

# HOUSE BILL No. 4019

January 13, 2011, Introduced by Reps. McMillin, Knollenberg and Johnson and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending sections 502, 502a, and 503 (MCL 380.502, 380.502a, and 380.503), sections 502 and 503 as amended and section 502a as added by 2009 PA 205.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 502. (1) A public school academy shall be organized and  
2       administered under the direction of a board of directors in  
3       accordance with this part and with bylaws adopted by the board of  
4       directors. A public school academy corporation shall be organized  
5       under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to  
6       450.3192, except that a public school academy corporation is not  
7       required to comply with sections 170 to 177 of 1931 PA 327, MCL

1 450.170 to 450.177. To the extent disqualified under the state or  
2 federal constitution, a public school academy shall not be  
3 organized by a church or other religious organization and shall not  
4 have any organizational or contractual affiliation with or  
5 constitute a church or other religious organization.

6 (2) Any of the following may act as an authorizing body to  
7 issue a contract to organize and operate 1 or more public school  
8 academies under this part:

9 (a) The board of a school district that operates grades K to  
10 12. However, the board of a school district shall not issue a  
11 contract for a public school academy to operate outside the school  
12 district's boundaries, and a public school academy authorized by  
13 the board of a school district shall not operate outside that  
14 school district's boundaries.

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

21 (c) The board of a community college. However, except as  
22 otherwise provided in this subdivision, the board of a community  
23 college shall not issue a contract for a public school academy to  
24 operate in a school district organized as a school district of the  
25 first class, a public school academy authorized by the board of a  
26 community college shall not operate in a school district organized  
27 as a school district of the first class, the board of a community

1 college shall not issue a contract for a public school academy to  
2 operate outside the boundaries of the community college district,  
3 and a public school academy authorized by the board of a community  
4 college shall not operate outside the boundaries of the community  
5 college district. The board of a community college also may issue a  
6 contract for not more than 1 public school academy to operate on  
7 the grounds of an active or closed federal military installation  
8 located outside the boundaries of the community college district,  
9 or may operate a public school academy itself on the grounds of  
10 such a federal military installation, if the federal military  
11 installation is not located within the boundaries of any community  
12 college district and the community college has previously offered  
13 courses on the grounds of the federal military installation for at  
14 least 10 years.

15 (d) The governing board of a state public university. ~~However,~~  
16 ~~the combined total number of contracts for public school academies~~  
17 ~~issued by all state public universities shall not exceed 150.~~  
18 ~~Further, the total number of contracts issued by any 1 state public~~  
19 ~~university shall not exceed 50% of the maximum combined total~~  
20 ~~number that may be issued under this subdivision.~~

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

25 (a) Identification of the applicant for the contract.

26 (b) Subject to the resolution adopted by the authorizing body  
27 under section 503(4), a list of the proposed members of the board

1 of directors of the public school academy and a description of the  
2 qualifications and method for appointment or election of members of  
3 the board of directors.

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

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

7 (ii) The purposes for the public school academy corporation.

8 This language shall provide that the public school academy is  
9 incorporated pursuant to this part and that the public school  
10 academy corporation is a governmental entity.

11 (iii) The name of the authorizing body.

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

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

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

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

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

21 (ii) A copy of the educational goals of the public school  
22 academy and the curricula to be offered and methods of pupil  
23 assessment to be used by the public school academy. To the extent  
24 applicable, the progress of the pupils in the public school academy  
25 shall be assessed using at least a Michigan education assessment  
26 program (MEAP) test or the Michigan merit examination, as  
27 applicable.

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

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

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

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

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

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

20          (i) For a public school academy authorized by a school  
21 district, an assurance that employees of the public school academy  
22 will be covered by the collective bargaining agreements that apply  
23 to other employees of the school district employed in similar  
24 classifications in schools that are not public school academies.

25          (j) A description of and address for the proposed physical  
26 plant in which the public school academy will be located.

27          (4) An authorizing body shall oversee, or shall contract with

1 an intermediate school district, community college, or state public  
2 university to oversee, each public school academy operating under a  
3 contract issued by the authorizing body. The oversight shall be  
4 sufficient to ensure that the authorizing body can certify that the  
5 public school academy is in compliance with statute, rules, and the  
6 terms of the contract.

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

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

26 (7) A public school academy shall be presumed to be legally  
27 organized if it has exercised the franchises and privileges of a

1 public school academy for at least 2 years.

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

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

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

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

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

27 ~~(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(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(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).~~

~~—— (iii) At the time the contract is issued, the public school academy shall not be located in a school district that has a graduation rate of over 75.5%, on average, for the most recent 3 school years for which the data are available, as determined by the department.~~

Sec. 503. (1) An authorizing body is not required to issue a contract to any person or entity. Public school academy contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, the educational goals to be achieved by the proposed public school



1 academy, and the applicant's track record, if any, in operating  
2 public school academies or other public schools. However, an  
3 authorizing body may give priority to a public school academy that  
4 is intended to replace a public school academy that has been closed  
5 pursuant to section 507(2), that will operate all of the same grade  
6 levels as the public school academy that has been closed, and that  
7 will work toward operating all of grades 9 to 12 within 6 years  
8 after it begins operations unless a matriculation agreement has  
9 been entered into with another public school that provides grades 9  
10 to 12.

11 (2) If a person or entity applies to the board of a school  
12 district for a contract to organize and operate 1 or more public  
13 school academies within the boundaries of the school district and  
14 the board does not issue the contract, the person or entity may  
15 petition the board to place the question of issuing the contract on  
16 the ballot to be decided by the school electors of the school  
17 district. The petition shall contain all of the information  
18 required to be in the contract application under section 502 and  
19 shall be signed by a number of school electors of the school  
20 district equal to at least 15% of the total number of school  
21 electors of that school district. The petition shall be filed with  
22 the school district filing official. If the board receives a  
23 petition meeting the requirements of this subsection, the board  
24 shall have the question of issuing the contract placed on the  
25 ballot at its next regular school election held at least 60 days  
26 after receiving the petition. If a majority of the school electors  
27 of the school district voting on the question vote to issue the

1 contract, the board shall issue the contract.

2 (3) Within 10 days after issuing a contract for a public  
3 school academy, the authorizing body shall submit to the  
4 superintendent of public instruction a copy of the contract and of  
5 the application under section 502.

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

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

12 (a) The educational goals the public school academy is to  
13 achieve and the methods by which it will be held accountable. To  
14 the extent applicable, the pupil performance of a public school  
15 academy shall be assessed using at least a Michigan education  
16 assessment program (MEAP) test or the Michigan merit examination,  
17 as applicable.

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

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

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

25 (e) For a public school academy authorized by a school  
26 district, an agreement that employees of the public school academy  
27 will be covered by the collective bargaining agreements that apply

1 to employees of the school district employed in similar  
2 classifications in schools that are not public school academies.

3 (f) Procedures for revoking the contract and grounds for  
4 revoking the contract, including at least the grounds listed in  
5 section 507.

6 (g) A description of and address for the proposed physical  
7 plant in which the public school academy will be located. ~~At the~~  
8 ~~time the contract is issued for a public school academy under~~  
9 ~~section 502a, the public school academy shall not be located in a~~  
10 ~~school district that has a graduation rate of over 75.5%, on~~  
11 ~~average, for the most recent 3 school years for which the data are~~  
12 ~~available, as determined by the department.~~

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

17 (i) The term of the contract and a description of the process  
18 and standards for renewal of the contract at the end of the term.  
19 The standards for renewal shall include student growth as measured  
20 by assessments and other objective criteria as a significant factor  
21 in the decision of whether or not to renew the contract.

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

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

25 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to  
26 15.246.

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

1 (d) 1965 PA 166, MCL 408.551 to 408.558.

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

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

12 (8) A public school academy is exempt from all taxation on its  
13 earnings and property. Instruments of conveyance to or from a  
14 public school academy are exempt from all taxation including taxes  
15 imposed by 1966 PA 134, MCL 207.501 to 207.513. A public school  
16 academy may not levy ad valorem property taxes or another tax for  
17 any purpose. However, operation of 1 or more public school  
18 academies by a school district or intermediate school district does  
19 not affect the ability of the school district or intermediate  
20 school district to levy ad valorem property taxes or another tax.

21 (9) A public school academy may acquire by purchase, gift,  
22 devise, lease, sublease, installment purchase agreement, land  
23 contract, option, or by any other means, hold and own in its own  
24 name buildings and other property for school purposes, and  
25 interests therein, and other real and personal property, including,  
26 but not limited to, interests in property subject to mortgages,  
27 security interests, or other liens, necessary or convenient to

1 fulfill its purposes. For the purposes of condemnation, a public  
2 school academy may proceed under the uniform condemnation  
3 procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding  
4 sections 6 to 9 of that act, MCL 213.56 to 213.59, or other  
5 applicable statutes, but only with the express, written permission  
6 of the authorizing body in each instance of condemnation and only  
7 after just compensation has been determined and paid.