
**EMERGENCY MANAGER
SCHOOL DISTRICT OF THE CITY OF MUSKEGON HEIGHTS**

ORDER NO. 2016-12

**MEASURES TO RECTIFY FINANCIAL EMERGENCY AND
ALLOCATION OF RESPONSIBILITIES IN THE EVENT OF
THE APPOINTMENT OF A RECEIVERSHIP TRANSITION
ADVISORY BOARD**

**BY THE POWER AND AUTHORITY VESTED IN THE
EMERGENCY MANAGER (THE “EMERGENCY MANAGER”) FOR
THE SCHOOL DISTRICT OF THE CITY OF MUSKEGON HEIGHTS
(THE “DISTRICT”) UNDER THE LOCAL FINANCIAL STABILITY
AND CHOICE ACT, PUBLIC ACT 436 OF 2012, AS AMENDED,
MCL 141.1451 TO 141.1575 (“ACT 436”); STEVEN M. SCHILLER,
THE EMERGENCY MANAGER, ISSUES THE FOLLOWING
ORDER:**

The District is currently in receivership and under the supervision of the Emergency Manager under Act 436.

The Emergency Manager has broad powers under Act 436 to rectify the District’s financial emergency and to assure the District’s fiscal accountability and capacity of the District to provide or cause to be provided necessary governmental services essential to the public health, safety and welfare, including public educational services.

The Emergency Manager has been granted the authority under Act 436 to act for and in the place and stead of the District Board and the Emergency Manager has the power to exercise solely, on behalf of the District, all other authority and responsibilities affecting the District that are prescribed by law to the District Board.

Pursuant to Act 436, the Emergency Manager has broad power to manage the District, and may issue orders to elected and appointed officials necessary to accomplish the purpose of Act 436.

The Emergency Manager is issuing this order under Act 436 to rectify the District's financial emergency and allocate responsibilities in the event of the appointment of a receivership transition advisory board (an "Advisory Board") under Act 436.

The Emergency Manager therefore orders the following:

1. The purpose of Act 436 is to, among things, safeguard and ensure the financial accountability of local units of government, including school districts; to preserve the capacity of local units of government, including school districts, to provide or cause to be provided necessary services essential to the public health, safety, and welfare, including public educational services; to provide for review, management, planning, and control of the financial operation of local units of government, including school districts, and the provision of services by local units of government, including school districts; to authorize a declaration of the existence of a financial emergency within local units of government, including school districts; to prescribe remedial measures to address a financial emergency within local units of government, including school districts; to provide for the appointment and to prescribe the powers and duties of emergency managers for local units of government, including school districts; and to provide for the termination of a financial emergency within a local unit of government, including a school district.
2. Section 23 of Act 436 authorizes the governor of the State of Michigan (the "Governor"), before removing a school district from receivership, to appoint an Advisory Board to monitor the affairs of the school district until the receivership is terminated.
3. By letter dated October 25, 2016, I informed the governor and the treasurer of the State of Michigan (the "State Treasurer") that the financial emergency within the District has been rectified and recommended that the Governor appoint an Advisory Board for the District.
4. If the Governor agrees that the District's financial emergency has been rectified and appoints an Advisory Board for the District under Section 23 of Act 436, this Order will be effective and is issued to facilitate the effective and efficient operation of the District while the Advisory Board monitors the affairs of the District and the District remains in receivership. District officials shall comply with and perform the duties and functions provided in this Order, including all of the following:
 - (a) **The District Board and any person providing superintendent services or exercising general administrative control for the District shall implement all of the following financial best practices within the District and do all of the following:**
 - (1) Recognize that the key to sound fiscal health of a school district is proper accounting, budgeting, and auditing of the school district.
 - (2) Comply with the requirements of the Uniform Budgeting and Accounting Act, Public Act 2 of 1968, as amended, MCL 141.421 to 141.440a, applicable to a school district, including those relating to preparation, presentation, consideration and adoption of a balanced budget and general appropriations act for the District. During the period in which a two-year

budget adopted by the Emergency Manager under Section 21 of Act 436 is effective, the District Board shall not adopt a budget or budget amendment inconsistent with the two-year budget adopted by the Emergency Manager without the approval of the Advisory Board.

- (3) Comply with the requirements of the Uniform Budget Manual for Local Units of Government published by the Michigan Department of Treasury.
- (4) Review monthly the District's budget compared to actual District revenue, actual District expenditures, and projected District cash flow in as much detail as practicable, but not in less detail than the budget for the District approved by the District Board.
- (5) If it appears that expenditures will exceed revenues under an adopted budget for the District, the District Board shall, in a timely manner, amend the District's budget as necessary to assure that actual District expenditures do not exceed actual District revenue. During the period in which a two-year budget adopted by the Emergency Manager under Section 21 of Act 436 is effective, the District Board may not adopt a budget or budget amendment inconsistent with the two-year budget adopted by the Emergency Manager without the approval of the Advisory Board.
- (6) Comply with any applicable requirements under Sections 1219 and 1220 of The Revised School Code, Public Act 451 of 1976, as amended, MCL 380.1219 and 380.1220. Any deficit elimination plan or enhanced deficit elimination plan submitted to the Michigan Department of Education or the Michigan Department of Treasury must first be submitted to and approved by the Advisory Board.
- (7) Comply with the Michigan School Accounting Manual (Bulletin 1022) published by the Michigan Department of Education.
- (8) Comply with the Michigan School Auditing Manual published by the Michigan Department of Education.
- (9) Comply with the Oversight and Accountability Standards published by the Michigan Council of Charter School Authorizers.
- (10) Document all of the District's outstanding liabilities, including payables, debt obligations, and contingent liabilities and provide a report on the liabilities to the Advisory Board on a monthly basis.
- (11) Timely pay amounts owed to the Michigan Public School Employees' Retirement System ("MSPERS") created under The Public School Employees Retirement Act of 1979, Public Act 300 of 1980, as amended, 38.1301 to 38.1467 ("Act 300") as provided under the Act 300 and pursuant to any agreement with MSPERS.

- (12) Timely pay amounts owed to the State of Michigan under any emergency loan agreement under the Emergency Municipal Loan Act, Public Act 243 of 1980, as amended, MCL 141.931 to 141.942.
 - (13) Review not less than annually an inventory of District assets. Any sale of a District asset must be approved by the Advisory Board.
 - (14) Maintain annual memberships with the Michigan Association of School Boards and the Michigan Council of Charter School Authorizers and appropriate money in each annual budget for the memberships.
 - (15) Budget and pay for training for all District Board members not less than biennially from professionally-recognized organizations on compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, MCL 15.261 to 15.275, effective meeting management and parliamentary procedures, school board governance, school district finances, and public school academy authorizer functions and responsibilities.
 - (16) Work with other District or State of Michigan officials, or both, to successfully transition the District from receivership, repay the remainder of the District's legacy debt, and eliminate financial stress within the District.
- (b) **The District, by and through its District Board and other District officers, employees, and agents, also shall do all of the following:**
- (1) Comply with the requirements of applicable of orders issued by an emergency manager for the District, including this order, and with the requirements of applicable Michigan law, including, without limitation, all of the following:
 - (A) The Revised School Code, Public Act 451 of 1976, as amended, MCL 380.1 to 380.1853, or any successor law (the "Code");
 - (B) Article I of The State School Aid Act of 1979, Public Act 94 of 1979, as amended, MCL 388.1601 to 388.1722, as amended, or any successor law;
 - (C) Act 436, or any successor law; and
 - (D) Act 300, or any successor law; and
 - (E) the Emergency Municipal Loan Act, Public Act 243 of 1980, as amended, MCL 141.931 to 141.942, or any successor law.
 - (2) Comply with the terms and conditions applicable to the District under any contract issued to the Muskegon Heights Public School Academy System (the "System") for the operation of a public school academy.

- (3) Comply with the terms and conditions applicable to the District under any agreement for the provision of services between the District and the System.
- (4) Comply with the terms and conditions of any lease agreement between the District and the System.
- (5) Comply with the terms and conditions of any emergency loan agreement between the State of Michigan and the District.
- (6) Comply with the terms and conditions of any agreement between MSPERS and the District regarding the repayment of money owed to MSPERS by the District.
- (7) Place before the electors of the District the question of renewing the authorization for the levy of mills for school operating purposes by the District under Section 1211 of the Code as necessary to avoid expiration of the authorization or as requested by the Advisory Board.
- (8) Afford a former emergency manager for the District full access to any files, materials, or records required to defend the emergency manager in a legal proceeding. The District shall bear the cost of an emergency manager's defense, including any legal fees, judgements, settlements and other costs related to legal proceedings against the emergency manager for the emergency managers actions while an emergency manager for the District consistent with the requirements of Michigan law. The District shall continue to maintain professional liability coverage for former emergency managers for the District and maintain the name and office of each emergency manager as an insured party on any master general liability policy held by the District.

(b) The District, by and through its District Board and other District officers, employees, and agents, is prohibited from doing any of the following:

- (1) Directly operating a public school or enrolling a pupil in membership in the District at any time before the State Treasurer certifies to the District and the Advisory Board that all legacy debt of the District has been paid or otherwise satisfied, including, without limitation, any liabilities of the district relating to an emergency loan from the State of Michigan or amounts owed to MSPERS.
- (2) Terminating or amending without the approval of the Advisory Board any contract issued to the System authorizing a public school academy, any contract with the System for the provision of services to the District by the System, or any lease agreement between the District and the System.
- (3) Unless otherwise provided in this order, revising any order issued by an emergency manager for the District before one year after the receivership of

the District. Except as otherwise provided in this paragraph, an order issued by an emergency manager for the District may be amended or rescinded only by the Advisory Board with the approval of the State Treasurer, permitted under Act 436.

- (4) While the District does not operate schools directly on its own, the District shall not employ a superintendent.

- (c) **While the District remains in receivership and an Advisory Board remains in place for the District, it is essential to the continued provision of public educational services to residents of the District and the repayment by the District of the District's legacy debt that the public educational needs of the residents of the District continue to be met through the District's agreement with the System and the System's continued operation of Edgewood Elementary School, Dr. Martin Luther King Elementary Academy, and Muskegon Heights Academy. These public schools shall continue to be operated by the System pursuant to the District's agreement with the District. The Emergency Manager states that a closure of the System or any site operated by the System under its Contract with the District would result in an unreasonable hardship to pupils enrolled in the System or residing in the District, or both, because there is no general powers school district within the geographic boundaries of the District operating a public school and there are insufficient other public school options reasonably available to the pupils. The closure of the System or a site operated by the System under Section 507 of the Code while an Advisory Board is in place for the District would impose undue financial stress upon the District and would be detrimental to the removal of the District from receivership.**

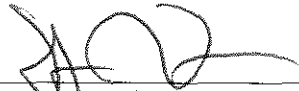
5. John Lewis is hereby appointed as the District's Assistant Superintendent for Finance and Administration and shall be the chief administrative officer of the District, effective October 28, 2016.
6. Mary Byrd is hereby appointed as a member of the board of directors of the Muskegon Heights Public School Academy System for a term beginning on October 25, 2016 and ending on October 24, 2019.
7. This Order may be amended, modified, repealed, or terminated by a subsequent Order issued by the Emergency Manager or other emergency manager for the District.
8. This Order is effectively immediately and supersedes any inconsistent provision of an order issued by an emergency manager for the District.

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Dated: October 25, 2016

SCHOOL DISTRICT OF THE CITY OF
MUSKEGON HEIGHTS

By:



Steven M. Schiller
Emergency Manager

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