the instruction described in this subsection shall stress that abstinence from sex is a responsible and effective method of preventing unplanned or out-of-wedlock pregnancy and sexually transmitted disease and is a positive lifestyle for unmarried young people.

(2) The class described in subsection (1) shall be elective and not a requirement for graduation.

(3) A pupil shall not be enrolled in a class in which the subjects of family planning or reproductive health are discussed unless the pupil's parent or guardian is notified in advance of the course and the content of the course, is given a prior opportunity to review the materials to be used in the course and is notified in advance of his or her right to have the pupil excused from the class. The state board shall determine the form and content of the notice required in this subsection.

(4) Upon the written request of a pupil or the pupil's parent or legal guardian, a pupil shall be excused, without penalty or loss of academic credit, from attending a class described in subsection (1).

(5) A school district that provides a class as permitted by subsection (1) shall offer the instruction by teachers qualified to teach health education. A school district shall not offer this instruction unless a sex education advisory board is established by the board of the school district. The board of a school district shall determine terms of service for the sex education advisory board, the number of members to serve on the advisory board, and a membership selection process that reasonably reflects the school district population, and shall appoint 2 co-chairs for the advisory board, at least 1 of whom is a parent of a child attending a school operated by the school district. At least 1/2 of the members of the sex education advisory board shall be parents who have a child attending a school operated by the school district, and a majority of these parent members shall be individuals who are not employed by a school district. The board of a school district shall include pupils of the school district, educators, local clergy, and community health professionals on the sex education advisory board. Written or electronic notice of a sex education advisory board meeting shall be sent to each member at least 2 weeks before the date of the meeting. The advisory board shall do all of the following:

(a) Establish program goals and objectives for pupil knowledge and skills that are likely to reduce the rates of sex, pregnancy, and sexually transmitted diseases. This subdivision does not prohibit a school district from establishing additional program goals and objectives that are not contrary to this section, section 1169, or section 1507b.

(b) Review the materials and methods of instruction used and make recommendations to the board of the school district for implementation. The advisory board shall take into consideration the school district's needs, demographics, and trends, including, but not limited to, teenage pregnancy rates, sexually transmitted disease rates, and incidents of student sexual violence and harassment.

(c) At least once every 2 years, evaluate, measure, and report the attainment of program goals and objectives established under subdivision (a). The board of a school district shall make the resulting report available to parents in the school district.

(6) Before adopting any revisions in the materials or methods used in instruction under this section,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

including, but not limited to, revisions to provide for the teaching of abstinence from sex as a method of preventing unplanned or out-of-wedlock pregnancy and sexually transmitted disease, the board of a school district shall hold at least 2 public hearings on the proposed revisions. The hearings shall be held at least 1 week apart and public notice of the hearings shall be given in the manner required under section 1201 for board meetings. A public hearing held pursuant to this section may be held in conjunction with a public hearing held pursuant to section 1169.

(7) A person shall not dispense or otherwise distribute in a public school or on public school property a family planning drug or device.

(8) As used in this section, "family planning" means the use of a range of methods of fertility regulation to help individuals or couples avoid unplanned pregnancies; bring about wanted births; regulate the intervals between pregnancies; and plan the time at which births occur in relation to the age of parents. It may include the study of fetology. It may include marital and genetic information. Clinical abortion shall not be considered a method of family planning, nor shall abortion be taught as a method of reproductive health.

(9) As used in this section and sections 1506 and 1507a:

(a) "Class" means an instructional period of limited duration within a course of instruction and includes an assembly or small group presentation.

(b) "Course" means a series of classes linked by a common subject matter.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 226, Imd. Eff. Nov. 30, 1977;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 2004, Act 165, Imd. Eff. June 24, 2004.

**Popular name:** Act 451

### 380.1507a Notice of excuse from class; enrollment.

Sec. 1507a. If a parent or legal guardian of a pupil files with the public school in which the pupil is enrolled a continuing written notice that the pupil is to be excused from a class described in section 1507, the pupil shall not be enrolled in a class described in section 1507 unless the parent or legal guardian submits a written authorization for that enrollment.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1507b Sex education and instruction; curriculum requirements.

Sec. 1507b. (1) Instruction under section 1507 in sex education and instruction under section 1169 on human immunodeficiency virus infection and acquired immunodeficiency syndrome shall emphasize that abstinence from sex is a positive lifestyle for unmarried young people because abstinence is the only protection that is 100% effective against unplanned pregnancy, sexually transmitted disease, and sexually transmitted human immunodeficiency virus infection and acquired immunodeficiency syndrome.

(2) Material and instruction in the sex education curriculum under section 1507 that discusses sex shall be age-appropriate, shall not be medically inaccurate, and shall do at least all of the following:

(a) Discuss the benefits of abstaining from sex until marriage and the benefits of ceasing sex if a pupil is sexually active.

(b) Include a discussion of the possible emotional, economic, and legal consequences of sex.

(c) Stress that unplanned pregnancy and sexually transmitted diseases are serious possibilities of sex that are not fully preventable except by abstinence.

(d) Advise pupils of the laws pertaining to their responsibility as parents to children born in and out of wedlock.

(e) Ensure that pupils are not taught in a way that condones the violation of the laws of this state pertaining to sexual activity, including, but not limited to, sections 158, 335a, 338, 338a, 338b, and 520b to 520e of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.335a, 750.338, 750.338a, 750.338b, and 750.520b to 750.520e.

(f) Teach pupils how to say "no" to sexual advances and that it is wrong to take advantage of, harass, or exploit another person sexually.

(g) Teach refusal skills and encourage pupils to resist pressure to engage in risky behavior.

(h) Teach that the pupil has the power to control personal behavior. Pupils shall be taught to base their actions on reasoning, self-discipline, a sense of responsibility, self-control, and ethical considerations such as respect for self and others.

(i) Provide instruction on healthy dating relationships and on how to set limits and recognize a dangerous environment.

(j) Provide information for pupils about how young parents can learn more about adoption services and about the provisions of the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

288, MCL 712.1 to 712.20.

(k) Include information clearly informing pupils that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment and that 1 of the other results of being convicted of this crime is to be listed on the sex offender registry on the internet for up to 25 years.

(3) This section does not prohibit a public school from offering sex education with behavioral risk reduction strategies, as defined by law, that are not 100% effective against unplanned pregnancy, sexually transmitted disease, and sexually transmitted human immunodeficiency virus infection and acquired immunodeficiency syndrome.

**History:** Add. 2004, Act 165, Imd. Eff. June 24, 2004.

**Popular name:** Act 451

### 380.1508-380.1522 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to duties of state board, recreation and playground facilities, community swimming pools, and athletic events.

**Popular name:** Act 451

## PART 21A
## PROFESSIONAL DEVELOPMENT

### 380.1525 Funds to support professional development and education; use; disapproval of funding for proposed professional development.

Sec. 1525. (1) State and federal funds appropriated by the legislature to support professional development and education may be used for the following:

(a) Professional development programs for administrators and teachers. These programs shall emphasize the improvement of teaching and pupils' learning of academic core curriculum objectives, as measured by the Michigan student test of education progress (M-STEP), the Michigan merit examination, and other criterion - reference assessments; collaborative decision-making; site-based management; the process of school improvement; instructional leadership; and the use of data and assessment instruments to improve teaching and learning for all pupils.

(b) A biennial education policy leadership institute. The state board shall organize and convene a biennial education policy leadership institute for the governor, the lieutenant governor, the state board, the state superintendent, the legislature, and the presidents of the state board approved teacher education institutions, and the staff of each as may be considered appropriate, to examine the most current public education policy issues and initiatives and the appropriate role of policy leaders.

(c) A statewide academy for school leadership established by the state board.

(d) A principal leadership academy. The department, in collaboration with statewide associations of school principals, shall establish the principal leadership academy. The principal leadership academy shall consist of training for school principals that is conducted by other school principals who have a record of demonstrated success in improving pupil performance. The department shall solicit input from school district superintendents and intermediate superintendents to compile a list of successful school principals who would likely be effective in conducting the training at the principal leadership academy and shall select school principals to conduct the training from this list. The training shall include all aspects of successful school leadership, including at least all of the following:

(*i*) Strategies for increasing parental involvement.

(*ii*) Strategies for engaging community support and involvement.

(*iii*) Creative problem-solving.

(*iv*) Financial decision-making.

(*v*) Management rights and techniques.

(*vi*) Other strategies for improving school leadership to achieve better pupil performance.

(e) Community leadership development. The state board, in conjunction with intermediate school districts, shall conduct a leadership development training program in each school district for members of the community.

(f) Promotion of high educational standards. The state board, in collaboration with the business community and educators, shall coordinate and assist in the promotion of a statewide public education and information program concerning the need to achieve world class educational standards in the public schools of this state.

(g) Sabbatical leaves. School districts shall provide sabbatical leaves for up to 1 academic year for selected master teachers who aid in professional development.

(h) Any other purpose authorized in the appropriation for professional development in the state school aid


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

act of 1979.

(2) The state board may disapprove for state funding proposed professional development that the state board finds to be 1 or more of the following:

(a) Not in furtherance of core academic curriculum needs.

(b) Not constituting serious, informed innovation.

(c) Of generally inferior overall quality or depth regardless of who sponsors or conducts the education or training.

(d) Not in compliance with the requirements of section 1526.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2003, Act 202, Imd. Eff. Nov. 14, 2003;—Am. 2004, Act 596, Imd. Eff. Jan. 5, 2005;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.1526 Teacher in first 3 years of employment; assignment to master teacher; intensive professional development induction.

Sec. 1526. For the first 3 years of his or her employment in classroom teaching, a teacher shall be assigned by the school in which he or she teaches to 1 or more master teachers, or college professors or retired master teachers, who shall act as a mentor or mentors to the teacher. During the 3-year period, the teacher shall also receive intensive professional development induction into teaching, based on a professional development plan that is consistent with the requirements of section 3a of article II of Act No. 4 of the Public Acts of the Extra Session of 1937, being section 38.83a of the Michigan Compiled Laws, including classroom management and instructional delivery. During the 3-year period, the intensive professional development induction into teaching shall consist of at least 15 days of professional development, the experiencing of effective practices in university-linked professional development schools, and regional seminars conducted by master teachers and other mentors.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1526a Training to be included in professional development.

Sec. 1526a. Training in teaching 1 or more college level equivalent courses may be included in the professional development plan, and in the required 15 days of professional development, under section 1526.

**History:** Add. 1996, Act 159, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1527 Teacher professional development; number of days; professional development provided by state-approved nonpublic school.

Sec. 1527. (1) The board of each school district, intermediate school district, or public school academy shall provide at least 5 days of teacher professional development each school year.

(2) A state-approved nonpublic school may provide teacher professional development for nonpublic school teachers. The department shall credit this professional development toward the issuance or renewal of a teaching certificate or endorsement to the same extent as professional development provided by a public school is credited for its teachers for those purposes if the department determines that all of the following are met:

(a) The professional development provides substantially the same program content as professional development provided by a public school that is credited by the department toward the issuance or renewal of a teaching certificate or endorsement.

(b) The nonpublic school submits to the same auditing and documentation requirements for professional development as a public school.

(3) Professional development days provided under this section shall not be counted toward the professional development required under section 1526.

**History:** Add. 1995, Act 289, Eff. July 1, 1996;—Am. 2014, Act 484, Imd. Eff. Jan. 13, 2015.

**Popular name:** Act 451

## PART 22
## SCHOOL PERSONNEL CERTIFICATES AND PERMITS

### 380.1531 Requirements for issuing licenses and certificates for teachers and endorsements as qualified counselors and teachers of foreign languages in elementary grades; subject area examination and elementary certification examination; reading credit requirements;


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**fees; teaching certificate from another state; definitions; rules; issuing continuing education certificate; rules.**

Sec. 1531. (1) Except as provided in this act, the superintendent of public instruction shall determine the requirements for and issue all licenses and certificates for teachers, including preprimary teachers, and the requirements for an endorsement of teachers as qualified counselors and an endorsement of teachers for teaching a foreign language in an elementary grade in the public schools of the state.

(2) Except as otherwise provided in this act, the superintendent of public instruction shall only issue a teaching certificate to an individual who has passed appropriate examinations as follows:

(a) For a secondary level teaching certificate, has passed the appropriate available subject area examination for each subject area in which he or she applies to be certified.

(b) For an elementary level teaching certificate, has passed, if it is available, the elementary certification examination, and has passed the appropriate available subject area examination for each subject area, if any, in which he or she applies to be certified.

(3) Except as otherwise provided in this act, the superintendent of public instruction shall issue a Michigan teaching certificate to an individual holding a certificate from another state or a teaching degree from an out-of-state teacher preparation institution who applies for a Michigan teaching certificate only if the individual passes appropriate examinations as follows:

(a) For a secondary level teaching certificate, pass the appropriate available subject area examination for each subject area in which he or she applies to be certified. The superintendent of public instruction may accept passage of an equivalent examination approved by the superintendent of public instruction to meet this requirement.

(b) For an elementary level teaching certificate, pass, if it is available, the elementary certification examination, and pass the appropriate available subject area examination for each subject area, if any, in which he or she applies to be certified. The superintendent of public instruction may accept passage of an equivalent examination approved by the superintendent of public instruction to meet 1 or both of these requirements.

(4) Except as otherwise provided in this act, the superintendent of public instruction shall only issue a teaching certificate to an individual who has met the elementary or secondary, as applicable, reading credit requirements established under superintendent of public instruction rule. If an individual holds a teaching certificate, then beginning July 1, 2009, notwithstanding any rule to the contrary, the superintendent of public instruction shall not advance the individual's certification to professional certification unless the individual has successfully completed at least a 3-credit course of study with appropriate field experiences in the diagnosis and remediation of reading disabilities and differentiated instruction. To meet this requirement, the course of study should include the following elements, as determined by the department to be appropriate for the individual's certification level and endorsements: interest inventories, English language learning screening, visual and auditory discrimination tools, language expression and processing screening, phonemics, phonics, vocabulary, fluency, comprehension, spelling and writing assessment tools, and instructional strategies. An individual may complete the course of study either as part of his or her teacher preparation program or during the first 6 years of his or her employment in classroom teaching.

(5) Not later than January 11, 2002, the superintendent of public instruction, in cooperation with appropriate curriculum specialists and teacher educators, shall revise existing reading standards to recognize reading disorders and to enable teachers to make referrals for instruction and support for pupils with reading disorders.

(6) Subject to subsection (8), if an individual holding a teaching certificate from another state applies to the superintendent of public instruction for a Michigan teaching certificate and meets the requirements of this subsection, the superintendent of public instruction shall issue to the individual a Michigan professional education teaching certificate and applicable endorsements comparable to those the individual holds in the other state, without requiring the individual to pass the applicable subject area examination otherwise required under subsection (2) or (3). To be eligible to receive a Michigan professional education teaching certificate under this subsection, an individual shall provide evidence satisfactory to the department that he or she meets all of the following requirements:

(a) Has taught successfully for at least 3 years in a position for which the individual's teaching certification from the other state was valid.

(b) Has earned, after his or her initial certification in another state, at least 18 semester credit hours in a planned course of study at an institution of higher education approved by the superintendent of public instruction or has earned, at any time, a master's or doctoral degree approved by the superintendent of public instruction.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) Has met the elementary or secondary, as applicable, reading credit requirement established under superintendent of public instruction rule.

(7) An individual who receives a teaching certificate and endorsement or endorsements under subsection (6) is eligible to receive 1 or more additional endorsements comparable to endorsements the individual holds in another state only if the individual passes the appropriate subject area examinations required under subsection (2) or (3).

(8) The superintendent of public instruction shall deny a Michigan teaching certificate to an individual described in subsection (6) for fraud, material misrepresentation, or concealment in the individual's application for a certificate or for a conviction for which an individual's teaching certificate may be revoked under section 1535a.

(9) The department, based upon criteria recommended under subsection (11), shall provide to approved teacher education institutions approved guidelines and criteria for use in the development or selection of subject area examinations.

(10) For the purposes of this section, the superintendent of public instruction, based upon criteria recommended under subsection (11), shall develop, select, or develop and select 1 or more subject area examinations. In addition, the superintendent of public instruction, based upon criteria recommended under subsection (11), shall approve an elementary certification examination and a reading subject area examination. If the department develops for use under this subsection an examination that had previously been contracted for using a competitive bid process, then the department shall not expend on the development of that examination an amount that exceeds the amount that the department expended on procurement of the most recent competitively-bid version of that examination.

(11) The superintendent of public instruction shall appoint an 11-member teacher examination advisory committee composed of representatives of approved teacher education institutions and Michigan education organizations and associations. Not more than 1/2 of the members comprising this committee shall be certified teachers. This committee shall recommend criteria to be used by the superintendent of public instruction in the development, selection, or development and selection of subject area examinations. In addition, the committee shall recommend guidelines for the use and administration of those examinations.

(12) The superintendent of public instruction shall appoint a 7-member standing technical advisory council composed of individuals who are experts in measurement and assessment. This council shall advise the superintendent of public instruction and the teacher examination committee on the validity, reliability, and other technical standards of the examinations that will be used or are being used and of the administration and use of those examinations.

(13) Not later than November 30 of each year, the superintendent of public instruction shall submit in writing a report on the development or selection and use of the elementary certification examination and the subject area examinations to the house and senate education committees. The report shall also contain a financial statement regarding revenue received from the assessment of fees levied under subsection (15) and the amount of and any purposes for which that revenue was expended.

(14) The elementary certification examination and the subject area examinations required by this section may be taken at different times during an approved teacher preparation program, but the elementary certification examination and the subject area examinations, as applicable, must be passed before an individual is recommended for certification.

(15) The department, or if approved by the superintendent of public instruction, a private testing service, may assess fees for taking the elementary certification examination and the subject area examinations. The fees, which shall be set by the superintendent of public instruction, shall not exceed the actual cost of the examination and of administering the examination. Fees received by the department shall be expended solely for administrative expenses that it incurs in implementing this section. If the superintendent of public instruction increases a fee charged for an examination under this subsection, at least 1 year before implementing the fee increase, the department shall notify each approved teacher education institution of the amount of the fee increase. An approved teacher education institution shall notify each of its affected students of the timing and amount of such a fee increase.

(16) If an individual holding a teaching certificate from another state applies for a Michigan teaching certificate and meets all requirements for the Michigan teaching certificate except passage of the appropriate examinations under subsection (3), the superintendent of public instruction shall issue a nonrenewable temporary teaching certificate, good for 1 year, to the individual. The superintendent of public instruction shall not issue a Michigan teaching certificate to the individual after expiration of the temporary teaching certificate unless the individual passes appropriate examinations as described in subsection (3).

(17) As used in this section:

(a) "Elementary certification examination" means a comprehensive examination for elementary


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

certification that has been developed or selected by the superintendent of public instruction for demonstrating the applicant's knowledge and understanding of the core subjects normally taught in elementary classrooms and for determining whether or not an applicant is eligible for an elementary level teaching certificate.

(b) "Subject area examination" means an examination related to a specific area of certification, which examination has been developed or selected by the superintendent of public instruction for the purpose of demonstrating the applicant's knowledge and understanding of the subject matter and determining whether or not an applicant is eligible for a Michigan teaching certificate.

(18) The superintendent of public instruction shall promulgate rules for the implementation of this section.

(19) Notwithstanding any rule to the contrary, the superintendent of public instruction shall continue to issue state elementary or secondary continuing education certificates under R 390.1132(1) of the Michigan Administrative Code to individuals who completed the requirements of that rule by December 31, 1992 and who apply for that certificate not later than March 15, 1994. If the superintendent of public instruction has issued a state elementary or secondary professional education certificate to an individual described in this section, the superintendent of public instruction shall consider the individual to have a state elementary or secondary, as applicable, continuing education certificate.

(20) Not later than January 1, 2019, the superintendent of public instruction, in consultation with the department of talent and economic development and groups or individuals representing employers, economic development agencies, trade unions, secondary school principals, middle and elementary school principals, teachers, school district and intermediate school district superintendents, and others as determined appropriate by the department, shall promulgate rules to allow an individual to use time spent engaging with local employers or technical centers toward the renewal of a teaching certificate in the same manner as state continuing education or professional development.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 226, Imd. Eff. Nov. 30, 1977;—Am. 1978, Act 613, Imd. Eff. Jan. 6, 1979;—Am. 1986, Act 267, Imd. Eff. Dec. 19, 1986;—Am. 1992, Act 282, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2000, Act 497, Imd. Eff. Jan. 11, 2001;—Am. 2006, Act 118, Imd. Eff. Apr. 14, 2006;—Am. 2007, Act 32, Imd. Eff. July 2, 2007;—Am. 2015, Act 159, Eff. Jan. 18, 2016;—Am. 2018, Act 233, Eff. Sept. 25, 2018;—Am. 2018, Act 234, Eff. Sept. 25, 2018;—Am. 2018, Act 235, Eff. Sept. 25, 2018.

**Popular name:** Act 451

### 380.1531a Positions requiring valid teaching certificate.

Sec. 1531a. Beginning July 1, 1990, a person who is employed by the department of education, the department of mental health, the department of social services, or the department of corrections in a position the state board determines to be equivalent to a position with a school district or intermediate school district as a superintendent, principal, assistant principal, other person whose primary responsibility is administering instructional programs, or chief business official shall possess a valid teaching certificate.

**History:** Add. 1990, Act 161, Imd. Eff. July 2, 1990.

**Popular name:** Act 451

### 380.1531b Student teaching; teacher preparation program.

Sec. 1531b. Beginning July 1, 1995, before an individual may engage in student teaching in a school in this state, the individual or the college or university in which the individual is or was enrolled for teacher preparation shall demonstrate to the satisfaction of the school or school district that the teacher preparation program requires of individuals who student teach at least all of the following:

(a) High academic achievement.

(b) Demonstration of successful group work with children as a condition for admission to the teacher preparation curriculum.

(c) Knowledge of research-based teaching.

(d) Working knowledge of modern technology and use of computers.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451

### 380.1531c Fast-track teacher preparation program.

Sec. 1531c. The state board shall develop and approve, and advocate to state universities that they adopt, an expedited "fast-track" teacher preparation program to be available to individuals who have outstanding academic credentials, who are exceptionally gifted performers or artists, or who are outstanding professionals expert in their fields of endeavor.

**History:** Add. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1531d First aid and cardiopulmonary resuscitation; requirements for teacher certification.

Sec. 1531d. (1) Beginning July 1, 2004, the superintendent of public instruction shall not issue an initial teaching certificate to a person unless the person presents evidence satisfactory to the superintendent of public instruction that the person meets 1 of the following:

(a) Has successfully completed a course approved by the department in first aid and cardiopulmonary resuscitation, including a test demonstration on a mannequin, and has successfully completed instruction approved by the department in foreign body airway obstruction management, and holds valid certification in these topics issued by the American red cross, American heart association, or a comparable organization or institution approved by the department.

(b) Has physical limitations that make it impracticable for the person to complete the instruction and obtain the required certification under subdivision (a).

(2) A person who meets the requirements described in subsection (1)(a) and who performs first aid, cardiopulmonary resuscitation, or foreign body airway obstruction management on another person in the course of his or her employment as a teacher is not liable in a civil action for damages resulting from an act or omission occurring in that performance except an act or omission constituting gross negligence or willful and wanton misconduct.

(3) This section does not create a duty to act on the part of a person who holds the certification described in subsection (1)(a).

**History:** Add. 2003, Act 18, Imd. Eff. June 10, 2003.

**Popular name:** Act 451

### 380.1531e Repealed. 2018, Act 202, Imd. Eff. June 20, 2018.

**Compiler's note:** The repealed section pertained to the renewal of lapsed provisional education certificate.

**Popular name:** Act 451

### 380.1531f Teaching of Native American tribal language and culture class; use of teachers not possessing valid Michigan teaching certificate; memorandum of understanding; credit toward completion of language requirements.

Sec. 1531f. (1) The department may enter into a memorandum of understanding with a federally recognized Native American tribe, the board of a school district, or the board of directors of a public school academy that authorizes the superintendent of public instruction to issue a 3-year letter of approval or continuing approval to allow the Native American tribe, school district, or public school academy to use teachers who do not possess a valid Michigan teaching certificate to teach a Native American tribal language and culture class. A memorandum of understanding entered into under this section shall require that a noncertificated teacher has demonstrated mastery of the tribal language either through a credential issued by a federally recognized Native American tribe or another means considered suitable by the department. The memorandum of agreement shall include requirements for renewal or continuing approval of the noncertificated teacher as established by the Native American tribe, the board of the school district, or the board of directors of the public school academy in collaboration with the department.

(2) Credits earned by a pupil in a Native American tribal language taught by a noncertificated teacher pursuant to this section may be applied by the Native American tribe, school district, or public school academy for any purpose to the same extent as if taught by a certificated teacher, including, but not limited to, credit toward completion of the credit requirements under section 1278a concerning a language other than English.

**History:** Add. 2010, Act 168, Imd. Eff. Sept. 30, 2010.

**Popular name:** Act 451

### 380.1531g Michigan secondary level teaching certificate; certification to teach grade 6.

Sec. 1531g. Notwithstanding any rule to the contrary, if an individual holds a valid Michigan secondary level teaching certificate, the individual is certified to teach grade 6 in the subject areas in which he or she has endorsements on the teaching certificate.

**History:** Add. 2006, Act 334, Imd. Eff. Aug. 15, 2006.

**Compiler's note:** Act 451

### 380.1531h Teacher certification database system; establishment; implementation; funding.

Sec. 1531h. (1) Not later than July 1, 2010, the department shall establish and implement a teacher


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

certification database system that provides for at least all of the following:

(a) The ability for teachers to renew a professional teaching certificate online.

(b) Online credit card payment capability, to result in processing of teaching certificate applications and issuance of teaching certificates within 48 to 72 hours for in-state applicants and within 3 weeks for out-of-state applicants who have provided a complete application, as determined by the department.

(c) A central registry that documents each teacher's professional development activities and completion of state board continuing education units.

(d) Improved compatibility with the registry of educational personnel data reporting system.

(e) Improved efficiency of the teacher preparation institution web-based teacher certification recommendation process.

(f) Improved capacity to generate reports about the number of certificates and endorsements issued.

(g) Improved quality control through customization of the system.

(2) The department shall fund the system required under subsection (1) from the fee increases in section 1538 that result from the amendatory act that added this section.

**History:** Add. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

**Popular name:** Act 451

### 380.1531i Interim teaching certificate.

Sec. 1531i. (1) The superintendent of public instruction shall establish a process for an individual to earn an interim teaching certificate under this section that qualifies the individual to teach in the public schools and to earn a Michigan teaching certificate using the process under this section. The process shall meet all applicable requirements for an alternative teaching certification process under the no child left behind act of 2001, Public Law 107-110. The process shall not allow for an interim teaching certificate for special education.

(2) The process established under subsection (1) shall provide that the superintendent of public instruction will grant an interim teaching certificate to an individual who meets all of the following:

(a) Is a participant in an alternative teaching program that is approved by the superintendent of public instruction. To be approved, a program provider shall demonstrate to the satisfaction of the superintendent of public instruction that it meets all of the following:

(*i*) Provides for its participants an intensive training program in teaching that is determined by the superintendent of public instruction to constitute the equivalent of at least 12 college credit hours and that includes training in at least all of the following subject areas:

(A) Child development or child psychology.

(B) Family and community relationships.

(C) Diverse learners.

(D) Instructional strategies.

(E) A form of field-based experience in a classroom setting.

(*ii*) Has a proven record of producing successful teachers or is modeled after a program that has a proven record of producing successful teachers.

(*iii*) Its participants have a cohort grade point average of at least 3.0 on a 4.0 scale or the equivalent on another scale, as determined by the superintendent of public instruction, upon earning the degree required under subdivision (b). If a cohort member has earned more than 1 degree required under subdivision (b), the highest grade point average earned by the cohort member must be used in calculating the cohort grade point average under this subparagraph.

(*iv*) Accepts for participation only individuals who meet the requirements of subdivision (b).

(b) Holds a bachelor's, master's, doctorate, or professional degree from a regionally accredited college or university.

(c) Passes the appropriate available subject area examination for each subject area in which he or she applies to be certified.

(3) An individual earning a Michigan teaching certificate using the process under this section will be subject to provisions of administrative rules governing teachers, as established by the superintendent of public instruction.

(4) An individual who possesses an interim teaching certificate under this section may be employed to teach in a public school in the same manner as an individual holding a Michigan teaching certificate issued under section 1531 if all of the following requirements are met:

(a) While the individual is teaching under an interim teaching certificate, the school district or public school academy in which the individual is teaching provides intensive observation and coaching in a manner and to the extent prescribed by the superintendent of public instruction.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) The individual is making satisfactory progress toward meeting the requirements for being awarded a Michigan teaching certificate under section 1531, as established by the superintendent of public instruction under subsection (5).

(5) The superintendent of public instruction shall develop standards for granting an individual a Michigan teaching certificate issued under section 1531 after the individual has demonstrated satisfactory teaching performance for 3 years under an interim teaching certificate and has met the requirements established by the superintendent of public instruction for a Michigan teaching certificate.

(6) The superintendent of public instruction shall promulgate rules that he or she considers necessary to implement this section.

(7) As used in this section:

(a) "Cohort" means all of the individuals enrolled in an alternative teaching program approved by the superintendent of public instruction for the 3 years immediately preceding the granting of an interim teaching certificate under this section to an individual enrolled in the alternative teaching program.

(b) "Elementary certification examination" and "subject area examination" mean those terms as defined in section 1531.

**History:** Add. 2009, Act 202, Imd. Eff. Jan. 4, 2010;—Am. 2018, Act 106, Imd. Eff. Apr. 5, 2018.

**Popular name:** Act 451

### 380.1531j Issuance of initial professional teaching certificate; requirements; rules.

Sec. 1531j. (1) Notwithstanding any other provision of this act or a rule to the contrary, beginning July 1, 2018, the superintendent of public instruction shall not issue an initial professional teaching certificate to an individual unless the individual presents evidence satisfactory to the superintendent of public instruction demonstrating that he or she meets all of the following:

(a) The individual has successfully completed at least 3 full years of classroom teaching.

(b) The individual meets either of the following:

(*i*) Was rated as either effective or highly effective on his or her annual year-end performance evaluation under section 1249 for the 3 consecutive school years immediately preceding his or her application for the professional teaching certificate.

(*ii*) Was rated as either effective or highly effective on his or her annual year-end performance evaluation under section 1249 for at least 3 nonconsecutive school years before his or her application for the professional teaching certificate and submits a recommendation from the chief school administrator of the school at which he or she is currently employed that he or she be issued a professional teaching certificate.

(2) Not later than January 1, 2019, the superintendent of public instruction, in consultation with the department of talent and economic development and groups or individuals representing employers, economic development agencies, trade unions, secondary school principals, middle and elementary school principals, teachers, school district and intermediate school district superintendents, and others as determined appropriate by the department, shall promulgate rules to allow an individual to use time spent engaging with local employers or technical centers toward the renewal of a professional teaching certificate in the same manner as state continuing education or professional development.

**History:** Add. 2015, Act 173, Imd. Eff. Nov. 5, 2015;—Am. 2018, Act 234, Eff. Sept. 25, 2018.

**Popular name:** Act 451

### 380.1531k Issuance of initial or renewed advanced professional education certificate; requirements; rules.

Sec. 1531k. (1) Beginning November 5, 2015, the superintendent of public instruction shall not issue an initial advanced professional education certificate to an individual, or renew an individual's advanced professional education certificate, unless the individual presents evidence satisfactory to the superintendent of public instruction demonstrating that he or she meets all of the following:

(a) Has been rated as highly effective on his or her annual year-end evaluation under section 1249 for 3 out of the 5 most recent school years.

(b) Has not been rated ineffective on his or her annual year-end evaluation under section 1249 within the 5 most recent school years.

(c) Meets additional criteria established by the department.

(2) Not later than January 1, 2019, the superintendent of public instruction, in consultation with the department of talent and economic development and groups or individuals representing employers, economic development agencies, trade unions, secondary school principals, middle and elementary school principals, teachers, school district and intermediate school district superintendents, and others as determined appropriate by the department, shall promulgate rules to allow an individual to use time spent engaging with local


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

employers or technical centers toward the renewal of an advanced professional education certificate in the same manner as state continuing education or professional development.

**History:** Add. 2015, Act 173, Imd. Eff. Nov. 5, 2015;—Am. 2018, Act 234, Eff. Sept. 25, 2018.

**Popular name:** Act 451

### 380.1532 Teaching certificate; validity; recording; oath or affirmation; nullification.

Sec. 1532. (1) Before a teaching certificate is valid in this state, the holder shall record the certificate in the office of the intermediate superintendent or of the superintendent of schools of the school district in which the holder expects to teach.

(2) Before a teaching certificate is valid in this state, the holder shall make and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the state of Michigan and that I will faithfully discharge the duties of the office of teacher according to the best of my ability".

(3) The oath set forth in subsection (2) shall be signed by the holder of the teaching certificate, notarized, and attached to or superimposed on the teaching certificate.

(4) Except as provided in this act, a teacher's teaching certificate shall not be nullified except by the state board and for a cause that would have initially justified the withholding of the certificate.

(5) Upon the request of a teacher, the state board immediately shall nullify that teacher's teaching certificate. Upon the request of a teacher, the state board may nullify 1 or more endorsements on the teaching certificate, or a grade level certification included in the teaching certificate, if the grade level certification or endorsement has not been used for 12 or more years.

(6) The state board shall not reinstate, reissue, or renew a teaching certificate, endorsement on a teaching certificate, or a grade level certification that has been nullified pursuant to subsection (5).

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1988, Act 503, Imd. Eff. Dec. 29, 1988;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2006, Act 619, Imd. Eff. Jan. 3, 2007.

**Popular name:** Act 451

### 380.1533 Teacher's certificate; age requirement.

Sec. 1533. A certificate qualifying a person to teach in the public schools of this state shall not be granted to a person who is not at least 18 years of age. A certificate granted in contravention of this section is void.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1534 Completion of requirements for teaching certificate by deaf, deafblind, or hard of hearing person; limitation.

Sec. 1534. For a deaf, deafblind, or hard of hearing person who has completed all of the requirements for a teaching certificate under this act, other than the student teaching experience with hearing students, and who is verified as having successfully completed the student teaching experience in a special program serving deaf, deafblind, or hard of hearing students, upon that person's request, the department shall issue to that person a teaching certificate limited to teaching deaf, deafblind, and hard of hearing students in appropriate programs.

**History:** Add. 1978, Act 608, Imd. Eff. Jan. 5, 1979;—Am. 2016, Act 133, Eff. Aug. 24, 2016.

**Popular name:** Act 451

### 380.1535 Teacher considered certificated and holder of valid teacher's certificate; time.

Sec. 1535. For purposes of endorsement or recertification, a teacher shall be considered certificated and the holder of a valid teacher's certificate on the completion date of the requirements of a teacher education college, as defined by the college catalog of courses, until such time as the certification is confirmed or rejected by the state board of education.

**History:** Add. 1983, Act 118, Imd. Eff. July 18, 1983.

**Popular name:** Act 451

### 380.1535a Conviction of person holding teaching certificate for certain crimes; notice of right to hearing; suspension of teaching certificate; summary suspension; findings for action under subsection (1) or (2); compensation; reinstatement, continued suspension, or permanent revocation of teaching certificate; effect of reversal of conviction on final appeal; notice of conviction; evidence of conviction; failure to make final decision and


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**order; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions.**

Sec. 1535a. (1) Subject to subsection (2), if a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her teaching certificate may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's teaching certificate based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(*i*) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(*ii*) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(*iii*) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(*iv*) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(*v*) A violation of section 115, 141a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(*vi*) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(*vii*) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) If a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's teaching certificate under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as provided under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's teaching certificate for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

(a) Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree.

(b) Felonious assault on a child, child abuse in the first degree, or an attempt to commit child abuse in the first degree.

(c) Cruelty, torture, or indecent exposure involving a child.

(d) A violation of section 7401(2)(a)(*i*), 7403(2)(a)(*i*), 7410, or 7416 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.

(e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

(f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(j) Any other crime that is a listed offense.

(k) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), (i), or (j).

(*l*) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(m) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) All of the following apply to any proceedings affecting a person's teaching certificate under this section:

(a) The superintendent of public instruction shall appoint a designee to perform the investigatory and prosecutorial functions involved in the proceedings. However, the superintendent of public instruction must approve any settlement, conditional agreement, or other decision not to proceed with charges.

(b) Any final action that affects the status of a person's teaching certificate shall be taken by the superintendent of public instruction.

(c) The superintendent of public instruction after a hearing shall not take action against a person's teaching certificate under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's teaching certificate under subsection (1) or (2) based on a conviction that occurred before April 1, 2004 if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. For the purposes of this section, conviction of a listed offense is reasonably and adversely related to the person's fitness to serve in an elementary or secondary school in this state and demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's teaching certificate. If the superintendent of public instruction does not suspend or revoke the person's teaching certificate, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest.

(5) Except as otherwise provided in this subsection, after the completion of a person's sentence, the person may request a hearing on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate. The superintendent of public instruction shall not reinstate a person's teaching certificate unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's teaching certificate will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's teaching certificate under this subsection.

(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's teaching certificate shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the person's teaching certificate under this section was the sole cause of his or her discharge from employment, the person shall be reinstated, upon his or her notification to the appropriate local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of sentencing, even if the court is maintaining the file as a nonpublic record.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds a teaching certificate has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds a teaching certificate and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's teaching certificate.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's teaching certificate.

(12) The superintendent of public instruction shall submit to the legislature an annual report of all final actions he or she has taken under this section affecting a person's teaching certificate during the preceding year. The report shall contain at least all of the following with respect to each person whose teaching certificate has been affected:

(a) The person's name, as it appears on the teaching certificate.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the teaching certificate.

(13) This section does not do any of the following:

(a) Prohibit a person who holds a teaching certificate from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds a teaching certificate.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) The department of technology, management, and budget shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval, and of any other list


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(e) "Regularly and continuously work under contract" means that term as defined in section 1230d.

**History:** Add. 1987, Act 61, Eff. Mar. 30, 1988;—Am. 1990, Act 35, Imd. Eff. Mar. 22, 1990;—Am. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1994, Act 144, Imd. Eff. June 2, 1994;—Am. 1995, Act 97, Imd. Eff. June 22, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 51, Imd. Eff. Apr. 1, 2004;—Am. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

### 380.1536 School administrator's certificate; administration of instructional programs; endorsements; development of standards and procedures by state board; consultation; duration of certificate validity; alternative pathways to earning certificate; rules; "established state professional organization" defined.

Sec. 1536. (1) The state board shall develop a school administrator's certificate that shall be issued to all school district and intermediate school district superintendents, school principals, assistant principals, and other administrators whose primary responsibility is administering instructional programs and who meet the requirements established under subsection (3). An individual described in section 1246(1)(a) is not required by this section to have a school administrator's certificate under this section or an endorsement under subsection (2) to be employed as a school administrator by a school district, public school academy, intermediate school district, or nonpublic school.

(2) The state board also shall develop appropriate certificate endorsements for school administrators, by elementary, secondary, and central office level.

(3) The state board shall develop standards, and the superintendent of public instruction shall develop procedures, to implement this section. The standards and procedures shall address at least all of the following:

(a) The educational and professional experience requirements for a certificate or endorsement under this section.

(b) Continuing education requirements for periodic recertification. These requirements shall be consistent with the continuing education requirements under section 1246.

(c) Procedures for application for and issuance of certificates and endorsements under this section.

(d) Standards and procedures for suspension and revocation of a certificate. These standards and procedures shall be based on the standards and procedures for taking action against an individual's teaching certificate under section 1535a.

(4) The department shall consult and work with appropriate professional organizations, primarily


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

organizations representing superintendents and building-level administrators, in developing the standards required under this section.

(5) For the purposes of adding 1 or more enhancement or specialty endorsements for a school administrator's certificate, the department may recognize performance-based professional learning programs offered by established state professional organizations that represent school administrators described in subsection (1). These programs must be approved by the department based on alignment with state board-approved school administrator program preparation standards.

(6) A school administrator's certificate issued under this section is valid for 5 years and shall be renewed upon completion of renewal units as determined by the superintendent of public instruction.

(7) The department shall recognize alternative pathways to earning the basic school administrator's certificate based on experience or alternative preparation, or both, if the alternative certification program is submitted by an established state professional organization and meets criteria set forth by state board approved school administrator program preparation standards.

(8) Not later than January 1, 2019, the superintendent of public instruction, in consultation with the department of talent and economic development and groups or individuals representing employers, economic development agencies, trade unions, secondary school principals, middle and elementary school principals, teachers, school district and intermediate school district superintendents, and others as determined appropriate by the department, shall promulgate rules to allow an individual to use time spent engaging with local employers or technical centers toward the renewal of a school administrator's certificate in the same manner as state continuing education or professional development.

(9) As used in this section, "established state professional organization" means an association that has served members on a statewide basis for at least 10 years.

**History:** Add. 2006, Act 335, Imd. Eff. Aug. 15, 2006;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010;—Am. 2018, Act 234, Eff. Sept. 25, 2018.

**Compiler's note:** Former MCL 380.1536, which pertained to school administrator certificate, was repealed by Act 289 of 1995, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1536a Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to positions requiring valid school administrator certificate.

### 380.1538 Fees for evaluation of application; validity of certificate, permit, authorization, endorsement, approval, or certain renewals.

Sec. 1538. (1) An applicant shall pay the following fees to the department for having the application evaluated for conformance with the application requirements:

| | Original application fee | In-State Applicant | Out-of-State Applicant |
|---|---|---|---|
| (a) | | | |
| (*i*) | Provisional teaching certificate | $160.00 | $210.00 |
| (*ii*) | Professional teaching certificate | 160.00 | 210.00 |
| (*iii*) | Vocational temporary authorization or interim occupational certificate | 160.00 | 210.00 |
| (*iv*) | Occupational education certificate | 160.00 | 210.00 |
| (*v*) | Additional teaching certificate endorsement | 50.00 | |
| (*vi*) | Substitute teacher permit | 45.00 | |
| (*vii*) | Full-year teacher permit | 45.00 | |
| (*viii*) | Emergency permit | 45.00 | |
| (*ix*) | Annual occupational authorization | 40.00 | |
| (*x*) | Duplicate certificate or authorization | 25.00 | |
| (*xi*) | School psychologist certificate | 160.00 | 210.00 |
| (*xii*) | Temporary special education approval | 50.00 | |


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

| | | | |
|---|---|---|---|
| (*xiii*) | School administrator certificate for persons eligible for certificate after July 1, 1988 ..... | 160.00 | 210.00 |
| (*xiv*) | School administrator endorsement ..... | 50.00 | |
| (*xv*) | School counselor license ..... | 160.00 | 210.00 |

| | | In-State Applicant |
|---|---|---|
| (b) | Renewal or reinstatement application fee | |
| (*i*) | Provisional teaching certificate ..... | $100.00 |
| (*ii*) | Continuing teaching certificate reinstatement ..... | 50.00 |
| (*iii*) | Professional teaching certificate ..... | 160.00 |
| (*iv*) | Vocational temporary authorization or interim occupational certificate ..... | 100.00 |
| (*v*) | Occupational education certificate ..... | 160.00 |
| (*vi*) | School psychologist certificate ..... | 160.00 |
| (*vii*) | School administrator certificate ..... | 160.00 |
| (*viii*) | School counselor license ..... | 160.00 |

(2) Except as otherwise provided by an administrative rule in effect on October 1, 1988, or as otherwise provided by law, a certificate, permit, authorization, endorsement, or approval, and the renewal of a certificate, certificate reinstatement, or authorization issued pursuant to subsection (1) is valid for 5 years.

**History:** Add. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

**Popular name:** Act 451

### 380.1538a Teacher preparation institution and subject area specialty programs; approval; fees; periodic review; frequency.

Sec. 1538a. (1) A teacher preparation institution and its subject area specialty programs shall be approved by the state as provided under R 390.1151 to R 390.1156 of the Michigan administrative code. As provided under R 390.1151 of the Michigan administrative code, and subject to subsection (3), the teacher preparation program and subject area specialty programs of a state-approved teacher preparation institution are subject to periodic review for conformance with state board standards and procedures.

(2) A state-approved teacher preparation institution shall pay the following fees to the department for approval and periodic review under subsection (1):

(a) For approval or periodic review of a teacher preparation program, the following:

(*i*) If the college or university of which the teacher preparation institution is part has a total student enrollment of less than 2,000, a fee of $2,000.00.

(*ii*) If the college or university of which the teacher preparation institution is part has a total student enrollment of 2,000 or more, a fee of $3,500.00.

(b) For approval or periodic review of a subject area specialty program, a fee of $300.00.

(3) The department shall not conduct a periodic review of a particular teacher preparation program or subject area specialty program more frequently than once every 5 years. However, if the content standards for a subject area specialty program are revised, the department may conduct a periodic review of that subject area specialty program before the 5-year review period has expired.

**History:** Add. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

**Popular name:** Act 451

### 380.1539 Teacher-administrator preparation and certification fund; establishment; administration; deposit of fees; receipt of revenue; expenditures; carryover of unexpended money.

Sec. 1539. (1) A teacher-administrator preparation and certification fund is established in the department of treasury to be administered by the department of education.

(2) The department of education shall receive and forward to the state treasurer for deposit in the teacher-administrator preparation and certification fund all fees collected under section 1538 or 1538a. The teacher-administrator preparation and certification fund may receive as revenue money from any other source, as appropriated by the legislature.

(3) The revenue in the teacher-administrator preparation and certification fund shall be expended for the operation of the teacher preparation and certification program and the administrator preparation and certification program and for teacher and administrator professional development and other quality-related


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

activities, including the teacher certification database system under section 1531h.

(4) Money in the teacher-administrator preparation and certification fund that is unexpended at the end of the state fiscal year shall be carried over to the succeeding state fiscal year, shall not revert to the general fund, and shall be expended as provided in subsection (3).

**History:** Add. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 2004, Act 76, Imd. Eff. Apr. 21, 2004;—Am. 2007, Act 144, Imd. Eff. Nov. 19, 2007.

**Popular name:** Act 451

### 380.1539a Repealed. 2004, Act 51, Imd. Eff. Apr. 1, 2004.

**Compiler's note:** The repealed section pertained to conviction of school administrator for certain crimes.

**Popular name:** Act 451

### 380.1539b Conviction of person holding board approval for certain crimes; notice of right to hearing; suspension; summary suspension; compensation; reinstatement, continued suspension, or permanent revocation of state board approval; notice of conviction; evidence of conviction; failure to complete hearing procedures; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; automated program; definitions.

Sec. 1539b. (1) Subject to subsection (2), if a person who holds state board approval has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her state board approval may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the person's state board approval shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's state board approval, based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(*i*) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(*ii*) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(*iii*) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(*iv*) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(*v*) A violation of section 115, 141a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(*vi*) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(*vii*) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) If a person who holds state board approval has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's state board approval under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as required under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's state board approval for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

(a) Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree.

(b) Felonious assault on a child, child abuse in the first degree, or an attempt to commit child abuse in the first degree.

(c) Cruelty, torture, or indecent exposure involving a child.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(d) A violation of section 7401(2)(a)(*i*), 7403(2)(a)(*i*), 7410, or 7416 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.

(e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

(f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(j) Any other crime that is a listed offense.

(k) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), (i), or (j).

(*l*) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(m) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) All of the following apply to any proceedings affecting a person's state board approval under this section:

(a) The superintendent of public instruction shall appoint a designee to perform the investigatory and prosecutorial functions involved in the proceedings. However, the superintendent of public instruction must approve any settlement, conditional agreement, or other decision not to proceed with charges.

(b) Any final action that affects the status of a person's state board approval shall be taken by the superintendent of public instruction.

(c) The superintendent of public instruction after a hearing shall not take action against a person's state board approval under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's state board approval under subsection (1) or (2) based on a conviction that occurred before April 1, 2004 if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state. For the purposes of this section, conviction of a listed offense is reasonably and adversely related to the person's fitness to serve in an elementary or secondary school in this state and demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's state board approval. If the superintendent of public instruction does not suspend or revoke the person's state board approval, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest.

(5) Except as otherwise provided in this subsection, after the completion of the person's sentence, the person may request a hearing on reinstatement of his or her state board approval. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's state board approval. The superintendent of public instruction shall not reinstate a person's state board approval unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's state board approval will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

person's state board approval under this subsection.

(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's state board approval shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the state board approval was the sole cause of his or her discharge from employment, the person shall be reinstated upon his or her notification to the appropriate local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of the sentencing, even if the court is maintaining the file as a nonpublic record.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds state board approval has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds state board approval and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's state board approval.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's state board approval.

(12) The superintendent of public instruction shall submit to the legislature an annual report of all final actions he or she has taken under this section affecting a person's state board approval during the preceding year. The report shall contain at least all of the following with respect to each person whose state board approval has been affected:

(a) The person's name, as it appears on the state board approval.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the state board


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

approval.

(13) This section does not do any of the following:

(a) Prohibit a person who holds state board approval from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds state board approval.

(c) Exempt a person who holds state board approval from the operation of section 1535a if the person holds a certificate subject to that section.

(d) Limit the ability of a state licensing body to take action against a person's license or registration for the same conviction.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) The department of technology, management, and budget shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval, and of any other list maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(e) "Regularly and continuously work under contract" means that term as defined in section 1230d.

(f) "State board approval" means a license, certificate, approval not requiring a teaching certificate, or other evidence of qualifications to hold a particular position in a school district or intermediate school district or in a nonpublic school, other than a teacher's certificate subject to section 1535a, that is issued to a person by the state board or the superintendent of public instruction under this act or a rule promulgated under this act.

**History:** Add. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1994, Act 144, Imd. Eff. June 2, 1994;—Am. 1995, Act 97, Imd. Eff. June 22, 1995;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 2004, Act 51, Imd. Eff. Apr. 1, 2004;—Am. 2005, Act 130, Eff. Jan. 1, 2006;—Am. 2006, Act 84, Imd. Eff. Mar. 31, 2006;—Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

## PART 23
## COUNTY OF RESIDENT CHILDREN


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1540 Repealed. 1977, Act 43, Imd. Eff. June 29, 1977.

**Compiler's note:** The repealed section pertained to count of children residing in district.

**Popular name:** Act 451

### 380.1541 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to school census.

**Popular name:** Act 451

### 380.1542-380.1544 Repealed. 1977, Act 43, Imd. Eff. June 29, 1977.

**Compiler's note:** The repealed sections pertained to duties of census enumerator, children placed in licensed homes or homes of relatives, and verification and filing of census.

**Popular name:** Act 451

### 380.1551 Repealed. 1977, Act 43, Imd. Eff. June 29, 1977.

**Compiler's note:** The repealed section pertained to alternate procedures for obtaining name, age, and address of children and handicapped persons.

**Popular name:** Act 451

## PART 24
## COMPULSORY SCHOOL ATTENDANCE

### 380.1561 Compulsory attendance at public school; enrollment dates; exceptions.

Sec. 1561. (1) Except as otherwise provided in this section, for a child who turned age 11 before December 1, 2009 or who entered grade 6 before 2009, the child's parent, guardian, or other person in this state having control and charge of the child shall send that child to a public school during the entire school year from the age of 6 to the child's sixteenth birthday. Except as otherwise provided in this section, for a child who turns age 11 on or after December 1, 2009 or a child who was age 11 before that date and enters grade 6 in 2009 or later, the child's parent, guardian, or other person in this state having control and charge of the child shall send the child to a public school during the entire school year from the age of 6 to the child's eighteenth birthday. The child's attendance shall be continuous and consecutive for the school year fixed by the school district in which the child is enrolled. In a school district that maintains school during the entire calendar year and in which the school year is divided into quarters, a child is not required to attend the public school more than 3 quarters in 1 calendar year, but a child shall not be absent for 2 or more consecutive quarters.

(2) A child becoming 6 years of age before December 1 shall be enrolled on the first school day of the school year in which the child's sixth birthday occurs, and a child becoming 6 years of age on or after December 1 shall be enrolled on the first school day of the school year following the school year in which the child's sixth birthday occurs.

(3) A child is not required to attend a public school in any of the following cases:

(a) The child is attending regularly and is being taught in a state approved nonpublic school, which teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools of the district within which the nonpublic school is located.

(b) The child is less than 9 years of age and does not reside within 2-1/2 miles by the nearest traveled road of a public school. If transportation is furnished for pupils in the school district of the child's residence, this subdivision does not apply.

(c) The child is age 12 or 13 and is in attendance at confirmation classes conducted for a period of 5 months or less.

(d) The child is regularly enrolled in a public school while in attendance at religious instruction classes for not more than 2 class hours per week, off public school property during public school hours, upon written request of the parent, guardian, or person in loco parentis.

(e) The child has graduated from high school or has fulfilled all requirements for high school graduation.

(f) The child is being educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.

(4) For a child being educated at the child's home by his or her parent or legal guardian, exemption from the requirement to attend public school may exist under either subsection (3)(a) or (3)(f), or both.

(5) For a child who turns age 11 on or after December 1, 2009 or who was age 11 before that date and enters grade 6 in 2009 or later, this section does not apply to the child if the child is at least age 16 and the


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

child's parent or legal guardian has provided to school officials of the school district in which the child resides a written notice that the child has the permission of the parent or legal guardian to stop attending school.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996;—Am. 1996, Act 339, Eff. July 1, 1996;—Am. 2009, Act 204, Imd. Eff. Jan. 4, 2010;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Constitutionality:** Shared time instruction of sectarian, nonpublic school students in and of itself is not violative of the Establishment Clause of the United States Constitution even where benefits to religion appear substantial; it is only where it is clear that the program was motivated wholly by religious considerations that a conflict with the clause would exist. Snyder v Charlotte Schools, 421 Mich 517; 365 NW2d 151 (1984).

Shared time instruction clearly is not intended to benefit one or all religions; rather, the purpose is secular: to provide educational opportunities at public schools for all resident school-age children whether they attend public or religious or secular nonpublic schools. Snyder v Charlotte Schools, 421 Mich 517; 365 NW2d 151 (1984).

**Popular name:** Act 451

**Administrative rules:** R 340.71 et seq. of the Michigan Administrative Code.

### 380.1565 Providing opportunity to observe time in silent meditation; guidelines.

Sec. 1565. The board of education of a school district may by resolution provide the opportunity during each school day to allow students who wish to do so, the opportunity to observe time in silent meditation. The state board shall develop guidelines which a school board may use in the implementation of this section.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977.

**Popular name:** Act 451

### 380.1571 Attendance officers; acceptance and oath of office; surety bond; powers and duties; list of teachers and superintendent.

Sec. 1571. (1) The intermediate school board shall select 1 or more persons to act as attendance officers for the intermediate school district. An attendance officer shall file with the secretary of the intermediate school board an acceptance and oath of office, and a surety bond in the sum of $1,000.00.

(2) The board of a school district having a pupil membership of 1,000 or more on the latest pupil membership count day may employ attendance officers. An attendance officer employed by a board of education shall give a surety bond to the board in the sum of $1,000.00.

(3) An attendance officer of an intermediate school district or a local school district shall have the powers of a deputy sheriff within the district or the intermediate school district while performing official duties. An intermediate school district attendance officer shall perform the duties of the office in each constituent district in which the local board does not employ an attendance officer.

(4) At the opening of the schools the intermediate superintendent shall furnish the intermediate attendance officer with a list of the teachers and superintendents employed in constituent districts other than those employing an attendance officer.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1576 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to attendance report.

**Popular name:** Act 451

### 380.1577 Attendance report; school district other than primary school district.

Sec. 1577. The secretary of the board of a school district other than a primary school district at the opening of school shall furnish a copy of the last school census to the superintendent of schools, or the teacher or teachers if no superintendent is employed in the district, together with the name and address of the attendance officer who has jurisdiction in the district. At the opening of school the superintendent, teacher, or teachers shall compare the census list with the enrollment of the school, and shall report to the proper attendance officer the names and addresses of parents or other persons in parental relation to a child of compulsory attendance age not in regular attendance at the public schools, and names of parents or others in parental relation to a child not enrolled in the school and whose name is not included in the census.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1578 Attendance report; nonpublic schools.

Sec. 1578. The appropriate authority of each nonpublic school at the beginning of the school year shall furnish the superintendent of schools of the district in which the nonpublic school is situated or the intermediate superintendent:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(a) The name and age of each child who is enrolled at the school.

(b) The number or name of the school district and the city or township and county in which the parent, guardian, or person in parental relation resides.

(c) The name and address of the parent, guardian, or other person in parental relation.

(d) The name and age of each child enrolled in the school who is not in regular attendance.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1586 Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

Sec. 1586. (1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.

(2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

(3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1587 Failure to send child to school; notice to parent; notice of noncompliance.

Sec. 1587. If a parent or other person in parental relation fails to send a child under his or her control to the public school or other school listed under section 1561, the attendance officer, upon receiving notice from proper authority of that fact, shall give written notice in person or by registered mail to the parent or other person in parental relation requiring the child to appear at the public school or other school on the next regular school day following the receipt of notice, and to continue in regular and consecutive attendance in school. The attendance officer shall notify the intermediate superintendent or superintendent of schools of the service of notice. The intermediate superintendent or superintendent of schools shall notify the attendance officer of the failure on the part of the parent or other person in parental relation to comply with the notice.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1588 Complaint against parent; warrant; hearing; determination.

Sec. 1588. The attendance officer, after giving the formal notice prescribed in section 1587, shall determine whether the parent or other person in parental relation has complied with the notice. The attendance officer shall make a complaint against the parent or other person in parental relation having the legal charge and control of the child who fails to comply to the court having jurisdiction in the county of residence for refusal or neglect to send the child to school. The court shall issue a warrant upon the complaint and shall proceed to hear and determine it in the same manner as is provided for other cases under its jurisdiction.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1589 Furnishing assistance and information to attendance officer.

Sec. 1589. School officers, superintendents, administrators, and teachers shall give assistance and furnish information to aid an attendance officer in the performance of official duties.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1596 Ungraded school or department for juvenile disorderly persons.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 1596. (1) The board of a school district other than a primary school district may establish 1 or more ungraded schools for the instruction of certain pupils classified in subsection (2). The board may require the pupils to attend an ungraded school or a department of the school as the board directs.

(2) A child aged 7 to his or her sixteenth birthday, or his or her eighteenth birthday if the child turns age 11 on or after December 1, 2009 or is age 11 before that date and enters grade 6 in 2009 or later, who resides in the school district and who meets 1 or more of the following is considered a juvenile disorderly person and in the judgment of the proper school authorities may be assigned to the ungraded school or department:

(a) Except for a child described in section 1561(5), a child who is habitually truant from the school in which he or she is enrolled as a pupil.

(b) A child who, while attending school, is incorrigibly turbulent, disobedient, and insubordinate, or who is immoral in conduct.

(c) A child who is not attending school and who habitually frequents streets and other public places, having no lawful business, employment, or occupation.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2009, Act 204, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.1597 Repealed. 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** The repealed section pertained to work permits for minors 16 years of age.

**Popular name:** Act 451

### 380.1599 Noncompliance of parent as misdemeanor; penalty.

Sec. 1599. A parent or other person in parental relation who fails to comply with this part is guilty of a misdemeanor, punishable by a fine of not less than $5.00 nor more than $50.00, or imprisonment for not less than 2 nor more than 90 days, or both.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

## PART 25
## COMMUNITY COLLEGES OPERATED BY SCHOOL DISTRICTS

### 380.1601 “Community college” defined.

Sec. 1601. As used in this part, "community college" includes a junior college established prior to June 14, 1955.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1602 Community college of district school system; establishment; approval of state board.

Sec. 1602. The board of a first class school district or other school district having a population of more than 10,000, after having secured the approval of the state board, may establish collegiate and noncollegiate courses of study. These collegiate courses, except in school districts of the first class, shall not embrace more than 2 years of collegiate work. The courses, collectively and exclusive of the regular K to 12 grades, shall be known and designated as the community college of the district school system.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1602a Taxes levied for operation of community college.

Sec. 1602a. (1) The board of a school district operating a community college under this part may levy taxes for the operation of the community college at a millage rate not to exceed the number of mills determined by the department to equal the number of mills authorized under section 1211 as of the effective date of the amendatory act that added this section for operating the community college and reported to the department for the purpose of compiling the activity classification structure data under section 204 of Act No. 163 of the Public Acts of 1993. The millage allowed under this subsection may be levied without a vote of the school electors of the school district until the millage authorization expires.

(2) With the approval of the school electors of the school district, the board of a school district may renew the millage authorized under subsection (1) or levy additional millage for the operation of the community college, or both.

**History:** Add. 1993, Act 312, Eff. Mar. 15, 1994.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1603 Community college; joint establishment and operation; procedures and regulations.

Sec. 1603. (1) The boards of 2 or more school districts may provide for the joint establishment and operation of a community college by adopting mutually agreeable procedures and regulations as to administration, financial support, and other necessary regulations. The procedures and regulations shall be approved by the state board.

(2) If the combined population of the school districts is less than 10,000, joint establishment of a community college shall be approved by the school electors of each district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1604 Contract with district maintaining community college for attendance of other school district residents; qualifications, tuition, and transportation.

Sec. 1604. A board of a school district may contract with the board of another school district maintaining a community college or another community college board for the attendance of school district residents who possess the qualifications for enrollment in the college, pay the tuition in whole or in part of the students for periods of time and covering courses agreed upon by the contracting districts, and provide transportation to and from the college for residents enrolling in the college.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1605 Discontinuance of community college; disposition of property; settlement of accounts and obligations.

Sec. 1605. (1) If a school district is operating a community college and a community college district is established and operated under Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Michigan Compiled Laws, which community college district includes the territory of the school district or a major portion thereof, the board of the school district, with the approval of the state board, may discontinue the community college.

(2) If a community college is discontinued, the board of education may:

(a) Give real and personal property of the school district appropriate for community college use to the community college district, or sell it to the community college district at prices and on terms satisfactory to the school board, the community college district, and the state board, and execute and deliver contracts, deeds, and instruments of conveyance.

(b) Sell the real or personal property used by the community college no longer deemed necessary for school district purposes or for community college purposes, at prices and on terms satisfactory to the board, and execute and deliver contracts, deeds, and instruments of conveyance.

(c) Settle accounts and obligations which may arise on account of the community college district taking over the community college.

(d) Rent or lease real or personal property of the school district to the community college district for times and terms as may be mutually agreed upon and contracted for.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1606 Acquisition of lands and buildings; borrowing money; issuance of bonds or other obligations; repayment; terms of bonds; nature of debt.

Sec. 1606. A school district operating a community college under this part may acquire lands and acquire or erect and equip buildings and maintain them to be used as residence halls, apartments, dining facilities, student centers, parking facilities, and health centers. The school district may finance the acquisition by borrowing money and issuing bonds or other obligations under terms and provisions as it deems best, including the right to refund the bonds or obligations. The school district shall obligate itself for the repayment of bonds or other obligations, together with interest, solely out of the income and revenues from the facilities or other facilities acquired, or from allocations and pledges of fees and charges required to be paid by students enrolling in the college, or a combination thereof. The bonds shall not exceed 50 years, and shall not constitute a debt of the state or a political subdivision of the state.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

### 380.1606a Transfer of title of property to obtain capital financing for improvements; building school building upon leased site.

Sec. 1606a. (1) The board of a school district that operates a community college under this part may transfer title of real or personal property owned by the school district to the state building authority in order to obtain capital financing from the state building authority for improvements to the property, even though the property continues to be required and used for community college or other school district purposes. The board of the school district shall give proper deeds, bills of sale, or other instruments necessary to pass title to the property.

(2) Notwithstanding section 1263, the board of a school district that operates a community college may build or contract to build a school building for the community college upon a site for which the school district has a lease from the state building authority of less than 50 years.

**History:** Add. 1993, Act 37, Imd. Eff. May 13, 1993.

**Popular name:** Act 451

### 380.1606b Board of school district operating community college; establishment of department of public safety; grant of authority to public safety officers; public hearings; public safety advisory committee.

Sec. 1606b. (1) The board of a school district operating a community college under this part may establish a department of public safety for that community college for the protection of persons and property.

(2) If the board of the school district establishes a department of public safety under subsection (1), the board may grant to the public safety officers the authority of peace or law enforcement officers.

(3) Before granting the powers and authority provided under subsection (2), the board shall conduct not less than 2 public hearings.

(4) The board shall not grant the powers and authority described in subsection (2) unless that board creates a public safety advisory committee. The public safety advisory committee shall be comprised of 2 members of the faculty and 2 members of the staff of the community college. The public safety advisory committee shall receive and address grievances by persons against the public safety officers or against the public safety department of that community college. The committee may recommend to the board or the administration of that community college that disciplinary measures be taken against a public safety officer or police officer who is found responsible for misconduct in office.

**History:** Add. 1998, Act 52, Imd. Eff. Mar. 31, 1998.

**Popular name:** Act 451

### 380.1606c Public safety officers or police officers; jurisdiction.

Sec. 1606c. (1) The jurisdiction of public safety officers or police officers granted powers and authority under section 1606b shall include all property owned or leased by the community college in this state and extends to the public right-of-way traversing or contiguous to that property.

(2) The jurisdiction of public safety officers or police officers under subsection (1) is limited to the protection of persons and property on the property of that community college unless a response is made off campus at the specific request of another law enforcement agency or under a mutual aid agreement with another law enforcement agency.

**History:** Add. 1998, Act 52, Imd. Eff. Mar. 31, 1998.

**Popular name:** Act 451

### 380.1606d Public safety officers or police officers; minimum standards.

Sec. 1606d. Public safety officers or police officers of a community college to whom the powers and authority of a peace or law enforcement officer are granted under section 1606b shall meet the minimum standards of the Michigan law enforcement officers training council act of 1965, 1965 PA 203, MCL 28.601 to 28.616.

**History:** Add. 1998, Act 52, Imd. Eff. Mar. 31, 1998.

**Popular name:** Act 451

### 380.1606e Monthly uniform crime reports.

Sec. 1606e. The public safety department of each community college shall submit monthly uniform crime reports pertaining to crimes within the department's jurisdiction to the department of state police in the same manner as uniform crime reports are submitted under section 1 of 1968 PA 319, MCL 28.251.

**History:** Add. 1998, Act 52, Imd. Eff. Mar. 31, 1998.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**Popular name:** Act 451

### 380.1607 Contribution by local governmental unit to support of community college; uniform tuition and fees.

Sec. 1607. A county, township, or other governmental unit, by action of its governing body may contribute annually toward the support of a community college maintained by a school district pursuant to this part. Tuition and fees charged by the school district for enrollment in the community college shall be uniform throughout a county, township, or governmental unit making an annual contribution to the community college.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

## PART 26
## SCHOOL TAXES

### 380.1611 Certification of school property taxes; approval of city governing body; assessment, spread, and collection of taxes; remittance of collections; expenses; limitations; powers and duties of city officers; school taxes as lien; penalties, interest, and collection charges.

Sec. 1611. (1) Upon the approval of the city governing body before January 1, 1983, the board of a school district or intermediate school district situated in whole or in part in a city may certify either the total or 1/2 of the levy of school property taxes on the city portion of the school district or intermediate school district. If certified, or if approval of the city governing body is not given before January 1, 1983 and a city agrees or elects pursuant to section 1613 to collect either the total or 1/2 of the levy of school taxes on the taxable property of the city portion of the school district or intermediate school district, the appropriate officials of that city in which the school district or intermediate school district is located shall assess, spread, and collect these school taxes and shall remit the collections to the school district or intermediate school district as provided in Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(2) Except where a city assessed and collected school taxes pursuant to this section prior to December 31, 1974, reasonable expenses incurred by the city in assessing and collecting the school taxes, to the extent that those expenses are in addition to the expenses of assessing and collecting other taxes at the same time and, except as otherwise agreed to by the city and school district or intermediate school district, exceed the amount of any fee and charge imposed by the city on collection of the school taxes, shall be billed to and paid by the school board of education or intermediate school board. However, if these additional reasonable expenses are allowed by this section to a city exercising its option under section 1613(3), the following limitations shall apply:

(a) These additional reasonable expenses shall not exceed the amount specified in the statement required by section 1613(4)(b) as the actual cost of collection in addition to fees and charges authorized by section 1613(4)(g) that the treasurer of the school district, intermediate school district, or county has determined to be imposed.

(b) The total reasonable expenses, without deduction because the expense is part of the expense of assessing and collecting other taxes at the same time and including fees and charges imposed by the city on the collection of the school taxes, shall not exceed the amount specified in the statement required by section 1613(4)(b) as the aggregate amount of the costs of collection the district has determined to incur itself or the county treasurer may receive from district payments and from fees and charges imposed pursuant to section 1613(4)(g).

(3) In proceedings for the assessment, spreading, and collection of taxes for school purposes in the school district or intermediate school district, and for the receipt and disbursement of money belonging to the school district or intermediate district, the city assessing officer, city clerk, and city treasurer of the city in which the school district or intermediate school district is situated shall have like powers and duties as prescribed by the laws of this state for township supervisors, township clerks, and township treasurers.

(4) School taxes collected by a city shall become a lien against the property on which assessed in the same manner and on the same date as city taxes or, if the city approves the collection of school taxes on a date other than the date it collects the city taxes, on July 1. The school taxes which are collected with the city taxes shall be subject to the same penalties, interest, and collection charges as city taxes and shall be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties, and fees as city taxes are returned. School taxes collected by a city pursuant to this section on a date other than a date it


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

collects city taxes shall be subject to the same fees and charges a city may impose under section 44 of Act No. 206 of the Public Acts of 1893, being section 211.44 of the Michigan Compiled Laws. School taxes collected pursuant to this section on or before September 14 of each year by a city that collects school taxes on a date other than the date it collects city taxes shall be without interest, but such taxes collected after September 14 in each year shall bear interest at the rate imposed by section 59 of Act No. 206 of the Public Acts of 1893, being section 211.59 of the Michigan Compiled Laws, on delinquent property tax levies which became a lien in the same year. All interest and penalties that are imposed prior to the date these taxes are returned delinquent and that are attributable to school taxes other than collection fees shall belong to the school district or intermediate school district. The collection fees if imposed shall be retained by the city.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 20, Imd. Eff. May 27, 1977;—Am. 1981, Act 87, Imd. Eff. July 2, 1981;—Am. 1982, Act 333, Imd. Eff. Dec. 16, 1982.

**Popular name:** Act 451

### 380.1612 Certification of school property taxes; approval of township board; preparing and furnishing assessment and tax rolls; collection warrant; collection and remittance; expenses; limitations; school taxes as lien; fees and charges; interest and penalties; applicable law.

Sec. 1612. (1) Upon the approval of a township board before January 1, 1983, the board of a school district or intermediate school district may certify either the total or 1/2 of the levy of school property taxes on the township portion of the school district or intermediate school district. If certified, or if approval of the township board is not given before January 1, 1983 and pursuant to section 1613 a township elects or agrees to collect either the total or 1/2 of the total school taxes of a school district or intermediate school district located in the township, the township supervisor before June 30 of each year shall prepare the assessment and tax rolls and furnish these rolls to each affected township treasurer with the supervisor's collection warrant attached thereto. Each township treasurer shall proceed to collect the taxes and remit the collections to the school district or intermediate school district as provided in Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws. Except where a township assessed and collected school taxes pursuant to this section prior to December 31, 1974, reasonable expenses incurred by the township in assessing and collecting the school taxes, to the extent that the expenses are in addition to the expenses of assessing and collecting any other taxes at the same time and, except as otherwise agreed to by the township and school district or intermediate school district, exceed the amount of any fees and charges imposed by the township on collection of the school taxes, shall be billed to and paid by the school board or intermediate school board. However, if these additional reasonable expenses are allowed by this section to a township exercising its option under section 1613(3), the following limitations shall apply:

(a) These additional reasonable expenses shall not exceed the amount specified in the statement required by section 1613(4)(b) as the actual cost of collection in addition to fees and charges authorized by section 1613(4)(g) that the treasurer of the school district, intermediate school district, or county has determined to be imposed.

(b) The total reasonable expenses, without deduction because the expense is part of the expense of assessing and collecting other taxes at the same time and including fees and charges imposed by the township on the collection of the school taxes, shall not exceed the amount specified in the statement required by section 1613(4)(b) as the aggregate amount of the costs of collection the district has determined to incur itself or the county treasurer may receive from district payments and from fees and charges imposed pursuant to section 1613(4)(g).

(2) School taxes collected by a township shall become a lien against the property on which assessed on July 1. Taxes collected on or before September 14 in each year shall be without interest. Taxes collected after September 14 of any year shall bear interest at the rate imposed by section 59 of Act No. 206 of the Public Acts of 1893, being section 211.59 of the Michigan Compiled Laws, on delinquent property tax levies which became a lien in the same year. The school taxes which are collected by a township shall be subject to the same fees and charges the township may impose under section 44 of Act No. 206 of the Public Acts of 1893, being section 211.44 of the Michigan Compiled Laws. All interest and penalties, other than collection fees, that are imposed prior to the date these taxes are returned delinquent and that are attributable to school taxes shall belong to the school district or intermediate school district. Interest and, to the extent permitted by section 44 of Act No. 206 of the Public Acts of 1893, fees shall be included in the delinquent tax rolls returned to the county treasurer as of March 1 of each year.

(3) Act No. 206 of the Public Acts of 1893, as amended, shall apply to proceedings in relation to the assessment, spreading, and collection of taxes for school purposes in the school district or intermediate school


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

district, and to the powers and duties of the township supervisor and the township treasurer.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 20, Imd. Eff. May 27, 1977;—Am. 1982, Act 333, Imd. Eff. Dec. 16, 1982.

**Popular name:** Act 451

### 380.1613 Imposition of summer property tax levy; resolution; applicability; agreement to collect summer levy; request; notice of meeting; negotiation of reasonable collection expenses; collection of summer property tax levy by school district; notice; option to reconsider; applicable law; delivery of certified copy of assessment roll; cost; bonding; duration of agreement; current school tax collection fund; deposits and withdrawals; investment of surplus money; annual report; transfer or appropriation of fund money; using surplus to reduce costs; deferring collection of summer property taxes against certain property; publication and assistance requirements.

Sec. 1613. (1) By adoption of a resolution of its board before February 1, 1983, or before January 1 in any year thereafter, a school district or intermediate school district may determine to impose a summer property tax levy, which resolution by its terms may be applicable until revoked by the board of the school district or intermediate school district or for levies in any year specified therein. For each year such a resolution applies the school district or intermediate school district that has adopted the resolution shall request, before February 1, 1983 or before January 1 in any year thereafter, each city and township in which it is located to agree to collect the summer levy in that year of either the total or 1/2, as specified in the resolution, of the school property taxes. Notice of the meeting of the respective school district board or intermediate school district board at which this resolution will be offered for adoption shall be published by the district, not less than 6 days before holding the meeting, in a newspaper of general circulation in the school district or intermediate school district. This notice shall specify the time, date, and place of the public meeting, shall be not less than 8 vertical inches and 4 horizontal inches, shall be in not less than 12-point type, shall be preceded by a headline in not less than 18-point type stating "Notice of a public meeting to institute a summer property tax levy", shall contain a concise statement of the contents and purpose of the proposed resolution, and shall not be placed in that portion of the newspaper reserved for legal notices and classified advertisements. Upon receipt of the request, the governing body of the city or township shall negotiate the reasonable expenses for collection of the school district's or intermediate school district's summer property tax levy that the city or township may bill under section 1611 or 1612. If a city or township and the school district or intermediate school district reach an agreement within 30 days of receipt of the district's request for the collection of the district's summer property tax levy, including an agreement to the amount of reasonable expenses that the city or township may bill under section 1611 or 1612, section 1611 shall govern the other terms of a city's agreement and section 1612 shall govern the other terms of a township's agreement.

(2) If a city or township and the school district or intermediate school district fail to reach an agreement pursuant to subsection (1) for the collection of the summer property tax levy of a school district or intermediate school district subject to subsection (3), the school district or intermediate school district then may negotiate, until April 1, a proposed agreement with the county treasurer to collect its summer property tax levy against property located in that city or township. If a proposed agreement with the county treasurer has not been reached by April 1, the school district or intermediate school district may determine to serve as the property tax collecting unit and collect its own summer property tax levy against property in that city or township.

(3) If, pursuant to subsection (2), the school district or intermediate school district has determined to collect its own summer property tax levy or has reached a proposed agreement with a county treasurer on the collection of its summer property tax levy against property located in a city or township with which an agreement to collect this levy could not be made pursuant to subsection (1), the school district shall notify by April 15 that city or township of the terms of the statement required by subsection (4)(b) and the city or township shall have 15 days in which to exercise an option to collect the school district's or intermediate school district's summer property tax levy pursuant to the terms of section 1611 or 1612.

(4) Collection of all or part of a school district's or intermediate school district's property tax levy by a county treasurer or by the school district or intermediate school district shall comply with all of the following:

(a) Collection shall be either 1/2 or the total of the property tax levy against the properties, as specified for that year in the resolution of the district.

(b) The actual cost of the collection which the school district or intermediate school district has agreed to incur itself or to pay the county treasurer that is in addition to any fees imposed pursuant to subdivision (g), and the aggregate amount of costs of collection the district has agreed to incur or the county treasurer may


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

receive from district payments and from fees and charges imposed pursuant to subdivision (g) shall be stated in writing and reported to the state treasurer.

(c) Before June 30 the county treasurer or, if the district is collecting its own summer property tax levy, the treasurer of the school district or intermediate school district shall spread the taxes being collected in terms of millages on the assessment roll, assess the amount of tax levied in proportion to the state equalized valuation, and prepare a tax roll which commands the appropriate treasurer to collect on July 1 the taxes indicated as due on the tax roll.

(d) Taxes authorized to be collected shall become a lien against the property on which assessed, and due from the owner of that property, on July 1.

(e) Taxes shall be collected on or before September 14 and all taxes and interest imposed pursuant to subdivision (f) unpaid before March 1 shall be returned as delinquent on March 1. Taxes delinquent under this subdivision shall be collected pursuant to Act No. 206 of the Public Acts of 1893, as amended.

(f) Interest shall be added to taxes collected after September 14 at that rate imposed by section 59 of Act No. 206 of the Public Acts of 1893, being section 211.59 of the Michigan Compiled Laws, on delinquent property tax levies which became a lien in the same year.

(g) All or a portion of fees or charges, or both, authorized under section 44 of Act No. 206 of the Public Acts of 1893, being section 211.44 of the Michigan Compiled Laws, may be imposed on taxes paid before March 1 and shall be retained by the treasurer actually performing the collection of the summer property tax levy of the school district or intermediate school district, regardless of whether all or part of these fees or charges, or both, have been waived by the township or city.

(5) An agreement for the collection of a summer property tax levy of a school district or intermediate school district with a county treasurer shall include a schedule for delivering collections to the school district or intermediate school district.

(6) To the extent applicable and consistent with the requirements of this section, the provisions of Act No. 206 of the Public Acts of 1893, shall apply to proceedings in relation to the assessment, spreading, and collection of taxes pursuant to this section. Additionally, in relation to the assessment, spreading, and collection of taxes pursuant to this section, the county treasurer or, if the district is collecting its own summer property tax levy, the treasurer of the school district or intermediate school district shall have powers and duties similar to those prescribed by Act No. 206 of the Public Acts of 1893, for township supervisors, township clerks, and township treasurers. However, this section shall not be considered to transfer any authority over the assessment of property.

(7) If a county treasurer or the treasurer of a school district or intermediate school district collects the summer property tax levy of the district, the township or city shall deliver by June 1 a certified copy of the assessment roll containing state equalized valuations for each parcel of taxable property in the township or city to the treasurer collecting the summer property tax levy of the school district or intermediate school district. The county treasurer or the treasurer of a school district or intermediate school district receiving this certified copy of the assessment roll shall remit the necessary cost incident to the reproduction of the assessment roll to the township or city.

(8) A county treasurer or treasurer of a school district or intermediate school district collecting taxes pursuant to this section shall be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by this section.

(9) An agreement for the collection of a summer property tax levy between a school district or intermediate school district and a county may cover summer collections for 2 years. If an agreement covers summer collections for 2 years, the resolution and request required by subsection (1), the notice required by subsection (2), and the option to reconsider provided by subsection (3) shall not apply for summer collections in the second year.

(10) If collections are made pursuant to this section by a county treasurer or by the treasurer of a school district or intermediate school district, all payments from a school district or intermediate school district for collecting its summer property tax levy and all revenues generated from collection fees shall be deposited, when received or collected, in a current school tax collection fund, which fund shall be used by the county treasurer or treasurer of the school district or intermediate school district to pay for the cost of collecting the district's summer property tax levy. The current school tax collection fund shall be segregated from all other funds and once the current school tax collection fund has been established money shall not be withdrawn except upon an order, check, or draft of the collecting treasurer for the purpose of paying 1 or more of the following costs:

(a) The cost of special deputy treasurers and equipment directly involved in the collection of current property taxes.

(b) The cost of all services determined necessary by the collecting treasurer to collect the summer property


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

tax levy of the school district or intermediate school district.

(c) The contract payments to any person, firm, or corporation employed by the collecting treasurer to assist in the collection of the current property taxes.

(11) All surplus money in a current school tax collection fund shall be invested by the collecting treasurer in any investment authorized by Act No. 20 of the Public Acts of 1943, being sections 129.91 to 129.93 of the Michigan Compiled Laws. The county treasurer and the treasurer of a school district or intermediate school district shall publish, on March 1 of the year after the treasurer first collects the summer property tax levy of a school district or intermediate school district and each year thereafter, an annual report on the status of the fund for the last year ending December 31. The report shall show the total charges, expenses, and year-end surplus.

(12) Money in the current school tax collection fund shall not be transferred to the general fund of the county, school district, or intermediate school district or made the subject of appropriation by the county, school district, or intermediate school district. Any surplus in a current school tax collection fund shall be used by the county treasurer, school district treasurer, or intermediate school district treasurer to reduce the following costs for the next summer property tax levy of a school district or intermediate school district that is collected by the county treasurer, school district treasurer, or intermediate school district treasurer:

(a) The costs of collection, in excess of fees and charges, incurred or paid pursuant to subsection (4)(b).

(b) The fees and charges imposed pursuant to subsection (4)(g).

(13) A city treasurer, township treasurer, county treasurer, school district treasurer, or intermediate school district treasurer that collects pursuant to this section, section 1611, or section 1612 the summer property tax levy of a school district or intermediate school district against property eligible for a deferral of summer property taxes under section 51 of Act No. 206 of the Public Acts of 1893, being section 211.51 of the Michigan Compiled Laws, and, if not otherwise eligible for deferral thereunder, against property classified as agricultural real property if the gross receipts of the agricultural or horticultural operations in the previous year or the average gross receipts of such operations in the previous 3 years are not less than the household income of the owner in the previous year shall defer the collection of these summer property taxes without penalty or interest until the following February 15 upon a filing by the taxpayer of an intent to defer with the property tax collecting treasurer in the same manner as provided by section 51 of Act No. 206 of the Public Acts of 1893. The treasurer of a city, township, school district, intermediate school district, or county who collects the summer property tax levy of a school district or intermediate school district also shall comply with the publication and assistance requirements of section 51 of Act No. 206 of the Public Acts of 1893, with respect to property eligible for a deferral under this subsection.

**History:** Add. 1982, Act 333, Imd. Eff. Dec. 16, 1982.

**Popular name:** Act 451

### 380.1614 Adoption of resolution to impose summer property tax levy as request of city or township for collection; effectiveness of district action to impose levy upon certain property; location; exception.

Sec. 1614. (1) Except as provided by subsection (2), the action by a school district or intermediate school district pursuant to section 1613 of adopting a resolution which determines to impose a summer property tax levy shall represent a request of each city and township in which the school district or intermediate school district is located to collect its summer property tax levy, but shall be effective to impose the summer property tax levy only upon property, taxable by the school district or intermediate school district, which is located in either of the following:

(a) The city or township that collects the levy.

(b) A city or township in which the county, school district, or intermediate school district collects the levy.

(2) If an intermediate school district adopts a resolution pursuant to section 1613 which determines to impose a summer property tax levy, that intermediate school district may restrict the areas in which the levy is imposed and collected to those areas in which a school district or city is concurrently imposing a summer property tax levy.

**History:** Add. 1983, Act 110, Imd. Eff. July 6, 1983.

**Popular name:** Act 451

### 380.1615 Summer property tax levy; compliance presumed; imposition of interest.

Sec. 1615. For the 1983 tax year only, a summer property tax levy of a school district or intermediate school district collected by a village or township shall be presumed to be in compliance with sections 1612, 1613, and 1614. Interest shall not be imposed on a summer property tax levy of a school district or intermediate school district collected by a village before March 1, 1984 for the 1983 tax year.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** Add. 1984, Act 50, Imd. Eff. Apr. 12, 1984.

**Popular name:** Act 451

PART 27
CONDEMNATION

### 380.1621 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed section pertained to determination by jury of just compensation for real estate.

**Popular name:** Act 451

### 380.1621a Exercise of eminent domain by school district or intermediate school district.

Sec. 1621a. A school district or intermediate school district has the power of eminent domain for acquiring title in fee or interest in sites for new schools, agricultural sites, athletic fields, parks, playgrounds, or other school facilities, or for the improvement or expansion of existing school facilities, and shall exercise that power according to the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

### 380.1622-380.1634 Repealed. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** The repealed sections pertained to acquisition of real estate.

**Popular name:** Act 451

PART 28
ACTIONS AND JUDGMENTS AGAINST SCHOOL DISTRICTS

### 380.1641 Service of process.

Sec. 1641. Service of process in an action or proceeding against a school district or an intermediate school district may be made upon the president, secretary, or treasurer of the board of the school district or the intermediate school board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1642 Judgment for damages against school district or intermediate school district as unenforceable; exception.

Sec. 1642. A judgment for damages against a school district or an intermediate school district is not enforceable, and is not subject to collection, except as provided under section 6094 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6094.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2013, Act 184, Imd. Eff. Dec. 13, 2013.

**Popular name:** Act 451

### 380.1643 Repealed. 2013, Act 184, Imd. Eff. Dec. 13, 2013.

**Compiler's note:** The repealed section pertained to final judgment against a school district or intermediate school district.

**Popular name:** Act 451

### 380.1644 Repealed. 2013, Act 184, Imd. Eff. Dec. 13, 2013.

**Compiler's note:** The repealed section pertained to assessing amount of judgment against property and the manner of collecting and returning taxes.

**Popular name:** Act 451

ARTICLE 3

PART 29
SPECIAL EDUCATION PROGRAMS AND SERVICES; STATE BOARD

### 380.1701 Duties of superintendent of public instruction.

Sec. 1701. The superintendent of public instruction shall do all of the following:

(a) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with special education rules, to be approved by the superintendent of public instruction.

(b) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

**Administrative rules:** R 340.1701 et seq. and R 380.51 et seq. of the Michigan Administrative Code.

### 380.1701a Special education programs and services; public school academy as local school district.

Sec. 1701a. For the purposes of ensuring that a student with a disability enrolled in a public school academy is provided with special education programs and services, the public school academy is considered to be a local school district under this article.

**History:** Add. 1993, Act 284, Eff. Apr. 1, 1994;—Am. 1994, Act 416, Eff. Mar. 30, 1995;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008 ;—Am. 2009, Act 205, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 451

### 380.1702 Special education programs and services; application for approval of noncomplying programs and services; notice of noncompliance; proof of compliance or emergency; directing provision of complying programs or services; funding; contributing; unreimbursed cost.

Sec. 1702. (1) If a local school district board claims the existence of an emergency due to extreme financial conditions because of insufficient operating funds or due to a severe classroom shortage, which emergency the local school district claims renders it unable to provide special education programs and services in compliance with section 1751, the local school district board shall apply in writing to the state board before July 1 of the particular school year for approval to provide special education programs or services which do not comply with section 1751. The state board may extend the filing date for good cause.

(2) In its application the local school district board shall demonstrate the need to provide noncomplying special education programs and services and shall include the proposed programs and services it is able to provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for the school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions for those programs and services.

(3) If the state board determines that a local school district is not providing special education programs and services in compliance with section 1751, and the local school district has not obtained prior approval from the state board, the state board shall give the local school district board written notice of the noncompliance. Unless the local school district board submits proof of compliance or of an unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate school board of which the local school district is constituent to provide complying programs or services. The state board shall direct the intermediate school board to provide only those programs or services which the state board determines the local school district is not providing in compliance with section 1751.

(4) Special education programs or services which the state board directs an intermediate school district to provide shall be funded as if provided by the local school district and the local school district board shall contribute to the intermediate school district the unreimbursed cost of the programs or services.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1703 Qualifications and requirements for special education personnel; rules relative to special education programs and services; review.

Sec. 1703. (1) Special education personnel shall meet the qualifications and requirements of rules promulgated by the state board.

(2) Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and length and content of school day shall be in accordance with rules promulgated by the state board relative to special education programs and services.

(3) Not later than September 30, 1996, the state board shall conduct a review of all rules promulgated by the state board or department pertaining to special education. The review shall consider at least all of the following:

(a) The need to eliminate unnecessary separation and duplication between regular education and special education facilities, staff, programs, services, and pupils.

(b) Potential benefits from coordination between all relevant federal, state, regional, and local organization


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

services, including public and private organization services, for pupils with special needs, and encouragement of the provision of comprehensive necessary services delivered by the most appropriate organization or person in the most cost-effective and programmatically effective manner.

(c) The advisability of simplification of rules or regulations and processes relating to identification of need and provision of services to special needs pupils, avoidance of barriers and cost and other penalties or discouragements to effective programming, and avoidance of requirements as to staff or program criteria that are not research based; allowing and encouraging reasonably flexible, workable, and, if appropriate, cooperatively operated comprehensive services, including reasonable endorsement or other qualification categories for personnel, to be delivered to pupils with related or similar special needs, as may be consistent with research.

(d) A goal of providing educational and training services in a manner that maximizes for the benefit of the pupil the combination of the provisions of this act and federal law relating to inclusion, while avoiding, to the degree reasonably possible, requiring by rule an overall increase in a program or service beyond that required before December 23, 1978.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1995, Act 289, Eff. July 1, 1996.

**Popular name:** Act 451

**Administrative rules:** R 340.1011 et seq.; R 340.1701 et seq.; and R 380.51 et seq. of the Michigan Administrative Code.

### 380.1704 Short title of section; standards for teachers of blind and visually impaired pupils; providing information advocating braille instruction; electronic file format versions of textbooks or braille versions; pupil with some remaining vision; instruction consistent with other pupils; definitions.

Sec. 1704. (1) This section shall be known and may be cited as the "blind pupil's Braille literacy law".

(2) The department shall adopt Braille reading and writing standards for teachers of blind and visually impaired pupils and shall disseminate these standards to all school districts, intermediate school districts, and teacher preparation programs. These standards shall be included in the rules governing special education programs and services. In establishing these standards, the department shall consider the standards adopted by the national library service for the blind and physically handicapped of the United States library of congress.

(3) When a local or intermediate school district receives information from the department, or information that is approved by the department from a consumer organization that advocates for the blind, describing the benefits of instruction in Braille reading and writing, the local or intermediate school district shall provide this information to each person on the blind pupil's individualized educational planning committee.

(4) The department shall accept and respond to requests from local and intermediate school districts and shall work with textbook publishers to obtain electronic file format versions of textbooks or Braille versions of textbooks, or both. The department may also, on behalf of local and intermediate school districts, request and arrange for converting an electronic file format version of a textbook to a Braille version. The department shall process and make these requests in a timely manner.

(5) Upon request, a publisher of a textbook that is adopted for instructional use by a school district shall furnish the department with an electronic version of the textbook if the textbook is for a literary subject or, for a textbook for a nonliterary subject, if the technology is available to convert the textbook directly to a format compatible with Braille translation software. A publisher shall not charge a price for this electronic version that exceeds the price it charges for the print or electronic media version of the textbook.

(6) A local or intermediate school district or an individualized educational planning committee shall not deny a pupil the opportunity for instruction in Braille reading and writing solely because the pupil has some remaining vision.

(7) Instruction for blind pupils shall be consistent with the goals and standards established by this state for all pupils.

(8) As used in this section:

(a) "Blind pupil" means a pupil who is determined to manifest 1 or more of the following:

(*i*) A visual acuity of 20/200 or less in the better eye after routine refractive correction.

(*ii*) A field of vision that is limited so that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(*iii*) A medically indicated expectation of visual deterioration that is expected to result in 1 or both of the conditions described in subparagraphs (*i*) and (*ii*).

(b) "Individualized education program" means that term as defined in section 614 of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1414, or in R 340.1701A of the Michigan administrative code.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) "Individualized educational planning committee" means that term as defined in R 340.1701A of the Michigan administrative code or an individualized education program team as defined in section 614 of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1414.

(d) "Textbook" includes a text published in electronic media that is used for instructional purposes.

**History:** Add. 2000, Act 129, Imd. Eff. May 30, 2000.

**Popular name:** Act 451

PART 30

SPECIAL EDUCATION PROGRAMS AND SERVICES; INTERMEDIATE SCHOOL BOARDS

### 380.1711 Duties of intermediate school board; expenditures.

Sec. 1711. (1) The intermediate school board shall do all of the following:

(a) Develop, establish, and continually evaluate and modify in cooperation with its constituent districts, a plan for special education that provides for the delivery of special education programs and services designed to meet the individual needs of each student with a disability of whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the superintendent of public instruction for approval.

(b) Contract for the delivery of a special education program or service, in accordance with the intermediate school district plan in compliance with section 1701. Under the contract the intermediate school board may operate special education programs or services and furnish transportation services and room and board.

(c) Employ or engage special education personnel in accordance with the intermediate school district plan, and appoint a director of special education meeting the qualifications and requirements of the rules promulgated by the superintendent of public instruction.

(d) Accept and use available funds or contributions from governmental or private sources for the purpose of providing special education programs and services consistent with this article.

(e) Lease, purchase, or otherwise acquire vehicles, sites, buildings, or portions thereof, and equip them for its special education staff, programs, and services.

(f) Maintain a record of each student with a disability under 26 years of age, who is a resident of 1 of its constituent districts and who has not graduated from high school, and the special education programs or services in which the student with a disability is participating on the fourth Friday after Labor Day and Friday before Memorial Day. The sole basis for determining the local school district in which a student with a disability is a resident shall be the rules promulgated by the superintendent of public instruction notwithstanding the provisions of section 1148. The records shall be maintained in accordance with rules promulgated by the superintendent of public instruction.

(g) Have the authority to place in appropriate special education programs or services a student with a disability for whom a constituent district is required to provide special education programs or services under section 1751.

(h) Investigate special education programs and services operated or contracted for by the intermediate school board or constituent district boards and report in writing failures to comply with the provisions of a contract, statute, or rule governing the special education programs and services or with the intermediate school district plan, to the local school district board and to the superintendent of public instruction.

(i) Operate the special education programs or services or contract for the delivery of special education programs or services by local school district boards, in accordance with section 1702, as if a local school district under section 1751. The contract shall provide for items stated in section 1751 and shall be approved by the superintendent of public instruction. The intermediate school board shall contract for the transportation, or room and board, or both, or persons participating in the program or service as if a local school district board under sections 1756 and 1757.

(j) Receive the report of a parent or guardian or, with the consent of a parent or guardian, receive the report of a licensed physician, registered nurse, social worker, or school or other appropriate professional personnel whose training and relationship to students with a disability provide competence to judge them and who in good faith believes that a person under 26 years of age examined by the professional is or may be a student with a disability, and immediately evaluate the person pursuant to rules promulgated by the superintendent of public instruction. A person making or filing this report or a local school district board shall not incur liability to a person by reason of filing the report or seeking the evaluation, unless lack of good faith is proven.

(k) Evaluate pupils in accordance with section 1311.

(2) The intermediate school board may expend up to 10% of the annual budget but not to exceed $12,500.00, for special education programs approved by the intermediate school board without having to


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

secure the approval of the superintendent of public instruction.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

**Administrative rules:** R 340.1701 et seq. of the Michigan Administrative Code.

### 380.1716 Repealed. 1981, Act 87, Imd. Eff. July 2, 1981.

**Compiler's note:** The repealed section pertained to appointment and duties of committee to visit special education facilities.

**Popular name:** Act 451

### 380.1722 Adoption of MCL 380.1722 to 380.1729; submission of question; election; approval.

Sec. 1722. (1) The question of adopting sections 1722 to 1729 may be submitted to the school electors of an intermediate school district at a regular school election or at a special election held in each of the constituent districts. Sections 1722 to 1729 shall be effective if approved by a majority of the school electors of an intermediate school district voting at an election called and conducted under section 661.

(2) Sections 1722 to 1729 shall continue in effect in an intermediate school district reorganized under section 701.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2003, Act 299, Eff. Jan. 1, 2005.

**Popular name:** Act 451

### 380.1723 Adoption of MCL 380.1722 to 380.1729; form of ballot.

Sec. 1723. The ballot submitting the question of the adoption of sections 1722 to 1729 to the school electors of an intermediate school district shall be substantially in the following form:

"Shall the _____ (legal name of the intermediate school district), state of Michigan, come under sections 1722 to 1729 of the revised school code, which are designed to encourage the education of students with a disability, if the annual property tax levied for administration is limited to _____ mills?

Yes ( )

No ( )".

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 2004, Act 415, Imd. Eff. Nov. 29, 2004;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.1724 Increasing millage limit; submission of question; election; form of ballot.

Sec. 1724. Subject to section 1724a, an intermediate school board operating under sections 1722 to 1729 may direct that the question of increasing the millage limit on the annual property tax levied for special education be submitted to the school electors of the intermediate school district. The election shall be called and held in the manner provided in section 661. The ballot shall be substantially in the following form:

```
     "Shall the _________________ mill limitation on the annual
property tax previously approved by the electors of the
_____________________________________________, state of
(legal name of the intermediate school district)
Michigan, for the education of students
with a disability be increased by ____________ mills?
     Yes (  )
     No  (  )".
```

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2003, Act 299, Eff. Jan. 1, 2005 ;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.1724a Property taxes levied by intermediate school district for special education.

Sec. 1724a. (1) Beginning in 1995, and subject to section 625b, the board of an intermediate school district may levy ad valorem property taxes for special education purposes under sections 1722 to 1729 at a rate not to exceed 1.75 times the number of mills of those taxes authorized in the intermediate school district in 1993. All or part of the millage levied under this section may be renewed as provided in this article. Approval of the intermediate school electors is not required for the levy under this section of previously authorized mills until that authorization expires.

(2) An intermediate school district that levies a tax for special education operating purposes shall not use proceeds from the tax for any purpose other than special education operating purposes and shall submit to the department of treasury a copy of the audit report from the audit of the intermediate school district conducted


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

under section 622a. If the department of treasury determines from the audit report that the proceeds from the tax have been used for a purpose other than special education operating purposes, as defined under subsection (4), the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(3) If the attorney general determines from a report filed under subsection (2) that an intermediate school district has misspent tax proceeds as described in subsection (2) and notifies the intermediate school district of this determination, the intermediate school district shall repay to its special education operating fund an amount equal to the amount the department of treasury determined under subsection (2) has been used for a purpose other than special education operating purposes. The intermediate school district shall make this repayment from funds of the intermediate school district that lawfully may be used for making such a repayment.

(4) For the purposes of subsections (2) and (3), the department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts a definition of special education operating purposes.

(5) An intermediate district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for special education purposes under sections 1722 to 1729.

**History:** Add. 1994, Act 258, Imd. Eff. July 5, 1994;—Am. 2004, Act 415, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.1725 Special education budget; preparation; form; delivery.

Sec. 1725. An intermediate school board operating under sections 1722 to 1729 shall prepare annually a special education budget which shall be in the same form as that provided for local school districts. The budget shall be delivered to the county clerks of the counties in which the intermediate school district is located. The county clerk receiving the budget shall deliver it to the tax allocation board in the same manner as local school district budgets are handled.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1726 Special education budget; allocation of tax rates.

Sec. 1726. (1) County tax allocation boards shall receive special education budgets from their respective county clerks, shall treat them as local school district budgets are treated, and shall allocate tax rates to intermediate school districts for the purposes set forth in sections 1722 to 1729, except in counties which have established separate tax limitation millage rates pursuant to sections 5a to 5m of Act No. 62 of the Public Acts of 1933, as amended, being sections 211.205a to 211.205m of the Michigan Compiled Laws.

(2) The allocations shall be handled in the same manner as other allocations for local school districts.

(3) The allocations shall not be made within the 15 mill limitation but shall be within the charter limitations of section 6 of article 9 of the state constitution of 1963. The allocations shall not exceed the limit authorized by the election at which these sections becameeffective.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1727 Certification of tax levy; rate limitation; spreading amount on tax rolls; collection of taxes.

Sec. 1727. (1) An intermediate school board shall certify the amount of taxes to be levied for collection to the officials of the local property tax collecting unit. The certification shall be made in the same manner as local school districts certify tax levies but the rate certified for levy shall not exceed the amount allocated in counties which have not established separate tax limitation rates.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(2) On receipt of the tax certificate from the intermediate school board, the officials responsible for the levying and collection of taxes shall spread on the tax rolls a special education tax equal to the amount ordered spread, and shall collect the taxes in the same manner as other taxes are collected.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1984, Act 78, Imd. Eff. Apr. 18, 1984.

**Popular name:** Act 451

### 380.1727a Repealed. 1994, Act 258, Eff. Jan. 1, 1995.

**Compiler's note:** The repealed section pertained to taxes levied for special education.

**Popular name:** Act 451

### 380.1728 Payment of taxes collected; accounts and records.

Sec. 1728. Taxes collected by a city or township treasurer under section 1727 shall be paid to the treasurer of the intermediate school board pursuant to section 43 of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.43 of the Michigan Compiled Laws, or to the county treasurers in the same manner as other county taxes are paid, and similar accounts and records shall be kept. The county treasurers shall pay the funds received under section 1727 to the treasurer of the intermediate school board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1984, Act 78, Imd. Eff. Apr. 18, 1984.

**Popular name:** Act 451

### 380.1729 Expenditure of funds; special education purposes; special election to renew or increase millage limit; order for payment.

Sec. 1729. (1) An intermediate school board operating under sections 1722 to 1729 shall expend funds received under section 1728 for special education purposes in accordance with rules promulgated by the state board.

(2) An intermediate school board operating under sections 1722 to 1729 may expend funds received under section 1728 for the costs of a special election held to renew or increase the millage limit on the annual property tax levied for special education purposes.

(3) Special education funds held by the treasurer of the intermediate school board shall be paid on order of the intermediate school board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1988, Act 468, Eff. Jan. 1, 1989.

**Popular name:** Act 451

**Administrative rules:** R 340.1701 et seq. of the Michigan Administrative Code.

### 380.1731 Borrowing money and issuing bonds; purposes; limitation; use of proceeds from bonds issued or refunded.

Sec. 1731. (1) An intermediate school district may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the costs of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for buildings and other special education facilities; refunding all or part of existing bonded indebtedness; or the accomplishment of a combination of these purposes.

(2) An intermediate school district shall not issue bonds for purposes of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(3) An intermediate school district shall not use the proceeds from bonds issued or refunded under this section or levy a tax to repay bonds issued or refunded under this section for any purpose other than facilities used for special education purposes. If a facility is to be used during regular school hours for purposes other than providing special education programs and services, proceeds from bonds issued or refunded under this section or from millage levied to repay bonds issued or refunded under this section shall be used only for that portion of the facility that is used for providing special education programs and services.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2002, Act 70, Imd. Eff. Mar. 15, 2002;—Am. 2004, Act 415, Imd. Eff. Nov. 29, 2004.

**Popular name:** Act 451

### 380.1732 Borrowing money and issuing bonds; form of ballot.

Sec. 1732. The ballot submitting the question of borrowing money for the purpose of issuing bonds under section 1731 shall be in substantially the following form:


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

"Shall_____

(legal name of the intermediate school district)

state of Michigan, borrow the sum of not to exceed $_____ and issue its bonds therefor, for the purpose of_____?

Yes ( )

No ( )"

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1741 Pupils carried in membership; state school aid; calculation of membership.

Sec. 1741. An intermediate school board operating or contracting for the operation of special education programs or services may carry pupils in membership in the same manner as a local school district and shall be entitled to its proportionate share of state school aid available for these programs. Membership shall be calculated on the basis provided in rules promulgated by the state board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 340.1701 et seq. of the Michigan Administrative Code.

### 380.1742 Repealed. 2017, Act 159, Eff. Feb. 7, 2018.

**Compiler's note:** The repealed section pertained to employment of additional personnel to implement special education program or service.

**Popular name:** Act 451

### 380.1743 Repealed. 2017, Act 159, Eff. Feb. 7, 2018.

**Compiler's note:** The repealed section pertained to employment of additional personnel for special education programs and services previously provided by state agency.

**Popular name:** Act 451

## PART 31
## SPECIAL EDUCATION PROGRAMS AND SERVICES; LOCAL SCHOOL BOARDS

### 380.1751 Special education programs and services of local school district.

Sec. 1751. (1) The board of a local school district shall provide special education programs and services designed to meet the individual needs of each student with a disability in its district on record under section 1711 for whom an appropriate educational or training program can be provided in accordance with the intermediate school district special education plan, in either of the following ways or a combination thereof:

(a) Operate the special education program or service.

(b) Contract with its intermediate school board, another intermediate school board, another local school district board, an adjacent school district board in a bordering state, the Michigan schools for the deaf and blind, the department of health and human services, or any combination thereof, for delivery of the special education programs or services, or with an agency approved by the superintendent of public instruction for delivery of an ancillary professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

(2) A local school district contract for the provision of a special education program or service shall provide specifically for:

(a) Special education buildings, equipment, and personnel necessary for the operation of the subject program or service.

(b) Transportation or room and board, or both, for persons participating in the programs or services as required under sections 1756 and 1757.

(c) The contribution to be made by the sending local school district if the program or service is to be operated by another party to the contract. The contribution shall be in accordance with rules promulgated by the superintendent of public instruction.

(d) Other matters the parties consider appropriate.

(3) Each program or service operated or contracted for by a local school district shall be in accordance with the intermediate school district's plan established pursuant to section 1711.

(4) A local school district may provide additional special education programs and services not included in, or required by, the intermediate school district plan.

(5) This section shall be construed to allow operation of programs by departments of state government



© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

without local school district contribution.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008;—Am. 2016, Act 532, Eff. Apr. 9, 2017.

**Popular name:** Act 451

**Administrative rules:** R 340.1806 of the Michigan Administrative Code.

### 380.1752 Programs or services to student with disability; responsibility for due process hearing costs.

Sec. 1752. Beginning July 1, 2006, the board of a local school district or other public agency responsible for providing programs or services under this act to a student with a disability is responsible for 75% of the costs of providing a due process hearing pursuant to R 340.1882 of the Michigan administrative code.

**History:** Add. 2006, Act 186, Imd. Eff. June 19, 2006;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.1756 Transportation.

Sec. 1756. The board of a local school district shall provide by contract or agreement for the transportation of a student with a disability who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district under section 1751, except for a student with a disability in residence at facilities operated by the department of community health or the department of human services. The board of a school district may provide for weekend transportation of a student with a disability in residence at the Michigan schools for the deaf and blind.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.1757 Room and board generally.

Sec. 1757. The board of a local school district shall provide by contract or otherwise for the room and board of a student with a disability who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district board pursuant to section 1751, except those operated by the Michigan schools for the deaf and blind, the department of community health, or the department of human services.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

### 380.1761 Room and board; reimbursement.

Sec. 1761. The board of a local school district shall not solicit nor seek reimbursement from a student with a disability or another person otherwise liable for the care of the student with a disability for cost of a special education program or service attributable to the expense for room and board. The board of a local school district shall have the right to reimbursement for room and board in an amount which may be paid reasonably by the person in accordance with rules promulgated by the superintendent of public instruction.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2008, Act 1, Imd. Eff. Jan. 11, 2008.

**Popular name:** Act 451

**Administrative rules:** R 340.1701 et seq. of the Michigan Administrative Code.

### 380.1766 Repealed. 2016, Act 429, Imd. Eff. Jan. 4, 2017.

**Compiler's note:** The repealed section pertained to employment of additional personnel to implement special education programs and services.

## ARTICLE 4

## PART 32
## VIOLATIONS

### 380.1801 Neglecting or refusing to make reports or certify taxes; liability; action at law.

Sec. 1801. (1) A township clerk who neglects or refuses to make out and transmit the annual report containing the reports of the several school districts of the township, or other report which the law requires, within the time limited therefor shall be liable to pay the full amount lost by the township or any district or districts by the neglect or refusal, with interest thereon, to be recovered in an action at law.

(2) A township or city clerk who neglects or refuses to certify to the proper tax assessing officer taxes that have been reported as required by this act, and a tax assessing officer who wilfully neglects to assess the tax,


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

shall be liable to the school district for the loss, to be recovered by the treasurer in the name of the district in an action at law.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1802 Neglecting or refusing to transmit report; liability; action at law.

Sec. 1802. A county clerk or intermediate superintendent who neglects or refuses to transmit to the state board a report which is required by law within the proper time shall be liable to pay each school district the full amount, with interest, which the district loses by the neglect or refusal, to be recovered in an action at law.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1803 Apportionment and distribution of money collected or received.

Sec. 1803. Money collected or received by a township or city treasurer under sections 1801 and 1802 shall be apportioned and distributed to the school district entitled thereto, in the manner and proportion that money lost by the neglect or refusal would have been apportioned and distributed.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1804 Neglecting or refusing to perform act; violations; penalty.

Sec. 1804. Except as otherwise provided in this act, a school official or member of a school board or intermediate school board or other person who neglects or refuses to do or perform an act required by this act, or who violates or knowingly permits or consents to a violation of this act, is guilty of a misdemeanor punishable by a fine not more than $500.00, or imprisonment for not more than 3 months, or both.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2004, Act 417, Eff. Mar. 30, 2005.

**Popular name:** Act 451

### 380.1805 Acting as agent; receiving gift or reward; penalty.

Sec. 1805. (1) A superintendent of public instruction, intermediate superintendent, school officer, superintendent, principal, or teacher of schools shall not act as agent for an author, publisher, or seller of schoolbooks or school apparatus, or receive a gift or reward for his or her influence in recommending the purchase or use of a schoolbook, apparatus, or furniture in this state.

(2) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 3 months, or both.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1806 Neglecting or refusing to comply with act; dismissal; cancellation of contract.

Sec. 1806. The board of a school district or intermediate school district may dismiss from employment and cancel the contract of a superintendent, principal, or teacher who neglects or refuses to comply with this act.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1807 Violation of MCL 380.1316; penalty.

Sec. 1807. A school official or member of a school board, or other person violating or knowingly permitting or consenting to violation of section 1316 relating to fraternities, sororities, and secret societies is guilty of a misdemeanor, punishable by a fine of not less than $25.00 nor more than $100.00 for each offense.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1808 Disorderly conduct at meetings; penalty.

Sec. 1808. (1) If a person conducts himself or herself in a disorderly manner at a board of education meeting or a school district meeting and, after notice from the officer presiding, persists therein, the officer presiding may order the disorderly person to withdraw from the meeting, and on the person's refusal may order a law enforcement officer or other person to take the disorderly person into custody until the meeting is adjourned.

(2) A person who refuses to withdraw from the meeting on being so ordered, or a person who wilfully


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

disturbs a school district meeting by rude and indecent behavior, by profane or indecent discourse, or in other ways makes a disturbance, is guilty of a misdemeanor punishable by a fine of not less than $2.00 nor more than $50.00, or by imprisonment for not more than 30 days, or both.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1809 Improper use of certain certificates or credentials as misdemeanor; penalties.

Sec. 1809. (1) In addition to any other penalty provided by law, a person who uses or attempts to use a teaching certificate that he or she knows is surrendered, suspended, revoked, nullified, fraudulently obtained, altered, or forged, or who uses or attempts to use as his or her own a valid teaching certificate that he or she knows is issued to another person, to obtain employment in a position requiring a valid teaching certificate or who remains employed in a position requiring a valid teaching certificate knowing that he or she does not hold a valid teaching certificate is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent offense, by imprisonment for not less than 93 days or more than 6 months, or a fine of not less than $500.00 or more than $1,000.00, or both.

(2) In addition to any other penalty provided by law, a person who uses or attempts to use a school administrator's certificate that he or she knows is surrendered, suspended, revoked, nullified, fraudulently obtained, altered, or forged, or who uses or attempts to use as his or her own a valid school administrator's certificate that he or she knows is issued to another person, to obtain employment as a school administrator or who remains employed in a position requiring a valid school administrator's certificate knowing that he or she does not hold a valid school administrator's certificate is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent offense, by imprisonment for not less than 93 days or more than 6 months, or a fine of not less than $500.00 or more than $1,000.00, or both.

(3) In addition to any other penalty provided by law, a person who uses or attempts to use a state board approval that he or she knows is surrendered, suspended, revoked, nullified, fraudulently obtained, altered, or forged, or who uses or attempts to use as his or her own a valid state board approval that he or she knows is issued to another person, to obtain employment in a position requiring a valid state board approval or who remains employed in a position requiring a valid state board approval knowing that he or she does not hold a valid state board approval is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent offense, by imprisonment for not less than 93 days or more than 6 months, or a fine of not less than $500.00 or more than $1,000.00, or both.

(4) In addition to any other penalty provided by law, a person who uses or attempts to use a college or university transcript or a certificate or other credential that he or she knows is fraudulently obtained, altered, or forged, or who uses or attempts to use as his or her own a college or university transcript or a certificate or other credential that he or she knows is that of another person, to obtain a teaching certificate, school administrator's certificate, or state board approval in this state is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent offense, by imprisonment for not less than 93 days or more than 6 months, or a fine of not less than $500.00 or more than $1,000.00, or both.

(5) The state board may refuse to issue or renew a teaching certificate, school administrator's certificate, or state board approval, or refuse to issue an endorsement for a teaching certificate or school administrator's certificate, to a person convicted of a violation of this section.

(6) As used in this section, "state board approval" means that term as defined in section 1539b.

**History:** Add. 1995, Act 96, Eff. Aug. 1, 1995.

**Popular name:** Act 451

### 380.1811 Illegal voting; penalty.

Sec. 1811. A person not legally entitled to vote who votes or attempts to vote at a school election or meeting is guilty of an offense punishable under chapter XXXV of the Michigan election law, MCL 168.931 to 168.945.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 2018, Act 122, Eff. Dec. 31, 2018.

**Popular name:** Act 451

### 380.1812 Refusal to give census information; false information; negligence of school census enumerator; penalty.

Sec. 1812. A person who refuses to give a school census enumerator the necessary information for the compiling of the census or who intentionally gives the enumerator false information as to the name or age of a school child or as to the names or residence of the parents or guardians of a school child, or a school census enumerator who performs the duties of an enumerator carelessly or negligently or includes in the census list names of school children who are not actually residents of the city or district, is guilty of a misdemeanor, punishable by a fine of not less than $5.00 nor more than $50.00, or imprisonment for not more than 20 days, or both.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1813 Violation of rule; penalty.

Sec. 1813. A member or employee of a board of a school district or intermediate school district, or other person who violates, or causes to be violated, a rule promulgated under section 1343 is guilty of a misdemeanor, punishable by a fine of not more than $100.00, or imprisonment for not more than 30 days, or both.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

**Administrative rules:** R 340.1201 et seq. of the Michigan Administrative Code.

### 380.1814 Alcoholic beverages, jewelry, gifts, fees for golf, or illegal item; purchase prohibited; exception; violation as misdemeanor; penalty; fine; restitution; "public funds" defined.

Sec. 1814. (1) Except as otherwise provided in subsection (2), a person shall not use school district, intermediate school district, public school academy, or education achievement authority funds or other public funds under the control of a school district, intermediate school district, public school academy, or education achievement authority for purchasing alcoholic beverages, jewelry, gifts, fees for golf, or any item the purchase or possession of which is illegal.

(2) Subsection (1) does not prohibit the use of public funds for the purchase of a plaque, medal, trophy, or other award for the recognition of an employee, volunteer, or pupil if the purchase does not exceed $100.00 per recipient. Beginning January 1, 2005, the monetary amount for this exception shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

(3) In addition to any other penalty provided by law, a person who knowingly or intentionally violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine, or both. The amount of the fine shall be as follows:

(a) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is less than $5,000.00, up to $1,000.00.

(b) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is at least $5,000.00 and less than $10,000.00, at least $1,000.00 and not to exceed $2,000.00.

(c) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is at least $10,000.00 and less than $15,000.00, at least $2,000.00 and not to exceed $3,000.00.

(d) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is at least $15,000.00 and less than $25,000.00, at least $3,000.00 and not to exceed $4,000.00.

(e) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is $25,000.00 or more, at least $4,000.00.

(4) A court shall order a person convicted of a violation of subsection (1) to make restitution to the affected


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

school district, intermediate school district, public school academy, or education achievement authority.

(5) As used in this section, "public funds" means funds generated from taxes levied under this act, state appropriations of state or federal funds, or payments to a school district, intermediate school district, public school academy, or education achievement authority for services, but does not include voluntary contributions made for a specific purpose by a school district, intermediate school district, public school academy, or education achievement authority board member; a school district, intermediate school district, public school academy, or education achievement authority employee; another individual; or a private entity.

**History:** Add. 2004, Act 417, Eff. Mar. 30, 2005;—Am. 2014, Act 477, Eff. Apr. 12, 2015.

**Popular name:** Act 451

### 380.1815 Competitive bidding; violation of requirements as misdemeanor; penalty.

Sec. 1815. A person who knowingly or intentionally violates the competitive bidding requirements of section 1267, or who knowingly or intentionally permits or consents to a violation of the competitive bidding requirements of section 1267, is guilty of a misdemeanor punishable by a fine in an amount equal to not more than 10% of the cost of the project involved in the violation or imprisonment for not more than 1 year, or both, but is not subject to the penalties of section 1804.

**History:** Add. 2004, Act 417, Eff. Mar. 30, 2005.

**Popular name:** Act 451

### 380.1816 Misuse of proceeds; violation as felony; penalty.

Sec. 1816. A person who knowingly or intentionally uses the proceeds of bonds issued under this act for a purpose other than a purpose for which the bonds were issued, as stated in the ballot proposal authorizing the issuance of the bonds, or who knowingly or intentionally permits or consents to such a misuse of the proceeds of bonds issued under this act, is guilty of a felony punishable by a fine in an amount equal to not more than 10% of the cost of the project involved in the violation or imprisonment for not more than 4 years, or both, but is not subject to the penalties of section 1804.

**History:** Add. 2004, Act 417, Eff. Mar. 30, 2005.

**Popular name:** Act 451

## PART 33
## MISCELLANEOUS

### 380.1851 Repeal of acts and parts of acts.

Sec. 1851. The following acts and parts of acts are repealed:

(a) Act No. 169 of the Public Acts of 1927, being sections 388.131 to 388.134 of the Compiled Laws of 1970.

(b) Act No. 81 of the Public Acts of 1931, being sections 388.351 to 388.353 of the Compiled Laws of 1970.

(c) Sections 1 and 3 of Act No. 205 of the Public Acts of 1931, being sections 388.371 and 388.373 of the Compiled Laws of 1970.

(d) Act No. 238 of the Public Acts of 1939, being sections 388.321 and 388.322 of the Compiled Laws of 1970.

(e) Act No. 223 of the Public Acts of 1941, being sections 388.881 to 388.884 of the Compiled Laws of 1970.

(f) Act No. 254 of the Public Acts of 1945, being section 388.701 of the Compiled Laws of 1970.

(g) Act No. 19 of the Public Acts of the First Extra Session of 1946, being section 388.751 of the Compiled Laws of 1970.

(h) Act No. 269 of the Public Acts of 1955, as amended, being sections 340.1 to 340.984 of the Compiled Laws of 1970.

(i) Act No. 244 of the Public Acts of 1969, as amended, being sections 388.171a to 388.183 of the Compiled Laws of 1970.

(j) Act No. 242 of the Public Acts of 1970, being sections 388.391 to 388.394 of the Compiled Laws of 1970.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1851a Rules prohibited; condition.

Sec. 1851a. If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the state board or the department shall not promulgate rules under this act.

**History:** Add. 1995, Act 289, Eff. July 1, 1996.

**Compiler's note:** In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

**Popular name:** Act 451

### 380.1852 Effective date.

Sec. 1852. This act shall take effect January 1, 1977.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977.

**Popular name:** Act 451

### 380.1853 Expired. 1976, Act 451, Eff. Jan. 1, 1978.

**Compiler's note:** The expired section continued certain school districts, programs, boards, and board members.


© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov