

MEMORANDUM OF UNDERSTANDING
BETWEEN THE MICHIGAN DEPARTMENT OF TREASURY,
THE MICHIGAN DEPARTMENT OF EDUCATION,
AND BENTON HARBOR AREA SCHOOLS

WHEREAS, Benton Harbor Area Schools (the "District") has experienced financial and academic challenges over a prolonged period despite the diligent efforts of its officials to mitigate such challenges; And

WHEREAS, the District continues to confront daunting challenges characterized by, among other things, declining student enrollments, academic underperformance, a diminished tax base and attendant resources, ongoing shortages of full-time teachers, and an aging infrastructure; And

WHEREAS, a financially stable and academically successful District is important to the residents of the District, and of the State of Michigan as a whole; And

WHEREAS, fundamentally changing the current financial and academic trajectory of the District can serve as a catalyst to restore the quality of life which families, businesses, and visitors of the District have a right to expect and enjoy; And

WHEREAS, officials of the District wish to continue to pursue a long-term vision by achieving, first, financial stability for the District, and second, a sustainable and stable platform for growth that will ensure the District's financial integrity in a manner that enables the District to grow, prosper, and thrive; And

WHEREAS, the Michigan Department of Treasury (the "Department") is a principal department of State government under Article V, Section 3 of the Michigan Constitution and the State Treasurer, as a constitutional officer appointed by the Governor with the advice and consent of the Michigan Senate (the "State Treasurer"), serves as the head of the Department which is vested with responsibilities under State law related to finance, budgeting, and administration matters for local units, including school districts; And

WHEREAS, the District is a political subdivision of the State of Michigan organized under Public Act 451 of 1976, the Revised School Code, MCL 380.1 to 380.1853; And

WHEREAS, the Department and the Michigan Department of Education ("MDE") desire to continue to assist and encourage District officials in their performance of certain restructuring efforts intended to promote the betterment of the students and residents of the District; And

WHEREAS, as evidence of the Department's and MDE's commitment to a long-term cooperative process with District officials, the Department and MDE hereby adopt this Memorandum of Understanding (the "Memorandum").

NOW, THEREFORE, the Department, MDE, and the District (the "Parties") agree as follows:

1. **COMMUNITY ENGAGEMENT AND ADVISORY COMMITTEE**

- 1.1. Establishment and Purpose. Pursuant to this Memorandum, a Community Engagement and Advisory Committee (the "Advisory Committee") is established to achieve the purposes set out in Section 2 of this Memorandum and to facilitate the ongoing provision and exchange of information between District officials and State officials concerning operational, financial, budgetary, and other matters affecting the District that are essential to its long-term viability.
- 1.2. Composition. The Advisory Committee shall consist of the following eleven members:
 - (a) The Deputy State Treasurer for State and Local Finance, or designee.
 - (b) The Superintendent of Public Instruction, or designee.
 - (c) A member of the District School Board selected by the School Board.
 - (d) A staff person of the Office of School Review and Financial Accountability in the Department selected by the Deputy State Treasurer for State and Local Finance.
 - (e) The Superintendent, or Interim Superintendent, of the District.
 - (f) A resident of the District who has at least one child enrolled in the District during the period this Memorandum is in effect selected by a parent-teacher association or a similar organization within the District.
 - (g) A member of the clergy selected by the Benton Harbor Ministerial Alliance.
 - (h) A teacher employed by the District during the period this Memorandum is in effect selected by the Michigan Education Association or an affiliate member of the Association.
 - (i) A student enrolled in the District during the period this Memorandum is in effect selected by the student council or a similar organization within the District.
 - (j) A member of the business community selected by Cornerstone Alliance or a similar organization.
 - (k) A member of the Berrien Community Foundation selected by the Foundation.

- 1.3. Non-Voting Member. In addition to the foregoing eleven members, the Advisory Committee shall include a twelfth member, who shall serve without vote, selected by mutual agreement of the Parties.

2. ASSESSMENT AND OPERATING PLAN

- 2.1. Financial and Academic Assessment. Not later than 90 days after its establishment, the Advisory Committee shall submit to the State Treasurer, MDE, and School Board a written report that assesses the District's financial and academic condition. In conducting the assessment, the Advisory Committee shall establish a process to afford District parents, students, teachers, officials, and other residents of the Benton Harbor community an opportunity to provide input.
- 2.2. Operating Plan. In addition to the assessment required by this Memorandum, not later than six months after its establishment, or March 31, 2020, whichever shall first occur, the Advisory Committee shall produce a written operating plan that contains recommendations to address any deficiencies identified in its assessment. Not later than 15 days after the operating plan is completed, the Advisory Committee shall submit it to the State Treasurer, MDE, and School Board for their review and approval, without which the operating plan shall not take effect. The State Treasurer, MDE, and School Board shall approve the operating plan, if at all, not later than 30 days after it is submitted to them.

3. AMENDMENT; WAIVER OF PROVISIONS

- 3.1. Amendment. This Memorandum may be amended only in writing by mutual agreement of the State Treasurer, MDE, and the School Board. The effective date of an amendment to this Memorandum shall be the date on which the last of the following occurs:
 - (a) The amendment is approved and executed by the State Treasurer.
 - (b) The amendment is approved and executed by MDE.
 - (c) The amendment is approved and executed by the School Board.
- 3.2. Waiver. Upon approval by the State Treasurer, the Advisory Committee may waive or forbear from a provision of this Memorandum that requires an act by the District. However, no waiver of or forbearance from any provision of this Memorandum shall be deemed to arise from any inaction by the State Treasurer.

4. SEVERABILITY

If a provision of this Memorandum, or its application to any person, party or circumstance, is determined to be invalid or unenforceable for any reason, the remainder of this Memorandum and its application to other persons, entities, or circumstances shall not be affected and shall remain enforceable to the full extent permitted by law.

Given the important public purpose sought to be accomplished by this Memorandum, it is the intent of the Parties to continue to implement the provisions of this Memorandum, in whole or in part, to the fullest extent possible.

5. **COUNTERPARTS**

This Memorandum may be executed in separate counterparts, each of which when executed shall be deemed an original, but all of which when taken together shall constitute one and the same Memorandum. Execution may be accomplished by delivery of original or electronic copies of the signature page.

6. **DURATION OF MEMORANDUM**

This Memorandum shall terminate at noon on the 365th day after its effective date, unless the State Treasurer earlier terminates the Memorandum or the Memorandum is extended by joint written action of the Department, MDE, and the District in the form of an amendment as provided in this Memorandum.

7. **EFFECTIVE DATE**

The effective date of this Memorandum shall be the date by which all Advisory Committee members have filed with the Office of the Great Seal of the Secretary of State of the State of Michigan their Oath of Office pursuant to Article XI, Section 1 of the Constitution of Michigan.

IN WITNESS WHEREOF, the Parties, or their designees, and the additional Advisory Committee Members, have signed and executed this Memorandum on: _____, 2019.

FOR THE MICHIGAN DEPARTMENT OF TREASURY:

By _____
Member Designated by Section 1.2(a) of this Memorandum

FOR THE MICHIGAN DEPARTMENT OF EDUCATION

By _____
Member Designated by Section 1.2(b) of this Memorandum

FOR BENTON HARBOR AREA SCHOOLS:

By _____
Member Designated by Section 1.2(c) of this Memorandum

ADDITIONAL ADVISORY COMMITTEE MEMBERS:

By _____
Member Designated by Section 1.2(d) of this Memorandum

By _____
Member Designated by Section 1.2(e) of this Memorandum

By _____
Member Designated by Section 1.2(f) of this Memorandum

By _____
Member Designated by Section 1.2(g) of this Memorandum

By _____
Member Designated by Section 1.2(h) of this Memorandum

By _____
Member Designated by Section 1.2(i) of this Memorandum

By _____
Member Designated by Section 1.2(j) of this Memorandum

By _____
Member Designated by Section 1.2(k) of this Memorandum

By _____
Member Designated by Section 1.3 of this Memorandum