

Act No. 1  
Public Acts of 2008  
Approved by the Governor  
January 11, 2008  
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**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

**Introduced by Senators Gleason, Barcia, Prusi, Olshove, Cherry, Anderson, Scott, Schauer, Thomas, Clark-Coleman, Whitmer, Clarke, Basham, Jacobs, Hunter, Brater, Switalski, Kuipers, Van Woerkom, George, Brown, Jansen, Pappageorge, Birkholz, Gilbert, Hardiman, Garcia, Cropsey, Stamas, McManus, Kahn, Sanborn, Richardville, Jelinek, Allen and Bishop**

# **ENROLLED SENATE BILL No. 730**

AN ACT to amend 1976 PA 451, entitled "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 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," by amending sections 4, 6, 504, 605, 701, 859, 861, 1296, 1311, 1311g, 1321, 1701, 1701a, 1711, 1723, 1724, 1751, 1752, 1756, 1757, and 1761 (MCL 380.4, 380.6, 380.504, 380.605, 380.701, 380.859, 380.861, 380.1296, 380.1311, 380.1311g, 380.1321, 380.1701, 380.1701a, 380.1711, 380.1723, 380.1724, 380.1751, 380.1752, 380.1756, 380.1757, and 380.1761), section 4 as amended by 2005 PA 61, sections 6, 701, 859, 861, and 1724 as amended by 2003 PA 299, sections 504 and 1701a as amended by 1994 PA 416, section 605 as amended by 1985 PA 86, section 1311 as amended by 2007 PA 138, section 1311g as amended by 2007 PA 21, section 1321 as amended by 1990 PA 163, section 1723 as amended by 2004 PA 415, and section 1752 as added by 2006 PA 186, and by adding section 504c; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

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 the Michigan election law.

(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.

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

(6) "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.

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

(8) "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.

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

(10) "State board" means the state board of education unless clearly otherwise stated.

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

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

(13) "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.

(14) "The state school aid act of 1979" means the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

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 single site requested for the configuration of grades that will use the site, as specified in the application required under section 502 and in the contract.

(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.

(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. 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, if any, of the authorizing body as described in section 502(2)(a) to (c) who meet the admission policy, except 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. If there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to attend using a random selection process. However, a public school academy may give enrollment priority to a sibling of a pupil enrolled in the public school academy. 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 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.

Sec. 504c. With the approval of its authorizing body, a public school academy may transfer its enrolled pupils to another public school. A public school academy that transfers its pupils under this section may also transfer its property, including, but not limited to, property described in section 18b of the state school aid act of 1979, MCL 388.1618b, to the other public school that receives the transferred pupils. If a public school academy transfers its pupils to another public school under this section, all of the following apply:

(a) The other public school may give enrollment priority to these pupils, in addition to any other enrollment priority it may give under this act.

(b) A pupil who is transferred is not required to actually enroll in the other school, but may exercise any educational choice allowed under law.

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 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.

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.

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.

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.

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.

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 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) 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, or commits criminal sexual conduct in a school building or on school grounds, 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 (5). 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 person 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) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311l, an individual expelled pursuant to 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 (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to 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 pursuant to subsection (2) 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 expelled pursuant to subsection (2) than the amount of the foundation allowance the school district receives for the pupil as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(4) If a school board expels an individual pursuant to 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.

(5) The parent or legal guardian of an individual expelled pursuant to 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 pursuant to 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 pursuant to 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, 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 subsection (2) is not liable for damages for expelling a pupil pursuant to 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 pursuant to subsection (2).

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5).

(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 public school district pursuant to 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.

(10) If an individual is expelled pursuant to 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 pursuant to subsection (2) and pursuant to 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.

(11) 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 750.80.

(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, a local act school district, an intermediate school district, or a 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.

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 (5), 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 1311l 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 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 and placed in the strict discipline academy by the pupil's parent or legal guardian. However, a suspended pupil shall be allowed to attend the strict discipline academy only for the duration of the suspension.

(4) In addition to the types of pupils specified in subsection (3), a strict discipline public school 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 public school academy. As used in this subsection, "individualized education program team" means that term as defined in section 614 of part B of title VI of the individuals with disabilities education act, 20 USC 1414.

(5) A strict discipline academy shall enroll only 1 or more of the types of pupils described in subsection (3) or (4). A strict discipline academy is not required to keep any group of pupils described in subsection (3) or (4) physically

separated from another group of those pupils, as might otherwise be required under section 1311, section 1311a, or another provision of this act.

(6) 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 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 human services has custody of or jurisdiction over a child, that state department or agency has the financial responsibility for educating the child.

(7) 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) and (4) 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) and (4), 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) and (4). 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) and (4). 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. Except for a suspended pupil who is attending the strict discipline academy for the duration of the suspension, 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.

(8) 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.

Sec. 1321. (1) Subject to the balance of this section, the board of a school district providing transportation for its resident pupils, other than students with a disability transported under article 3 or other pupils who cannot safely walk to school, shall provide transportation for each resident public or nonpublic school pupil if all 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 is a person for whom the school district is eligible to receive state school aid for transportation.

(c) The pupil is attending either the public or the nearest state approved nonpublic school in the school district 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 is required to 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.

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.



Sec. 1701a. For the purposes of ensuring that a student with a disability enrolled in a public school academy created under part 6a or 6b is provided with special education programs and services, the public school academy is considered to be a local school district under this article.

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 develop the maximum potential 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 secure the approval of the superintendent of public instruction.

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 ( )”.

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 Michigan, for the education of students with a disability

(legal name of the intermediate school district)

be increased by \_\_\_\_\_ mills?

Yes ( )

No ( )”.

Sec. 1751. (1) The board of a local school district shall provide special education programs and services designed to develop the maximum potential 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 community health, the department of 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 without local school district contribution.

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.

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.

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.

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.

Enacting section 1. Section 504c of the revised school code, 1976 PA 451, MCL 380.504c, as added by this amendatory act, is repealed effective December 31, 2008.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

.....  
Governor