



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



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SUPERINTENDENT OF
PUBLIC INSTRUCTION

SBE Adopted 11/20/03

November 5, 2003

TO: State Board of Education
FROM: Thomas D. Watkins, Jr., Chairman
SUBJECT: K-12 Educational Corporations Process

The *Michigan General Corporations Act* requires every educational corporation, before being authorized to file its Articles of Incorporation, to present to the Michigan Corporation and Securities Commission written approval from the Department of Education concerning the adequacy of existing or proposed (1) housing space and administrative facilities, (2) educational programs leading to diplomas, (3) laboratories, libraries, and other teaching facilities, (4) staff, and (5) evidence that at least 50% of its capital has been paid in or reduced in possession [1937 PA 327, MCL 450.170 – 450.171]. (See Attachment A.)

Executive Order 1999-12 transferred all the powers, duties, functions and responsibilities for *postsecondary* educational corporations to the Department of Career Development. Executive Order 2003-18 transferred this same authority to the Department of Labor and Economic Growth, effective December 7, 2003. The authority for *K-12* educational corporations remains in the Department of Education.¹

In 1979, the State Board of Education adopted *Policies and Procedures on the Establishment and Approval of Nonpublic Colleges and Universities in Michigan*. The policy is specific to postsecondary educational corporations. Department staff has been working with the Attorney General’s office to determine an approval process that would be more appropriate for K-12 educational corporations and that would also remain in compliance with the requirements of the *Michigan General Corporations Act*.

Over the past several months the Department has received 12 requests for approval to establish a K-12 educational corporation. Two of the requests have been from nonpublic schools that have met the nonpublic school reporting requirements for the 2003-2004 school year. Five nonpublic schools have requested a nonpublic membership report form but have not yet reported to the Department. A list of these schools is provided in Attachment B. In addition, the Department has received four requests to establish a nonpublic school as an educational corporation and one request to establish as an educational foundation.

The following process is being recommended for determining whether a nonpublic school has met the adequacy requirements as an educational corporation to be approved by the Department. The outline identifies the areas that should be discussed in a report to the Department to demonstrate required adequacy requirements. The Department of Education approval will take place only after the report has been reviewed and determined to meet the adequacy requirements as provided by law.

¹ Although *supervision and inspection* authority of an educational corporation was transferred from the State Board of Education to the Superintendent of Public Instruction by Executive Order 1996-12, the authority to *approve* an educational corporation that has met the adequacy requirements was not transferred to the Superintendent of Public Instruction and remains with the State Board of Education.

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1. Housing Space and Administrative Facilities
 - Evidence of compliance with state fire regulations is required.
- *2. Proposed Educational Programs
 - The grades and subjects taught must be described, including the following required core courses.
All levels: English, reading, mathematics, social studies and science.
Junior/Senior High School: U.S. Constitution, Michigan Constitution, and civics.
3. Laboratories, Libraries, and Other Teaching Facilities
 - The size and nature of the teaching facility must be described, including descriptions of the number and size of classrooms, any libraries, computer technology, science laboratories, etc.
- *4. Staff
 - Staff qualifications must be described.
An individual may qualify to teach in Michigan nonpublic schools in one of three ways:
 1. By obtaining a Michigan teaching certificate.
 2. By obtaining a substitute, full-year or emergency teaching permit.
 3. By obtaining a bachelor's degree.However, if a nonpublic school claims an objection to teacher certification based on a sincerely held religious belief, the minimum education requirements for teachers are waived (People v DeJonge 442 Mich 266).
5. Financing
 - A letter or report from a certified public accountant must be provided that would verify that "at least 50% of its capital, whether of stock or in gifts, devises, legacies, bequests or other contributions of money or property, has been paid in or reduced to possession" as required by the *Michigan General Corporations Act*. [MCL 450.171]

* Note: The *Nonpublic School Membership Report* form (SM-4325) may be used to provide verification under adequacy requirements numbers 2 and 4.

Department staff would submit an approval letter to the Corporations Unit, Department of Labor and Economic Growth if the Department determines that the nonpublic school has demonstrated that it has met the adequacy requirements by providing the above information.

It is recommended that the State Board of Education approve the K-12 Educational Corporations Process as provided in the Superintendent's memorandum dated November 5, 2003.