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Michigan's Education Achievement Authority and the Future of Public Education in Detroit: The Challenge of Aligning Policy Design and Policy Goals

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The content of this paper does not necessarily reflect the views of The Education Policy Center or Michigan State University

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Executive Summary

As the City of Detroit emerges from municipal bankruptcy, the imperative for school improvement takes on an urgency rarely witnessed in a U.S. city. If the city is to experience the redevelopment boom that many now anticipate, its public schools must improve. While a variety of different reform strategies are possible, the establishment of a portfolio district in Detroit currently appears to have the greatest political salience.

A national movement to shift the role of central administration in large urban districts from directly managing schools to overseeing a portfolio of schools operated by diverse providers has gained traction in recent years. The portfolio district model rests on a metaphor in which district managers are expected to monitor school performance much like investors manage assets in an investment portfolio. The portfolio may consist of a diverse mix of schools (for-profit and nonprofit contract schools, charter schools, or autonomous traditional district schools). District managers are expected to intervene regularly to weed out below-average performing schools and to actively recruit new providers and then hold them accountable for student performance.

The idea of a portfolio district in Detroit is not new. Excellent Schools Detroit, a broad and dedicated coalition of the city’s civic elites with extensive experience in the city’s schools, has advocated for a portfolio district since its founding in 2010.

In section 7 of this report, we describe three first-order requirements for establishing a portfolio district in Detroit, and some options for attaining them.

- First, all public schools in Detroit must be brought under a single central administrative authority. This includes schools in Detroit Public Schools (DPS), the state Education Achievement Authority (EAA), and charter schools.
- Second, a plan to resolve DPS’s debt must be developed. Key options include payment by city taxpayers, the state, or private philanthropic organizations, or some combination. Alternatively the school district, like the municipality, could declare bankruptcy.

- Third, the portfolio district’s governance structure must be established. A portfolio district could function within the governance structure of a traditional public school district where local voters elect a governing board. New governance arrangements could take a variety of other forms, but most are variants of two main options: the Detroit mayor or a state authority. Either of these options would require state legislation.

The specific character of a portfolio district is not predetermined, but turns rather on countless features of policy design and implementation. Those yet-to-be-made choices will determine whether any new educational regime better serves the interests of so many Detroit families who have long endured poverty, segregation, and discrimination.

This report is primarily devoted to a detailed analysis of Michigan’s Education Achievement Authority (EAA) which was established in 2011 to turn around the state’s lowest-performing schools, starting in Detroit. An understanding of the EAA is essential for informed discussion of a Detroit portfolio district for two key reasons. First, portions of Excellent Schools Detroit’s plan for a portfolio district were included in the EAA’s original design, but they were not effectively implemented. Second, like the EAA, a new administrative authority for a Detroit portfolio district would face basic administrative challenges related to its financial and human resources, oversight of teaching and learning, and public accountability for its operations. It would be unfortunate if policy makers and designers failed to take full measure of the lessons learned from the EAA’s experience. The EAA failed to reach its objectives because the policy was hastily and poorly designed.

In this report we seek to shift the debate about the EAA from the ideologically polarized question of whether the system is “good” or “bad” to the more fruitful question of how to align policy design with worthy policy goals. From the beginning, despite the good intentions of many, the EAA has suffered from unresolved tensions in its purposes. It sought to address three distinct objectives that were poorly aligned and in some respects incompatible. These objectives were to:

- turn around the lowest-performing 5% of schools throughout the state.
- establish a new governance authority in Detroit that could evolve to include most of the city’s public schools along the lines of New Orleans’s portfolio management district.
- create an entity that could benefit all Michigan students by promoting educational innovation and new instructional models outside the system of traditional public schools.

Because these objectives were poorly aligned within the EAA’s policy design, its progress has been severely inhibited on each front.

The EAA's Legal Authority: The Interlocal Agreement

The EAA was established outside the legislative process through an Interlocal Agreement (ILA) between the emergency manager of DPS and the regents of Eastern Michigan University. All individuals whose approval was necessary to ratify the ILA had been appointed by the governor.

- The EAA was designed hastily in private meetings, so there was no opportunity for the public vetting and refinement that typically takes place in the legislative process. That deliberative process is specifically intended to elicit input from interested parties and experts in order to identify and rectify weak or problematic features of policy proposals.
- The ILA establishes the EAA as a new type of school district with broad purposes and powers. It makes no reference to the turnaround of low-performing schools or Detroit and sets no limits on the number of schools that can be placed in or created by the EAA anywhere in Michigan.
- Although media accounts often refer to the EAA as Michigan's statewide reform district, no schools have yet been placed in the EAA from the reform district. The original 15 EAA schools were all low performing, but were placed in the EAA by the DPS emergency manager. They were not part of the reform district and were not put in the EAA by the reform district.

The EAA Announced Plan and Implementation

The EAA was publicly announced simultaneously with the Education Achievement System (EAS), which is governed by, and includes the schools assigned to, the EAA. In contrast to the ILA's broad scope, the EAS was described as a new statewide system to turn around the lowest 5 percent of performing schools. The system would start in Detroit and incorporate many features of a portfolio district.

- The EAS plan envisioned a system of autonomous Detroit schools overseen by a lean central administration that would assess school performance. It has never been clear how this aligned with the goal of turning around the bottom 5% of schools statewide, since a portfolio district typically covers a given urban area.
- The EAA has yet to implement standard features of a portfolio district. Its operations have more in common with those of a charter management organization that oversees schools adhering to a common operational model, than a portfolio district which governs a diverse array of independently managed schools.
- Official characterizations reflect an unresolved tension regarding schools leaving the EAA. Would the EAA improve schools and then return them to DPS? Or was the EAA an

alternative system of schools that would compete with DPS (and ultimately other districts statewide) for students and resources over the long term?

- In the EAS plan, DPS would continue to own and pay the debt service and capital expenses for DPS schools that were shifted to the EAS. EAS schools were also absolved from repaying DPS's operating debt. These arrangements, later changed, represented a substantial financial advantage for EAA schools, but they simultaneously increased the per-pupil debt burden of DPS, worsening its precarious finances.
- The EAA was launched with no new public revenues. To cover the costs of the EAA's planning year before students arrived, designers in the governor office planned to rely entirely on private donations. Those donations fell substantially short of budgeted projections. Once it enrolled students, the EAA received state funding like other Michigan districts.
- The design of the EAA's public accountability is clearly underdeveloped. The governor appoints a majority of the governing board who serve without terms at the appointer's pleasure. The EAA board has seen substantial membership turnover and the board's practices have not closely adhered to the ILA's legal requirements or attained the ILA's stated goal to promote public oversight, civic participation, and citizen engagement.
- Despite plans to expand statewide, the EAA has yet to grow beyond its 15 original Detroit schools. In a clear acknowledgement that all was not well in the EAA, in February 2014 the state Reform District gave notice that it would terminate its Transfer Agreement with the EAA in one year.

This is a record of a policy train wreck. Indeed citizens all across Michigan have organized to terminate the EAA. Despite the committed efforts of educators in EAA schools, the state has not established a policy framework within which their efforts could enjoy broad success. Smart and effective policy development is not orchestrated by political expediency. This turbulent and disappointing track record could have been avoided with more thoughtful and open planning at the front end. Planners of a Detroit portfolio district should learn from these difficult lessons.

Improving the Lowest-performing 5% of Michigan Schools

Michigan has made sadly little progress in designing a statewide strategy for turning around the lowest-performing 5% of schools throughout the state. On this count, the state is essentially back to square one. If Michigan hopes to significantly improve student outcomes in its most challenged schools, it must design a better policy response.

- A portfolio district model is not designed to improve a state's lowest-performing schools. This vital responsibility requires different state policies and supports.

- The state’s approach to school improvement with the EAA is better characterized as a “start-over” strategy than a “turnaround” strategy. In the small set of schools under its authority, the EAA tried to start afresh with different administrators, teachers, and, in many cases, students.
- The strategy was marked by an unresolved tension over whether schools would return to their original district or continue indefinitely under the EAA’s authority. Michigan policy makers must decide whether they are aiming to improve existing schools, with the people who teach and learn in those schools, and in partnership with those who govern those schools, or whether they are pursuing improvement along different lines.
- As they revisit turnaround strategies for Michigan’s most challenged schools, we offer recommendations in section 7 that policy makers devote greater attention to the critical importance of financial resources, technical expertise, and organizational trust in these efforts.

This report was written first and foremost for the citizens of Detroit to explain features of state policy so that they may participate effectively in efforts to shape their local public schools. It was also written, however, for citizens of good will throughout Michigan who understand that their own public schools are now powerfully shaped by policy decisions in Lansing, who regret the divisions that have isolated Detroiters for too long, and who will support policies for the children of Detroit that they themselves would want for their own children. This is not simply an ethical issue because, with well-designed policies, the children and grandchildren of residents across Michigan may someday have a choice to live in racially and socially diverse Detroit neighborhoods anchored by excellent public schools.

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List of Abbreviations

DPS	Detroit Public Schools
EAA	Education Achievement Authority
EAS	Education Achievement System
ESD	Excellent Schools Detroit
EMU	Eastern Michigan University
FOIA	Freedom of Information Act
HB	House Bill
ILA	Interlocal Agreement between Detroit Public Schools and Eastern Michigan University
MDE	Michigan Department of Education
MEEF	Michigan Education Excellence Foundation
PA	Public Act
PLA	persistently low-achieving [schools]
SB	Senate Bill

1. Introduction

In June of 2011, Michigan Governor Rick Snyder, Detroit Public Schools (DPS) emergency manager Roy Roberts, and Excellent Schools Detroit board chair Carol Goss, announced the formation of a new statewide school system, the Education Achievement System (EAS), governed by the Michigan Education Achievement Authority (EAA). Since that time, the EAA has been the focus of nearly continuous controversy. Yet many Michigan citizens lack a clear understanding of what the EAA is and why it has become a political lightning rod. Because it embodies many new ideas for reshaping the provision of public education services and was not created through the legislative process, this confusion is understandable.

The EAA is an ambitious state education policy initiative. In October 2012, a *Detroit Free Press* front-page lead story announced that within five years the EAA could be the largest enrollment school district in Michigan (Higgins, 2012a). Two years later, the EAA has yet to expand beyond its original 15 schools, and its future is in doubt. In this report we set out to understand why. In doing so, we seek to shift the debate about the EAA from the ideologically polarized question of whether the system is “good” or “bad” to the more fruitful question of how to align policy design with worthy policy goals.

Targeted state intervention to assist Michigan’s lowest-performing schools is desirable, but this assistance could take many forms. Not all state interventions represent a step forward. Given the serious challenges faced by most of these schools, attaining sustained high-level performance will require well-coordinated and supported policies. With the benefit of hindsight, it is clear that Michigan can do a better job of designing and implementing effective policies.

From the beginning, the EAA has suffered from unresolved tensions in its purposes. It sought to address multiple objectives that were poorly aligned, and in some respects incompatible, within its organizational framework. And it lacked adequate public resources and capacity to fulfill its charge. Consequently its progress has been inhibited on each front.

The EAA has embodied three basic objectives from the outset. They were forged awkwardly by political constraints in negotiations outside the legislative process and the public eye. First was the official objective to turn around the lowest-performing 5% of schools throughout the state. The obligation to do so was established by the state's passage of a 2009 law as part of its unsuccessful application in the federal Race to the Top grant competition.

The second objective was to address the continuing academic and financial problems of Detroit Public Schools (DPS). While some DPS schools fall in the bottom 5% of the state's school ranking, many others do not, and some are excellent by any measure. Some saw the EAA as an opportunity to establish a new governance authority for Detroit schools that could evolve over time into a system that oversaw not just low-performing but most or all public schools in the city along the lines of New Orleans's portfolio management district.

The third objective was to advance the governor's agenda for improving public education for *all* children throughout the state as outlined in his special message on education reform in April 2011, shortly after assuming office and just two months before announcing the EAA. Governor Snyder forcefully called for more free market ideas for public schools in Michigan, noting that “[b]y introducing an education system that offers unfettered flexibility and adaptability for student learning models and styles, we will break down the status quo on how, when and where students learn” (Snyder, 2011, p. 7).

The EAA's establishment required a political coalition. It is unlikely that all parties assigned equal priority to each of the three objectives. It is also unlikely that tensions among coalition partners can be fully resolved without future refinements in state policy.

In addition, funding has been a continuing problem for the EAA. Remarkably, the Michigan Legislature did not provide the EAA with new resources—beyond the per-pupil funding that accompanies all students—to carry out its school turnaround mission. This meant that the Michigan Department of Education could provide very limited technical support. It also forced the state's turnaround strategy to rely heavily on private philanthropic donations that could not be reliably coordinated within an overall policy design.

The rest of this report is organized as follows. Section 2 provides a brief overview of policy developments that set the stage for the EAA's establishment. Section 3 describes the EAA's formal legal status, powers and requirements. Section 4 examines the public descriptions of the EAA's mission and organization at the time it was established. Section 5 looks at the EAA's actual implementation, comparing its first two years of operating schools to the original plans. Section 6 reviews the multiple ways in which the initial ambitious plans for the EAA's expansion have faltered. The report concludes in section 7 by distilling lessons for state policies directed both to turning around Michigan's low-performing schools and to establishing a portfolio district in Detroit.

The policy problem of turning around low-performing schools in Michigan, the EAA's official mission, is no less acute today than when the EAA was first announced. After placing a bet for three and a half years that the EAA would be the policy solution, the state is essentially back to square one in crafting a viable turnaround strategy. Meanwhile as the City of Detroit emerges from municipal bankruptcy, all eyes are on Lansing to see if the state can deliver policy

changes that enable Detroit to establish a prospering school system—without question, the most important remaining obstacle to the city’s redevelopment.

In the short run, policy initiatives regarding Detroit schools could very well command more immediate attention than those regarding low-performing schools statewide. In the closing weeks of 2014 and the beginning of 2015, policy makers could confront new proposals to create a portfolio district in Detroit. We cannot assess policies that have yet to be introduced.

However, given the chaotic circumstances currently prevailing in the city’s public schools, there is certainly a wide margin for potential improvement. Whether any new state policies actually bring about durable positive change will depend, as always, on effective policy design and implementation. We hope this report will help inform those important policy discussions.

2. Brief Overview of Policy Developments Predating the EAA’s Founding

A short review of policy developments will help establish the context in which the EAA emerged as a new public body in Michigan schooling. In the November 2010 general election, control of the Michigan House of Representatives and the governor’s office shifted from the Democratic to the Republican Party. Republicans also maintained control of the Michigan Senate. As they began their terms in early 2011, the new Legislature and governor faced two immediate education problems: how to turn around low-performing schools throughout the state and how to respond to continuing financial and academic problems in Detroit Public Schools.

Improving Low-performing Schools

The U.S. Department of Education under the ED Recovery Act, part of the American Recovery and Reinvestment Act of 2009, created the Race to the Top competition for states to secure federal grant funding. States were awarded points in the competition for establishing

certain educational policies, such as performance reviews for teachers and principals, adopting the Common Core curricular standards, lifting caps on charter schools, building student-information data systems, and developing strategies for turning around the lowest-performing schools.

As part of its Race to the Top application, in 2009 the Michigan Legislature created the State School Reform/Redesign District (Reform District) in the Michigan Department of Education (MDE) (2009 PA 204, MCL 380.1280c) to turn around the lowest performing 5% of schools, often referred to as persistently low-achieving (PLA) schools (more recently, Priority Schools) that do not take necessary improvement actions. Failure to pass such legislation would weaken a state's prospects in the grant competition. Even though Michigan was unsuccessful in securing Race to the Top funding, the new law still obligated the MDE to take over low-achieving schools. However, the Legislature did not provide MDE with additional funding to carry out this responsibility. By 2011, when Governor Snyder entered office, no schools had been placed in the Reform District.

Emergency Management of Detroit Public Schools¹

Meanwhile, the new governor and Legislature faced highly turbulent circumstances in Detroit Public Schools. In March 2009, Democratic Governor Jennifer Granholm had appointed Robert Bobb as DPS Emergency Financial Manager under PA 72, the Local Government Fiscal Responsibility Act (1990). Under PA 72, Bobb, an experienced administrator from Washington, D. C. and trained in the Broad Superintendents Academy, only had responsibility for school

¹ This and the following sub-section draw on fuller discussions in Arsen and Mason (2012) and Arsen and Mason (2013).

district finances. The elected DPS board retained authority for all other aspects of the district, including academics.

From the start, Bobb (with the governor's tacit approval) seized full authority for academics as well as all other district functions, arguing that the district's financial crisis was inextricably linked to its poor academic performance. In August 2009, the DPS board filed a lawsuit charging Bobb with overstepping his authority.

While the lawsuit was pending, Bobb took action to weaken employee unions, sharply reduce central office staff and contract out a wide range of administrative, support, and instructional services. He renegotiated union contracts, securing financial concessions and work rule changes. He closed, or threatened to close, over 100 schools. Bobb also mounted highly publicized efforts to identify and prosecute instances of fraud in DPS operations (Dawsey, 2009; Riley, 2009).

During 2009 and 2010, Bobb approached the Legislature several times asking for amendments to PA 72 to clearly grant him authority over academics and to carry out the administrative actions he was already taking. Revising PA 72 proved too politically divisive while Democrats controlled the House of Representatives. In December 2010, the Wayne County Circuit Court ruled in favor of the DPS board in a decision that put authority for academic decisions squarely with the elected board (*Detroit Board of Ed. v Robert Bobb*, 2010). The ruling came just as Republicans were preparing to take control of the governor's office and both houses of the Legislature.

In February 2011, Republicans introduced comprehensive legislation to replace PA 72, and it passed with minor modifications in five weeks. In cases of financial emergencies, the new PA 4 (Local Government and School District Fiscal Accountability Act, 2011) empowered the

governor to appoint an emergency manager. All powers and duties of the district superintendent and school board transfer to the emergency manager who has discretion to reshape academic programs, nullify labor contracts, open and close schools, and sell district assets.

Two months after PA 4's passage, Robert Bobb resigned as DPS emergency manager and Governor Snyder appointed his replacement, Roy Roberts, a retired GM executive with strong local ties but no education experience. With his authority clearly established by PA 4, Roberts took a far less combative, but no less firm, approach in his management of DPS. This included his agreement to the establishment of the EAA, announced three months after the passage of PA 4 (as discussed in more detail below).

It is noteworthy that a year and a half later, in the November 2012 general election (shortly after the EAA enrolled its first students), Michigan voters overturned PA 4 in a referendum on the emergency manager law. The state Legislature responded quickly, in lame-duck session, passing a replacement law without holding hearings in either chamber. Governor Snyder signed PA 436 of 2012 (Local Financial Stability and Choice Act, 2012) into law on December 27, 2012. The law preserves most of PA 4's features concerning the emergency manager's powers. It also includes an appropriation, which under the Michigan Constitution makes it immune to repeal by referendum.

Excellent Schools Detroit and the Portfolio District Model

As Robert Bobb launched a frontal attack on DPS's incumbent regime, space opened for other actors to envision their own solutions to the city's longstanding educational problems. Frustrated with the continuing turmoil in DPS, a coalition of local civic elites including local foundations, non-profits, charter schools, business interests, and public school and municipal government officials began working on a plan to improve education in Detroit. The Skillman

Foundation, a local foundation that had worked for Detroit children, especially in schools, for more than 50 years, spearheaded the effort. In March 2010, the coalition, Excellent Schools Detroit (ESD), announced a comprehensive plan to improve education in Detroit (Excellent Schools Detroit, 2010).

ESD proposed a system of schools, encompassing public, charter, and private schools that would operate in conjunction with an oversight body charged with holding schools accountable for results. The vision included diverse providers managing autonomous schools, which would afford choices for parents and students. The oversight body would review school performance and publish annual school report cards to help parents become better school shoppers. Closure of failing schools and targeted opening of new schools are key elements. So while the plan is highly supportive of school choice, it is premised on careful management by a central administrative authority. The plan also envisioned central authority roles in recruiting and training teachers and principals, strengthening community supports, and expanding early education programs.

In order to implement this vision, the plan called for shifting control over public education in Detroit to the mayor and disbanding the elected DPS school board. It also envisioned significant and ongoing roles for foundations and community non-profit organizations in supporting the implementation and operation of the system.

The ESD plan was modeled loosely on the state-run Louisiana Recovery School District, which was significantly expanded in New Orleans after Hurricane Katrina in 2005. A national movement to shift the role of central administration in large urban districts from directly managing schools to a model in which the central office oversees a portfolio of schools operated by diverse providers has gained considerable traction in recent years. Advocates see the

portfolio management model as a promising response to the perceived inefficiencies and poor performance of traditionally governed urban school districts (Broad, 2009; Hill et al., 2009; Hill, Lawrence, & Pierce, 1997).

The portfolio district model rests on a metaphor wherein district managers are assumed to monitor school performance much like investors manage assets in an investment portfolio, intervening regularly to weed out below average performing schools and to attract more promising providers. The ideas underlying the portfolio model are not fully developed and efforts to implement it thus far vary from city to city and have evolved over time (Henig & Bulkley, 2010; Hill, Campbell, & Gross, 2013; Honig, 2004; Honig & DeArmond, 2010; Levin, 2010).

In the summer of 2010, U.S. Education Secretary Arne Duncan and Governor Jennifer Granholm pressed for mayoral control, the key change in DPS governance arrangements in the ESD plan. Though the state could act on its own, the governor and legislators would not do so without a local request.

In the end, local opposition defeated the prospect of mayoral control, leaving ESD with a plan but without essential governance arrangements necessary to implement it. Nevertheless, ESD continued to work on other aspects of the plan, both publicly and behind the scenes, issuing school report cards, holding parent school shopper fairs, and recruiting and supporting new schools. When Governor Snyder set out to tackle the dual challenges of the state's low-performing schools and Detroit Public Schools, members of ESD had well-developed ideas, a wealth of experience, and vital resources.

The Governor's Education Agenda: Disruptive Innovation

In April 2011, soon after assuming office and just two months before announcing the EAA, Governor Snyder issued a special message setting forth his agenda for public education (Snyder, 2011). Noting the mediocre performance of Michigan's public schools by several measures and the need to compete on a world scale, the governor called for sweeping changes in the provision of educational services. The plan offered a hopeful vision of educational innovation, entrepreneurship, and markets that would usher in improved models of instruction and student outcomes across the state. The policies would disrupt the prevailing complacency and mediocrity, "jettison the status quo" (p. 2), and move Michigan "from school systems to systems of schools" (p. 8).

The governor's agenda called for an expansion of charter schools and online education and changes in teacher employment policies. To expand charters, it called for removing the cap on the number of charter schools and permitting a charter board to oversee multiple schools under a single charter. To expand online education, it called for reducing state and local regulations on seat time, length of school year, length of school day and week, and the traditional configuration of classrooms and instruction. The governor stated that: "every child in Michigan who needs or wants up to two hours of daily online education must receive it" (p. 8). Finally, he also called for changes in teacher tenure laws that would make tenure more difficult to attain and ease the dismissal of tenured teachers, as well as changes in the way teachers are evaluated and paid and alternative routes to entering the teaching profession.

As an agenda for state education legislative changes, one would have to rate Governor Snyder's 2011 plan as very successful. Legislation corresponding to most of the items noted above was passed in his first term. The 2011 message also called for potentially more

momentous changes in state funding that would facilitate a 21st Century “Any Time, Any Place, Any Way, Any Pace” learning model in which funding is student-centered, not district-centered. By 2012, state policy makers were considering a proposal from the governor’s appointees—the Michigan Public Education Finance Project (also known as the Oxford Proposal)—to overhaul the state’s system of school finance, as well as HB 5923 of 2012, which would dramatically expand the types of organizations authorized to establish public schools. Legislation corresponding to this portion of the governor’s agenda was not passed during his first term.

The governor’s education plan, as he assumed office with his party in control of both legislative chambers, aimed to introduce disruptive innovation to improve the state’s public schools as a whole. The status quo system, the governor noted, “can take us no further” (Snyder, 2011, p.13). It was a vision shaped by a loss of faith in the system of traditional public schools and a belief that shifting a greater portion of education service provision outside that system would advance opportunities and outcomes.

One striking aspect of the governor’s plan was that it said virtually nothing about turning around Michigan’s lowest-performing schools. Those plans would be issued separately two months later, with the announcement of the creation of the EAA. Perhaps the specific challenges of low-performing schools did not fit neatly into the overall statewide agenda without further elaboration. Alternatively, strategists may have seen an opportunity to incorporate elements of the overall statewide agenda into the EAA’s plan to address persistently low-achieving schools and the financial and academic plight of Detroit Public Schools.

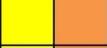
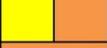
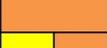
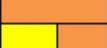
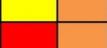
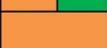
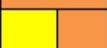
Figure 1 is a timeline of key events associated with the emergence of the EAA.

Figure 1
EAA Timeline

Key: Federal State ESD DPS EAS/EAA

2009	February	 	Governor Granholm appoints Robert Bobb as DPS Emergency Manager
	March		Federal Race to the Top (RTTT) program announced, including goal of turning around low-performing schools
	April		Michigan reform/redesign district legislation introduced
	November		DPS voters approve \$500 million bond issue for school facilities
	December		Michigan Legislature passes reform/redesign district legislation (PA 451)
2010	January		Michigan reform/redesign district law signed by governor and takes effect
		 	First round RTTT applications due (Michigan applies but does not win)
	March		Excellent Schools Detroit (ESD) announces Citywide Education Plan
	May	 	Teach for America announces return to Detroit
	June	 	Second round RTTT applications due (Michigan applies but does not win)
	July	 	Detroit City Council refuses to consider mayoral control of DPS
	December	 	Wayne County Circuit Court rules in favor of the DPS board - puts authority for academic decisions squarely with the elected board, not Emergency Manager Bobb
2011	January		Republican governor and majority Republican House and Senate take office
	March		New emergency manager law passes (PA 4)
			Law to exempt schools in EM districts from state reform/redesign district passes
	April		Governor Snyder's special message on education
	May	 	Governor appoints Roy Roberts as new EM for DPS, replacing Robert Bobb
	June	 	Education Achievement Authority (EAA) and Education Achievement System (EAS) announced by governor and DPS emergency manager
	July		Legislature passes laws tying teacher evaluations to student achievement, limiting collective bargaining, and reducing job protections (tenure). (PA 100-PA103)
	August	 	EAA board and executive committee appointed
			EAA hires John Covington as chancellor
	October	 	State School Reform/Redesign District contracts with EAA to run reform district schools
		 	DPS refinances \$200 million in debt
	December		New charter school law effective, removing caps on numbers

Figure 1 (continued)
EAA Timeline

2012	March		DPS and EAA announce 15 low-performing schools to transfer to EAA; later (in May) EAA approves converting 3 of the 15 DPS schools to charter schools
	May		Legislature passes law expanding cyber schools (PA 129)
			Legislature passes laws increasing aid to private schools (PA 130-134)
	July		DPS leases school buildings to EAA, including share of debt repayment
	September		EAA borrows \$6 million from DPS
			First day of school for EAA's 15 schools
	November		"Oxford" plan for education finance released
			Michigan EM law (PA 4) repealed by voters
			Carol Goss, ESD executive director, replaces Roy Roberts as chair of EAA executive committee; Roberts remains on board and executive committee
			DPS board votes to withdraw the 15 schools from the EAA (not effective)
			New EAA legislation introduced in House and Senate (SB 1358 and HB 6004); very controversial, bills did not pass either chamber
			New EM legislation introduced, passes with immediate effect – PA 436 replaces repealed law
2013	January		EAA asks for \$2 million state aid advance
	February		EAA borrows \$6 million from DPS
	March		New EAA legislation introduced (HB 4369); passes the House
			EAA gets \$10 million grant from Broad Foundation
	April		EAA documents released pursuant to FOIA requests
	May		MEEF announces it raised nearly \$60 million for EAA, ESD, and Detroit scholarship program
			Mike Duggan resigns from EAA board and executive committee (runs for Detroit mayor)
	July		Jack Martin replaces Roy Roberts as DPS emergency manager; Roberts remains as DPS appointee on the EAA board and executive committee
	November		EMU College of Education faculty asks EMU to withdraw from EAA
			EAA data show 24% fewer students from fall 2012 to fall 2013
	December		EMU College of Education dean resigns from EAA board
		EAA legislation, HB 4369 amended, passes the Senate, returns to House for concurrence	
2014	February		Michigan Department of Education gives 1-year notice of cancellation of transfer agreement
	March		EAA legislation, HB 4369, amended again, passes House, returns to Senate for concurrence
	June		Senate attempts to pass HB 4369, but does not vote before adjournment for summer recess
	June-October		John Covington resigns as EAA chancellor, Veronica Conforme appointed interim chancellor in June and chancellor in October
	November		ESD announces PMM plan

3. The EAA's Legal Authority: The Interlocal Agreement

Rather than drafting legislation to change the state's approach to low-performing schools, Governor Snyder chose a strategy to get a new system of schools up and running quickly. The EAA was established through a little known provision in Michigan law—the Urban Cooperation Act (1967)—that provides for interlocal agreements between government entities. Specifically the EAA was created through an Interlocal Agreement (ILA) between Detroit Public Schools and Eastern Michigan University (EMU) (*Interlocal Agreement*, 2011). The ILA was approved for DPS by its emergency manager (not by the elected school board) and for EMU by its Board of Regents (not by the College of Education).²

While the governing boards of Michigan State University, the University of Michigan, and Wayne State University are elected in statewide general elections, the governor appoints the governing boards of EMU and Michigan's other state universities. Thus one “innovative” aspect of the agreement is that all individuals whose approval was necessary to ratify the ILA had been appointed by the governor.

The ILA provides the primary legal foundation for the EAA and therefore holds a different status than other documents describing the organization's mission and design.

The Urban Cooperation Act (1967) establishes legal guidelines for agreements between governmental agencies to provide shared services.³ Specifically, the Act provides that “a public agency . . . may jointly exercise with any other public agency . . . any power, privilege, or authority that the agencies share in common and that each might exercise separately” (section 4). An interlocal agreement establishes the terms for sharing of powers between public agencies

² Governor Snyder announced the EAA on June 20, 2011 and EMU's regents approved the ILA on June 21, 2011.

³ The ILA also describes the state constitutional provision that underlie the Urban Cooperation Act.

while creating “a separate . . . public entity to administer . . . the agreement” (section 7). DPS and EMU agreed to combine their powers, privileges and authority through the ILA, creating a new public entity, the EAA, to administer the provision of educational services. The EAA has the powers of both DPS, a public school district, and EMU, a public university, as described in the ILA.

The Urban Cooperation Act has previously been used for a variety of public purposes, such as the Michigan Economic Development Corporation (2014), a partnership between the Michigan Strategic Fund and numerous local economic development corporations across the state.

The ILA established the EAA as an entity with purposes that were closely aligned to the broad innovative vision of the Governor’s 2011 education message. Yet it was also sufficiently flexible to accommodate efforts to turn around low-performing schools and to establish elements of a portfolio district in Detroit, the two other original objectives of the EAA. Though the publicly stated purpose of the EAA focused on these latter two objectives, the ILA is not limited to, and in fact does not mention, low-performing schools or Detroit. Rather the ILA establishes an entity that could facilitate the governor’s expansive mission of improving educational services for all students in Michigan.⁴

Purpose, Powers, and Authority

The ILA states the purpose of the EAA in very broad terms. While media accounts often refer to the EAA as a turnaround district for Michigan’s lowest performing schools, it is important to recognize that the ILA makes no reference to the turnaround of low-performing

⁴ In addition to creating the EAA (article III), the ILA describes its legal authority (the introduction) and lays out its purpose (article II) and powers (articles V and VI). The ILA also prescribes the EAA governance structure (article IV), requirements for records and finances (article VII), and the term of the ILA and conditions for withdrawal of a party and termination (article VIII).

schools. Nor, as is sometimes presumed, does the ILA establish any limits on the number of schools that can be placed in or operated by the EAA. Rather the EAA's purpose is to establish a "mechanism for providing improved public educational services more efficiently and effectively and in a transparent manner" and "to provide innovative, flexible, transparent, safe, efficient, and effective public educational services" (section 2.01). To this end, the EAA's powers parallel school district powers to the extent legally possible.⁵

The ILA lists sixteen attractive and broad objectives covering everything from preparing students to compete globally, to advancing innovative teaching methods, improving public learning environments, and academic achievement for all students.⁶ (A complete list of those objectives is presented Appendix A). The ILA also lists the powers of the EAA (section 5.01). In keeping with the expansive vision of Governor Snyder's 2011 education plan, the powers granted are also very broad. First is "controlling and operating public elementary and secondary schools." Other powers include the power to authorize an unlimited number of charter schools, acquire and dispose of school facilities and equipment, and operate libraries, museums or recreational facilities. In all these aspects and more the EAA is assigned powers that are nearly equivalent to traditional public school districts as defined in the Revised School Code (1976). (Appendix B provides a complete list of these powers.)

Although the EAA's publicly announced plan and vision (described in section 4) focused only on persistently low-achieving schools, the ILA does not limit the EAA's authority to only those schools (section 5.01(a)). Nowhere in the agreement are low-achieving schools mentioned.

⁵ In the spring of 2012, the definition of a school "district" in the school aid act was amended (2012 PA 201) to include the EAS, for purposes of that act. Since the EAA is included in the EAS it is covered under the definition of school districts.

⁶ The objectives for the EAA detailed in the ILA overlap with the objectives of the 2012 Michigan Public Education Finance Project (Oxford) proposal from the governor's appointees.

To the contrary, one of the stated purposes of the EAA is: “improvement of public learning environments and student achievement for *all* students [emphasis added], including, but not limited to, educationally disadvantaged students” (section 2.01(b)). The EAA is empowered to contract with any school district or charter school to operate any school and to create new schools, including charter schools, with no limitation on the location, type, or number of schools.

The ILA does not, however, give the EAA the power to take over existing schools, including low-performing ones, without the agreement of their governing school district. The parties to the ILA, DPS and EMU, do not have that power, so they cannot give it to the EAA.

The ILA between DPS and EMU is effective for 15 years with automatic 5-year extensions unless the parties agree not to extend it. Either party may withdraw during the term by following specified procedures. DPS may withdraw at any time but only with the consent of the EAA executive committee. Thus, there is no provision for unilateral withdrawal by DPS.⁷

EMU may withdraw:

- Before December 30, 2014, only if the agreement is amended so that another state public university becomes a party.
- After December 30, 2014, EMU may withdraw by providing notice at least 180 days in advance, effective on the first June 30 that is at least 180 days after the notice.

Withdrawal by DPS or EMU does not terminate the ILA (or the EAA) so long as another public school district or state public university becomes a party.

⁷ Consequently, even if emergency management of DPS were to end, returning governance authority to an elected school board, the board could not withdraw from the EAA without the EAA executive committee’s approval. Because the ILA was entered into by the legal representative of DPS, the emergency manager, it is a legal obligation of DPS. While the emergency manager has authority to unilaterally terminate contracts, the elected board does not. We offer no opinion as to whether contracts entered into by an emergency manager present unique complications for the contract’s termination.

The State Reform/Redesign School District and Transfer Agreement

Under the ILA, schools come under the authority of the EAA in one of two ways: (1) they are placed there by agreement with a school district; (2) they are newly created by the EAA, e.g. charter schools or potentially other types of schools. Consequently, at the time of the EAA's announcement in June 2011, the ILA could not provide the authority to unilaterally transfer Michigan's persistently low-achieving (PLA) schools to the EAA.

Provisions for the EAA to carry out its announced turnaround role would have to wait five months for a November 2011 transfer agreement (Contract for Transfer of Functions and Responsibilities, 2011) (the "Transfer Agreement") between the EAA and the Redesign Officer of the Reform District. Recall that in 2009, the Legislature created the state Reform District, a public school district to be comprised of PLA schools, as part of Michigan's Race to the Top application (2009 PA 204, MCL 380.1280c). Under this legislation, the state superintendent of public instruction hires a Redesign Officer who, among other responsibilities, transfers low-performing schools to the Reform District and acts as superintendent of the Reform District.

At the time of the EAA's announcement, many schools had been identified as low-performing, but none had yet been placed in the Reform District. The Transfer Agreement between the Reform District's Redesign Officer and the EAA reassigned the functions and responsibilities for PLA schools, once they were placed in the Reform District, to the EAA. Hence the Transfer Agreement established a special case of mechanism 1 (two paragraphs above) for PLA schools.

The Transfer Agreement transfers all of the "powers, duties, rights, obligations, functions or responsibilities of the Reform District . . . in their entirety" to the EAA (section 2.01), effectively making the EAA the state Reform District. The agreement also transfers the "powers,

duties, rights, obligations, functions and responsibilities” of the Redesign Officer to the EAA chancellor (section 2.02). This makes the EAA chancellor the superintendent of the Reform District, with authority to impose school redesign plans and to decide if and when to recommend the exit of schools from the Reform District. In addition, except for taxing and borrowing, the chancellor also exercises the authority of the school board that previously operated any public schools placed in the Reform District.

The 15-year term of the Transfer Agreement, with 5-year extensions, essentially matches the term of the EAA under the ILA. To terminate the agreement, the Reform District or the EAA must give written notice not less than one year in advance. (As noted below, State Superintendent Flanagan did give notice of the Transfer Agreement’s termination in February, 2014 to become effective one year later.)

Schools identified as being in the bottom 5% are not automatically placed in the Reform District. The Redesign Officer retains all authority and responsibility for PLA schools before they are assigned to the Reform District, including establishing and monitoring school redesign plans and deciding whether to place a school in the Reform District and under EAA control.

As part of the rewriting of the emergency manager law in early 2011, schools in emergency manager districts were specifically exempted from supervision by the Redesign Officer and so from placement in the Reform District (2011 PA 8, MCL 1280c(16)). The Redesign Officer, then, has no authority over low-performing schools in DPS or other districts under emergency management, leaving the emergency manager to decide how to handle those schools. His broad powers gave DPS emergency manager, Roy Roberts, the authority to transfer DPS schools to the EAA, but not to the Reform District.

If he or she chooses, the DPS emergency manager is authorized to place any or all DPS schools in the EAA, including such highly regarded schools as Cass Technical and Renaissance High Schools. Likewise, the emergency managers overseeing Highland Park and Muskegon Heights, the two other Michigan districts currently under emergency management, or any future districts placed under emergency management by the governor, could transfer any or all of those districts' schools to the EAA regardless of their academic performance.

As of this writing, *no* PLA (now called Priority) Michigan schools have been placed in the EAA from the Reform District. The 15 original EAA schools were all low performing. But because they were placed in the EAA by the DPS emergency manager, they are not part of the Reform District.

EAA Governance and Management

A board of directors with 11 members and an executive committee made up of five members of the board govern the EAA. The board has minimal oversight duties, while the executive committee has all policy-making, decision-making, and action authority. Because the governor appoints the majority of the board and executive committee as well as the chairpersons of both, the governor holds ultimate authority.

Of the 11 board members, two are appointed by DPS, two by EMU, and seven by the governor. Board members, who must be Michigan residents, do not have specified terms of office but serve at the will or pleasure of the appointer. The governor appoints the executive committee from among the board members—at least one must be an appointee of EMU and one of DPS. Executive committee members serve four-year terms, with the initial terms staggered.⁸

⁸ We note that the ILA contains no provisions for the removal of executive committee members during their terms. However, DPS, EMU, and the governor have the right to remove their appointed board member at any time. Thus, an executive committee member can be removed from the committee at any time by removal from the board.

The ILA provides that the duties of the board are that it “shall authorize and approve the annual audit” and “evaluate the performance” of the EAA (section 4.02), adopt ethics policies for the board, executive committee, officers, and employees (section 4.09), and adopt an investment policy (section 5.03(j)). It has no other duties or responsibilities. The executive committee exercises all of the power of the EAA, including appointment of a Chancellor to “administer...the administrative and academic functions” of the EAA.

Unlike the boards of traditional local school districts which are required to meet at least monthly (MCL 380.111a(6)), the EAA board is not required to meet at all, and the executive committee is required to meet only quarterly.⁹ Further, while state school law requires that local school district boards specify the time and place of regular meetings in their bylaws, it does not apply to the EAA. The Open Meetings Act (1976), MCL 15. 265(2), requires the EAA board and executive committee only to specify regular meeting times and places at the beginning of each year.

The executive committee appoints a chancellor for the EAA to “administer all programs, funds, personnel, facilities, contracts, and all other administrative and academic functions of the authority, subject to the oversight of the executive committee,” (ILA section 4.10). The EAA’s by-laws provide that the chancellor is the chief administrative officer and the chief academic officer for the EAA. He or she reports to the executive committee, but has a great deal of autonomy. No management structure is specified in the ILA, leaving that to the executive committee and the chancellor to decide.

⁹ In practice, the board and executive committee usually hold joint meetings, with members of both participating in discussions, though only executive committee members may vote on resolutions. The executive committee also holds special or emergency meetings, often on short notice, to conduct business between the quarterly meetings.

Under the ILA, responsibility for the EAA's accountability rests almost exclusively with the governor. The system is designed to be accountable to him or her. The governor appoints a majority of the board and executive committee while the other members are appointed by people who themselves are governor appointees. All can be removed at any time. Board members, therefore, cannot exercise much independent discretion. Interested parties may express their views to the EAA board and executive committee, but formal opportunities to do so are more limited than in the case of traditional public schools.

Transparency

In drawing up the ILA, the governor's office recognized that transparency would be an important consideration. Transparency is a clear priority in the ILA, as it should be in any policies that shift public education governance outside traditional democratic structures. Transparency is an essential dimension of accountability. (This priority on transparency is curious, given that the EAA itself was created in anything but a transparent manner.) Many provisions focus on financial transparency, including the disclosure of budgets, audits, and other financial statements. The primary vehicle for financial transparency is a "publicly available . . . single, searchable financial data internet website" (section 7.03). Among the items to be included on the website are information on the amount and sources of moneys received, planned and actual expenditures, and a check registry.

For all actions, the ILA requires that the EAA "shall be administered . . . in a transparent and open manner that encourages public oversight, civic participation, and citizen engagement" (section 7.11). Specific requirements include the use of the internet and social media for communication and "on-line, on-time, and free public access" (section 7.11(a)).

The ILA specifically makes the EAA subject to the Freedom of Information Act (1976) and all meetings must comply with the Open Meetings Act (1976).

4. The EAA's Rollout

Consistent with Governor Snyder's broad vision of educational innovation, the ILA empowered the EAA to embark on an expansive program of creating and operating a wide variety of different types of schools in Michigan outside the system of traditional public schools. From the start, however, the public's perception of the EAA has focused on a much narrower mission of turning around the state's worst performing schools, beginning in Detroit.

After being developed without any public deliberation, the EAA was publicly announced in June 2011 simultaneously with the Education Achievement System (EAS). At that time, the EAS was described as "a new statewide school system that will assume operation of the lowest 5 percent of performing schools . . ." (Education Achievement Authority, 2011c, p. 1). Moreover the system would start in Detroit and incorporate many design features of a portfolio district. The broader potential of the EAA to reach beyond low-performing schools was not revealed during the EAA/EAS rollout.

The public rollout plan was an artful effort to blend the EAA's multiple objectives within a single policy initiative. It was successful as a public relations effort, but it failed to resolve underlying tensions in the policy itself, which might have been addressed if the policy had been developed through a more deliberative process.

Finessing Tensions among the EAA's Multiple Goals

The first step in creating the appearance of alignment was simply to omit public discussion of the EAA's link to the governor's goal of disruptive innovation benefiting all

Michigan students. Apart from general public perceptions, failure to do so may have complicated efforts to secure agreement from the parties to the ILA or the state superintendent's willingness to issue the Transfer Agreement. This link, however, would reemerge more than a year later to quite disruptive effect, as we discuss in Section 6, with the introduction of legislation to put the EAA in statute.

The ILA explicitly applies to the EAA, but it does not mention the EAS. Yet the announced plans for the state's turnaround strategy refer primarily to the EAS. For this reason, throughout section 3, as we describe the organization's initial plan, we refer to the EAS. Over time, the terms EAA and EAS often have been used interchangeably and more recently both are commonly referred to as the EAA.

The public documents announcing the EAS's establishment, which do not have the formal legal standing of the ILA, describe the EAS's goals, a basic organizational structure, plans for future growth, and some characteristics of the planned system of schools (Education Achievement Authority, 2011b). Consistent with the school turnaround goal, they indicate that the EAS would take over the lowest-performing 5% of schools in the state, acting as the state Reform District, despite the fact that the Transfer Agreement was not signed or announced until five months later, in November 2011. Consistent with the portfolio district goal, the announced EAS plan notes that the system would start in Detroit (before expanding operations statewide) and incorporate major components of Excellent School Detroit's founding 2010 plan for a Detroit portfolio district.

Most of the EAS rollout plan focused on the Detroit arrangements. In contrast to the ILA, the EAS rollout plan, like the founding ESD plan, explicitly envisioned a system of autonomous schools in Detroit overseen by a lean central administration that would allocate 95%

of spending to individual schools and closely assess school performance. The EAS plan envisioned substantial ongoing roles for non-profit 501(c)3 organizations “such as Excellent Schools Detroit” in securing resources (fundraising and coordination with national foundations), developing human capital, supporting schools (e.g. identifying and developing school operators), and in community engagement (Education Achievement Authority, 2011b). (See Appendix C.) The EAS plan did not clearly articulate how these elements would align with the goal of turning around the bottom 5% of schools throughout Michigan.

Indeed, standard, basic components of the portfolio model differ fundamentally from the EAS plans. Whereas a portfolio district is typically envisioned as an administrative structure for most schools in an urban district, the EAS was based on a small subset of the lowest-performing schools only. Whereas a portfolio district is normally seen as an administrative structure for schools in a given urban area, the EAS plan established a system that would expand statewide. While academic researchers do not generally advance the portfolio district model as a policy solution to the distinctive and intensive needs of persistently low-performing schools for an entire state, the EAS’s designers apparently viewed the model as apt nonetheless. This decision would create ongoing tensions among the EAS’s multiple objectives.

While the focus on the EAS at the rollout diverted attention from the EAA’s legal authority under the ILA, the relationship between the EAA and EAS has remained somewhat muddled. It is possible that the relationship has evolved over time. By one conception, the EAA could be the legal public body (a special authority) established under the ILA, whereas the EAS is one of multiple systems of schools (this one comprised of low-performing schools) governed and operated by the EAA. This conception would be a compatible with the ILA and Roy Roberts and Governor Snyder’s rollout descriptions of the EAS. Under this interpretation, the

EAA might simultaneously create other systems of non-PLA schools—for example, a system of cyber schools or a system of work-study schools affiliated with businesses.

The school aid act passed in spring 2012, nearly a year after the EAA’s announcement, defines both entities for its own purposes (2012 PA 201, MCL 388.1603). Under that law, the EAA is the legal public body (a special authority) created by the ILA to manage achievement schools—the public schools “operated, managed, authorized, established, or overseen by the achievement authority.” The EAA and the achievement schools together make up the EAS. As with the ILA, this statutory definition of achievement schools is not limited to low-performing schools, but is broad enough to encompass any public school that the EAA might operate, manage, establish, or oversee.

This statutory language contradicts the announced conception of the EAS as a system only for low-performing schools. Consequently the original EAS rollout plan may not accurately reflect schools that come under the EAA’s authority in the future.

Vision, Goals, and Organization

As presented to the public, the vision for the EAS, only slightly modified since, is that:

The Education Achievement System (EAS) is a new statewide school system that will assume operation of the lowest 5 percent of performing schools in Michigan that are not achieving satisfactory results on a redesign plan or that are under an Emergency Manager. The system will work to transform them into stable, financially responsible public schools that provide the conditions, tools, resources, support and safe learning environment under which teachers can help students make significant academic gains. The system’s initial operation will be in Detroit, where Detroit Public Schools (DPS) Emergency Manager Roy Roberts will create and publish criteria that will be used to place schools in the new district. The system will expand to include low-performing schools throughout Michigan. (Education Achievement Authority, 2011c, p. 1)

The EAS was given an ambitious set of aspirational goals (Education Achievement Authority, 2011b, p.1) that were presented as the desires of Detroit community members for their children (Roberts, 2011). Those goals were:

- Safe and secure schools
- 100% college and career ready
- 100% reading by 3rd grade
- 95% of resources would go to schools, not the current 55% [as in DPS]
- Attracting and retaining students and families
- Wide range of innovative choices
- Financial sustainability
- Lean and supportive central administration
- Rewarding and flexible teacher career paths ¹⁰

Though the EAA and EAS missions are statewide, Roy Roberts, the DPS emergency manager, presented their goals in the context of DPS schools and students, and indeed as solutions to well-publicized DPS problems. For example, in describing the goal of attracting and retaining students and families, Roberts said, “We want to attract and retain students and families in Detroit If we do that right . . . we will retain, stop the bleeding, and attract families back to the Detroit Public School system”.¹¹

Such statements only make sense if the goal of the EAA was to turn around DPS schools and then return them to DPS. They are less compatible with a vision of the EAA as the start of a Detroit portfolio district apart from DPS, or as an alternative system of schools engaged in ongoing competition with DPS for students and resources.

While the ILA describes the EAA’s governance arrangements, including the appointment of a chancellor as chief executive officer of the EAA, the management structure of both the EAA and the EAS was left to the determination of the EAA executive committee. A chart (Education Achievement Authority, 2011b) presented at the EAS announcement shows the early

¹⁰ A final goal presented was not just for the EAA, a “Scholarship Promise—all Detroit students guaranteed financing for college.”

¹¹ The statement is not part of Roberts’ prepared remarks (Detroit Public Schools, 2011), but is available in a video on the EAA home page: <http://www.michigan.gov/eea>

organizational plan for the EAS. (See Appendix C.) The governor is at the head. Roy Roberts would serve in dual roles as DPS emergency manager and chair of the EAA executive committee, reporting directly in both positions to the governor.¹²

In accordance with the ILA, the executive committee designated the chancellor as the chief administrative officer, with general administrative control, subject to the oversight of the executive committee (Education Achievement Authority, 2011e). Though the chart of the EAS organizational plan did not include the role of chancellor for the EAS, the chancellor has served this role simultaneously for both the EAA (the legal governing body) and the EAS (the system of schools).

Although not fully explained, the EAS plan identifies two kinds of schools, which appear to be compatible with a nascent portfolio district, but not specifically focused on the turnaround of low-performing schools. First, for the EAS, are “new and renewed schools,” including new charter schools, existing public schools converted to charters, and other forms of essentially autonomous schools. Second, the EAS and DPS would each directly run schools, but in both instances these schools could earn autonomy over time (Education Achievement Authority of Michigan, 2012b; 2012c).

For the schools it controls, the EAS central office would establish financial controls and accountability to oversee the relatively autonomous budgetary decisions of individual schools. The EAS is also specifically responsible for school improvement, performance review and the ultimate sanction—school closure. So within the announced plan, schools need not be returned to DPS.

¹² In November of 2012, Roy Roberts resigned as chair of the EAA executive committee and was replaced by ESD CEO Carol Goss (Education Achievement Authority, 2012f). Roberts resigned as DPS emergency manager in June of 2013, but remains a member of the EAA board and executive committee.

From the EAA's inception, official characterizations of its mission in Detroit embodied an unresolved tension. Was it an entity dedicated to improving DPS schools in order to return them, once improved, to traditional district governance arrangements? Or was it rather a transitional entity that could evolve into the central administrative structure of a citywide portfolio district? Or was it the beachhead of an alternative system of schools governed by appointed officials that would compete with DPS (and ultimately other districts statewide) for students and resources over the long term?

Schools Entering and Leaving the EAS

After its public announcement, the EAS was to have a planning year in 2011-2012, then expand in five phases, over five years, starting with DPS schools in 2012-13,¹³ then adding schools in southeast Michigan and across the state (Roberts, 2011). (Appendix D displays the planned expansion.) As noted, however, the EAA would take over only (1) schools not succeeding under a state redesign plan, as determined by the Redesign Officer,¹⁴ and (2) schools transferred by a district emergency manager. Other PLA schools would remain under the supervision of the Redesign Officer and continue to follow their redesign plans.

Provisions for the exit of schools from the EAS are underdeveloped, and rely on discretionary application of standards—pertaining both to the nature and amount of progress required. A school transferred to the EAS from the Reform District would exit when the Redesign Officer (i.e., the EAA chancellor under the Transfer Agreement) determines that it has made “significant improvement in student achievement” and the state superintendent agrees

¹³ According to Roberts' comments at the time of the announcement, there were 92 low-performing schools in Michigan, 45 of them in Detroit; The state report for August 2010 is available at: http://www.michigan.gov/documents/mde/PLA_Schools_-_August_2010_394112_7.pdf

¹⁴ Redesign plans are developed under the supervision of the Redesign Officer in the Michigan Department of Education as a first step in turning around low-performing schools (MCL 380.1280c).

(MCL 380.1280c (13)). We are unaware of any specific exit criteria for the return of EAS schools to their districts in either the Reform District law or the EAS plan.

Terms for the exit of schools transferred to the EAA by an emergency manager are, by default, left to the emergency manager and would be detailed in an agreement with the EAA. However, it appears that there is no written agreement for the transfer of DPS schools to the EAA.¹⁵ Consequently, for all of the schools currently placed in the EAA, the only exit standards are merely those vaguely expressed in the original EAS planning documents. Whether those standards are legally binding is open to question.

The EAA Frequently Asked Questions document (Education Achievement Authority, 2011c) describes the EAS exit plan with reference to DPS schools. First, schools will remain in the EAS for a minimum of five years. At that point there will be a progress evaluation, with input from the school's parent advisory council.

The school can choose to remain in the system, transfer its governance back to DPS, or seek a charter to run independently. If the school has improved to the point it can transfer its governance, the Parent Advisory Council, in collaboration with the school principal, will play a decision-making role regarding what organization the school chooses to be a part of at the end of a successful improvement period. (p. 2)

Apart from any other considerations, given that the curriculum, technology and instructional practices in EAA schools all differ radically from those in other DPS schools, there could be difficulties and disruptions in returning them to DPS.

Changes in the composition of EAA students compound this ambiguity in assessing school progress, since the students enrolled in EAA schools may differ substantially from those enrolled at the time of a school's transfer to the EAA. The current EAA schools have had considerable student turnover, and the EAA has actively recruited new students. In this context,

¹⁵ Personal communication, M. Crockett, EAA general counsel, April 22, 2014.

any improvements in measured school performance could come about either through improvements in teaching and learning or through cultivating the enrollment of more successful students.

Finances and School Resources

The EAA was launched with no new state or other public revenues. Once the system began enrolling students in fall 2012, it would receive state school aid payments, based mostly on student enrollment, and other state and federal funding, as do other school districts. But the year delay for this funding posed a problem of how to pay for start-up costs during the planning year until school aid payments were received.

The solution was to pay for the planning year entirely through private donations. According to news reports, Eli Broad, a businessman and philanthropist, had been involved in discussions with Governor Snyder about reforming education in Michigan (Jesse, 2011). The Broad Foundation had already provided some of the money to pay the salary of Robert Bobb, the first DPS emergency manager (Mrozowski, 2009) and committed to spending at least \$900,000 for the EAS start-up (Broad, 2011, p. 229; Dawsey, 2011b; Educationgrant.org, 2011). Other donors, whose anonymity was protected, provided additional funding. The start-up year costs were budgeted at \$24.7 million, with an additional \$10.3 million start-up costs in the second year (Education Achievement Authority, 2012a).

The private money was to be funneled through a new tax-exempt organization, the Michigan Education Excellence Foundation (MEEF), “created to support the EAA and other public education improvements in Michigan” (Education Achievement Authority, 2012c).” It allowed donation of money to the EAA without revealing the identity of the donors. Very little public information has been made available about the MEEF.

Because all the initial EAS schools were formerly DPS schools, the financial arrangements associated with these transfers were critical for DPS, given the district's precarious financial status and the fact that most operational funding is linked to student enrollment. Under the EAS's rollout plan, DPS would continue to own and pay the debt service and capital expenses for DPS schools shifted by the emergency manager to EAS. These facility costs represent the repayment of capital bonds approved by Detroit voters to build and upgrade DPS facilities, including a share of the \$500 million 2009 bond passed during the term of DPS emergency manager Robert Bobb. Some DPS schools received substantial facility upgrades immediately before the emergency manager shifted them to the EAS. Mumford High School, for example, was demolished and an entirely new school under the same name was constructed next to the former structure. The new Mumford High School opened in fall 2012 as an EAS school.

More controversial, however, was the plan to absolve schools transferred to the EAS of their share of DPS's outstanding operating debt. Unlike capital expenditures (which are financed through earmarked local property taxes directed to the district's separate capital account), the operating debt represents the repayment of loans incurred to cover budgetary shortfalls on DPS's current operations. This included \$244.9 million in bonds to refinance and extend the term of existing debt issued by emergency manager Roberts soon after he assumed office. Repayment of this and other borrowing comes out of the district's general fund budget, so they represent an overhead cost that diminishes funding available for classroom instruction and other functions.

As the 2012-13 school year started, DPS's annual debt service payments (principal retirement and payment of interest) from its general fund were \$53 million. The district ended the 2011-12 school year with about 66,000 students. Even if DPS's long-term enrollment decline miraculously stopped at that point (it didn't), the district would nevertheless face annual

payments on outstanding operating debt of roughly \$822 per pupil (Detroit Public Schools, 2012). Of course, this per-pupil financial burden rises as DPS enrollment declines.¹⁶

If the schools transferred to the EAS were absolved from shouldering their share of this operating debt, it would represent a very substantial financial advantage-- an opportunity to start with a clean financial slate. Indeed the EAS's designers presented the absence of this legacy debt burden in just this way (Dawsey, 2011a). This move, however, would simultaneously increase the per-pupil debt burden of DPS, worsening its already precarious finances.

The question of whether EAS schools would pay for their share of DPS's debts for operations and capital goes to the very heart of the conflicting missions of the EAA as a turnaround agency for DPS schools versus the start of a new alternative system of public schools in Detroit. These financial issues remained murky for several months after the EAS's announcement, and were the subject of ongoing internal negotiations. The tension also highlights a delicate balancing act, if not inherent conflict of interest, for Roy Roberts in his dual roles as DPS emergency manager and chair of the EAA executive committee.

5. The EAA's Implementation

After a year of preparation and over two years of operating schools, we can begin to take stock of how EAA operations square with the initial plans. Policy implementation often entails departures from initial policy plans. In the case of the EAA and EAS, relevant information on current practices is sometimes not readily available. The EAA's initial years of operation depart in several ways from the organization's initial vision. In addition, some aspects of the EAA's

¹⁶ This discussion has focused on a subset of DPS's indebtedness associated with debt service payments from the district's general fund. In 2012, the district's general fund deficit stood at \$76 million, while its total net assets were in deficit by \$618 million.

implementation have become the focus of hotly contested interpretations. Unresolved tensions in the organization's objectives contributed to this rocky start.

As its first act in implementing the EAS plan, the executive committee appointed John Covington as the initial EAA chancellor. Covington, a graduate of the Broad Superintendents Academy, was formerly superintendent in Kansas City, MO. In establishing his relationship with the executive committee, he was afforded wide latitude in managing the EAA. Covington's employment contract specified: "the Executive Committee, collectively and individually, will strictly adhere to a system of policy governance and shall not interfere with the Chancellor's performance of his duties and responsibilities as outlined herein" (Education Achievement Authority, 2011d, p. 2).¹⁷

Whither the Portfolio District Model?

Since its formation, Excellent Schools Detroit has advocated the formation of a portfolio district in Detroit. Key ESD officials have been involved with the EAA from the beginning. Governor Snyder appointed Carol Goss, ESD board chair, as a member of the first EAA board. In November of 2012, Goss joined the executive committee and took over as chair of that body and of the EAA board as well. She was also appointed to the board of the Michigan Education Excellence Foundation (MEEF), the fund-raising organization collecting and funneling philanthropic donations to the EAA.

Nevertheless, the EAA has yet to implement the most basic features of the portfolio management model. To date the EAA's system of schools consists of only the 15 schools transferred from DPS. Three of these schools were immediately converted to charter schools,

¹⁷ This provision remains in the contract of Veronica Conforme, who was appointed as Mr. Covington's replacement as EAA chancellor in November 2014. Her contract also adds this provision: "which includes but shall not be limited to, administration and/or implementation of EAA policies."

authorized by the EAA and operated by a private charter management organization. The other 12 are directly run by the EAA central office, in contrast to the portfolio management model in which this responsibility is transferred to individual schools or school operators. None of the direct-run schools have been granted formal autonomy.

The functions performed by the EAA's central office and the relationship between the central office and schools are similar to practices in traditional districts. In contrast to the portfolio model, the EAA central office has sought to establish uniform instructional and other practices across schools. At the same time, some school-level administrators and teachers have complained publicly that they do not get needed support and guidance from the central office.

The EAA's current organization looks much like that of a relatively large traditional school district or, alternatively, a charter management organization. The central office is now comprised of eight departments¹⁸ whose heads report to the chancellor:

- Chief of Staff
- General Counsel
- Public Relations and Communications
- Business and Fiscal Affairs (CFO)
- Operations (COO)
- Human Capital, Equity and Accountability
- Instructional Support and Educational Accountability
- Technology and Data

Midway through its third year of operating schools, the EAA's portfolio is actually less varied than that of DPS which has authorized several charter schools, made a number of schools "self-governing," and has a variety of other specialized school choices. The EAA has actively sought to attract students from other districts and charter schools, through television

¹⁸ There is no single public source for organizational information. The information here is compiled from several EAA online sources and subject to change as hiring and adjusting of positions continues.

advertisements and other marketing efforts. In most respects, the EAA's operations have more in common with those of a charter management organization that oversees schools adhering to a common operational model, rather than a portfolio management district, which governs a diverse array of schools that are managed independently.

The EAS plan depicted important roles for non-profit organizations, specifically naming Excellent Schools Detroit. Affiliated partners in ESD represent a broad cross-section of Detroit's civic elites with long experience in the city's schools. They might have reinforced the EAA's efforts, but this partnership never materialized as envisioned in the EAS's rollout plan.

Leadership

The EAA's governing board has been marked by ongoing membership instability. The EAA announced the members of the first board of directors and executive committee in August 2011, shortly after the June rollout (Education Achievement Authority, 2011a). Reflecting the population of Detroit, eight of the original 11 board members were African American. All 11 came with strong backgrounds in business, professional, civic or philanthropic organizations, and many had government experience. Business was or had been the primary occupation of six members. Several members had experience in higher education. The announcement did not indicate that any board member had prior direct experience in K-12 schools. The background experience of all five initial executive committee members was primarily in business. Two of the five were African Americans, including Roy Roberts, DPS emergency manager.

Only five of the original 11 members remain on the board today, four of whom are also executive committee members. Board members do not have specified terms of office but serve until they either resign or are removed by the appointing authority. Since the beginning of 2012, seven board members have resigned or been replaced, six original members and one replacement

member.¹⁹ When DPS and the governor did not replace members who resigned, there were as few as seven members. Since November 2012, DPS has had only one representative on the board, former DPS emergency manager, Roy Roberts, who has not participated in board or executive committee meetings since September 2013.

Of greater legal concern is the addition of Carol Goss as a member and chair of the executive committee while the original five members were still serving. In violation of the ILA, which clearly provides for a five member committee, the EAA took official actions with six members for four months, until Mike Duggan resigned to run for Detroit mayor in May of 2013.

The manner of Goss's appointment is also questionable. The ILA gives the governor the authority to appoint executive committee members and choose the chair. At the November 2012 executive committee meeting Roy Roberts announced that he was stepping down as chair of the executive committee, but remaining as a member, and appointing Goss to the executive committee and as its chair. Goss then served as executive committee chair for the next year and remains on the committee.

Given the EAA's prominence in state education policy, and the critical role of the EAA's appointed governance for its public accountability, this carelessness by the governor and DPS is puzzling. Despite the original design with EMU and DPS as partners, DPS effectively has no representation in EAA governance. Roberts is not participating, and although the current DPS emergency manager, Jack Martin, has the authority to remove and appoint board members, he has not done so. This is all the more puzzling given that all of the EAA schools are DPS schools. Finally, at the March 2014 board and executive committee meeting, three new gubernatorial

¹⁹ One member resigned when her company entered into a service contract with the EAA. Another resigned and was hired by the EAA. One EMU appointee resigned during the student and faculty protests against EMU's involvement in the EAA. Mike Duggan resigned as he began his run for mayor of Detroit.

appointees were introduced, along with a replacement EMU appointee. (EMU has consistently replaced its representatives as they have resigned.)

Attendance at board and executive committee meetings has also dwindled over time. At the March 2014 meeting, only six of eleven of board members attended, two of those by phone. Of the four board members actually in the public meeting room, three were new and the fourth was a member of the executive committee acting as chair.

This level of attendance is not unusual. Even when more members participate, it is increasingly by conference phone. No member was present in the meeting room at the meetings on July 17, 2014, and October 1, 2014. During the public comment period at the October 1 meeting, citizens spoke to a telephone and two staff persons (Education Achievement Authority, 2014d; REMC Association of Michigan, 2014a). Because only three members are needed for an executive committee quorum, and the ILA permits members to participate electronically, low attendance rarely interferes with conducting business.

The relatively detached stance of the EAA's board and executive committee left the EAA chancellor, John Covington, with a high degree of operational control. Covington resigned abruptly on June 16, 2014. The next day, the executive committee appointed an interim chancellor, Veronica Conforme, a consultant from New York City who had worked for the EAA since January. Conforme was appointed permanent chancellor on November 5, 2014. (Appendix E describes the chancellor search process and Conforme's background.)

Finances and the DPS Debt

The EAA planners envisioned a two-fold financial advantage for the initial EAA schools: freedom from DPS's debts on both operations and capital facilities. This would permit more money to be directed to instruction. As noted above, however, moving DPS students and

their funding to the EAA while leaving responsibility for repaying the operating debt further weakened DPS's ongoing deficit financial position.

The debt question was finally resolved through the leases of the transferred school buildings. The bulk of the rent payment represents (roughly) a per-pupil allocation of DPS's operating debt service to all DPS students before the shift of schools to the EAA for each student projected to transfer to the EAA. In short, the EAA pays a share of the DPS debt for each Detroit resident student it enrolls, removing one of the originally announced financial advantages of the EAA. At the same time, the EAA has the benefit of using DPS buildings without the associated capital costs.²⁰ On balance, the EAA schools got a good financial deal, just not as good as planners had anticipated.

Nevertheless, from the beginning, the EAA encountered financial problems. One major problem was the gap between pledged private funding and cash needs during the 2011-12 planning year. The budget for that year projected expenses of \$24.7 million, all to be privately funded (Education Achievement Authority, 2012d). But a year later, at the start of school in September 2012, cash flow reports presented to the board indicated total receipts from the MEEF of less than \$10 million.²¹ The budget shortfall left the EAA short-staffed and without the human and financial resources necessary to fully prepare to operate schools.

The financial problems did not disappear with the opening of EAA schools in fall 2012. The EAA suffered a major setback when it also failed to receive \$18 million of anticipated

²⁰ We will not here attempt to provide a full account of EAA finances. The suitability of the rental payments as a mechanism for the EAA to share DPS's operating debt depends on DPS enrollment trends and adjustments negotiated in the rental payments over time. The EAA deducts from rent payments the amount of its expenditures on improvements to meet building code requirements up to a maximum amount per building. The legislature also appropriated \$10 million for the costs of bringing the buildings up to code.

²¹ Pages 33-34, http://insidetheeaa.files.wordpress.com/2013/05/finances___budget_5_24_13-2.pdf
In addition, a January 4, 2013 message from Luis de la Fuente at the Broad Foundation to Rebecca Lee-Gwin at the EAA describes a shortfall in philanthropic start-up funding at that time of around \$12 million (after receipt of \$13 million). See page 25, http://insidetheeaa.files.wordpress.com/2013/05/fin_budget_8_14_13.pdf

federal Title I funding. Student enrollment, and hence state per-pupil funding, also fell short of budget projections by more than seven percent.

Although state aid for fall 2012 would be forthcoming, it is not disbursed until weeks after the school year begins. Like other school districts, the EAA sought short-term state loans to carry over this period. But because the EAA is not a “school district” under most aspects of Michigan law, it could not pledge its state aid payments for loans. As a result, money was borrowed from the state through DPS and other avenues (Chambers, 2013; Cwiek, 2013; Dawsey, 2013; Education Achievement Authority, 2013a).

Teaching and Learning

Rather than work to improve practices of educators already in the schools assigned to it, the EAA elected to start afresh with new people and instructional practices. Much of the controversy associated with the EAA has focused on its employment relations and instructional practices. Since these controversies have been widely covered in the media, we will not dwell on them here (e.g., Guyette, 2014; Higgins, 2014a).

In contrast to teachers in most traditional school districts, EAA teachers are not members of unions. For observers who regard teacher unions as an obstacle to improving student learning, this aspect of the EAA’s operations represents a hopeful experiment. When the DPS emergency manager transferred DPS schools to the EAA, the teachers and other employees of those buildings were laid off. Nearly all of those employees were union members while working for DPS. The furloughed DPS employees could apply for positions in the EAA schools. Many did, but few were hired. Compared to the DPS schools they replaced, a high proportion of EAA teachers were former charter school teachers or new teachers. Several of the new teachers were

Teach for America corps members. Consequently relatively few EAA teachers had prior experience working under a collective bargaining agreement.

The EAA schools are pioneering an innovative, self-paced instructional format in both elementary (K-8) and high schools. In this student-centered and computer-based program, the role of the teacher is as a facilitator, not to deliver lessons but to help students to learn on their own with computerized lessons. EAA officials tout the benefits of starting where the student is and moving learning forward with customized lessons. This approach puts the emphasis on growth in learning, not on achieving grade level mastery by a particular time.

Assessment of student learning in EAA schools is highly contested. The EAA administers two different tests to its students. The first is the state's MEAP test, which is taken by students throughout Michigan. The MEAP is the benchmark against which all schools are measured and scores determine whether or not schools are subject to state intervention, including placement in the Reform District. The state reports the achievement level of students based on standard grade-level expectations as well as on individual student growth against those benchmarks from year-to-year. The second test is the Scantron Performance Series test, a norm-referenced computer adaptive test that measures academic growth for each student over time against the growth of similar students across the nation. It is not geared to set standards, but to the relative achievement of other students.

During the first year of operation, the EAA announced that its students were making dramatic academic progress. Performance Series scores showing more than one year of academic growth in less than a full school year were announced in the media. Outside observers challenged the validity of scores at such an early stage, considering the chaotic conditions, including significant technology problems, during the initial baseline testing period. Though

growth scores for 2012-13 were announced beginning in February of that year and remain posted on the EAA website home page, the 2013-14 scores are not posted. A report to the board and executive committee in June 2014 indicates continuing dramatic growth for many students (Education Achievement Authority, 2014c; REMC Association of Michigan, 2014b).

In the second year, MEAP scores, reflecting a full year in the EAA, showed that few students were meeting state standards. EAA Chancellor John Covington, however, announced that scores did show improvement toward meeting the standards (Education Achievement Authority, 2014b). Wayne State University Professor Tom Pedroni analyzed the scores and found that the majority of students made no progress or declined (Pedroni, 2014). Covington's statement, unlike Pedroni's, did not provide detailed information on the procedures used to generate conclusions regarding test score trends. We will not attempt here to resolve this issue. Given the novelty of the EAA's instructional practices, further exploration of a broad range of cognitive and non-cognitive student outcomes in its schools is warranted.

Transparency

Although the ILA requires a high level of transparency, the availability of information on the EAA and EAS is inconsistent and incomplete. Concerns about transparency may be linked to popular apprehension, valid or not, that influential private interests exercise disproportionate influence on EAA operations outside the public eye. After three years in existence, the EAA still falls short of providing some information routinely available from traditional public school districts, much less the kind of detailed transparency that would meet the standards in the ILA.

Those with questions about the EAA may have difficulty finding answers. Contact information on the EAA website gives only the main phone and fax numbers. Nowhere is there

a list of board and executive committee members or central office staff, or their contact information.

Board and executive committee meeting times and locations are frequently changed from the published schedule and minutes are frequently posted late, and sometimes not at all. Though required by the ILA, meeting materials are seldom posted, leaving the public in the dark as to the details of matters discussed. Posting of information has improved over time, but is erratic and still does not reach a level that “encourages public oversight, civic participation, and citizen engagement” (ILA, section 7.11).

The ILA is specific as to financial transparency requirements (section 7.03). The EAA website (<http://www.michigan.gov/eaa>) has a page with financial information, including budgets, audited financial statement, employee compensation, and check registers. Though the amount of information has increased over time, the EAA has yet to create a “publicly available . . . single, searchable financial data internet website” that includes a method for user feedback, and the available information aggregates such information as the amount and source of moneys received. Check registers are provided, but do not contain the “funding source of the expended moneys, the name of the budget program or activities receiving the moneys,” or “a description of the planned use of the moneys.”

Citizens and state legislators have resorted to Freedom of Information Act (FOIA) requests to obtain information (Cwiek, 2013; Inside the EAA, 2014). Much of the information obtained from the FOIA requests has been posted online, by the requesters, at <http://insidetheeaa.com>.

The EAA’s transparency problems are likely due in part to the normal start-up problems of any complex new endeavor. Yet the emergence of sustained political opposition to the EAA

places officials in a bind. Even if they wanted to comply with all transparency requirements, it would be difficult for EAA officials to be frank about the organization's shortcomings and challenges. The EAA's developers, however, are partly responsible for generating this opposition, by creating the EAA outside of traditional public decision-making processes and by seeking to establish the organization's legitimacy, not as a cooperative venture, but as an alternative to the failures of the incumbent educators and elected school boards (Dawsey, 2011a; Greenwood, 2011; Samuels, 2011; "Mich. Education Authority leader lays out priorities, 2011; "Stronger medicine for sick schools," 2011). Transparency concerns are naturally heightened in settings lacking trust and where large amounts of public funds are removed from regular and well-understood oversight by locally elected boards.

Traditional public schools and charter schools are not free of concerns about transparency. Indeed both have been subject to increasing requirements to publicly release school information.

Accountability

In an era when "accountability" has become a dominant consideration for the evaluation of education policies, the EAA has charted a distinctive course. The accountability provisions of Michigan's EAA policy are underdeveloped and rest very narrowly on the governor's actions.

The EAA was designed hastily in private meetings so there was no opportunity for the public vetting and refinement that typically takes place during the legislative process. That traditional deliberative process is specifically intended to elicit input from interested parties and experts in order to identify and rectify weak or problematic features of policy proposals. Instead the EAA was conceived in the governor's office and its authorization was established out of public view through an agreement among the governor's appointees.

In contrast to traditional public schools that are governed by board members elected by and accountable to local voters, the EAA's governing board is appointed. The governor has authority to appoint the majority of the EAA's governing board and members can be removed at any time by the appointer. The arrangement assures that the EAA cannot proceed in directions that the governor does not endorse.

School accountability requires three essential components: standards, transparency, and redress. As designed, the EAA's accountability is clearly underdeveloped on each of these counts. There are no well-defined standards governing which schools are placed in EAA or standards for when schools are returned to their local districts. Transparency requires public access to information on processes, but the EAA does not provide contact information for its board members or ready access to documents that would permit genuine public oversight. By comparison to traditional local district boards, the EAA's governing board is obliged to provide more limited opportunities for redress by interested parties, and it does not always comply even with those.

School accountability is not generally pursued through policy arrangements that place such heavy reliance on the judgments and actions of a single person, in this case the governor, and for good reason. In his 2013 State of the State address, just four months after the opening of EAA schools, Governor Snyder drew extensive attention to the EAA's success and promise. Given the nature of partisan politics today, once a public official "owns" a policy so singularly, it is difficult to evaluate its strengths and weaknesses objectively. This is not a shortcoming of a particular public official, but rather a policy's design.

6. Conflicting Goals, Policy Implementation Impasse

Creating the EAA and EAS through the Interlocal Agreement, rather than through the legislative process, allowed for a quick start-up. It did not, however, prevent later contention that would shape the organization's prospects. The formidable challenge of folding an embryonic Detroit portfolio district within a statewide school turnaround plan might have been manageable, if the EAA did not also encounter fierce opposition that surfaced once it was perceived by some as linked to Governor Snyder's goal of breaking down the education status quo on how, when and where all Michigan students learn.

In the fall of 2012, as the EAA opened its schools, historic events were unfolding in Lansing. Although voters repealed Michigan's expansive 2011 emergency manager law (PA 4) in the November 2012 general election, the Legislature quickly passed a new emergency manager law in lame-duck session that was immune to repeal by voters. This session also saw Michigan quickly pass bitterly contested right to work legislation. During this period, state policy makers also considered a sweeping proposal from the governor's appointees—the Michigan Public Education Finance Project (Oxford Proposal)—to overhaul the state's system of public school finance, as well as HB 5923 of 2012, which would dramatically expand the types of organizations authorized to establish public schools in Michigan.

2012 Lame-duck EAA Bills

In the midst of these high-voltage policy developments, bills were introduced in both houses to establish both the EAS and the EAA in law (2012 HB 6004 and 2012 SB 1358). But the proposed legislation went well beyond what was necessary for that purpose. Key provisions eliminated the EAA board and essentially codified the Transfer Agreement, making the EAA the state Reform District, but without the ability of the Michigan Department of Education to

terminate the agreement. The bills also eliminated or transferred many of the state Redesign Officer's other powers, including placing schools in the Reform District, to the EAA.

Perhaps most dramatic and consequential, however, were numerous provisions in the proposed EAA legislation that would permit the EAA to take over unused or vacant school buildings in any school district in the state. The EAA could use the facilities to house all sorts of educational offerings, not limited to serving students of low-performing schools.²² The proposed legislation marked a sharp departure from the governor's originally announced plans for the EAA to be a vehicle for turning-around persistently low-achieving schools.

Introduction of this expansive legislation triggered widespread contention among legislators, education groups, and other interested parties, just as the initial 15 Detroit EAA schools were beginning operation. Significantly, the legislation mobilized opposition from suburban schools, parents, and others outside Detroit. In the end, despite lengthy negotiations, the bills failed to pass. But the newly aroused opposition changed the policy landscape facing the EAA and perceptions about what its true purpose might be. This would carry over to future legislation related to the EAA.

Declining Enrollment, No New Schools Added

Given unresolved conflicts in the EAA's objectives and the organization's implementation problems, the EAA has failed to grow as initially envisioned and its enrollment has declined. From the beginning of its first year, 2012-13, to the beginning of the second, EAA enrollment dropped by 24.9% (from 8,682 to 6,517). Enrollment declined 27.9% in the six high

²² The bills also added two new related "purposes" for the EAA: (1) "to expand the number and types of public entities permitted to operate, manage, authorize, establish, and oversee public schools," and (2) "to provide new forms of public school governance" (HB 1358, sec. 771(1)).

schools and 21.2% in the six elementary-middle schools.²³ By comparison, the first-year budget anticipated 9,309 students.²⁴ Given the efforts to recruit new students, the number of students who left EAA schools is certainly higher than these numbers indicate.

The EAA's 2014-2015 budget projects a further decrease to 6,165 students in the 12 direct-run schools (Education Achievement Authority, 2014a). The interim chancellor reported at the October 2014 EAA board and executive committee meeting that the EAA's fall enrollment count was 6,500 (Education Achievement Authority of Michigan, 2014e), but the official counts have not yet been released at the time of this writing.

No schools have been placed in the Reform District, leaving the 15 DPS schools as the only EAA schools as of this writing.

Twice the EAA administration (under Chancellor Covington) presented plans for authorizing new charter schools or operators. The executive committee turned down both requests (Education Achievement Authority, 2012e, 2013b). Both proposals prompted discussion, sometimes heated, about the mission of the EAA and the role of charter schools. In Chancellor Covington's view, the EAA was to be a statewide portfolio school district with diverse types of schools to give options to all students (REMC Association of Michigan, 2012). In the view of at least some of the board and executive committee members, the EAA should be a vehicle for turning around low-performing schools and providing options for students in those schools. In essence, the debate centered around two of the conflicting stated purposes of the EAA—to transform public education in Michigan (the broad purpose of the ILA) or to help students in low-performing schools (the targeted focus in the EAA's announced plan). It is

²³ This is based on CEPI student count data available at <https://www.mischooldata.org/>

²⁴ Shortly before opening in September of 2012, the EAA was reporting an enrollment of 12,939 students and more continuing to enroll (Email from Maria Goodloe-Johnson, August 31, 2012, page 54, http://insidetheeaa.files.wordpress.com/2013/05/fin_budget_8_14_13.pdf)

hardly surprising that the general public has been confused about the conflicting purposes of the EAA, if EAA officials themselves disagree.

Though the underlying concerns were the same in both cases, the two proposals differed. In May 2012 the EAA administration proposed authorizing two charter schools to open that fall, bringing the number of new EAA schools to 17. The conversion to charters of three of the original 15 DPS schools was approved without discussion. After much debate, however, the request to authorize two new charters was not brought to a vote.

The second proposal, in March 2013, was not to charter specific schools, but to approve two charter operators who would be ready to manage schools that might be transferred to the EAA in the future and converted to charters. This second proposal was also turned down, with board and executive committee members indicating that they wanted to move more deliberately, authorizing charter schools only if they were shown to produce better results for students. No further attempts have been made to authorize charter schools or operators.

Policy Backtracking

On February 18, 2014, the state Reform District gave notice to the EAA of termination of the Transfer Agreement (Michigan Department of Education, 2014). State Superintendent Michael Flanagan expressed his agreement with the termination by letter on the same date, noting that Chancellor Covington had refused to consider an amendment. Under the one-year notice provision of the ILA, as of February 18, 2015 the EAA will no longer act as the Reform District. So unless the legislature acts, the Transfer Agreement termination sharply diminishes one of the EAA's three original purposes—as the turnaround entity for the state's low-performing schools. That authority will then return to the Redesign Officer. According to the termination documents, the EAA will be one of several options for Reform District schools.

The elected DPS board has voted on more than one occasion to withdraw from the ILA. So long as DPS is under the control of an emergency manager, however, the board vote is ineffective. In addition, the ILA provides that DPS may only withdraw with the consent of the EAA executive committee.

More recently, Eastern Michigan University has come under pressure to end its relationship with the EAA by withdrawing as a party to the ILA. Faculty and students from EMU's college of education have protested EMU's involvement. Several nearby public school districts are protesting EMU's involvement with the EAA by refusing to accept EMU student teachers (Jesse, 2013). As of December 31, 2014, EMU could withdraw unilaterally from the ILA on the first June 30 at least 180 days after giving notice (ILA section 8.02). If EMU promptly exercised this withdrawal right, unless another public university replaced it, the ILA would terminate on June 30, 2015 (ILA section 8.04).

There were indications that the EMU Board of Regents would reconsider its involvement (Jesse, 2014b). At its December 2014 meeting, however, attended by many protesters, the EMU regents voted 6-2 to continue the ILA partnership, despite the university president's noting the administration's recommendation of a resolution to withdraw from the contract (Higgins, 2014b). This situation highlights the EAA's unstable legal foundation and underscores one reason why establishing the EAA in statute is important.

Evolution of Proposed EAA Legislation

After the failure to pass the expansive EAA legislation in the 2012 lame-duck session, the Legislature came back in March 2013 with a less ambitious, but still comprehensive bill, HB 4369 of 2013.²⁵ The most controversial provisions, notably those permitting the EAA to take

²⁵ The legislative history for 2012 HB 6004 and 2012 SB 1358 are also instructive.

over unused school buildings throughout the state, were eliminated. Restrictions were also added on the location of EAA charter schools and the total number of EAA schools was limited to 50. These changes were directly aimed at calming the criticism of the earlier bills and gaining votes in the Legislature. They were not successful. If anything, the EAA's opposition had grown and become better organized in the interim. Highly contentious debates immediately rekindled.

By the time HB 4369 was introduced, the EAA had come under criticism on several fronts, including financial and academic (Chambers, 2013; Cwiek, 2013; Dawsey, 2013; Zubrzycki, 2012). Possibly in recognition of this criticism, one change in the bill, with possible implications for the future, was a more general definition allowing for an "achievement authority" which might not be the EAA. The parties to a new interlocal agreement would still, however, be a public university and a school district with an emergency manager.

After much negotiation and revision, HB 4369 passed the House of Representatives in March 2013. In December 2013, the Senate finally passed the bill in a very different form. Then in March 2014, the bill passed the House for a second time, but not before impassioned opposition, both within and outside the Legislature, delayed passage while legislators negotiated additional compromises. Adding to the controversy, as mentioned earlier, in February 2014 the state Reform District gave notice that it was terminating the Transfer Agreement effective one year later. When the EAA loses its exclusive control of state Reform District schools, the result will be the exact opposite of the total control originally proposed.

In April 2014, the EAA's responses to a state legislator's FOIA requests were published, exposing financial problems (Cwiek, 2013). That month the Senate attempted to again pass HB

4369, but adjourned in June without being able to bring it to a vote, leaving the EAA's future uncertain.

The versions of the 2013 bill last passed by the Senate (S-3) and the House (H-3) differ from one another and differ dramatically from the initial bills introduced in the November 2012 lame-duck session. The 2012 bills went well beyond what would be necessary to implement the rollout EAA vision of June 2011. By contrast, the pending bills have been stripped down to two key provisions giving the EAA authority to borrow money and pledge state aid payments,²⁶ as well as control and management of the state Reform District (which would essentially reverse the MDE's termination of the Transfer Agreement). Significant compromises include the removal of capital bonding authority, further limits on the total number of EAA schools, and recognition of intermediate school districts as an alternative intervention for low-performing schools. Most important, though, is the EAA's essentially unchanged and increasingly precarious legal status under the ILA, even if the pending bills were to pass.

The original 2012 bills would have created the EAA as a new kind of school district with unusually broad powers. It would have codified the provisions of the ILA and the Transfer Agreement, and made the EAA the state school reform district. At the same time, the EAA would not have been limited to state reform district schools or even to low-performing schools. It could have created and operated all sorts of innovative schools and gained control of unused

²⁶ Borrowing authority in the Revised School Code is granted to general powers school districts in sections 1225 (borrowing and pledging state aid payments) and 1351A (borrowing and issuing bonds for capital projects). The EAA is not, and cannot be, a general powers school district because it does not have an elected board. As introduced, HB 4369 made the EAA a new kind of school district with the same borrowing authority as granted to a general powers school district (in sections 1225 and 1351A). These powers could be helpful in efforts to pursue the objectives of Governor Snyder's 2011 educational message. The current versions of HB 4369 would instead grant only section 1225 authority (the power to borrow money and pledge state aid for its repayment). These latest versions of HB 4369 would not grant the authority to borrow and issue bonds for capital projects.

school buildings in any Michigan local school district. The bills were carefully planned and written, a grand and ambitious plan that was consistent with Governor Snyder's 2011 vision for educational innovation outside the system of traditional public schools.

The pending versions of the 2013 EAA bill bear little resemblance to that grand plan. In fact, the pending bills represent a significant concession. The EAA has always had the ability to expand. There are no limits in the ILA or in the Transfer Agreement on the number of EAA schools. Pending legislation would limit, not expand, the number of schools the EAA could control. It is an indication of the EAA's unpopularity in the Legislature that its backers have been willing to forsake powers the EAA already possesses in order to get borrowing ability and control of the state Reform District in statute.

The contentious politics that began with the introduction of the 2012 lame-duck bills was exactly what the governor had initially hoped to avoid by creating the EAA through a private agreement, under the radar and out of the public eye. In the end, though, controversy was not avoided, only postponed. Indeed the route chosen likely generated political obstacles to crafting coherent policies for low-performing schools and for Detroit that otherwise would have been absent or manageable. Once the EAA became associated in the public eye with the goal of disruptive innovation for Michigan's education system as a whole, its political prospects waned.

An interesting question is whether an EAA bill that included only the essentials from the beginning would have been passed with little controversy. Did the bill's supporters create their own problems with extreme overreach in the beginning? Did they expect so much pushback? If so, did they expect that the controversy would focus on the bill's extreme provisions and go away once those were deleted? Or did they expect to push the original bill through, despite opposition, as happened with the emergency manager law and right to work legislation?

7. Drawing Lessons, Looking Forward

As the previous sections in this report have shown, none of the three-fold policy goals which inspired the EAA's creation--turning around low-performing schools, establishing a Detroit portfolio district, and facilitating free market innovations in schooling throughout Michigan—were realized when the EAA became a reality. Given the fundamental lack of alignment of these policy objectives in the EAA's policy design, it appears almost certain that the state will take other approaches to attaining these goals. In fact, some of these changes could begin as soon as the 2014 lame-duck legislative session.

With the termination of the Transfer Agreement between the Michigan Department of Education and the EAA, the EAA is no longer uniquely responsible for turning around the state's low-performing schools. Indeed as responsibility for improving the bottom 5% of schools now reverts back to the Michigan Department of Education, it is unclear what if any future role the EAA will play in assisting low-performing schools. Going forward, if the state Reform Officer places no schools in the EAA, then one ironic legacy of the EAA will be that no low-performing schools from the state Reform District were ever placed in the EAA. Thus far, only the Detroit Public Schools emergency manager has placed schools in the EAA.

Freed from the responsibility of turning around Michigan's low-performing schools, the EAA could now be recast to focus more directly and effectively on either of the system's other two original goals. It could, for example, become the central administrative unit of a portfolio management district for public schools in Detroit. Alternatively, the EAA could be redirected to facilitate free market, student-centered (not district-centered) "Any time, Any Place, Any Way, Any Pace" learning models for students across Michigan. Of course, it is also possible, given the

political controversy currently attached to the EAA and its precarious legal status, that promising efforts to advance either of these objectives would be better served through policy initiatives other than the EAA. In which case, the EAA might fade from Michigan's educational landscape.

We conclude this report with a few observations, informed by Michigan's experience with the EAA, on the design of state education policies. We focus first on the turnaround of the state's academically struggling schools, and then current options for public schools in Detroit.

Turning Around Low-performing Schools

Michigan has made sadly little progress in designing a statewide strategy for turning around low-performing schools. On this count, the state is essentially back to square one. Despite the committed efforts of many well-intentioned educators in EAA schools, the state has yet to establish a policy framework in which those efforts could enjoy broad success. As a turnaround strategy, the EAA has been a half-hearted and conflicted effort. If Michigan hopes to significantly improve student outcomes in its most challenged schools, it must pursue a serious and sustained policy response. This is extremely hard work. Noting that schools are currently "terrible" and the state has to do "something" does not constitute a justification for doing just "anything."

The state's current approach to school improvement through the EAA is better characterized as a "start-over" strategy than a "turnaround" strategy. In the tiny set of schools under its authority, the EAA tried to start afresh with different administrators, teachers, and, in many cases, students. The EAA's nonunion employment relations also differed from those previously in place. The improvement strategy was marked from the beginning by an unresolved tension over whether schools would return to their original district or continue indefinitely under the EAA's authority. To establish coherent school improvement strategies, Michigan policy

makers must decide whether they are aiming to improve existing schools, with the people who teach and learn in those schools, and in partnership with those who govern those schools, or whether they are pursuing improvement along different lines.

Michigan policy makers should not fool themselves into believing that the state's school turnaround policy can succeed by merely altering governance and management arrangements. As they consider turnaround strategies for Michigan's most challenged schools, we recommend that policy makers devote greater attention to the critical importance of financial resources, technical expertise, and organizational trust in these efforts.

Financial resources. Michigan has tried to do school turnaround on the cheap, hoping that it could be accomplished with negligible new public resources while merely reconfiguring school governance and management. This meant that the EAA had to rely on philanthropic donations and was fraught with continuing financial problems. Additional resources, beyond the prevailing state per-pupil funding, are necessary to implement the sorts of changes in school operations that are needed.²⁷

It is also important to recognize that Michigan's overall school funding system fails to adequately account for the additional costs associated with student poverty and special education status in the delivery of needed educational services. Michigan's lowest performing schools have disproportionate concentrations of high-cost students. Future efforts to turn them around should address this disadvantage by changing school finance policy so that the state revenues that districts and schools receive more closely match the local costs they confront.

²⁷ It is noteworthy that the portfolio districts most cited as examples for Detroit are in states that, unlike Michigan, received additional federal funding, either in direct aid (Louisiana/New Orleans after Hurricane Katrina) or federal Race to the Top funds (New York, Tennessee, and Washington, DC, and to a lesser extent Louisiana, Illinois, and Pennsylvania). Without additional funding, the EAA's financial struggles will be repeated in any new reform district.

Technical expertise. Technical expertise refers to the knowledge of what education researchers call the instructional core. It informs efforts to change the way teachers and students interact around subject matter. Change in the instructional core requires teachers and principals to learn something new, to change their professional practice. If Michigan's turnaround strategies are to have any hope of success, they must draw more deliberately on existing research-based knowledge and technical expertise in teaching and learning. Relevant expertise also extends to human resource systems for school employees, school finance and budgeting, and community relations.

Much of this knowledge already exists in Michigan's universities, intermediate school districts, and charter school authorizers. Relevant expertise may also reside in charter management organizations and specialists in support and professional development services. If the Michigan Department of Education tapped, coordinated and evaluated diverse turnaround strategies among credible options, we would learn more about what works in which settings. To fulfill this new responsibility, the MDE would need added professional capacity, including new staff with appropriate skills. By contrast, the EAA pursued an untested, one-size-fits-all intervention model for the schools it managed.

Trust. Trust plays a critical role in well-functioning organizations, including schools (Bryk & Schneider, 2002; Bryk, et al., 2010). Nobel economist Kenneth Arrow (1974) describes trust as a "lubricant," greasing the way for efficient organizational operations. Trust promotes effective communication, cooperation, and adaptability, which are the foundations for effective relationships in schools. As trust declines, organizational effectiveness declines as people engage in self-protective actions and guard against the opportunistic behavior of others.

Research indicates that trust is strengthened when parties have ongoing relationships in which their interactions demonstrate benevolence, support, and concern. Trust is also promoted when the behavior of those in authority positions is characterized by open communication, transparency, consistency, integrity, and a willingness to share control.

The importance of trust for the turnaround of schools designated as “failing” can scarcely be overstated. When teachers and administrators feel threatened, or held accountable for problems beyond their control, it erodes trust and ultimately impedes change. The changes may include cutting jobs, altering the way administrators share power, and adopting new teaching materials and practices. Establishing trust among students, parents, families and surrounding local communities is also important. Unless care is taken, state turnaround interventions can easily create contentious and distrustful school and community environments that weaken the foundations for sustained improvement.

The EAA sought to circumvent the difficult issue of establishing trust among existing members of a school community by recreating anew the school community and its social relations. The Michigan Department of Education should evaluate how that approach worked in order to inform future school improvement efforts.

Public Schools and Detroit’s Redevelopment

As the City of Detroit emerges from municipal bankruptcy, the imperative for school improvement takes on an urgency rarely witnessed in a U.S. city. Under the cover title, “The Big Bet on Detroit,” the entire Fall 2014 issue of *Crain’s Detroit Business* aptly displays the excitement of investors and developers in a city on the cusp of what could be an astonishing and historic transformation. But if Detroit is to once again become a preferred place of residence for large numbers of middle class households, then it must establish public schools that appeal to

such families. The sort of robust growth and real estate boom that investors now anticipate requires improved public schools in areas marked for redevelopment.

Among the 25 largest U.S. cities, Detroit has the highest poverty rate (34.5%) and the highest share of black residents (82.2%). Yet people outside Detroit now control its public schools. Emergency managers appointed by the governor have run Detroit Public Schools since 2009. The EAA's schools are controlled by a board to which the governor appoints a majority of members. Charter school authorizers—mostly state universities far from Detroit—control charter schools that currently enroll roughly half of the public school children in the city.

The status quo in Detroit's public education is characterized by one of the highest levels of school choice of any U.S. jurisdiction. Yet while Detroit families have many schooling options, choice and competition have not solved the city's educational problems. Indeed if ever there was a city that placed the consequences of unregulated market forces in education on full display, it is Detroit. This, in any case, appears to be the emerging view of the city's civic and economic elite.²⁸

The case for why a portfolio district is needed has recently been summarized in a remarkable report commissioned by Excellent Schools Detroit (Institute for Innovation in Public School Choice, 2014). The report is notable both because of its detailed depiction of Detroit's chaotic brand of school choice and because prominent representatives of the state's charter schools served on the report's advisory board. According to the report, unregulated competition in Detroit has produced many negative side effects. Families lack information on schools and enrollment procedures necessary for fair access. Schools engage in cutthroat competition to

²⁸ It is important to recognize that the systemic impacts of school choice vary across states due to differences in the design and implementation of their choice and school finance policies.

enroll students “by any means necessary,” offering (despite their misgivings) iPads and sneakers to attract them. Students with disabilities lack equal school access, and some schools force out students without due process. Student mobility without centralized records means schools often lack basic information, including student contact information and academic records. And in a city with scores of vacant school buildings, there is no coordination of supply and demand or assurance that the worst-performing schools exit the market.

In view of such inequities and inefficiencies, the report calls for common, centralized systems for enrollment, student records, and transportation for all public school students in Detroit, including charters. *Crain’s Detroit Business* reported that Eli Broad supports the Excellent Schools Detroit plan for a portfolio district, and that he “believes a proposal for such a district will happen by February [2015].” (Goodaker, 2014, p. 76). Under Michigan’s emergency manager law, the elected DPS school board could regain authority over the district on January 15, 2015, although provisions in the law would likely block immediate transfer back to the board.

The formation of a portfolio district is not the only or necessarily the best strategy for improving Detroit’s schools. It may, however, have greater political salience than alternatives as a solution to the current disarray in the city’s public schools.

Three first-order challenges stand in the way of a Detroit portfolio district: (1) charter schools must be brought under the district’s administrative control, (2) a plan to finance DPS’s debt must be worked out, and (3) the district’s governance structure must be established.

Charters in the portfolio. The DPS emergency manager could transfer all DPS schools to the EAA or another newly-created authority, but a portfolio district would be hard pressed to function effectively if half or more of the city’s students remained outside the portfolio. To

bring charter schools within the portfolio, charter authorizers would have to relinquish some powers they currently possess over where and when charter schools open and close within Detroit. Charter schools may also have to participate in certain district-wide systems—admissions, records, special education, transportation, safety, etc. Such changes could encounter opposition from charter authorizers and management companies and their supporters in the Legislature who embrace less regulated market competition.

In this regard, an extensive, high-profile, eight-day *Detroit Free Press* series in June 2014, entitled the “State of Charter Schools,” is noteworthy.²⁹ The *Free Press* is Michigan’s largest circulation daily newspaper. An accompanying editorial noted that:

Charters absorb nearly \$1 billion a year in taxpayer dollars with mixed results—from spectacular to numbingly, chronically awful—in a leaky state system that allows some bad actors to prosper through self-dealing and management companies to hide taxpayer money and their own profits behind a cloak of privacy.... Truly putting children first means reforming how charter schools are authorized, operated and managed—emphasizing high standards, deadlines to meet those standards and transparency on behalf of management companies.

The *Free Press* series triggered a torrent of critical letters, commentaries and press releases from charter school advocates. It also prompted the state superintendent to announce the possible suspension of further chartering authority for 11 poorly-performing charter authorizers, including some with many Detroit schools. Authorizers at risk of suspension met with the state superintendent, but a final decision on suspensions has yet to be issued at the time of this writing. Legislators also introduced bills, yet to move in the Legislature, designed to more tightly regulate Michigan’s charter authorizers and charter schools. After its series, the *Free Press* reported a

²⁹ The entire series is available at www.freep.com/charters.

public opinion poll that showed wide support for greater regulation of the state’s charter schools (Jesse, 2014a).

Given the diverse interests at stake and the multiple dimensions of Michigan’s school choice policy design and implementation, it may be possible for interested parties to negotiate arrangements that would facilitate the inclusion of charter schools in Detroit within a portfolio district. One possibility for advancing such an outcome would be arrangements that help protect the interests of charter schools within the portfolio district, such as representation on an oversight board or through the district’s operating rules.

The DPS debt. If a new portfolio district is to have a realistic chance for success, the DPS debt must also be addressed. Thus far emergency management has not solved the DPS financial problems. It has merely kicked the can down the road by translating short-term obligations into longer-term ones. The fundamental source of the district’s financial problem has not changed—declining enrollment in a state funding system in which all operating revenue follows students. The obligation to repay those debts will continue to squeeze revenues available for school operations in a Detroit portfolio district. It also complicates arrangements for including charter schools in the portfolio.³⁰

Who will pick up this tab? There are many options, but they mostly boil down to Detroit taxpayers (which ones?), the state, and/or private philanthropies. Even if a new administrative entity were created to govern portfolio schools in Detroit, DPS could continue to exist as a taxing entity responsible for repaying the district’s debts. It could, for example, dedicate the 18 mills of

³⁰ Financial arrangements are just one of many provisions that would have to be resolved in establishing a portfolio district. Would charters in the portfolio enjoy a financial advantage compared to other portfolio schools by not having to contribute to the DPS debt repayment? Would charter schools gain access to facility funding currently available to all Michigan school districts, including DPS, but not charter schools? Would charter schools be funded directly by the state or through the central administrative unit of the portfolio district, and so forth?

non-homestead local property tax that all Michigan school districts collect (or perhaps other new levies) to this purpose, in order to repay the debts over time.

This strategy, however, would probably obligate the state to contribute additional funds to the district, because the local non-homestead revenues comprise the local contribution to the per-pupil foundation grant used to fund operations in all Michigan districts. Such a strategy was arranged by the state and the emergency managers in the Highland Park and Muskegon Heights school districts. But Detroit's enrollment is a much larger than those two tiny districts, so the amount of state revenue needed to make the Detroit foundation grants whole would be considerably larger. Alternatively the state could assume part of the DPS debt in order to help the city's new education system get off on a fresh financial start.

Finally, assistance with the DPS debt could come from private foundations and philanthropies. Such a possibility is not entirely far-fetched, given the perceived importance of, and potential returns to, coherent reforms to the city's public schools. Indeed private foundations played a critical role in contributing hundreds of millions of dollars to a "grand bargain" in order to help resolve the City of Detroit's municipal bankruptcy in 2014 and in founding the EAA.

Of course, some combination of local, state and philanthropic revenues might be coordinated to shore up Detroit's public school finances, as happened in the city's municipal bankruptcy. If the state were to provide a substantial contribution, it might also come on the condition that the state would have an ongoing oversight role in Detroit school finances, potentially along the lines of the state financial review commission that will oversee the municipality's finances for at least 10 years.

But the mention of the City of Detroit's closely-watched bankruptcy proceedings suggests yet another option for addressing the DPS debts. The school district could declare

bankruptcy. This would raise a host of messy legal issues, some of which would be quite distinct from those pertaining to the city's bankruptcy. One aspect concerns the pension benefits of current and former school employees. Unlike the city employees, DPS employees are part of a statewide school employee pension system.

Bankruptcy would also place the state's emergency manager policy in an unfavorable light, since the district has been under the control of a governor-appointed emergency manager since 2009. Under the law, the emergency manager has complete control over all aspects of the district's operation. Questions would naturally arise as to why DPS's three emergency managers have failed to rectify the district's financial problems, despite implementing aggressive changes in district operations. We have argued elsewhere that a close evaluation of Michigan's emergency manager law indicates that it is, in fact, quite weak as an accountability policy (Arsen and Mason, 2013). The policy has more to do with shifting control over schools than improving accountability. The emergency manager law authorizes emergency managers to declare bankruptcy with the governor's approval.

Despite the drawbacks, one potential advantage of bankruptcy in the view of some would be its alignment with the disruptive innovation goal embedded in the original EAA policy. Bankruptcy would probably entail liquidating district assets. Key among them would be the district's school buildings and land which could be sold to private education service providers and other real estate development interests, as part of a thorough reconceptualization of schooling in a revitalized Detroit. In that respect, bankruptcy could offer a different way to shift control of at least DPS buildings than the original, overreaching 2012 lame duck EAA bills that caused such uproar in suburban and outstate districts. It could also be compatible with piecemeal implementation of the Oxford Plan's vision.

Governance of a portfolio district. In principle, a portfolio district could function within the governance structure of a traditional public school district where local voters elect a governing board. In such an arrangement the elected school board could oversee a diverse set of for-profit and nonprofit contract schools, charter schools or autonomous district schools. Individual schools could be given considerable operational autonomy. The school board could hire a superintendent and provide guidance to the district's central administration. The administration, in turn, could weed out poorly performing schools and attract more promising providers. It could establish a uniform enrollment system to match students with their school of choice within the district. And it could maintain, as in most traditional districts, uniform student records that move with students from school to school, and common special education, transportation, and technology services.

The supporters of the portfolio district concept, however, generally view it as incompatible with an elected board governance structure. Intervention by the state government would be required to establish a different governance system in Detroit. Although the new governance arrangement could take a variety of forms, most are variants of two main options: the Detroit mayor or a state authority.

The state could transfer control of DPS to the mayor of Detroit. Public schools in a number of large U.S. cities fall under the mayor's authority, including some that are now implementing versions of the portfolio concept such as New York, Chicago and Washington, D.C. Excellent Schools Detroit has consistently called for mayoral control of public schools in Detroit. In that case, the locally-elected school board would be permanently disbanded, and the mayor would appoint the central administrators who oversee the portfolio district's operations.

Mayoral control of urban schools provides a single person who voters can hold accountable for school performance. Mayoral control lessens concerns about disenfranchisement, since citizens would elect the mayor rather than board members. But some may lack confidence in democratic institutions and worry that mayoral control does not sufficiently protect schools from the election of “bad” mayors. Nor would it preclude instability in reform efforts. Since his election as New York City mayor in 2013, Bill DeBlasio has altered the trajectory of the education policy established during Mayor Michael Bloomberg’s administration. Michelle Rhee stepped down as Washington, D.C. school chancellor when incumbent mayor Adrian Fenty lost his 2010 primary election.

To reduce that risk, the state could establish mayoral control accompanied by a state-appointed oversight board. The rationale for such a board could be linked to new state funding to help resolve DPS’s debts.

Alternatively, the state could create a new entity or expand the authority of an existing one to govern public schools in Detroit. The New Orleans portfolio district falls mainly within a state-level authority. The Michigan Department of Education and/or the Department of Treasury could play roles. Even the EAA, with its appointed board, could become the governance authority for a portfolio district, so long as its legal authorization was established in statute. Given the EAA’s controversial track record, however, legislative deliberations over assigning it expanded authority over Detroit schools could bog down. So it may be preferable for the state to create a new education authority with an appointed board to oversee a Detroit portfolio district.

One legislative scenario could even establish quick authorization for a portfolio district in the waning days of the 2014 lame-duck session. The powers assigned to the EAA under the original March 2013 bill (HB 4369) would empower it (or another authority) to serve as a Detroit

portfolio district. The House and Senate have passed different versions of much weaker bills. Substitute language that reinserted key provisions of the original bill, however, could be placed in the pending bills in the House or Senate and passed by both chambers in a single day. Otherwise both versions of the bill would die at the end of the 2014 legislative session, and a new bill would have to be introduced in the next session, starting the committee hearing and legislative process anew³¹

If legislative support for establishing a singular central administrative unit governing all Detroit public schools is insufficient, then progress towards a portfolio district will have to follow a slower, possibly more piecemeal, but hopefully more deliberative trajectory.

If, however, new governance arrangements for a Detroit portfolio district can win state approval, whatever form they take, the state may seek to quickly assemble the district's leadership and central office administration. In that event, it may be useful to consider the EAA's current administration. The newly appointed chancellor, Veronica Conforme, has experience working under Mayor Michael Bloomberg and school chancellor Joel Klein to create a portfolio district in New York City.³²

Further Reflection

Given the chaotic current state of public education in Detroit, the portfolio district concept is likely to gain support over time among diverse interests hoping that it may bring more order, efficiency and fairness to the city's education landscape. It will require joining parties with divergent interests who can modify their private preferences and agendas, because they recognize that new possibilities, previously unattainable, become achievable as sufficient support

³¹ Indeed a strategy of just this sort was used in the passage of the replacement emergency manager law in the Legislature's 2012 lame-duck session, after the repeal of the prior law by voters just weeks before.

³² Appendix E provides brief background information on Veronica Conforme's appointment as EAA chancellor.

and cooperation are brought together. To be effective, it will require ongoing negotiations and compromise among coalition partners and hidden costs in the form of obligations to other partners.

The specific character of a portfolio district is not predetermined, but turns rather on countless features of policy design and implementation. Those choices will determine whether any new educational regime better serves the interests of so many Detroit families who have long endured poverty, segregation, and discrimination.

How will the new regime assure that Detroit families, like their counterparts in more affluent Michigan communities, can lodge their preferences regarding their neighborhood schools as citizens, not just consumers? How will it promote the professionalism of teaching in Detroit schools, such that it becomes an attractive career choice for talented and committed teachers? How will it make the most of an historic opportunity to promote racial and social class integration in the schools of the nation's most segregated city?

Appendix A

Purpose of the EAA

Excerpt from the Interlocal Agreement between
Detroit Public Schools and Eastern Michigan University

Section 2.01. Purpose. The purpose of this Agreement is to create and empower the Authority to implement the powers, privileges, and authority of each of the Parties consistent with this Agreement to provide innovative, flexible, transparent, safe, efficient, and effective public educational services throughout the State, including, but not limited to, all of the following objectives:

- (a). Design of quality public elementary and secondary education programs.
- (b). Improvement of public learning environments and student achievement for all students, including, but not limited to, educationally disadvantaged students.
- (c). Preparation of public school students to compete globally in a knowledge-based economy.
- (d). Developing a system of higher expectations for public schools, students, and educators.
- (e). Expansion of flexibility and adaptability for public student learning models and styles.
- (f). Stimulation of innovative public school teaching methods.
- (g). Creation of new professional opportunities for teachers within a public school structure and educational programs innovatively designed and managed by teachers directly engaged in the provision of educational services.
- (h). Providing parents and students with greater public educational choices both within and outside existing school districts, including, but not limited to, the ability to select globally-competitive public schools.
- (i). Facilitating the extension of technology and online learning.
- (j). Encouraging public and private commitment to the innovative, flexible, transparent, safe, efficient, and effective provision of public educational services throughout the State and fostering public-private partnerships.
- (k). Renovating, repurposing, and constructing public educational buildings or buildings used for public educational services.
- (l). Remodeling public educational buildings or buildings used for public educational services, including energy conservation, safety, and security improvements.
- (m). Acquiring, improving, and developing sites, including athletic and recreational facilities.
- (n). Furnishing, refurbishing, equipping, and reequipping public educational facilities or facilities used for public educational purposes.
- (o). Acquiring, installing, and upgrading technology access and equipment in and connecting public educational facilities and facilities used for public educational services.
- (p). Providing for the safety and security of facilities, personnel, and students.

Appendix B

Powers of the EAA

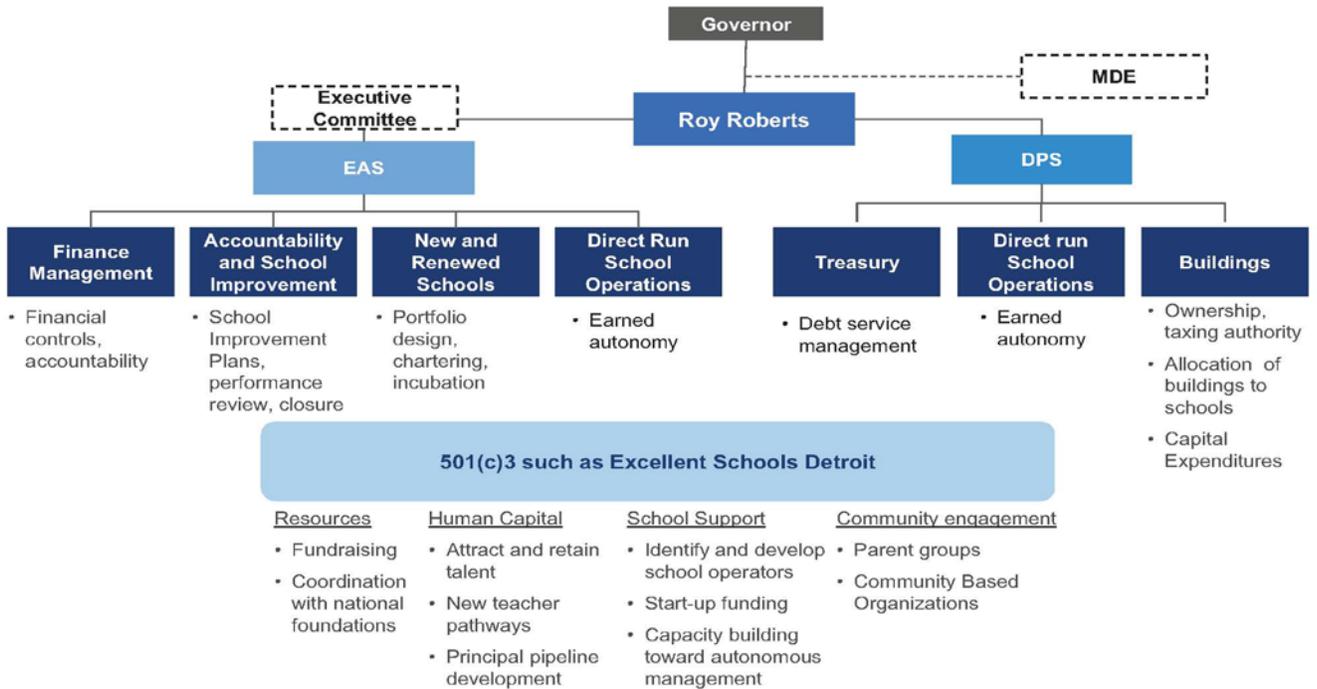
Excerpt from the Interlocal Agreement between Detroit
Public Schools and Eastern Michigan University

Section 5.01. Common and Shared Powers. The enumeration of a power, privilege, or authority in this Agreement shall not be construed as limiting the powers, privileges, or authorities of the Authority. In carrying out its purposes, the Authority may perform, or perform with any Person, as applicable, any power, privilege, or authority that the Parties share in common and that each might exercise separately to the fullest extent permitted by the Act, including, but not limited to the provision of innovative, flexible, transparent, safe, efficient, and effective public educational services and all of the following:

- (a). Controlling and operating public elementary and secondary schools.
- (b). Using schools and school property as schools of observation and practice and furnishing of equipment, teachers, and administrators deemed necessary to provide the observation and facilities.
- (c). Operating an instructional program in grades K-5, 6-8, 9-12, or any combination of those grades.
- (d). Functioning as an authorizing body for a public school academy, a school of excellence, a strict discipline academy, or other public school . . .
- (e). Providing other educational services, including, but not limited to, educating students in grades K-12, operating preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs.
- (f). Providing for the safety and welfare of students while at school or a school sponsored activity or while en route to, or from, school or a school-sponsored activity.
- (g). Acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.
- (h). Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out Authority privileges, powers, and authorities.
- (i). Receiving, accounting for, investing, or expending money; borrowing money and pledging money for repayment; and qualifying for state school aid and other public or private money from local, regional, State, or federal sources, including, but not limited to, money appropriated under The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896 . . .
- (j). Maintaining eligibility for all applicable State categorical and federal aid.
- (k) Making claims for federal or state aid payable to a Party on account of the execution of this Agreement, with the consent of the Party.
- (l). Operating a library, museum, or recreational facility.
- (m). Employing legal, accounting, financial and technical experts, other officers, agents, or employees, and accepting voluntary provision of such services and functions from donor individuals and entities.
- (n). Providing for the safety and security of facilities, personnel, and students.

Appendix C

Implementing the EAS in Detroit



http://www.michigan.gov/documents/snyder/EducationAchievementSystemPPT_356030_7.pdf

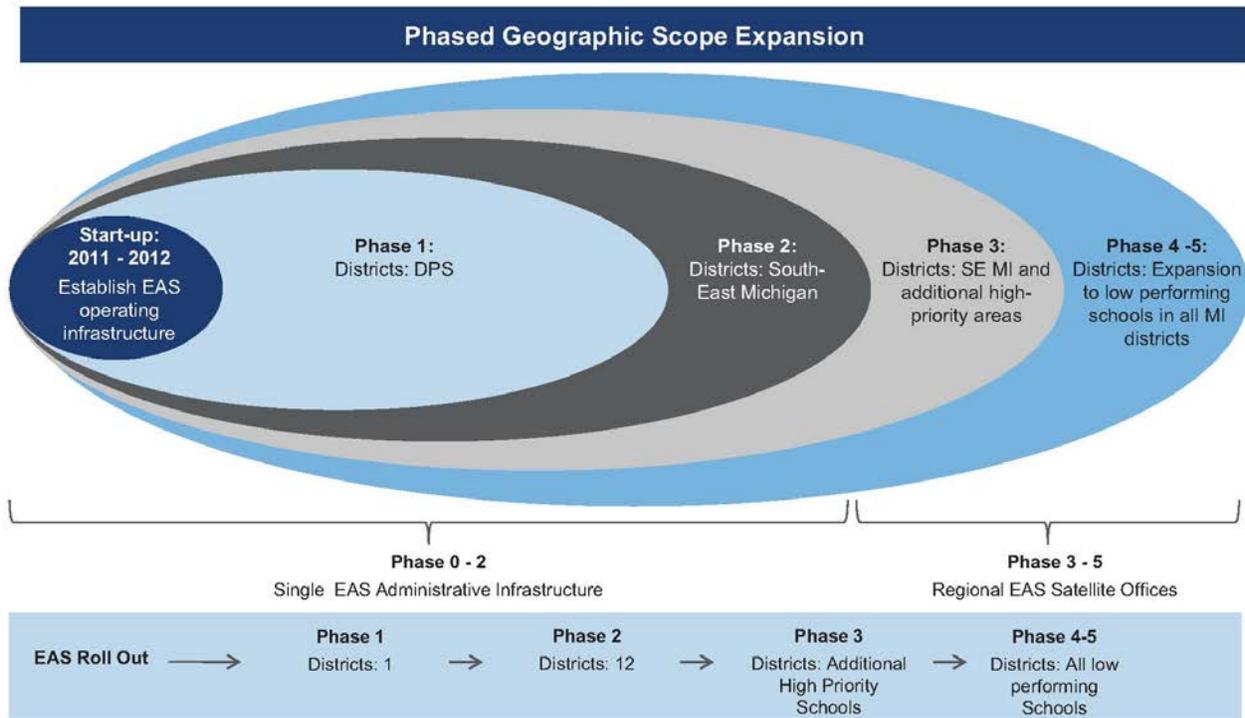
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Appendix D

Planned Expansion of the EAA

The EAS Will Start in Detroit and Expand Its Geographic Reach in Phases



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Appendix E

Appointment of New EAA Chancellor

On June 17, 2014, the day after EAA Chancellor John Covington abruptly resigned, the EAA executive committee, at a previously scheduled meeting, accepted his resignation and appointed Veronica Conforme as interim chancellor.³³ EAA executive committee chair Joyce Hayes Giles then expressed the committee's intention to have a full, national search for a new chancellor (Education Achievement Authority, 2014c; REMC Association of Michigan, 2014b).

Because announced plans changed course without notice or explanation, the search and hiring process was difficult for the public to follow. The EAA executive committee, often with the board, met ten times from June 17 through November 11. The chancellor search and hiring was discussed or on the agenda, or both, at all of them.

- June 17 Board of Directors and Executive Committee special meeting
 - Accepted Covington's resignation; appointed Conforme interim chancellor.
 - Conforme was introduced as:
 - Recommended by the board,³⁴ though there had not been a board meeting where this recommendation was considered.
 - "Currently the COO of the EAA," which was not correct.
 - There was no discussion of qualifications, duties, compensation, or other related matters.
- June 30 Board of Directors and Executive Committee meeting
 - Approved interim chancellor's contract (without discussion).
 - Term: June 17, 2014 through July 31, 2014.
 - Compensation: \$325,000 annually, prorated (the same as Covington's salary at the time he resigned).
 - Housing allowance: \$2,000/month.
- July 17 Executive Committee special meeting
 - Chose a firm to conduct the search for chancellor candidates.
 - Lengthy discussion of the qualifications of the search firm but no discussion of preferred qualifications of candidates or of procedure, timing, or any other aspect of the search.

³³ It appears that Conforme had been working as a consultant to the EAA since January, 2014. Unlike other central office employees or consultants, however, Conforme's hiring and the terms of her consulting contract were never, so far as we can find, approved by the executive committee or even discussed at a public meeting.

³⁴ This was not reported in the minutes of the meeting, but can be seen on the video of the meeting at <http://www.mistreamnet.com>

- August 26, 2014 Board of Directors and Executive Committee meeting
 - Approved extension of interim chancellor’s contract until October 1, 2014.
 - No discussion of reasons for extension and no update on progress of chancellor search.

- September 8, 2014 Board of Directors and Executive Committee special meeting
 - The interview committee, consisting of three members, two from the board and one from the executive committee, interviewed the four chancellor finalists recommended by the search firm.
 - Executive committee chair announced the next meeting for September 10, two days later. Though not in the minutes of the meeting, the chair also announced that a final decision would be made at the meeting.³⁵

- September 10, 2014 Board of Directors and Executive Committee special meeting
 - There was a lengthy discussion of the search process and the candidates, with some disagreement about how to proceed to a final decision.
 - Some members were not comfortable with the speed of the process and the lack of opportunity for other board members and the public to participate in this important decision.
 - One member insisted that the executive committee had agreed on a process and schedule that should not be altered. (If there was such an agreement, it was not reached at a public meeting.)
 - Finally, the three interviewers identified their first and second choices. All identified the same two top candidates, Veronica Conforme, EAA interim chancellor, and Carlton Jenkins, superintendent of Saginaw Public Schools. Conforme was the second choice for two interviewers, and first choice for one.
 - After further discussion, members agreed to postpone their final decision in order to arrange for public participation in the process, including opportunities for the general public, specific stakeholders, and other board and executive committee members to meet and interact with the two candidates. The majority of the board and executive committee had not met the candidates in open session and some expressed a desire to do so. Because the interim chancellor’s contract ended on October 1, the goal was to hold the meetings before that time.

³⁵ The video of the meeting is at <http://www.mistreamnet.com>

- October 1, 2014 Executive Committee special meeting
 - Only three members of the executive committee were present, all by phone.
 - Approved extending the interim chancellor’s contract through December 31.
 - Minimal discussion.
 - No reason given for the change of chancellor search plans since the last meeting.
 - Less than a week later, the second candidate withdrew, leaving Conforme as the only candidate.
 - After this, the executive committee chair said that a meeting would be scheduled in the next two weeks to decide on next steps (Zaniewski, 2014).

- October 23, 2014 Board of Directors and Executive Committee special meeting
 - “Discussion of chancellor search” was the last item on a long agenda.
 - The meeting was adjourned without ever bringing it up.

- November 5, 2014 Board of Directors and Executive Committee special meeting
 - The board chair summarized the chancellor search process.
 - Approved Conforme as chancellor.

- November 11, 2014 Board of Directors and Executive Committee meeting³⁶
 - Approved chancellor’s contract.
 - Term: November 5, 2014 through June 30, 2018 (automatic 1-year renewals unless the executive committee gives notice of intent to terminate by December 31 of that year)
 - Compensation: \$325,000 annually
 - Relocation expenses: \$25,000
 - Housing allowance: \$2,000/month for up to 6 months
 - Automobile allowance: \$8,000 annually

The EAA has provided virtually no information to the public on Veronica Conforme. Other sources indicate that Conforme was a consultant to the EAA beginning in January 2014. In May 2014, she included information regarding her EAA contract in an application for the position of superintendent of the Orleans Parish Public Schools in Louisiana.³⁷ She described herself as an independent consultant to the EAA on operations and described the duties she

³⁶ At this writing there are no minutes, proposed or final, of this meeting posted on the EAA website. There is, however, a transcript of the meeting.

³⁷ http://media.nola.com/education_impact/other/Application%2056%20-%20Veronica%20Conforme.pdf

performed. The application also lays out her employment and education background. None of this information was publicly disclosed by the EAA.

Conforme had worked for the New York City Public Schools for 10 years, from 2003 through April 2013. Because the public schools are a department of the city, the schools are under mayoral control and the chancellor is appointed by the mayor. Conforme served in a variety of financial and operations positions under school chancellor Joel Klein during his tenure, including the cabinet level position of chief financial officer. During this time, Klein implemented Mayor Bloomberg's plan for the schools, which created a form of portfolio district. In her interview with the EAA, she described Klein as her mentor. She listed him as the first reference on her application to the Orleans Parish School District.

Not long after Klein's departure from the New York City schools, in 2011 his successor appointed Conforme to the position of chief operating officer. In April 2013, in anticipation of the upcoming change in administration with the election of a new mayor, Conforme left the New York City schools. She then was a vice president of the College Board for eight months, until December 2013 when she became an independent consultant. The next month she began consulting for the EAA, apparently her only client. Less than a year after coming from New York City to consult for the EAA, Conforme became the EAA chancellor.

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