

# CHAPTER 43

## State Board of Education

(Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990), 59-5-65 (Supp. 2002), 59-18-110 (Supp. 2002), 59-18-300 (Supp. 2002), 59-18-310(B) (Supp. 2002) and 59-18-320(C) (Supp. 2002), 59-29-10, et seq. (1990 and Supp. 2002), 59-29-200 (1990), 59-33-30 (1990), 59-53-1810 (1990), 20 U.S.C. § 1232(g), and 20 U.S.C. § 6301 et seq. (2001))

### ARTICLE 3

#### REQUIREMENTS FOR TEACHER EDUCATION AND CERTIFICATION REGULATIONS

(Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990) and 59-25-110 (1990))

#### **43-50. Persons Required to Hold a Teaching Certificate.**

Each individual employed in an instructional, classroom teaching position or who serves in a position designed for the support of the instructional program in a public school of this state must hold an appropriate South Carolina teaching credential. The licensing of related educational professionals in the areas of Audiology, Nursing, and Social Work is remanded to the established licensing boards effective July 1, 2000. Individuals employed as Trade and Industrial teachers are required to meet all general certification requirements except where specified otherwise.

**HISTORY:** Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999.

#### **43-51. Certification Requirements; approval of alternative certification; authorization for the SBE to approve additional alternative certification programs.**

##### I. Requirements for Certification

The applicant must meet all requirements for certification that are in effect in the current application year (July 1-June 30). The responsibility for providing accurate and complete documentation of eligibility for certification is that of the applicant. To qualify for certification in South Carolina, the applicant must fulfill the following requirements:

A. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education (SBE), or from an institution that has programs approved for teacher education by a national accreditation association with which the South Carolina Department of Education (SCDE) has an established partnership agreement. Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

1. Graduate degrees acceptable for certificate advancement include academic or professional degrees in the field of education or in an academic area for which a corresponding or relevant teaching area is authorized by the SBE.

2. All credit at the graduate level must be earned through the graduate school of an institution that is accredited for general collegiate purposes by a regional accreditation association and that has a regular graduate division that meets regional accreditation requirements. Graduate credit can also be earned through a South Carolina institution that has graduate programs approved for teacher education by the SBE or through an institution that has graduate programs approved for teacher

education by a national accreditation association with which the SCDE has an established partnership agreement.

B. Submit the required teaching content area examination score(s) and the required score on the examination of general professional knowledge (pedagogy) as adopted by the SBE for purposes of certification.

C. Be at least eighteen years of age.

D. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation (FBI). If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the SBE and be approved before a certificate can be issued to them. Background checks from other states are not transferable to South Carolina.

## II. Acceptable Credits

A. All credits are computed by semester hours; three quarter hours are equivalent to two semester hours.

B. Duplicate credit will not be allowed for courses with the same title unless approved by the teacher certification office of the SCDE.

## III. Out-of-State Applicants

A. To be eligible for a South Carolina teaching certificate, the out-of-state applicant must submit the teaching area examination score(s) and the score on the examination of general professional knowledge (pedagogy) that are required for certification in the state in which he or she holds a valid standard out-of-state certificate. If no tests were required for certification in the state where the individual holds a valid standard certificate, the applicant for South Carolina certification must submit the required teaching content area examination score(s) as adopted by the SBE for purposes of certification. If the applicant has less than twenty-seven months of successful teaching experience within the last seven years in the state in which he or she holds a valid standard certificate, the applicant will be issued an initial South Carolina teaching certificate, and he or she must also submit the required score on the examination of general professional knowledge (pedagogy) as adopted by the SBE for purposes of certification in order to advance to a professional certificate.

B. Initial or advanced certification will be awarded only in the area(s) of certification held by the out-of-state applicant that most closely conform(s) to corresponding or relevant South Carolina area(s) of certification.

## IV. Alternative Preparation Program Applicants

A. An individual who qualifies under the Program of Alternative Certification for Educators (PACE) guidelines as adopted by the SBE may be issued an alternative route certificate. Successful completion of certification requirements as prescribed in the PACE guidelines as adopted by the State Board of Education will qualify the applicant for a professional certificate.

B. An individual who qualifies under the Teach for America (TFA) guidelines as adopted by the SBE may be issued an alternative route certificate. Successful completion of certification requirements as prescribed in the TFA guidelines as adopted by the State Board of Education will qualify the applicant for a professional certificate.

C. An individual who qualifies under the American Board for the Certification of Teacher Excellence (ABCTE) Act may be issued an alternative route certificate. Successful completion of certification requirements as prescribed in the statute will qualify the applicant for a professional certificate.

D. An individual who is seeking certification through Teachers of Tomorrow (ToT) must not be hired by a school district in South Carolina without completing the electronic fingerprinting process required by the teacher certification office of the South Carolina Department of Education at the time of application and without having undergone a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints and conducted by the Federal Bureau of Investigation pursuant to Section 59-25-115(B). Background checks are valid for a period of eighteen months.

1. A person who is seeking certification through Teachers of Tomorrow, who has a minimum of a bachelor's degree from a regionally accredited college or university or an institution with a teacher education program that has been approved by the SBE for certification purposes, who has earned a successful score on the certification content area examination approved by the SBE, and who has met the requirements of subsection D is considered to have met the requirements for certification and must be issued an appropriate alternative route certificate as determined by the SBE upon confirmation of employment by a public school or school district. The alternative route certificate must be valid for one year and may be renewed annually for two additional years upon the successful completion of teaching and of the hiring district's induction program.

2. A person who maintains a valid Alternative Route certificate for Teachers of Tomorrow and has been initially hired by a school district must be required, as a condition for professional certification, to successfully pass the South Carolina adopted pedagogy examination and to demonstrate teaching effectiveness by a successful summative evaluation at the annual contract level as part of the state's system for Assisting, Developing, and Evaluating Professional Teaching (ADEPT).

3. The SCDE shall submit annually by March thirty-first to the SBE and the General Assembly the total number of individuals employed in South Carolina with a certificate issued by Teachers of Tomorrow by district and non-privileged information on these individuals through the ADEPT reporting system. A person who has completed all requirements of this regulation and has been hired by a school district has the same responsibilities and rights as other teachers hired by the district.

4. The SBE is authorized to establish guidelines outlining the content areas in which candidates in Teacher of Tomorrow may pursue certification.

E. The SBE, pursuant to Section 59-5-60 and 59-25-110 and this Regulation, is authorized to approve additional alternative certification programs and outline the content areas in which candidates may pursue certification pursuant to rules and guidelines published by the Board.

#### V. Student Teachers

A. All individuals pursuing undergraduate or graduate programs leading to initial teacher certification must complete the student teaching requirement adopted by the SBE.

B. An individual who has met all requirements for certification except student teaching may request that three years teaching experience be used in lieu of student teaching for certification purposes under the following conditions:

1. The teaching experience must be at least three full years as the teacher of record and earned in an accredited public or private school in grades K-12 or at a postsecondary institution. Combinations of partial year teaching assignments may be used. Experience must be post baccalaureate to be eligible for consideration.

2. The teaching experience must be in the area of preparation and in the area in which the applicant is applying for certification.

3. The individual must submit a letter or letters of recommendation, attesting to the successful evaluation of teaching in the certification area, written by the administrative authority of the school or school district where he or she has taught for the specified period.

4. The individual must submit copies of school or school district evaluations providing evidence of his or her successful teaching.

5. The individual must submit evidence from the institution of higher education affirming that he or she has met all requirements for the approved teacher education program with the exception of student teaching.

C. Applicants for certification in work based career and technology education are not required to complete student teaching.

#### VI. Required Examinations.

A. All applicants must submit the required teaching content area examination score(s) and the required score on the examination of general professional knowledge (pedagogy) as adopted by the SBE for purposes of certification.

B. An initial certificate will be issued to individuals who seek certification in areas for which no teaching area examination exists and who meet all requirements for certification in effect on the date

that the teacher certification office of the SCDE receives all required documentation other than a certification test score. Once a test for the particular area of certification is adopted by the SBE, these individuals will be required to present a passing score on the test within one year following the Board's action.

C. Certification in work-based career and technology education requires the successful completion of all sections of the basic skills examination and the trade competency examination adopted by the SBE for work-based career and technology education.

#### VII. Verification of Eligibility

The teacher certification office of the SCDE may verify the eligibility of an applicant for certification by ascertaining

(a) that the applicant has verified his or her completion of a state-approved teacher preparation program,

OR

(b) that the applicant has a valid corresponding certificate from a state with which South Carolina has reciprocity through the Interstate Agreement on Qualifications of Educational Personnel,

OR

(c) that the applicant has met the requirements for the Program of Alternative Certification for Educators (PACE) for certification,OR

(d) that the applicant has met the requirements for Teach for America for certification,

OR

(e) that the applicant has met the requirements for the American Board for the Certification of Teacher Excellence for certification.

**HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003; State Register Volume 41, Issue No. 6, Doc. No. 4698, eff June 23, 2017.**

### **43–52. Application for Teaching Credential.**

#### I. Required Documentation

The Office of Teacher Certification requires the following forms of documentation from applicants for teacher certification:

A. Application Form. The applicant must submit the completed State Department of Education application form.

B. Recommendation Form. The applicant must include a completed "Verification of College Preparation: Recommendation for Teacher Certificate" form, signed by the dean or a designated college official.

C. College Transcripts. The applicant must submit complete and official transcript(s). Each transcript must bear the official seal of the institution, the signature of the designated official, the type of degree earned, if any, and the date awarded. Only official transcripts will be accepted for certification purposes. Electronically transmitted transcripts from the individual college will be accepted as the technology becomes available in the State Department of Education.

D. Examination Scores. The applicant must submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will be required for initial certification. Until that date, the general professional knowledge (pedagogy) exam will be required only for professional certification. Only official score reports will be accepted.

E. Experience Verification. The applicant must submit appropriate verification of previous teaching experience.

F. FBI Fingerprint Card and Background Check. The applicant must submit an FBI fingerprint card and must undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the FBI. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests

and/or convictions must undergo a review by the State Board of Education and be approved before a certificate can be issued to them. Background checks from other states or agencies are not transferable to South Carolina.

## II. Application and Evaluation Fee

The applicant must submit to the Office of Teacher Certification a nonrefundable fee for the evaluation and processing of each of his or her applications.

## III. Effective Date of Credential

A. The effective date of the credential will be based upon the date of receipt of the complete certification application by the Office of Teacher Certification and/or request for additional area(s) of certification, certification renewal, or certificate advancement. An incomplete application will be considered active for a period of twelve months. If after twelve months the applicant has not submitted all required documentation, the application will be archived.

B. If the applicant becomes eligible for an initial certificate, certificate advancement, or certification renewal, requests received by the Office of Teacher Certification on or before November 1 will become effective July 1 of the current school year. For requests from November 2 through April 30, changes become effective when the requirements are met, provided that full documentation, including the request, is received by the Office of Teacher Certification within forty-five days after the applicant has fulfilled all requirement(s). Requests received forty-five days or more after eligibility will be effective the date the request is received. Requests received after April 30 are effective on the following July 1.

C. If an applicant holding a graded certificate or warrant qualifies for a professional certificate as the result of attaining the minimum qualifying score on the required certification examination, the upgraded credential will become effective the semester following the date of examination. As a result of the authorization of the federal No Child Left Behind Act of 2001 (Pub. L. 107-110), graded certificates and warrants will become invalid at the end of the 2005-06 school year.

**HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003.**

## **43-53. Credential Classification.**

(Statutory Authority: 1976 Code Sections 59-5-60(1), 59-25-110, 59-26-10 et seq., and Pub. L. No. 114-95)

### I. Types of Credential Classification

#### A. Initial Certificate

An initial certificate is valid for three years. Beyond the initial three-year validity period, teachers who do not yet meet the requirements for professional certification, but who are employed by a public school district at the induction or annual contract level, as defined in S.C. Code Ann. Section 59-26-40, may have their certificates extended annually at the request of the employing school district.

Teachers who hold initial certificates and are employed in a public school setting in a position that does not require certification or is not included in the ADEPT system may have their certificates extended annually for an indefinite period at the request of the employing school or school district, provided that certificate renewal requirements, as specified in Reg.43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates and are employed in a nonpublic school educational setting may have their certificates extended annually for an indefinite period at the request of the educational entity, provided that certificate renewal requirements, as specified in Reg.43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates but who are not employed by a public school district in a position requiring certification at the time the initial certificate expires, and who have not otherwise met the requirements for professional certification, may reapply for an initial certificate at such time as they become employed by a public school district or private school, subject to the requirements for initial certification in effect at the time of reapplication. To qualify for an initial certificate, the applicant must fulfill the following requirements:

1. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accredita-

tion association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by a national accreditation association with which the South Carolina Department of Education has a partnership agreement. Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

2. Submit the required teaching content area examination score(s) and the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification.

3. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate may be issued. Background checks from other states or agencies are not transferable to South Carolina.

#### B. Professional Certificate

All professional certificates are valid for five years. To qualify for each successive level of professional certification (bachelor's degree, bachelor's degree plus 18 hours, master's degree, master's degree plus 30 hours, and doctorate), an applicant must

1. Meet all criteria for initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval and successfully complete the induction program, the ancillary requirements (including any additional testing requirements approved by the State Board of Education), and the formal evaluation of teaching performance and effectiveness approved by the State Board of Education

OR

2. Successfully complete the requirements for reciprocity according to Interstate Agreement on Qualifications of Educational Personnel

OR

3. Hold a valid National Board teaching certification.

#### C. Alternative Route Certificate

1. The alternative route certificate for the Program of Alternative Certification for Educators (PACE) is valid for one year initially. The certificate will be issued to those individuals who qualify under the PACE guidelines as adopted by the State Board of Education. Alternative certificates for PACE can be renewed twice on the basis of successful completion of annual program requirements as approved by the State Board of Education. The teacher will be eligible for a professional certificate upon his or her successful completion of all program requirements within the three-year program period, including additional testing requirements approved by the State Board of Education and the formal/summative evaluation of teaching performance and effectiveness approved by the State Board of Education.

2. The alternative route certificate for Teach for America (TFA) is valid for one year initially. The certificate will be issued to those individuals who qualify under the TFA guidelines as adopted by the State Board of Education. Alternative certificates for TFA can be renewed once on the basis of successful completion of annual program requirements as approved by the State Board of Education. A TFA teacher who chooses to pursue a professional certificate in South Carolina may be issued two additional one-year alternative route certificates in accordance with the TFA guidelines approved by the State Board of Education. The teacher will be eligible for a professional certificate upon his or her successful completion of all program requirements, including additional testing requirements approved by the State Board of Education, course work approved by the State Board of Education, and the formal/summative evaluation of teaching performance and effectiveness approved by the State Board of Education.

3. The alternative route certificate for an individual who qualifies under the American Board for the Certification of Teacher Excellence (ABCTE) Act is valid for one year initially and may be renewed twice on the basis of successful completion of annual program requirements. The teacher

will be eligible for a professional certificate upon his or her successful completion of all program requirements within the three-year program period, including additional testing requirements approved by the State Board of Education and the formal/summative evaluation of teaching performance and effectiveness approved by the State Board of Education.

4. The alternative route certificate for Teachers of Tomorrow (ToT) under Regulation 43–51 is valid for one year initially and may be renewed twice on the basis of successful completion of annual program requirements. The teacher will be eligible for a professional certificate upon his or her successful completion of all program requirements within the three-year program period, including additional testing requirements approved by the State Board of Education and the formal/summative evaluation of teaching performance and effectiveness approved by the State Board of Education.

#### D. International Certificate

An International Certificate may be issued to a teacher from a country outside of the United States provided the individual has completed at least a bachelor's degree with a major in the teaching field. Organizations that recruit and select teachers from other countries to teach in South Carolina must assure that all cultural/educational visa requirements have been met. The International Certificate will be renewed annually for up to three years at the request of the local school district, provided the teacher has met the certification examination requirements specified by the State Board of Education during the first year of certification.

#### E. Internship Certificate

1. The Internship Certificate will be issued to individuals who are currently enrolled in a State Board of Education approved teacher education program in South Carolina and have completed all academic and bachelor's degree requirements, with the exception of the teaching internship, as well as all certification examination requirements. The certificate will be issued for up to one year, and must be requested by the employing school district. Upon completion of the teaching internship and verification by the college or university that all approved program requirements have been met, the internship certificate will be converted to an initial certificate.

2. The Internship Certificate will also be issued to any individual who is serving the required internship for certification as a School Psychologist I or II under the supervision of a certified School Psychologist II or III, or who is serving the required internship for School Psychologist III under the supervision of a certified School Psychologist III.

The applicant for the Internship Certificate in School Psychology must submit official written verification from the college or university that he or she is currently enrolled and working toward full certification as a school psychologist, and that the internship is being served through a State Board of Education-approved training program. The Internship Certificate may be renewed once on the basis of written documentation from the director of the school psychology program that the applicant is a full-time student in the program during the second year of the renewed certificate.

3. The Internship Certificate will also be issued to any individual who holds the Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Hearing Association (ASHA) or who has completed a master's degree that includes the academic and clinical requirements for the ASHA Certificate of Clinical Competence and has achieved the minimum qualifying score on the required certification examination(s). The certificate will be effective for one academic year and must be requested by the employing school district. The Internship Certificate may be converted to a professional certificate upon verification of a successful evaluation of the individual's performance during the initial year of employment.

#### F. Limited Professional Certificate

The purpose of the Limited Professional Certificate is to provide a certificate advancement option for educators who hold South Carolina Initial teaching certificates and who are employed as educators in eligible, non-regulated educational entities in this state. In this context, "non-regulated" means that the entity is not required to comply with State Board of Education regulations and guidelines for evaluating educator performance and effectiveness. Examples of eligible, non-regulated educational entities include South Carolina public charter schools that elect not to participate in the State Board of Education-approved process for evaluating teacher performance and effectiveness, state or regionally accredited private and parochial schools in South Carolina, and South Carolina institutions of higher education that have programs approved for teacher preparation by the State Board of Education.

1. In order to be eligible to advance from an initial certificate to a Limited Professional Certificate, the educator must be employed by an eligible, non-regulated educational entity in South Carolina and must have accrued a minimum total of three years of experience credit over the previous seven years in one or more of these entities. During the entirety of the qualifying time period, the educator must

(a) hold a valid South Carolina Initial teaching certificate,

(b) be employed as a teacher or a professional support specialist, such as a library media specialist, school guidance counselor, or other support professional, in an area in which the educator holds Initial certification, and

(c) successfully complete an annual performance evaluation process that is approved by the employing educational entity.

2. In order to activate the certificate advancement process (i.e., from Initial to Limited Professional), the educator must submit the following documents to the SCDE office that is responsible for educator certification:

(a) a request for change/action requesting advancement for the Limited Professional Certificate,

(b) official verification of experience,

(c) verification of successful annual performance evaluations from each employing entity, and

(d) a recommendation for the Limited Professional Certificate signed by the head of the educational entity in which the educator is employed at the time the certificate is requested.

3. All Limited Professional Certificates are valid for a period of five years.

4. Requirements for renewing Limited Professional Certificates, including the provisions for expired certificates, are the same as those for Professional Certificates, as specified in State Board of Education Regulation 43–55 (Renewal of Credentials).

5. An educator who holds a valid Limited Professional Certificate and who applies for a position as a teacher or a professional support specialist in a “regulated” South Carolina public school is eligible for employment at the annual-contract level. Once employed under an annual contract, the teacher is subject to all requirements and sanctions for annual-contract teachers, as set forth in the applicable state statutes, regulations, and guidelines. Upon successful completion of the State Board of Education-approved process for evaluating teaching performance and effectiveness, the educator is eligible to move from a Limited Professional Certificate to a Professional Certificate and to be employed under a continuing contract.

#### G. Certification Permit

A one-year certification permit may be issued to an educator who holds a valid South Carolina initial or professional teaching certificate and is assigned teaching duties for any amount of time in an area for which he or she is not appropriately certified. Permits may be issued to classroom-based teachers and for the areas of administration, library media specialist, and school guidance counselor. Certification permits are not issued for the areas of school psychologist and speech-language therapist.

The South Carolina Department of Education has the authority to develop guidelines for the issuance of certification permits in accordance with the provisions of this regulation to include eligibility for the issuance of a certification permit, annual coursework requirements and progress necessary for renewal of the permit, and final requirements for attaining full certification in the permit area. Certification permits must be requested by the educator and his or her employing school or school district.

## II. Levels of Credential Classification

A. Bachelor’s degree: the educator must meet all criteria for an initial area of certification and have earned a bachelor’s degree that meets State Board of Education regulations for teacher certification and program approval.

B. Bachelor’s degree plus 18 hours: the educator must have 18 hours of graduate credit that he or she earns within seven years from the time the course work is started. Individuals who do not complete the requirements during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.



C. Master's degree: the educator must have earned a master's degree that meets State Board of Education regulations for teacher certification and program approval.

D. Master's degree plus 30 hours:

In order to advance to the level of master's degree plus 30 hours, the educator must fulfill either one of the following requirements:

1. The educator must earn 30 semester hours of graduate credit above the master's degree with 21 hours of the graduate credit in one area of concentration. These hours may or may not be in the teacher's initial area of certification. The course work must be completed within seven years from the time it was started. Individuals who do not complete the course work during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

OR

2. The educator must earn an additional master's degree or specialist's degree that meets State Board of Education regulations for teacher certification and program approval.

E. Doctorate: the teacher must have earned a doctoral degree that meets the State Board of Education regulations for teacher certification and program approval.

### III. Requirements for Credential Advancement

A. To advance his or her credential from one classification to another, the applicant must submit to the teacher certification office of the South Carolina Department of Education the following:

1. Written request to have the certificate advanced on the designated action form.
2. Documentation, including transcripts, that the State Board of Education requirements have been met for certificate advancement.
3. The specified fee, if such a fee is currently being charged.

B. The effective date of the credential advancement will be based on the following:

1. If the applicant becomes eligible for a revised level of credential between November 1 and April 30, the credential will become valid either from the date the teacher submits the completed application with all the necessary documentation or from the date on which the teacher completes the requirements for the credential, provided that the teacher files his or her application in the teacher certification office of the South Carolina Department of Education within forty-five calendar days after the date on which he or she completes the requirements.

2. If the applicant becomes eligible for a revised level of credential after April 30, the credential will become valid on July 1 of the calendar year in which he or she completes the existing requirements, provided that the completed application is submitted on or before November 1.

**HISTORY: Amended by State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003; State Register Volume 27, Issue No. 11, eff November 28, 2003; State Register Volume 36, Issue No. 5, eff May 25, 2012; State Register Volume 41, Issue No. 6, Doc. No. 4699, eff June 23, 2017.**

## **43–55. Renewal of Credentials.**

I. For the purposes of this regulation an educator is defined as any person who holds a professional certificate issued by the South Carolina Department of Education.

II. An educator's professional certificate is valid for five years and expires on June 30 of the expiration year.

III. The total number of years an individual has held any type of temporary credential issued by the South Carolina Department of Education will be deducted from the normal five-year period of the professional certificate at the time of issue.

IV. To renew a professional certificate, educators must comply with all applicable guidelines relative to certificate renewal options and criteria, renewal credits, and verification requirements, in accordance with the current Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education, as follows:

(A) An applicant who is employed in a position that requires educator certification must maintain verification of having earned a minimum of 120 renewal credits during the certificate's five-year validity period. Renewal credits may be earned through professional activities that directly relate to

the educator's professional growth and development plan, support the goals of the employing educational entity, and promote student achievement, as required by Regulation 43–205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), and Regulation 43–165.1, Program for Assisting, Developing, and Evaluating Principal Performance (ADEPP).

(B) An applicant who is not employed in a position that requires educator certification but who chooses to maintain a current certificate must submit verification of having earned a minimum of 120 renewal credits during the certificate's five-year validity period. Renewal credits may be earned through professional activities that directly relate to the educator's current area(s) of certification or to a formal program of study (master's, specialist, or doctorate) in a certification area in which the educator is officially enrolled.

V. Educators who do not hold a master's degree must earn a minimum of sixty renewal credits of the 120 credits required during each five-year validity period by completing at least three semester hours of college credit at the graduate level. These credits must be earned from a national or regionally accredited college or university or through a college or university that has *graduate* programs approved for teacher education by the State Board of Education.

VI. Renewal credits earned in state-identified areas of critical needs may be applied toward certificate renewal.

VII. Applicants must comply with current State Department of Education approved Certificate Renewal Plan guidelines relative to obtaining, verifying, and submitting renewal credits. Applicants also are responsible for paying any required fee for credential renewal to the Office of Teacher Certification.

VIII. Credit will not be allowed for a renewal activity that is repeated unless the activity has received prior written approval in writing from the Office of Teacher Certification.

IX. Regulations governing effective dates of renewed certificates will be the same as those for initial and revised certificates, as specified in State Board of Education Regulation 43–52.

X. A South Carolina professional teaching credential that has been expired

(A) for less than five (5) years may be extended upon written request from the educator to the Office of Teacher Certification. This nonrenewable extension is valid for one (1) year, during which time the school district or educator must submit verification that the educator has fulfilled all current requirements for renewal of the Professional Certificate. Upon verification that all requirements have been met, the Professional Certificate will be renewed for the remainder of the validation period (i.e., four additional years).

(B) for more than five (5) years, but less than ten (10) years, may be extended for a maximum of one (1) year at the written request of the school district that intends to employ the educator. During this one-year extension, the school district or educator must submit verification that the educator has met all current requirements for renewal of the Professional Certificate. Upon verification that all requirements have been met, the Professional Certificate will be renewed for the remainder of the validation period (i.e., four additional years).

(C) for more than ten (10) years will require that the educator either reapply for initial certification under the current requirements or satisfy current interstate reciprocity requirements.

**HISTORY:** Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002; State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003.

### **43–56. Foreign Applicants.**

Applicants for initial teacher certification who have foreign transcripts or other credentials must consult with appropriate personnel at a regionally or nationally accredited college approved for teacher education purposes or which has programs approved for teacher education by the South Carolina State Board of Education to determine if requirements are met in the certification area.

**HISTORY:** Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999.

### **43–57. Prior Work Experience.**

The State Department of Education shall maintain records indicating the work experience for which persons are entitled.

### **43–57.1. Computing the Experience of Teachers.**

A. In the computation of experience credit, the following conditions will apply.

1. Full-time equivalents (FTEs) of the 190-day school year will be utilized as the basis of computation. The minimum experience to be credited shall be one-tenth (.1) FTE per year; the maximum experience to be credited shall be one (1) FTE per year. A school day is defined as a minimum of seven hours.

2. One year of experience may be credited provided the teacher is employed in a full-time position for a minimum of eight-tenths (.8) of the contract year but in no case fewer than 152 days.

3. Partial-year experience may be utilized to compute full years of experience provided the sum of the partial experience meets the requirement stated in number 1, above.

4. Summer school teaching credit will be calculated at the rate of two (2) days of summer school as the equivalent of one (1) regular school day provided the teacher works one (1) session for four (4) hours per day or at the rate of one (1) regular school day provided the teacher works two (2) sessions for eight (8) hours per day. Summer school teaching credit may be added to partial years of experience.

**HISTORY:** Amended by State Register Volume 16, Issue No. 3, eff March 27, 1992; State Register Volume 24, Issue No. 2, eff February 25, 2000; State Register Volume 25, Issue No. 6, eff June 22, 2001.

### **43–57.2. Teaching Experience Acceptable for Credit.**

A. To receive experience credit, the applicant must provide an official description of the professional duties for which he or she wishes to receive the credit. These duties must have been connected to the primary educational program through teaching, education administration, curriculum development, or teacher training. With the exception of trade and industry experience credit (see R. 43–63), employment must meet the requirements for full-time or half-time employment as stated below.

B. For an individual to receive experience credit, he or she must verify full-time or half-time employment in one of the following educational positions:

1. A professional position in a public, private, or parochial elementary or secondary school.

2. A professional position in a regionally or nationally accredited institution of higher education or an institution with teacher education programs approved by the South Carolina State Board of Education.

3. A position as a teacher's aide, provided the applicant had an earned undergraduate degree during the period of employment.

4. A professional education position in a teacher exchange program or a city, county, state, or federal education program for school-aged or adult populations.

5. A professional education or training position in a privately funded education program for school-aged or adult populations.

6. A professional education position in a city, county, state, or federal educational system that supports the primary education program for a school-aged or adult population.

**HISTORY:** Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 25, Issue No. 6, eff June 22, 2001.

### **43–57.5. Military Service.**

Experience credit may be granted for up to five years of service in the Armed Forces provided the applicant held a valid South Carolina or out-of-state teaching credential prior to or during the period of military service.

### **43–58. Disciplinary Action on Educator Certificates.**

(Statutory Authority: S.C. Code Ann. §§ 59–1–445 (2004), 59–5–60 (2004), 59–5–65 (2004), 59–25–110, et seq. (2004), 59–25–530 (2004), 59–26–40 (2004), and 20–7–840, et seq. (Supp. 2004))

The State Board of Education has the legal authority to deny, revoke, or suspend a certificate, or issue a public reprimand for the following causes:

1. incompetence,
2. willful neglect of duty,
3. willful violation of the rules and regulations of the State Board of Education,
4. unprofessional conduct,
5. drunkenness,
6. cruelty,
7. crime against the law of this state or the United States,
8. immorality,
9. any conduct involving moral turpitude,
10. dishonesty,
11. evident unfitness for the position for which one is employed,
12. sale or possession of narcotics,
13. obtaining or attempting to obtain a certificate by fraudulent means or through misrepresentation of material facts,
14. failure to comply with the provisions of a contract without the written consent of the local school board,
15. test security violation,
16. failure to comply with a court order for child support, and
17. failure for a second time to complete successfully the formal evaluation process as an annual contract teacher.

**HISTORY:** Amended by State Register Volume 30, Issue No. 5, eff May 26, 2006.

### **43–58.1. Reporting of Terminations of Certain School District Employees.**

A district superintendent, on behalf of the local board of education, shall report to the Chair of the State Board of Education and the State Superintendent of Education, the name and certificate number of any certified educator who is dismissed, resigns, or is otherwise separated from employment with that district based on allegations of misconduct including, but not limited to, misconduct involving drugs, sexual misconduct, the commission of a crime, immorality, moral turpitude, or dishonesty, that is reasonably believed by the district superintendent to constitute grounds for revocation or suspension of the certificate issued to the educator by the State Board. This report is required notwithstanding any termination agreement to the contrary that the district board of trustees or superintendent may enter into with the educator. The reasons for the educator's termination of employment with the district shall also be provided along with all evidence in the possession of the district relating to the termination.

The intentional failure of a district board of trustees to instruct the district superintendent to report the termination of school employees as required by this regulation shall be considered by the State Department as an accreditation deficiency pursuant to R43-130 and, upon approval of the State Board of Education, all district schools will be placed on an accreditation status of probation.

The intentional failure of a district superintendent to report the termination of employees as required by this regulation shall be considered an act of unprofessional conduct and may be sufficient cause for revocation of such person's education certificate pursuant to Section 59-25-160, Code of Laws of South Carolina, 1976.

Pending the issuance of a Final Order revoking or suspending a certificate by the State Board in a proceeding pursuant to Section 59-25-260, Code of Laws of South Carolina, 1976, no preliminary information gathered by the State Department of Education concerning misconduct reasonably believed to constitute grounds for revocation or suspension of a certificate, including the name and certificate number of the certified educator, shall be disclosed to any third party.

**HISTORY:** Amended by State Register Volume 17, Issue No. 7, eff July 23, 1993.

## **43–62. Areas of Certification.**

### **I. INITIAL CERTIFICATION AREAS AND GRADE SPANS**

In consultation with the South Carolina Department of Education (SCDE), the State Board of Education (SBE) has the authority to establish initial certification areas or fields as well as certification grade spans, to revise or amend certification areas, and to abolish certification areas that no longer reflect professional practice or needs of South Carolina schools and students.

### **II. ADDING AREAS OF CERTIFICATION**

In consultation with the SCDE, the SBE has the authority to establish certification areas that may be added to a valid educator certificate, to revise or amend these areas, and to abolish add-on certification areas that no longer reflect professional practice or needs of South Carolina schools and students. In order to add an additional area of certification to a valid South Carolina credential, an educator must complete the specific requirements for that area as outlined by the SBE's guidelines.

### **III. SPECIALIZED ENDORSEMENTS**

In consultation with the SCDE, the SBE has the authority to establish specialized endorsements that may be added to a valid educator certificate, to revise or amend specialized endorsements areas, and to abolish specialized endorsement areas that no longer reflect professional practice or needs of South Carolina schools and students. In some instances, an endorsement may be required to teach specific courses. In other instances, the endorsement represents additional training and study to enhance an educator's professional practice. In order to add an endorsement to a valid South Carolina teaching credential, an educator must complete the specific requirements for that area as outlined by the SBE.

### **IV. SPECIALIZED ALTERNATIVE CERTIFICATION**

In consultation with the SCDE, the SBE has the authority to establish alternative certification areas and routes that are based on specialized training and do not lead to an alternate route certificate, revise or amend these specialized areas, and abolish specialized alternative certification areas that no longer reflect professional practice or needs of South Carolina schools and students. In order to be issued an educator certificate in one of these areas, the applicant must complete the specific requirements for that area as outlined by the SBE.

**HISTORY:** Amended by *State Register Volume 23, Issue No. 6, eff June 25, 1999*; *State Register Volume 26, Issue No. 2, eff February 22, 2002*; *State Register Volume 28, Issue No. 6, eff June 25, 2004*; *State Register Volume 30, Issue No. 5, eff May 26, 2006*; *State Register Volume 32, Issue No. 7, eff July 25, 2008*; *State Register Volume 34, Issue No. 6, eff June 25, 2010*; *State Register Volume 35, Issue No. 6, eff June 24, 2011*; *State Register Volume 36, Issue No. 5, eff May 25, 2012*; *State Register Volume 38, Issue No. 6, Doc. No. 4422, eff June 27, 2014*; *State Register Volume 39, Issue No. 6, Doc. No. 4478, eff June 26, 2015*; *State Register Volume 41, Issue No. 6, Doc. No. 4701, eff June 23, 2017*.

## **43–63. Requirements for Career and Technology Education Work–Based Certification.**

### **A. POLICIES AND REGULATIONS GOVERNING CERTIFICATION**

The policies and regulations governing the certification requirements for Career and Technology Education educators as presented in this document replace all such procedures and regulations approved prior to this publication, except as indicated.

(1) Certificates are issued in levels based on educational background and experience in the field in which the certificate is requested. The level of the certificate is used to determine salary.

(2) Career and Technology Education Program Areas Covered in This Regulation

(a) Engineer/Industrial Technology Cluster: All courses in this program area are included in this regulation. Entry level into teaching these courses shall be defined in this regulation.

(b) Family and Consumer Sciences Cluster: The courses covered in this program area are Clothing and Interior Design, Culinary Arts, and Early Childhood. An associate degree is the minimum requirement for entry level into teaching these courses.

(c) Health Science Technology Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses.

(d) Hospitality and Tourism Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses.

(e) Information Technology Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses.

#### B. PERSONS REQUIRED TO HOLD A CERTIFICATE

(1) A valid South Carolina educator's certificate is required of each individual employed in an instructional or classroom teaching position in a public school of this state.

(2) Each individual who serves in a position designed for the support of the instructional program is also required to hold the appropriate South Carolina educator's certificate.

#### C. REQUIREMENTS FOR CERTIFICATION

(1) The applicant must meet all requirements for certification that are in effect on the date of receipt by the Office of Teacher Certification, Division of Teacher Quality, of all required documentation. The responsibility for providing accurate and complete documentation of eligibility is that of the applicant.

(2) Age requirement: A person must be at least 18 years of age before making application for an educator's certificate.

##### (3) The Application

(a) The statement of qualifications or appropriate educator's application should be secured from the Office of Teacher Certification, Division of Teacher Quality, State Department of Education, Columbia, South Carolina 29201. The completed application should be submitted to the same address.

(b) The applicant will be informed in writing after the application is received what documentation is necessary to complete the certification process.

##### (4) Documentation Required

(a) Verification of all work experience in the field for which the applicant wishes to be certified must be provided (Forms available). Work experience completed while in the armed forces may be validated by providing official military documents certified as true copies by a notary public. These documents must show what the work experience was and the time served in that field.

(b) Two (2) technical references from employers in the area for which the applicant wishes to be certified must be provided (Forms available).

(c) A notarized copy of high school diploma or state high school equivalency certificate.

(d) Official transcripts of any college or technical college credit must be provided. Transcripts must be sent directly from the registrar and bear the seal of the issuing institution (Request form available).

(e) Copies of certificates of completion of any industry-sponsored training must be sent directly from the sponsoring agency or company. Copies certified as a true copy of the original by a notary public may be provided by the applicant.

(f) Successful completion of the approved competency examination and basic skills examination as approved by the State Board of Education is required.

(g) Applicants in Cosmetology and Barbering shall provide copies of their South Carolina Board of Cosmetology Licenses. These copies must be certified as true copies by a notary public. This documentation is accepted in lieu of the approved competency examination.

(h) Applicants in Health Science Technology shall provide copies of active, nationally recognized health professions licenses, certificates, or registrations. The requirements for the licensure, certification, or registration must include at least two (2) years of formal postsecondary education in addition to the program prerequisites. These copies must be certified as true copies by a notary public. This is used in lieu of the approved competency examination.

(i) Applicants for certification must successfully complete the approved program designed to prepare these prospective Work-Based Certified Career and Technology Education educators for

the instructional environment. The program components will include, but not be limited to, a two-week (10-day) institute, training seminars, and professional development meetings. Successful completion of the two-week institute is a requirement for issuing the certificate. Applicants are expected to meet the standards for all Career and Technology Education educators as outlined in the guidelines which may include additional preparation.

#### D. CERTIFICATION EXAMINATIONS

(1) Certification examinations are required of all educators certified under the Career and Technology Education Work-Based Certification process. Examinations may include the following:

##### (a) Competency Examination

(i) The successful completion of a related competency examination is a prerequisite to issuance of the professional Career and Technology Education certificate. The required examination and minimum qualifying scores acceptable for certification in each area are determined by the State Board of Education.

(ii) Applicants not bearing proof of competence (i.e., nationally recognized certification, licensure, or registration) must pass a nationally recognized competency examination within two (2) years of application. Refer to the guidelines for accepted certification, licensure, or registration.

##### (b) Basic Skills Examination

(i) Successful completion of the basic skills examination is prerequisite to issuance of the professional Career and Technology Education certificate. The required minimum qualifying score is determined by the State Board of Education.

(ii) The exam must be taken during the first year of induction certification. The candidate will have five years to successfully pass the examination.

#### E. EDUCATION AND WORK EXPERIENCE REQUIRED FOR CERTIFICATE CLASSIFICATION

(1) The classification of the educator's certificate is determined by the applicant's level of formal education and formal work experience and the degree to which that education and formal work experience are appropriate to the area in which certification is desired. An appropriate degree shall include a minimum of 30 semester hours of course work appropriate to the field of certification. The requirements for achieving these classifications are to be met in conjunction with the requirements delineated on pages 1 and 2. The Career and Technology Education educator's certificate classifications are as follows:

##### (2) Levels of Certification

##### (a) Level VIII—Doctorate

(i) An applicant shall have an earned doctoral degree in accordance with State Board of Education regulations, shall meet requirements in an initial area of certification, and have at least six months of work experience related to the area of certification and/or internship (at least 21 hours in a concentrated field of study).

(ii) The certificate is valid for a five-year period after obtaining a professional certificate.

##### (b) Level VII—Specialist

(i) An applicant shall have a master's degree in accordance with State Board of Education regulations in an initial area of certification. Also required are thirty (30) semester hours beyond the master's degree of which twenty-one (21) hours must be in a concentrated area of study. Further, the applicant must have at least six months of work experience or an internship related to the area of certification.

(ii) The certificate is valid for a five-year period after obtaining a professional certificate.

##### (c) Level I—Career And Technology Education

(i) An applicant shall have earned a master's degree in accordance with State Board of Education regulations, shall meet requirements in an initial area of certification, and have at least six months of full-time work experience and/or internship related to the area of certification. The certificate is valid for a five-year period after obtaining a professional certificate; OR

(ii) Bachelor's Degree:

(a) Bachelor's Degree and eighteen (18) semester hours post-baccalaureate credits in an appropriate field plus one (1) year of full-time work experience or internship related to the area of certification OR

(b) A Bachelor's Degree in an appropriate field plus two years of full-time work experience and/or internship related to the area of certification; OR

(iii) No Bachelor's Degree:

(a) Successful completion of three (3) years of college (ninety [90]) semester hours or equivalent) in an approved postsecondary program plus three (3) years' full-time work experience related to the area of certification; OR

(b) Successful completion of two (2) years (sixty [60]) semester hours or equivalent) in an approved post-secondary program plus four (4) years of full-time work experience related to the area of certification; OR

(c) Successful completion of one (1) year (thirty [30] semester hours or equivalent) in an approved post-secondary program plus five (5) years of full-time work experience related to the area of certification; OR

(d) Six (6) years of successful full-time work experience in the field employed to teach plus a high school diploma or equivalent.

(d) Level II—Career And Technology Education

(i) An applicant shall have earned a bachelor's degree and eighteen (18) semester hours post-graduate credits in an appropriate field, have at least six months of full-time work experience and/or internship related to the area of certification, and shall meet requirements in an initial area of certification. The certificate is valid for a five-year period after obtaining a professional certificate; OR

(ii) A Bachelor's Degree in an appropriate field plus one (1) year's full-time work experience related to the area of certification; OR

(iii) Successful completion of three (3) years of college (ninety [90]) semester hours or equivalent) in an approved postsecondary program plus two (2) years full-time work experience related to the area of certification; OR

(iv) Successful completion of two (2) years (sixty [60]) semester hours or equivalent) in an approved post-secondary program plus three (3) years' full-time work experience related to the area of certification; OR

(v) Successful completion of one (1) year (thirty [30]) semester hours or equivalent) in an approved post-secondary program plus four (4) years of full-time work experience related to the area of certification; OR

(vi) Five (5) years of successful full-time work experience in the field employed to teach plus a high school diploma or equivalent.

(e) Level III—Career And Technology Education

(i) An applicant shall have earned a bachelor's degree in an appropriate field in accordance with State Board of Education regulations and have at least six months of full-time work experience and/or internship related to the area of certification, and shall meet requirements in an initial area of certification; OR

(ii) Successful completion of three (3) years of college (ninety [90]) semester hours or equivalent) in an approved postsecondary program plus one (1) year of full-time work experience related to the area of certification; OR

(iii) Successful completion of two (2) years (sixty [60]) semester hours or equivalent) in an approved post-secondary program plus two (2) years of full-time work experience related to the area of certification; OR

(iv) Successful completion of one (1) year (thirty [30]) semester hours or equivalent) in an approved post-secondary program plus three (3) years of full-time work experience related to the area of certification; OR



(v) Four (4) years of successful full-time work experience in the field employed to teach plus a high school diploma or equivalent.

#### F. INITIAL WORK-BASED CERTIFICATE

##### (1) Induction Certificate

(a) A two-year nonrenewable induction certificate will be issued in the same five classifications listed in Section E.(2) if the following conditions are met:

- (i) Verification of full-time work experience as required for certification;
- (ii) Two references from person having firsthand knowledge of the applicant's technical experience; and
- (iii) An official verification of all formal education.

(b) Term of issuance-one year with the provision to renew for a second year.

(c) Employment as a full-or part-time teacher in a South Carolina public school.

##### (2) Three-Year Pre-Professional Certificates

(a) A three-year nonrenewable pre-professional certificate may be issued after the expiration of the two-year induction certificate if the following requirements are met:

- (i) Attain minimum qualifying score on the competency exam in the field for which induction certification is held,
- (ii) Demonstrate competency in teaching methods as specified in the Regulation 205.1, Assisting, Developing, and Evaluating Professional Teaching, and
- (iii) Take the basic skills examination as approved by the State Board of Education.

##### (3) Professional Certificate

(a) Upon the expiration of the three-year pre-professional certificate, a professional Career and Technology Education certificate valid for five years will be issued if the following requirements are met:

- (i) Demonstrate competency in teaching methods as specified in the guidelines, and
- (ii) Attain at least the minimum qualifying score on the approved basic skills examination.

(b) Applicants who do not complete the requirements for a professional certificate during the five years of induction and pre-professional certification must meet all certification requirements for a professional certificate in effect at the time they qualify.

#### G. ADVANCEMENT OF CERTIFICATES

(1) Certificates may be advanced based on guidelines approved by the State Board of Education.

(2) Certificates may be advanced by:

(a) Providing the required documentation of indicating that State Board of Education requirements for certificate advancement have been met;

(b) Making a written request to the Career and Technology Education Certification Section, Office of Teacher Certification, Division of Teacher Quality, to have the certificate advanced; and

(c) Paying the required fee for advancement of the certificate.

#### H. GENERAL INFORMATION

##### (1) Correspondence Schools

If courses are in the area in which the applicant teaches or are in general education, upon presentation of substantiating evidence correspondence courses may be accepted as renewal credit.

##### (2) Supervised Skill Update

Three hundred twenty (320) clock hours of work experience in the area being taught can be counted to substitute for three (3) semester hours of approved renewal credit. Self-employment experience is not acceptable. The proposed work experience must show that appropriate new skills will be developed. This allowance is to be made only one (1) time during any five-year renewal period. Prior application and approval is required for this credit. Applications may be secured from the Office of Teacher Certification, Division of Teacher Quality, State Department of Education, Columbia, South Carolina 29201.

(3) Approved Subject Area Work Experience Completed Five (5) Years Prior To Application

At least twelve (12) months of full-time work experience in the certificate area must have been completed within five (5) years of making application for certification. Applicants with valid out-of-state certificates with three (3) years teaching experience in the five (5) years prior to the application shall meet this requirement.

(4) Part-Time Work Experience Related To The Area Of Certification

Part-time work experience may be used to meet up to fifty (50) percent of the work experience requirements for any level of certificate.

(5) Semester Hours

All credits are computed in semester hours. (Three quarter hours are equivalent to two (2) semester hours.)

(6) Out-Of-State Candidates

Out-of-state candidates holding valid, standard certificates from other states must meet the State Board of Education requirement for full or initial certification. These certificates may be renewed as any other.

(7) Continuing Education Units

Continuing education courses may be accepted when earned in the content area of the specialized body of knowledge and approved by the Office of Teacher Certification, Division of Teacher Quality, South Carolina Department of Education, Columbia, South Carolina 29201.

(8) Student Teaching

Career and Technology Education certified personnel are not required to do student teaching.

(9) Acquiring Additional Areas Of Certification

A person who holds a valid South Carolina Career and Technology Education educator's certificate may, upon written request and payment of the required fee, add additional endorsements in accordance with the following criteria:

(a) Verification of full-time work experience as required for certification;

(b) Two technical references from persons having firsthand knowledge of the applicant's work experience, and

(c) Attainment of at least the minimum qualifying score on the required competency examination.

(10) Certification For Individuals With Unique Occupational Training And Experience For Which There Is No Competency Examination

The changing nature of business and industry and their employment needs require that school districts be able to develop and implement new training programs to meet those needs in areas where no competency examination is available.

(a) The applicant must meet all other requirements for Career and Technology Education certification (except the competency examination). Application for a certificate will be allowed in the cases of new and innovative programs providing the following additional criteria are met. The applicant must have:

(i) A bachelor's degree from a regionally accredited college or university in the area of assignment and at least one year of related work experience in the area of assignment. The certificate level will be based upon the highest degree held and years of documented related work experience; and

(ii) Documentation of outstanding achievements related to the area of assignment, which could be used to verify competence in the field.

(iii) The district must submit documentation of the need (local needs assessment) for the new program for which licensure is sought. In 1994 the State Board of Education called for the following criteria for needs assessments:

Written documentation of the employment needs of new or expanding business/industries employing graduates of the program(s), . . . must be submitted and endorsed by the CEO, President, or Human Resources Manager of one of the businesses in question and must

include, as a minimum, (a) current and three-year projected employment needs, (b) indication of business/industry involvement with the local educational agency . . . , (c) letters from the local Employment Security Commission, local development board, or local chamber of commerce specifying the needs for graduates of the program(s) for which licensure is requested.

#### I. EMPLOYMENT OF INDIVIDUALS WITH INDUSTRY CERTIFIED CAREER AND TECHNOLOGY EDUCATION TRAINING AND EXPERIENCE

(1) School districts shall be allowed to hire individuals with recognized eminence in career and technology areas to teach in high schools and career centers. This employment provides districts the opportunity to take advantage of outstanding expertise available where (a) programs and certification have not been approved by the State Board of Education and (b) programs have been approved by the State Board of Education but no certified teacher is available.

(a) School districts will be allowed to petition the State Board of Education through the Division of Teacher Quality at the State Department of Education for a temporary certificate that will allow the employment of an individual in an instructional position provided the individual meets the criteria listed below. The temporary two-year certificates are nontransferable to another district and can only be requested by the school district.

(b) An individual seeking employment under this provision will be issued a certificate that will be valid for one year unless revoked at the request of the district. The temporary certificate may be renewed one additional year. After two years the individual will be required to meet certification requirements listed in this regulation.

(c) The individual must have at least four years of experience in the area of assignment. The certificate will be issued at the corresponding level of educational attainment and/or verified work experience listed in this regulation.

(d) Documentation of outstanding achievements related to the area of assignment can be used to verify competency in the field.

(e) The individual must have received an "all clear" report from the FBI fingerprint process before the two-year temporary certificate can be issued.

(f) School districts shall closely monitor teaching content and techniques utilized by such individuals to ensure that appropriate instructional methods are used in accordance with State Board of Education guidelines. The Office of Career and Technology Education will monitor course content.

#### J. GUIDELINES

The State Department of Education has authority to develop guidelines in accordance with provisions of this regulation.

**HISTORY: Amended by State Register Volume 17, Issue No. 5, Part 1, eff May 28, 1993; State Register Volume 22, Issue No. 6, Part 1, eff June 26, 1998; State Register Volume 26, Issue No. 7, eff July 26, 2002.**

### **43-64. Requirements for Certification at the Advanced Level.**

#### I. ADMINISTRATION

##### A. Elementary School Principal and Supervisor (Tier 1)

1. Master's degree
2. Valid South Carolina Educator's Professional Certificate at the elementary level
3. Minimum qualifying score(s) on the area examinations required by the State Board of Education
4. Verification of three years' teaching experience, including at least one year of teaching in grades Pre-K-8
5. Completion of an advanced program approved by the State Board of Education for the training of elementary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the Principal Induction Program (PIP) in the principal's first year, as well as an overall rating of Proficient or Exemplary on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal.

B. Secondary School Principal and Supervisor (Tier 1)

1. Master's degree
2. Valid South Carolina Professional Certificate at the secondary level
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
4. Verification of three years' teaching experience, including at least one year of teaching in grades 7–12
5. Completion of an advanced program approved by the State Board of Education for the training of secondary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the PIP in the principal's first year, as well as an overall rating of Proficient or Exemplary on the PADEPP evaluation instrument in the second year of employment as a principal.

C. Elementary or Secondary School Principal or Supervisor (Tier 1 Alternative Route for Career Changers)

1. Master's degree
2. Verification of at least three years of successful experience in leadership, supervision, upper-level management, or other position in a business, corporation, agency, or the military with responsibilities similar to those of a principal
3. Recommendation for elementary or secondary principal certification (Tier 1 Alternative Route for Career Changers) by the superintendent of a South Carolina public school district interested in employing the individual as an assistant principal
4. Elementary or Secondary Principal Certification (Tier 1 Alternative Route for Career Changers). A one-year certificate that may be extended annually provided that the following requirements are met:

(a) Year One: At the end of this year, the South Carolina Department of Education (SCDE) must receive verification that the educator has completed a full year of experience as an assistant principal in a public school, has received a passing score on the area examination(s) required for certification of principals by the State Board of Education, and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. Additionally, the employing school district must submit a written request for a one-year extension of the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers).

(b) Years Two and Three: At the end of each of these years, the SCDE must receive verification that the educator has completed a full year of experience as an assistant principal in a public school and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. At the end of each year, the employing school district must submit a written request for a one-year extension to the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers). Also, by the end of Year Three, the educator must have successfully completed the program of study (i.e., training program) approved by the State Board of Education in order to be eligible for continued certificate extensions.

(c) Years Four and beyond: Upon meeting the requirements for Years One through Three, as described above, the educator is eligible for a professional Tier 1 certificate and employment as an assistant principal or as a principal.

5. Elementary or Secondary Principal Certificate (Tier 2). In order to be eligible to advance to an elementary or secondary principal certificate (Tier 2), the educator must have successfully completed all requirements as an assistant principal for Years One, Two, and Three, as described above. Additionally, the educator must successfully complete the PIP, receive an overall rating of *Proficient* or *Exemplary* on the PADEPP evaluation instrument in the second year of employment as a principal, and receive a recommendation for certificate advancement from the employing school district. If the overall rating on the PADEPP evaluation instrument in the second year of employment as a principal is *Needs Improvement*, the principal will remain on Tier 1 certification until the SCDE receives verification from the employing school district that the principal has achieved an overall rating of *Proficient* or *Exemplary* on PADEPP.

D. Specialized Endorsement for School Transformational Leaders' Academy

According to R43-62(V.), South Carolina educator provides for optional endorsements that are intended to enhance the skills of educators. In order to enhance the specialized skills of principals leading turnaround schools, the transformational leaders' academy will prepare selected educators with a principal's in transformational strategies in order to lead their persistently low-achieving school in raising student achievement.

Requirements for endorsement:

1. Current Tier 1 or Tier 2 Elementary and/or Secondary School Principal and Supervisor
2. Successful completion of the academy

Endorsement Grade Span: Pre-K-12

E. District Superintendent

1. Master's degree
2. Valid South Carolina Professional Certificate at the elementary, middle, or secondary level
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
4. Verification of a total of three years' experience as a Pre-K-12 or postsecondary teacher and two years as a school or school district administrator, postsecondary administrator, or school business administrator
5. Completion of an advanced program approved by the State Board of Education for the training of school superintendents

F. District Superintendent (Alternative Route for Career Changers)

1. Master's degree
2. Verification of at least ten years of successful experience in a senior position(s) of leadership, such as chief executive officer in a business, corporation or agency, military officer, or other position with responsibilities similar to those of a district superintendent
3. Recommendation for certification by a local school board in a South Carolina public school district interested in employing the individual as a superintendent
4. Submission of a plan of study by the local school board that the individual must complete within three years to include, at a minimum, the areas of curriculum and instruction, school finance, and school law. The candidate must also submit a passing score on area examination(s) required by the State Board of Education for district superintendents within the first year of employment as a superintendent.
5. Issuance of an initial certificate for one year. This certificate may be extended annually for two additional years at the request of the local school board based on verification of successful performance reviews.
6. Issuance of a professional certificate upon completion of the specified program of study, and minimum qualifying scores on the required certification examination(s), and the recommendation by the local school board after three years of successful service as superintendent.

G. Vocational/Technology/Career Center Director

1. Valid South Carolina secondary principal or supervisor certificate and certification in one of the following areas:

Agriculture  
Family and Consumer Sciences  
Health Occupations  
Industrial Technology  
Business and Marketing Technology  
Career Technology Education

OR

2. Valid South Carolina secondary principal or supervisor certificate and three years of experience as a director or assistant director in a Vocational/Technology/Career Center

OR

3. Master's degree from a State Board of Education approved teacher education program in vocational education, including fifteen semester hours in administration and certification in one of the following areas:

- Agriculture
- Family and Consumer Sciences
- Health Occupations
- Industrial Technology
- Business and Marketing Technology
- Career and Technology Education

The fifteen semester hours in administration required above are to be selected from the areas listed below:

- General School Administration
- School Personnel Administration
- Techniques of Supervision
- School Law
- School Finance
- Human Growth and Development
- Curriculum Development

AND

4. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

5. Verification of five years' experience as a pre-K-12 or postsecondary teacher, school or school district administrator, postsecondary administrator, or business administrator

## II. OTHER INSTRUCTIONAL SUPPORT AREAS

### A. ELEMENTARY AND SECONDARY GUIDANCE

1. Master's degree
2. Completion of an advanced program approved by the State Board of Education for the preparation of school counselors
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

### B. SCHOOL PSYCHOLOGIST

#### 1. SCHOOL PSYCHOLOGIST I

- (a) Master's degree
- (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
- (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

#### 2. SCHOOL PSYCHOLOGIST II

- (a) Specialist degree
- (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
- (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

#### 3. SCHOOL PSYCHOLOGIST III

- (a) Doctorate degree

(b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists

(c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

C. SPEECH LANGUAGE THERAPIST

1. Master's degree

2. Completion of an advanced program approved by the State Board of Education for the preparation of speech language therapists

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

D. MEDIA SPECIALIST

1. Master's degree

2. Completion of an advanced program approved by the State Board of Education for the preparation of media specialists or school library media specialists

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education.

**HISTORY:** Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002; State Register Volume 28, Issue No. 6, eff June 25, 2004; State Register Volume 35, Issue No. 6, eff June 24, 2011; State Register Volume 38, Issue No. 6, Doc. No. 4406, eff June 27, 2014.

**ARTICLE 4**  
**TEXTBOOK REGULATIONS**

**43–70. Textbook Adoption Regulation.**

(Statutory Authority: 1976 Code §§ 59–5–60 and 59–31–550 Code of Laws of South Carolina)

**SECTION 1. Statutory Authority**

Pursuant to Sections 59–5–60 and 59–31–550, the State Board of Education shall have the responsibility and duty to adopt the instructional materials used for instruction in the free public schools of South Carolina subject to the provisions of the sections that follow. South Carolina contract statutes and any other applicable State laws guide the instructional materials adoption process.

**SECTION 2. Instructional Materials Evaluation Criteria**

General criteria governing the adoption of instructional materials shall be developed and revised by the State Department of Education and presented to the State Board of Education. Specific subject criteria are contained in the grade level education standards adopted by the State Board as well as each curriculum framework, occupational education core curriculum, and other program area materials which are not addressed within the standards and or curriculum framework and shall be used in the evaluation process.

**SECTION 3. Instructional Materials Advisory Committee**

The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, an Instructional Materials Advisory Committee. The Committee shall consist of fifteen members; six members who are actively engaged in teaching in South Carolina public schools; eight members who are actively engaged in school work either administratively or supervisory, at least one from each congressional district and two at large; and one lay citizen, preferably a former member of the State Board of Education. It is the intention of the State Board that the Committee membership include members whose interests reflect the needs of all students served by the educational system. Seven of the members shall be appointed for a term of two years; eight shall be appointed for a term of four years. Thereafter, the term of all appointed members shall be four years. The Committee shall be facilitated by appropriate staff members from offices of the State Department of Education.

The duties of the Advisory Committee shall be to study continually the Instructional Materials Review, Selection, and Distribution Process and make recommendations to the State Board of Education through the State Superintendent of Education as to changes needed in the process to meet

the needs of students, schools, and school districts for instructional materials. The Committee should address: recommendations in regard to exercising options in existing contracts; recommendations in regard to renegotiating expiring contracts; and recommendations for prioritization of purchases should funds not be available. The Committee shall give careful attention to new and improved methods of presenting instructional materials. The Committee is authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state.

The Instructional Materials Advisory Committee shall meet annually at the call of the Chair. Additional meetings, when necessary, may be held at the call of the Chair, a majority of its members, on request by the State Board of Education, or the State Superintendent of Education. However, the State Board of Education reserves the right to limit the number of official meetings this Committee may hold in one school year.

The Instructional Materials Advisory Committee may make curriculum reports when in its judgment such reports are deemed advisable. The Committee shall report to the State Board of Education not later than May of each year any changes needed to be made in the Instructional Materials Review, Selection, and Distribution Process during the following school year.

#### **SECTION 4. Instructional Materials Review Panels Established**

The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, Instructional Materials Review Panel or Panels for each area for which a curriculum framework has been adopted by the State Board of Education, occupational education core curriculum, or other program areas not addressed within a curriculum framework. The number of Panels needed and number of Panel members needed for each framework, occupational education core curriculum, or other program area shall be included in the recommendation from the State Superintendent of Education. Names of potential Review Panel members shall be obtained from district superintendents, State Board of Education members, curriculum framework writing teams, State Department of Education curriculum specialists, and others. For each position there shall be a nominee and one alternate. In the event the nominee does not accept, the State Superintendent of Education is authorized to appoint the alternate and to make other substitutions when necessary.

It is the desire of the State Board of Education that a balance be maintained on each Instructional Materials Review Panel between large and small, rural and urban schools and school districts, and that the Panel membership include members whose interests reflect the needs of all students served by the educational system. Each Review Panel may have up to 25 percent lay membership. All other members shall be persons who are actively engaged in teaching, in the supervision of teaching, in the administration of public schools, and persons who have had teaching experience, special training or supervision in the subject field in which they have been appointed, or who have expertise in a subject area from which material and information should be integrated within the subject area under review. A majority of those appointed shall be full-time classroom teachers. The recommendations by the State Superintendent of Education shall include the size of each Review Panel, length of service term for each member, and the appointment of a State Department of Education staff member as facilitator for each Review Panel.

#### **SECTION 5. Subject Areas Open for Bid**

The State Board of Education, upon the acceptance of the recommendations from the Instructional Materials Advisory Committee or upon adoption or revision of a curriculum framework in a particular subject area, shall call for the adoption of instructional materials. The State Board of Education, through the State Superintendent of Education, shall make information relative to the call for bids available to publishers vendors and school administrators, not later than 210 calendar days preceding the adoption date. It shall also make arrangements for an official announcement at least forty-five days before bids are to be opened. This announcement shall be sent to all companies registered with the State Department of Education, and a notice shall be given by legal advertisement in at least one daily newspaper in the State of South Carolina in accordance with general legal requirements.

Upon formal notice of the call for bids by the State Superintendent of Education, sample copies of the bid forms shall be made available to be used by companies in submitting instructional materials for adoption and a copy of the contract and bond each company shall be required to execute if its materials are adopted.



The State Superintendent of Education shall develop for State Board of Education approval a schedule outlining major dates and occurrences of the adoption process. The State Superintendent is authorized to make adjustments in the dates when necessary for the success of the adoption program. A copy of the Calendar of Events shall be provided to publishers/vendors with the call for bids.

#### **SECTION 6. Submission of Materials for Panel Review**

Publishers/vendors shall submit one copy of a brief along with the official bid for all instructional materials being offered for adoption. Failure to comply with this regulation shall automatically exclude materials for adoption. The brief shall include the level of learning difficulty, an ancillary materials and services list to include designation of free materials and price of optional materials for purchase, and other specific descriptive information as required by the State Superintendent of Education.

Each bidding company or its representative is responsible for distributing instructional material samples to each member of the appropriate Instructional Materials Review Panel on or before the date set by the State Board of Education for each adoption year. Companies are requested to supply a copy of the brief with the instructional materials samples to each Panel Member. This may be done by personal delivery or by mail to the address specified by the Review Panel member. Arrangements shall be made by the State Superintendent of Education for presentations by each bidder to the appropriate Instructional Materials Review Panel as a group. These group presentations shall take place no sooner than thirty days after the date which bidders are expected to have delivered sample materials. During formal panel deliberations, thirty minute sessions will be scheduled for each bidder with the Instructional Materials Review Panels during which the bidder will be given the opportunity to answer additional questions and present additional information.

Review Panels may request additional information and appearances from bidders during the adoption process. This shall be done by the facilitator when requested to do so by the Panel.

#### **SECTION 7. Responsibilities of the Instructional Materials Review Panels**

It shall be the duty of each Instructional Materials Review Panel to rate all items offered for adoption and file a written report with the State Superintendent of Education. The report shall consist of the Panel evaluation, list of items which the Panel recommends as suitable for adoption, and an annotation which includes for each item or series of items the common reading level of text materials, level of learning difficulty, and other information as required by the State Superintendent of Education. In order to be placed on the recommended list, instructional materials must receive affirmative votes from at least two-thirds of the Panel members.

There is no limit to the number of individual items or series of items which may be recommended by a Review Panel. All submitted items which meet the general and subject specific criteria as outlined in the grade level educational standards, curriculum framework, occupational education core curriculum, or other program areas for that subject should be recommended for adoption. However, prior provisions notwithstanding, the State Board of Education is not required to adopt any instructional materials recommended by the Review Panels that in the judgment of the State Board of Education are unsatisfactory.

The State Board of Education shall not approve and add a textbook or instructional materials to the state list of adopted materials unless it has been reviewed and rated by a properly constituted Instructional Materials Review Panel.

To facilitate efficient and competent evaluations by the Review Panels, the State Board of Education shall furnish the Panels with detailed instructions pertaining to its duties; an orientation to and copies of the subject's standards, curriculum framework, occupational education core curriculum, and other program area instruction; instructional materials evaluation criteria; and the time schedule necessary in order that the State Board of Education complete its work in an orderly fashion. It shall be the duty of the State Superintendent of Education or his/her designee to serve as coordinator and liaison between the State Board of Education and the Review Panels.

The Review Panels are authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state. The Panels may receive clerical services from the State Department of Education.

Each Panel member must submit signed ratings sheets to the facilitator of the Review Panel for the State Department of Education files.

Textbooks shall not be recommended by the Instructional Materials Review Panels and the State Board of Education shall not adopt textbooks that fail to meet the official "Manufacturing Standards and Specifications for Textbooks." As national standards are developed for non-traditional materials, the State Board of Education may require adherence to those standards as well. Provided the State Board of Education reserves the right to waive minor deviations and technicalities, however, in each case the bidder is responsible for showing cause why the standards cannot be met. Copies of the official manufacturing standards and specifications and other applicable standards shall be made available for review to the bidding companies.

In the event an Instructional Materials Review Panel cannot submit a report that is acceptable to the State Board of Education, the Panel may be dissolved and a new Panel appointed in the same manner as the original Panel or the area may be considered for opening at a later date by the Instructional Materials Advisory Committee.

Each Instructional Materials Review Panel shall be dissolved according to the scheduled date of their term expiration.

#### **SECTION 8. Public Review of Materials**

The State Superintendent of Education shall make arrangements for a thirty-day public review of materials recommended by the Instructional Materials Review Panels prior to taking those recommendations to the State Board of Education. The public review sites shall be geographically distributed around the state at as many state-supported colleges and universities or, if necessary, other designated sites as will agree to host such reviews. The materials for public review shall be provided by the bidding companies. Public review sites shall be advertised in each congressional district in the newspaper with the largest circulation figures for that district.

A summary of the comments received during the public review period shall be provided to the State Board of Education to facilitate their adoption of instructional materials.

#### **SECTION 9. Instructional Materials Review Panel Recommendations Submitted to State Board of Education**

The State Department of Education shall provide to the State Board of Education, the Instructional Materials Advisory Committee, and the Instructional Materials Review Panels information to assist in determining whether instructional materials offered for adoption meet the official "Manufacturing Standards and Specifications for Textbooks" or other materials standards as available. A list shall be furnished of materials offered for adoption which, in the Department's judgment, fail to meet the manufacturing standards and specifications and specify in detail the deviations the State Department of Education finds prior to the rating by the Review Panels.

Materials which may not meet the appropriate manufacturing standards and specifications for those types of materials may be adopted when recommended by the appropriate Instructional Materials Review Panel and when the Panel's justification is deemed sufficient by the State Board of Education.

The Review Panels may recommend and the State Board of Education may adopt instructional materials in manuscript or beta stage. Provided, however, any contract awarded for materials in manuscript or beta form shall be subject to final approval by the State Board of Education and the Review Panels as to the final wording, format, illustrations and captions, and physical construction. None of the members of an Instructional Materials Review Panel for subject matter adopted in manuscript or beta form shall be discharged until final action has been taken by the State Board of Education on the completed product.

#### **SECTION 10. State Board of Education Approval of Instructional Materials**

Each Instructional Materials Review Panel shall submit to the State Board of Education through the State Superintendent of Education materials recommended for adoption in each subject area for which materials have been solicited for bid.

#### **SECTION 11. Publish Instructional Materials Listing**

The State Department of Education shall publish annually a listing of the newly adopted instructional materials for use in the public schools of South Carolina. A copy shall be provided to each school and school district.

#### **SECTION 12. Substitution of Instructional Materials**

Substitutions of new copyrights for instructional materials under contracts shall be allowed only with written permission as specified below.

A. Any company under contract desiring to substitute a later copyright of adopted instructional materials with minor changes that can be used interchangeably in the same classroom without confusion may make application to the State Superintendent of Education. The company shall submit the appropriate number of samples of the edition under contract, samples of the edition it proposes to substitute, and complete lists of changes between the editions. If, after consultation with the appropriate Review Panel, the State Superintendent of Education concludes that the two editions can be used interchangeably in the same classroom without confusion, the State Superintendent is authorized to grant permission to substitute the new edition. All substitutions made under this provision shall comply with Section 9 of the regulations as to the construction of the instructional materials. All substitutions made under this provision shall be approved by the State Superintendent of Education and reported to the State Board of Education.

B. Any company, desiring to substitute a later copyright of adopted instructional material that is so different from the original material that it cannot be used interchangeably in the same classroom without confusion, must make application to the State Board of Education and agree to take up all copies of the old instructional material in use in the public schools of South Carolina and allow an exchange rate to the State equal to any equity they have in the used material. The State Board of Education shall examine the company's request and if, in its judgment, there is sufficient merit to warrant further consideration, the State Board of Education shall instruct the appropriate Instructional Materials Review Panel to review the materials for substitution. After receiving the recommendation of the Panel, the State Board of Education shall determine whether the substitution shall be allowed.

C. In all substitutions allowed, prices shall not exceed the price named in the original contract.

### **SECTION 13. Instructional Materials Review Panel Expenses**

All members of the Instructional Materials Advisory Committee and of the Instructional Materials Review Panels except ex-officio members or full-time employees of the State of South Carolina shall be paid expenses as prescribed by State law and as funds are available.

### **SECTION 14. Submission of Materials by Schools or School Districts**

A school or school district may submit for review materials which in their opinion best suit the needs of the students in their care. Upon submission, the school or school district shall be notified of the time frame within which they may expect to have the materials for use in schools. Materials to be used during the following school year must be approved by the State Board of Education by May of each year.

The State Department of Education shall request the publisher/vendor to submit the materials for adoption and copies of sample materials for use by the appropriate Instructional Materials Review Panel. Inability to secure agreement from the publisher/vendor for participation in the review process shall result in a denial of the request for review. Any item previously reviewed by a Review Panel in the initial call for bids for a subject area shall not be considered for review under this section.

If the publisher/vendor agrees to submit the materials for adoption, all applicable adoption regulations will be followed. Materials approved under this section shall be available for public review through the State Department of Education. Under no circumstances shall this section be used as a vehicle to circumvent the State instructional materials adoptions.

### **SECTION 15. Registering of Bidders and Publishers**

Any bidder or publisher submitting instructional materials to the State for adoption shall on or before the day bids are received register with the State Department of Education the names, home addresses, and business telephone numbers of all agents or employees of any kind or persons retained for legal or other services to whom there is being paid or there will be paid any salary, commission or royalty for representing the bidder or publisher. This information shall be kept open for inspection by the public, members of the State Board of Education, the Instructional Materials Advisory Committee, and the Instructional Material Review Panels. The failure of any bidder or publisher to register the names, home addresses, and business telephone numbers of all agents of any kind as specified shall be deemed as sufficient cause for summary rejection of the bid or proposal of that bidder or publisher.

## **SECTION 16. Conflict of Regulations**

Any or all rules and regulations which may be in conflict with the provisions of this regulation are hereby declared null and void.

## **SECTION 17. State Board of Education Waiver**

A. The State Board of Education may, in its discretion and upon written request of the Department or any person who is subject to this regulation, grant a variance from one or more specific provisions of this regulation. The requesting party shall:

1. identify the specific provisions of this regulation from which variance is sought;
2. demonstrate that compliance with the identified provision would not be in the best interest of students, schools, school districts, or the state; and
3. demonstrate that the variance will have no significant adverse impact on the students, schools, school districts, or the state.

B. In granting a variance, the State Board may impose conditions reasonably necessary to assure that the subject activity will have no adverse impact on the students, schools, school districts, or the state.

C. Any variance granted by the State Board may be immediately withdrawn if the State Board finds noncompliance with conditions of the variance or other information that the variance is not in the public interest or that the petitioner has provided false or inaccurate information on which the variance was granted.

D. Nothing herein shall be construed as a waiver of the State Board's right to deny any petition for a variance.

**HISTORY: Amended by State Register Volume 17, Issue No. 5, Part 1, eff May 28, 1993; State Register Volume 24, Issue No. 3, eff March 24, 2000.**

## **43-71. Free Textbooks.**

(Statutory Authority: 1976 Code §§ 59-5-60 and 59-31-360)

Section 1. Free Basal Textbook Enabling Act. Pursuant to Section 59-31-360 to provide "free basal textbooks" in Grades 1 through 12, S. C. State Board of Education does hereby set forth procedures for ordering instructional materials.

Section 2. Requisition for Free Instructional Materials. Requisitions for free instructional materials shall be made only to the South Carolina Department of Education (SCDE), in accordance with "Instructional Materials Management Procedures for Schools", by completing the official current order form or on internet using the ordering system on the South Carolina Instructional Materials Central Depository website.

Section 3. Provisions for Requisitioning and Distributing Free Instructional Materials.

A. Acquisition of Free Instructional Materials on Levels of Achievement. Any pupil who is a member of any grade within the free instructional materials program may be assigned free instructional materials on the appropriate achievement level as indicated by tests and other evaluations.

B. Allocation of Instructional Materials to Schools. The SCDE shall provide a schedule of instructional materials allocation formulas to the State Board of Education for information annually. The formulas shall be based on available funding provided by the General Assembly for the Instructional Materials program; the average cost of adopted instructional materials; and the prescribed percentage of total membership used in calculating materials allocations.

C. Educable Mentally Handicapped (Special Education) Reading Primary classes shall be eligible for necessary reading materials not to exceed two pre-readiness readers and/or readiness programs and one beginning reading program.

Section 4. Changing to New Titles or Series. A school may change to a new title or series in a subject area only when new material on the same level is adopted by the State Board of Education. Schools shall not return materials presently on the state adopted list to be exchanged for other titles or series, except limited changes that are justified by variations in student achievements. Any books materials exchanged must be on different levels of difficulty. Provided, that the Board shall have the authority

to limit or postpone the acquisition of titles or series for such period of time as may be deemed advisable.

Section 5. Property of the State. Title to all materials issued to schools and depositories under the Free Textbook Act shall be vested in the State. (Legislative Provision).

Section 6. Responsible Parties. The district board of trustees shall be responsible for the proper custody of all materials in its schools and depositories and shall be responsible for the administration of the Instructional Materials Management Procedures for Schools in those schools and depositories.

Section 7. Distribution to Schools. The county or district board of trustees shall elect from the procedures listed below the system of distribution to be used.

A. County Depository: A county depository may be established through which all materials in the county will be distributed.

B. District Depository: A district depository may be established through which all materials in the district will be distributed.

C. School Depository: A school depository may be established through which all materials in the school will be distributed.

The board of trustees may designate an agent to operate the depository, maintain adequate records and make necessary reports and remittances to the responsible office at the SCDE; however, such designation does not relieve the board of its responsibilities.

Section 8. Shipping of Instructional Materials. Each school or depository will be sent a Shipment Advisory listing the materials shipped to it. The school or depository agent shall verify the materials received with the materials listed on the Shipment Advisory. If the title(s) and number of materials received do not agree with the title(s) and number of materials on the Shipment Advisory, a report must be made promptly to the responsible office at the SCDE showing: (1) the name of the school and county, (2) the number and date of the Shipment Advisory, (3) a complete itemized list of the differences between Shipment Advisory and books received, both over and short.

Section 9. Records and Reports. Each school and depository shall maintain a separate and complete file for instructional material records, correspondence, and forms. Each school and depository shall maintain an accurate record of the number of materials on hand, materials received and materials returned. They, also, shall keep an accurate record of sales, lost materials, and damage fees and report same to the SCDE and remit all funds collected and pay promptly all amounts due. The Department will issue an official receipt covering each remittance.

Each school and depository shall furnish the responsible office at the SCDE with membership reports, anticipated membership reports, inventory reports, and other reports as may be requested. Each school shall maintain a record of materials issued to each pupil.

Section 10. Storage. Each school and depository shall provide for instructional materials adequate places of storage which are safe, clean, dry, well arranged, and free of insects. Care must be taken to see that materials do not mold while in storage. Materials should not be stored on floors and should be at least one inch from walls to allow proper ventilation and protection from termites.

Section 11. Distribution Within the School. Materials may be distributed directly to the pupils from the central bookroom or delivered from the bookroom to each teacher to be issued to the pupils. Materials as determined by the responsible office at the SCDE shall be distributed and circulated using the online state textbook manager.

Section 12. Inspection. All materials and materials records shall be subject at any time to inspection by authorized agents of the county and/or district board of trustees and the SCDE. It shall be the duty of each teacher to inspect frequently the materials issued to pupils and to emphasize the proper care and handling of materials.

Section 13. Stamping or Labeling Instructional Materials. Free Instructional materials issued to pupils shall have a barcode label properly affixed marked "Property State of SC". New materials shall not be stamped or labeled or have a barcode affixed or otherwise marked until issued to pupils.

Section 14. Issuing Used Instructional Materials. All used materials of each title shall be issued before any new materials of the same title are issued.

Section 15. Marking in Instructional Materials. Pupil's name may be written below the property stamp impression or on the property label. Pupils may appropriately mark lesson assignments, otherwise they shall not mark or write in instructional materials. Pupils shall not remove, deface, or damage barcodes on state-owned materials. (See Section 20 - Damaged Instructional Materials)

Section 16. No Deposits Charged on Instructional Materials. No board or agent thereof shall require a pupil to pay a deposit on any free materials issued by the SCDE.

Section 17. Instructional Materials to be Returned by Pupils. Materials shall be turned in to the school by the pupil, parents or guardians under the following circumstances:

- A. When appropriately requested by a teacher or school official.
- B. When the course is completed or discontinued by the school or pupil.
- C. When the pupil withdraws from school.
- D. At the end of the school year.

Section 18. Transfer Students. A school from which a pupil transfers shall make an appropriate notation on the pupil's transcript records as to whether all his or her materials were returned to the school and whether any damage or lost materials fees are unpaid. (See Sections 17, 19, and 20)

Section 19. Lost Instructional Materials. Schools may require pupils, parents or guardians to pay for instructional materials lost and the pupil, parent or guardian may be denied further benefits of the Free Instructional Materials Program until in compliance with this requirement. This requirement may be waived in instances where the judgment of the principal and/or responsible officials believe that the child is a victim of unusual circumstances. The school district shall be responsible for the cost. The report of lost instructional materials paid for and sales should be itemized by titles on an appropriate form sent to each school at the end of the school year. The schedule of charges shall be determined by the State Board of Education upon the recommendation of the SCDE. Fees collected for lost materials shall be remitted to the SCDE.

Section 20. Damaged Instructional Materials. Schools are required to collect appropriate damage fees from any pupil, parent or guardian for abuse or improper care of instructional materials and the pupil, parent or guardian may be denied further benefits of the Free Instructional Materials Program until in compliance with this requirement. This requirement may be waived in instances where the judgment of the principal and/or responsible officials believe that the child is a victim of unusual circumstances. The school or district shall be responsible for the cost. The amount to be charged in such cases shall be determined by the agent in charge of materials. In no case, shall the cost exceed the amount of charge applicable had the material been lost, provided that the pupil, parent, guardian shall have the option of paying the damage fee or purchasing the material according to the schedule in Section 19 above.

Materials on which only a damage fee is collected shall remain the property of the state and shall remain with the school for further use.

Materials damage fees collected should be reported in a lump sum in the space provided on the annual instructional materials inventory form sent each school at the end of the school year. Fees collected for damaged materials shall be remitted to the SCDE.

Section 21. Fire Loss. Materials destroyed or damaged beyond further use by fire in school buildings or private homes shall not be charged to the individual or school provided an official of the school furnishes the SCDE a certified list of the materials destroyed and the place and date of the fire.

Section 22. Contagious Diseases. Materials issued to a pupil having a contagious disease such as scarlet fever, diphtheria, etc., shall be burned by the local agent provided such destruction has been recommended by the physician attending the child. The local agent shall provide the SCDE with a certified list of the materials destroyed.

Section 23. Returning Instructional Materials to Central Depository. Schools or depositories shall not return used free instructional materials except when requested or authorized to do so by the SCDE. New instructional materials (materials which never have been put in use or tagged, stamped, or labeled) may be returned at any time. (See instructions below)

- A. Address all shipments to:  
Central Depository

301 Greystone Blvd.

Columbia, South Carolina 29210

B. Return instructional materials by completing the Return Form.

C. When preparing the Return Form, list the instructional materials and follow the instructions on the form.

Section 24. Defective Instructional Materials. Defective materials should be clearly marked “DEFECT” on the outside of the front cover and the defect identified on the inside of the front cover or in a visible place on the outside of a non-book item. Return the defective materials as soon as possible to the Instructional Materials Central Depository and notify the responsible office at the SCDE whether a replacement or an inventory credit is desired.

Section 25. Disposition of Out-of-Adoption Instructional Materials.

A. Out-of-adoption instructional materials are those for which the contracts with the publishers have expired.

B. Schools shall return all new out-of-adoption instructional materials to the Instructional Materials Central Depository promptly after the expiration of the contract.

C. Schools may continue to use a title on which the contract has expired as long as the title is available from stock owned by the state. Schools should continue to use such materials until they have carefully evaluated all newly adopted materials and selected those best suited to their needs. Schools may continue to use the old title for some grade sections and new titles for other grade sections if they wish.

D. Schools which change to new titles may be requested to return all or a portion of the titles that are being discontinued. The remaining copies may be used or disposed of by the school. Maximum use should be made of these materials, such as additional text material including assignments for classroom work or consigned for home study.

E. Out-of-adoption materials will be removed from the inventory of books charged to the school before the second year after the expiration of the contract with the publisher. Districts should attempt to dispose of out-of-adoption materials locally. Districts may dispose of those materials in any manner, including selling materials for the purpose of recycle or resale. Funds received by the sale of used materials must be used for the purchase of instructional materials or supplies.

Section 26. Consumable Instructional Materials.

A. The SCDE will publish annually a listing of consumable instructional materials. Any materials not on the listing shall be considered non-consumable. Schools using non-consumable materials as consumable shall be responsible for the cost of replacement.

B. Instructional materials such as workbooks, lab manuals, and test booklets that provide space for written comments and answers shall be classified as one-year consumables and considered consumed once issued to a student and used for instruction. One-year consumable materials issued to a student and used for instruction will be removed from inventory annually.

C. Funds to replace consumable materials will be provided annually to the extent that an Appropriation is provided by the General Assembly for instructional materials with replacement of non-consumable materials having first priority.

Section 27. Accounts Must Be Settled. Fees for lost and damaged textbooks for the prior school year are due no later than December 1 of the current school year when invoiced by the SCDE. The SCDE may withhold textbook funding from schools that have not paid lost and damaged textbook fees by the payment deadline.

Section 28. Special Adoptions. Instructional materials, textbooks, or series not currently available from the SCDE that are subsequently added as a special adoption or a district adoption under Section 59-31-45 may be purchased with the district’s existing allocation. The SCDE may limit the exchange of instructional materials replaced by special and district adoptions.

Section 29. Most Favored Purchaser. Pursuant to South Carolina Code, if publishers sell materials to any other person or entity at a lower price than the price offered to South Carolina, that reduced price automatically becomes the contract price for South Carolina. At the end of each calendar year, publishers shall submit a certified list of all contracts made with other entities during the calendar year

just closed on all instructional materials for which the publisher has a contract in South Carolina. That list must include the contract price for those materials. The SCDE may direct the Central Depository to withhold payment for instructional materials purchased from non-responsive publishers or assess non-responsive publishers liquidated damages in an amount equal to 5 percent of the contract price of all instructional materials under contract with the publisher, not to exceed \$5,000.

**HISTORY:** Amended by State Register Volume 18, Issue No. 5, eff May 27, 1994; State Register Volume 22, Issue No. 6, Part 1, eff June 26, 1998; State Register Volume 23, Issue No. 7, eff July 23, 1999; State Register Volume 32, Issue No. 5, eff May 23, 2008.

### **43–73. Disposition of Instructional Materials Samples after State Adoption Process.**

A. Sample copies of instructional materials, textbooks, and supplementary materials furnished to members of the Instructional Materials Review Panels shall remain in possession of panel members until the adoption process has been completed. State Board of Education action on recommendations from the panels will be considered as the completion of the adopted cycle in a given year. Samples furnished by publishers shall be handled in the following manner:

1. The publisher shall notify the State Department of Education of its intent to reclaim samples when official bids are submitted.
2. Each publisher electing to reclaim samples must arrange for collecting samples at its own expense from panel members within 30 days after the State Board of Education has approved the adoption.
3. Where publishers do not elect to reclaim samples or fail to collect the materials according to the procedures set forth in the policy, panel members may use them in their own work, donate them to public schools, state-supported institutions, or charitable non-profit organizations.
4. A panel member or employee of the State Department of Education shall not dispose of any instructional material samples or supplementary materials for profit or personal gain.
5. Samples furnished to the State Department of Education that are not adopted may be reclaimed at the publisher's expense by mail or picked up by the publisher's representative within 30 days after the adoption. Any samples not collected after 30 days may be donated to public schools, state-supported institutions, or charitable non-profit organizations but may not be sold.
6. A sample copy of all adopted instructional materials including workbooks and other supplementary materials shall be stored at the State Department of Education for the duration of the contract with its publisher.
7. Samples of materials stored at the State Department of Education, with expired contracts, be sent to the Central Depository for donating to public schools, state-supported institutions, charitable non-profit organizations, or disposing/recycling but may not be sold.

#### **B. Samples of Non-Textbook Materials**

1. A publisher may propose in writing to the instructional materials adoption program coordinator an alternative plan for sampling of non-textbook materials (kits, software, Internet-based programs, etc.). If the proposal is approved by the program coordinator such sampling shall be deemed acceptable for meeting State Board of Education sampling requirements.
2. Samples under the approved alternative plan must be reclaimed from panel members in the same manner as traditional samples as stated in A.2. of this policy. Unless excluded by the alternative plan, the State Department of Education shall retain non-textbook samples of adopted materials and access to adopted Internet programs for the duration of the contract with its publishers.

**HISTORY:** Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003.

## **ARTICLE 5 TRANSPORTATION REGULATIONS**

### **43–80. Operation of Public Pupil Transportation Services.**

(Statutory Authority: 1976 Code Sections 59–5–60, 59–67–20, 59–67–410 and 59–67–570)

A. The school district board of trustees shall be responsible to the State Board of Education for the supervision of the school transportation program in the district. This shall include the recruitment of



school bus drivers, employment and dismissal of school bus drivers, supervision of school bus drivers and the pupils being transported, proposed routing of buses, accurate transportation records as to mileage, number of pupils transported pursuant to Section 59-67-100, driver's time reports, school bus safety, and enforcing all other transportation regulations. The recruitment and employment of school bus drivers and supervisory personnel is the responsibility of the school district board of trustees. The transportation of pupils is an integral and essential part of the school program, and teachers and administrative personnel shall be assigned to school bus duties in the interest of the transportation program.

B. Transportation on regular school bus routes is authorized for public school pupils. Public school pupils include three-year to five-year old pupils that are disabled, kindergarten pupils in half-day programs, and the K-12 regularly enrolled students during the 180 day school year. Three and four-year old children attending public school-sponsored kindergarten or child development programs must be permitted to ride state-owned buses to the extent funds are made available by the General Assembly. Special programs operated and/or sponsored by the governing body of the school district may use school buses as long as transportation services are paid for by the school district at no cost to the State and do not disrupt school bus maintenance servicing or regular school bus routes. A special program is any education or other program sponsored by the school district that is not a program required by State statute or regulation to be operated by the school district. A student that is disabled shall be accompanied by an aide if the student's Individual Education Program so specifies.

Assignment of buses for new routes will be made on the basis of actual need. Justification must be submitted showing that all buses presently assigned to the district or area are being used to the maximum before additional equipment can be assigned.

To enhance school bus routing effectiveness, kindergarten pupils shall be assigned to morning or afternoon sessions on the basis of where they live.

C. The State shall not be required to operate buses for high school, junior high school, middle school, and elementary school pupils separately. Approval of separate transportation will be given only when such transportation can be accomplished with the same number of buses and approximately the same mileage. The schedule of work and the opening and closing hours for all schools served by the same buses must be arranged so as to facilitate a maximum amount of school work and at the same time permit the operation of a satisfactory and economical transportation program. School districts shall stagger school opening times when feasible to maximize the use of the school bus transportation system.

D. Five-year-old through grade 12 public school pupils that have temporary physical handicaps or have a chronic disorder of lengthy duration may have their parents or guardians apply for these students to receive special school bus transportation services. The application process is as follows:

1. Secure appropriate forms from the District Superintendent.
2. Have the pupil examined by a licensed medical doctor and receive a written statement from the licensed medical doctor to the effect that without special school bus transportation service, unusual hardship will be experienced by the pupil in walking the required distance to the regular route.
3. Submit the statement from the licensed medical doctor to the District Superintendent for approval.
4. The District Superintendent shall submit the health statement with a Request For Special School Bus Transportation Service approval to the local representative of the State Department of Education. Approval by the State Department of Education shall be required before a change in a school bus route for this purpose becomes official.
5. Approval for such a change in school bus routes shall terminate at the time the pupil no longer qualifies for special school bus transportation service, or when the pupil for whom the service was intended has moved residences.

E. Each school district shall prepare route descriptions and maps in accordance with laws and regulations and, upon approval of the district's board of trustees, shall submit the route descriptions and maps to the designated representative of the State Department of Education by October 15th of each year. Proposed changes in routes after October 15th must be approved by the designated representative of the State Department of Education before a change is made. In emergencies or

unusual situations, districts may make route changes in keeping with laws and regulations with approval by telephone from the designated representative of the State Department of Education. Such approval must then be submitted in writing, with written approval received from the designated representative of the Department. Changes made without notification to and approval by the designated representative of the Department will result in the district being charged the prevailing rate per mile for permit trips. The amount for unauthorized mileage will be deducted from the district's transportation funding.

Written approval or disapproval of all routes will be provided by the State Department of Education no later than November 15th. A period of two weeks will be given to the district for corrections to be made after a notice of disapproval. Districts operating routes after November 15th that have not been approved will be considered as operating unauthorized routes and operated at the expense of the school district.

F. School bus stops on each route shall not be closer than two-tenths of a mile apart at safe points. Stops shall have a clear visibility of 600 feet in each direction or a "School Bus Stop Ahead" sign shall be located at a point 600 feet in each direction of the designated stop. During periods of inclement weather, buses may be allowed to stop on the regular route at safe points nearest the house of each child; however, buses shall not be permitted to leave regular routes. Stops and turn-about shall not be made on blind curves, steep grades, or near the crest of hills or in any other unsafe traffic environment.

G. Pupils shall not be transported from one district or attendance area to another when an appropriate school is provided within the district or attendance area. When an intra-district Choice Program is approved by an appropriate school district board of trustees, pupils may be transported across attendance area boundaries; however, this transportation shall be provided in the most productive and cost efficient manner and shall not violate the continuous riding time restrictions provided in statute.

H. No school bus shall stop for the purpose of picking up or discharging any non-handicapped school child living within one and one-half miles of the school, unless under the application provisions of Section 59-67-420 the child qualifies for transportation under one of the following conditions.

1. Where no additional state-owned school buses are required, it will be permitted for school buses to transport children, that reside along the route, to and from school on the established route within one and one-half miles distance of the school if there are vacant seats on the school bus. When transporting children that reside within the one and one-half mile distance of the school, other provisions of law and regulations must be maintained, and the school district must assume any additional operational expense.

2. When the school district Board of Trustees of any school district desires to have children transported to and from school within one and one-half miles distance of the school, state-owned buses may be used for this purpose provided the school district Board of Trustees pay to the State Department of Education an amount per mile to be determined annually by the State Department of Education. The per-mile amount should cover at a minimum all costs associated with the provision of the equipment used to provide the service. The methodology to determine this minimum cost shall be approved by the State Board of Education. The driver salary and benefits shall be paid directly by the school district. No additional state-owned buses will be assigned for transportation of students living within one and one-half miles of the school.

- I. Regularly assigned buses may be used to transport pupils to vocational classes upon approval of the State Department of Education provided regular buses are the most cost effective method of transportation. If a regular assigned bus is not the most cost effective method, the District shall examine less costly transportation options. The State Department of Education shall reimburse the district for the least expensive alternative transportation mode. When buses are used, the class schedules shall be arranged so that buses can complete their regular morning and afternoon routes. As with all school bus transportation services, the school district Board of Trustees shall be responsible for providing adequate supervision on the bus at all times.

- J. Buses shall be removed from routes when, in the opinion of the State Department of Education, abuse or vandalism becomes so excessive that it interferes with the maintenance and operation of buses for the regular school program.

K. The school district Board of Trustees must correct problems in the routing, supervision and/or use of any school bus under its jurisdiction. If problems are not corrected after official notification by the designated representative of the Department of Education, the school district shall assume all financial responsibility and all liability associated with operating the buses.

L. Buses shall be left at the designated school bus parking area during the school day. Exceptions:

1. With prior written approval by the Department of Education drivers of buses may be transported by school bus pool to their home mid-day provided it can be justified economically. The Department of Education for economic justification purposes will allow a pool bus to travel a distance of no more than five miles per driver transported one way per day. Pooling shall be defined as the transportation of more than one bus driver to home or to work on a single bus. In no case shall there be an adverse economic impact upon the bus maintenance services.

2. Drivers of buses may drive their assigned bus home mid-day when the one-way mileage does not exceed five miles. Any additional mileage shall be at the district's expense.

3. Buses may be parked at another school when there will be no adverse economic impact upon bus maintenance services.

4. At the end of the school day, drivers may drive their vehicle back to their home or a designated public parking facility only when it can be proven that to do so can be justified economically.

The exceptions for use of buses and the related economic justifications shall be part of the route and schedule plan submitted by the local school district to the Department of Education.

In exceptions 1 and 3 above, the request for approval shall include a plan to insure the proper servicing and maintenance of the bus.

The school district shall provide for safe loading and unloading of students and a suitable concrete or asphalt-paved area for the parking and servicing of buses during the school hours. The parking and service area shall be located and designed to insure that vehicular traffic, students or unauthorized personnel are not in or around parked buses during the school day and shall be in compliance with all safety and fire regulations.

M. Each school district is required to keep each school bus in a clean and sanitary condition. Each district is responsible for all excessive driver and passenger abuse to the buses. Any school district using a bus on a trip not authorized by the Department of Education shall assume all financial responsibility and liability.

The school district Board of Trustees shall designate, to the Department of Education, a school official to see that proper care is taken of the buses, that the buses shall not be abused; to see that drivers make required reports promptly; to assist in the investigation and collection of the cost for damages to state-owned equipment; and to aid in any proceedings, either civil or criminal.

N. The school bus driver certification program is established by the South Carolina Board of Education (SCBE) and administered by the South Carolina Department of Education (SCDE) to qualify individuals to drive one or more of the numerous types of school buses. A school bus is a vehicle as defined in Sections 59-67-10 and 56-5-195 of the South Carolina Code. The school bus definition designates a Full-functional School Bus (FFSB) vehicle as a school bus vehicle that is equipped with all signage and lamps to meet the requirements of Section 56-5-2770 and meets the National School Bus chrome yellow color requirements in Section 59-67-30, thus allowing it to control traffic when loading and unloading students. The school bus definition also designates the Multi-functional School Activity Bus (MFSAB) vehicle as school bus vehicle that cannot control traffic because it lacks either signage or lamp requirements of Section 56-5-2770 or does not meet the National School Bus chrome yellow color requirements in Section 59-67-30. The vehicle's manufacturer passenger capacity rating has no effect on the vehicle's status as a school bus.

An individual driving a school bus, as defined in this regulation, must have a valid SCDE school bus driver's certificate in his or her possession when transporting or intending to transport preprimary, primary, or secondary students to or from school, and school related activities, or children to and from childcare or related activities.

The SBE directs the SCDE to establish a school bus driver certification program that provides for the following three (3) separate and distinct school bus driver's certificate categories.

Certificate A—Authorizes an individual to operate any school bus owned or leased by the State, a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate B—Authorizes an individual to only operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate C—Authorizes an individual to operate a school bus owned or leased by a private school or a childcare facility when the school bus is an FFSB. Additionally, the individual is authorized to operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate categories B and C are divided into two sub classifications: commercial vehicles and non-commercial vehicles. The non-commercial classification is established to certify individuals to only operate a school bus that is not classified as a Commercial Motor Vehicle by the South Carolina Department of Motor Vehicles (SCDMV).

In order to obtain any one of the SCDE School Bus Driver's Certificates, either an A, B, or C, an individual seeking certification or renewal must successfully complete all requirements established by this regulation and the related tests of the SCDE and SCDMV. Certificates are only issued by the SCDE.

The SCDE School Bus Driver Certification Program includes requirements that are common to all three (3) certificate categories plus requirements that are unique to a driver certificate category.

The common requirements that all drivers must satisfy for issuance and renewal of an SCDE School Bus Driver's Certificate are as follows.

1. Driver candidates must not have or have had in the past twelve (12) months more than four (4) points against his/her driver license or driving Motor Vehicle Record (MVR).
2. Driver candidates shall successfully complete the SCDE School Bus Driver's Classroom Training Program.
3. Driver candidates shall have a physical examination administered by a qualified medical examiner; the driver must pass the examination every two years, or more frequently if directed by the medical examiner. The physical examination shall be administered using an "SCDE Medical Examination Report for Commercial Driver Fitness Determination" form provided by the South Carolina Department of Education or the United States Department of Transportation "Medical Examination Report" form. The driver candidate must provide the certificate testing administrator his or her qualifying Medical Examination Report prior to taking the school bus driver physical performance test and the commercial driver's license skills test. The school bus driver candidate must provide a copy of the qualifying Medical Examination Report to his or her employer. An employer may require additional physical examinations as the employer determines to be appropriate. The State assumes no responsibility for the cost incurred by the employer or driver for the physical examinations required by this regulation.
4. Driver candidates shall successfully pass the SCDE School Bus Driver Physical Performance Tests.
5. Driver candidates shall successfully complete a minimum of 10 hours of SCDE Behind-the-Wheel Road Skills Training, for initial issuance only.
6. Driver candidates shall pass the SCDE Behind-the-Wheel Road Skills Examination.
7. Drivers must show proof that they are covered by and will continue to be covered by a substance abuse program. The program must comply with state and Federal laws requiring drivers to participate in a drug and alcohol testing program encompassing at a minimum: (1) a substance abuse policy; (2) a substance abuse education program; (3) substance abuse testing (including pre-employment, reasonable suspension, post-accident, and random selection testing); and (4) a substance abuse referral assistance program. The substance abuse testing program shall comply with the U. S. Department of Transportation Regulation, Title 49, Chapter III, Section 382 et al., and Federal Highway Administration for testing drivers of commercial vehicles.
8. The driver candidate must satisfy the above common requirement items 3 through 7 within one hundred and eighty (180) days after successfully completing item 2.

In addition to the above eight common requirements, certificate categories have unique requirements that a driver must satisfy before issuance and/or renewal of the SCDE School Bus Driver's Certificate.

1. Certificate-A requires the following.

a. The driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law necessary to operate a school bus commercial motor vehicle.

b. The driver must complete a minimum of ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

2. Certificate-B Commercial requires the following.

a. A driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law to operate a school bus type vehicle to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of SCDE approved in-service training annually to qualify for renewal.

3. Certificate-B Non-Commercial requires the following.

a. A driver candidate must possess a valid Driver's License that meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of SCDE approved in-service training annually to qualify for renewal.

4. Certificate-C Commercial requires the following.

a. A driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law to operate a school bus type vehicle to qualify for issuance.

b. A driver must complete a minimum ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

5. Certificate C Non-Commercial requires the following.

a. A driver candidate must possess a valid Driver's License that meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

Drivers accumulating more than four (4) points after being issued an SCDE School Bus Driver's Certificate shall have the certificate suspended. If a certificated driver receives a ticket for Driving Under the Influence (DUI), the certificate shall be suspended, and if convicted of DUI, the driver's SCDE Certificate shall be revoked. The employer of the driver shall notify the SCDE within thirty (30) days of such excessive driver license points and DUI actions.

Driver candidates are subject to a South Carolina criminal background check that must be conducted by their employer before transporting students. The employer may require additional federal level security and criminal background checks.

The SCDE shall establish procedures to transition the existing SCDE single category school bus driver certification program to the new multi-category School Bus Driver's Certificate program. All drivers that have a valid SCDE school bus driver certificate, and are in good standing with SCDE in-service training requirements, will be converted to a School Bus Driver's Certification A. All drivers that have a valid SCDE school bus driver certificate, but have not completed the SCDE in-service training requirements, will be considered for conversion to a School Bus Driver's Certification B.

Drivers must be in compliance with these requirements on or before August 15, 2008.

O. State-owned school buses shall comply with the minimum posted speed, if greater than 45 miles per hour, for the highway used. Except that public school buses transporting Handicapped students shall comply with Section 59-67-525.

P. Each school district shall submit in writing no later than May 1st of each year any major changes in school assignments which would require a change in the number of buses for the following school year.

Q. The school district Board of Trustees shall have the authority to remove a bus from a regular school bus route when it is determined that the conduct of the passengers or others endangers the life and safety of the bus driver and passengers.

R. The school district Board of Trustees is authorized to assign seats to bus passengers when it is determined to be in the best interest of the transportation program.

S. Each school district shall submit to the Department of Education in writing no later than May 1st of each year, any major changes in school assignments which would require a change in the number of buses for the following school year.

#### T. SPECIAL TRANSPORTATION SERVICE

1. When state-owned buses or boats are used by the schools for educational purposes other than transporting pupils to and from school, the cost of operation shall be borne by the school district. The operator shall be paid by the local school district. In addition, a charge for the use of the bus or boat (use fees) as determined by the State Department of Education and approved by the State Board of Education, payable to the State Department of Education, shall be made. The school district Board of Trustees will be responsible for damages to the bus or boat as a result of abuse. The bus or boat use fees are applicable to all trips other than the regularly scheduled trips or trip segments to and from school as shown on the approved route description for the school district.

2. The school boat must be operated by an individual with the required U.S. Coast Guard Merchant Marine Officer, Master of Steam and Motor Vessels license.

3. The use of state-owned buses and boats for purposes other than transporting pupils to and from school shall in no way conflict with the regular school schedule.

4. The use of state-owned buses and boats shall be limited to those events and activities sponsored by school districts.

5. Request for documentation of the use of buses and boats for purpose of special services must be secured from the designated representative of the Department of Education prior to the vehicle's use.

6. The use of state-owned buses for special purposes for trips outside the State shall be limited to athletic and other school activities in adjacent counties in Georgia and North Carolina with the following exceptions. In North Carolina: Polk, Henderson, Transylvania, Jackson, and Macon Counties have mountainous terrain. State-owned buses shall not be used for special activities in these counties without prior route approval by the designated representative of the Department of Education.

7. The Department of Education permit For The Use Of School Buses or Boats prepared by the school district must accompany the operator on each trip made by the bus or boat.

Should any of the above regulations governing the use of school buses or boats for special services be violated in any school district, the Department of Education may withdraw approval to use state-owned school buses or boats from any further special service.

U. The bus or boat use fees shall be based on formula approved by the State Board of Education. The formula shall reflect the operational cost experienced by the State Department of Education plus an appropriate vehicle replacement charge. In compliance with approved State Board of Education bus or boat use fee formula, the Department of Education shall establish an annual fee for bus and boat use.

V. Variations from Transportation Regulations may be approved by the State Department of Education when such variations are clearly in the interest of safety, efficiency and economy. School districts seeking a variance from a regulation must submit a written request seeking approval from the Department of Education. The Department will approve or disapprove the request, in writing.

W. In accordance with Section 59-67-520 of the Code of Laws of South Carolina, it is hereby declared the policy of the State Board of Education to provide transportation for handicapped children within any school district to the nearest school in which a class is located serving the pupil's disabilities.

X. Eligibility for Transportation -Eligibility for transportation under the above provisions shall be limited to the following types of disabilities:

1. Trainable mentally handicapped (TMH)
2. Deaf-blind (DB)
3. Hearing handicapped (HH)
4. Visually handicapped (VH)(Legally Blind)
5. Emotionally handicapped (EH)(Severely)
6. Orthopedically handicapped (OH)
7. Educable mentally handicapped (EMH)
8. Learning disabled (LD)
9. Other health impaired (OHI)
10. Pre-school handicapped
11. Profoundly mentally handicapped (PMH)
12. Traumatic brain injury (TBI)
13. Autistic
14. Other disabilities identified in Section 504 of the Rehabilitation Act and the Americans With Disabilities Act.

Legal age for transporting children with disabilities are three (3) and four (4) years old and public school students (K–12) except for the hearing and visually handicapped which is 4–21 years of age. Students with disabilities may be transported on regular route school buses.

Y. District Boards of Trustees shall be responsible for locating classes for children with the above disabilities in or near the geographic center of the district or area so that all children with these disabilities can be transported on the same bus. The State Department of Education shall not be required to provide separate transportation for children with disabilities.

Z. Transportation will be provided either on state-owned buses or by contract between the State Department of Education and the school district, whichever is most economical to the State.

The following procedure shall be used in requesting transportation:

1. State-Owned Buses—State-owned buses will be assigned when the number of eligible students (usually minimum of 6) live within an area to make a bus route feasible from a time and mileage standpoint. School district officials shall submit a map and route description to the designated representative of the State Department of Education to justify assignment of the bus. Maps and descriptions will be submitted annually in the same manner as for regular bus routes.

2. Contract Transportation—Contract transportation will be limited to pupils who cannot be transported efficiently by state-owned buses. The following procedures will be used in requesting contract transportation.

a. The State Department of Education will be notified of the name of the pupil, location of residence, and school to which such pupil(s) is to be assigned. If it is determined that the pupil or pupils can not be transported on a bus already assigned to the district or if the number of pupils is insufficient to justify an additional bus, then, a contract will be signed between the school district and the parent or other individuals for transportation.

b. Contracts between the school district and parents or other individuals to transport one child will be based on a rate per mile as determined by the State Department of Education and approved by the State Board of Education for each 90 school days. If more than one student is transported, the contract may be used on the rate per vehicle or passenger mile for the actual number of miles traveled.

c. When it is in the best interest of the State, contracts may be written for transporting students who live within 2 miles of the school. The State Board of Education shall establish the funding limitation on the basis of a designated amount of dollars per student for 90 school days.

d. The maximum payment for transportation for any one pupil shall not exceed the amount established annually by the State Board of Education for each 90 school days unless a special exception is approved by the State Board of Education.

e. All proposed contracts must be approved by the State Department of Education prior to commencing transportation. Reimbursement will be from the date of approval.

f. Contract transportation will not be approved if transportation on state-owned buses is more cost effective or productive except when otherwise required by the student's Individual Education Plan. Exceptions may be made in extreme cases upon written recommendation of the affected pupil's licensed medical doctor and the school district and upon approval by the State Department of Education.

AA. Transportation will be provided only during the regular school term not to exceed 180 school days.

BB. Transportation on state-owned buses or by contract of pupils attending multi-district programs or programs conducted by agencies other than the public schools, will be provided only if the home district has received approval of "another facilities agreement" from the State Department of Education. This approval must be received prior to commencing transportation. The home district is responsible for securing contracts for transportation routes and for the requisitioning of funds.

CC. Persons contracting to provide transportation must have insurance coverage at least equal to that carried on state-owned buses as required by Section 59-67-710 of the Code of Laws of South Carolina, as amended.

DD. Reimbursement to the district for contracts shall be made at the end of each 90 school days. Request for reimbursement shall be submitted on a form furnished by the State Department of Education. The request for reimbursement shall be pro-rated if pupil attends less than 90 school days.

EE. The Department of Education will establish a School Bus Specifications Committee for the purpose of creating specifications for the procurement of state-owned school buses. The Committee will be composed of members of the General Assembly or their designees: representatives of the business community; mechanical engineers profession; both local school district and state student transportation officials representing school bus maintenance, administration, driver training, and operations; and a representative of the Budget and Control Board, Materials Management Office. The State Superintendent of Education or designee will make Committee appointments. The Committee will be responsible for reviewing, amending, and developing school bus specifications for all types of school buses purchased by the State. These specifications will assure that the student transportation needs of the State are efficiently and effectively addressed. The Committee will recommend the specifications to the State Superintendent of Education or designee for approval.

**HISTORY:** Amended by State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 25, Issue No. 2, eff February 23, 2001; State Register Volume 33, Issue No. 3, eff March 27, 2009.

## ARTICLE 6

### TEACHER TRAINING INSTITUTIONS

#### **43–90. Program Approval Standards for South Carolina Teacher Education Institutions.**

The South Carolina State Board of Education requires that all teacher education programs meet the standards as established by a national accreditation association with which the South Carolina Department of Education has a partnership agreement. For State Board of Education approval, public institutions must seek and receive national accreditation. Private institutions may seek national accreditation or meet national standards for State Board of Education approval. The South Carolina Department of Education will develop guidelines to assist teacher education programs to meet the national standards. Statutory authority to determine accreditation decisions for and impose sanctions against teacher education programs is granted to the State Board of Education.

**HISTORY:** Amended by State Register Volume 19, Issue No. 6, eff July 1, 1996; State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002; State Register Volume 40, Issue No. 6, Doc. No. 4593, eff June 24, 2016.



**ARTICLE 7**  
**TEST SECURITY**

**43–100. Test Security.**

I. Tests administered by or through the State Board of Education shall include but are not limited to:

A. The statewide tests, as defined in State Board of Education Regulation 43–262, including field tests and pilot tests;

B. Examinations for admission to teacher education programs and teacher certification examinations;

C. Examinations for admission to programs such as the gifted and talented program; and

D. High school equivalency tests.

II. As used in this regulation, “local school board” means the governing board of a public school district, a public charter school, as well as those of special school districts, special schools, and institutions that utilize tests administered by or through the State Board of Education.

III. Each local school board must develop and adopt a district test security policy. The policy must provide for the security of materials for the entire period of time (before, during, or after testing) the materials are in the district and/or the schools within that district. The policy must address security for paper-based, computer-based, and customized assessments. This also applies to district-owned materials that are the same as those used in any state-operated testing or assessment program. Throughout the time testing materials are under the control of the school district, secure paper-based materials must be stored under lock and key when not in use for approved test administration activities.

IV. Each District Superintendent and the administration from each of the special schools and institutions that utilize tests administered by or through the State Board of Education must designate annually one individual in each district for each mandated assessment who will be the sole individual in the district authorized to procure test instruments that are utilized in testing programs administered by or through the State Board of Education. The name of the designated individual must be provided to the South Carolina Department of Education (SCDE) in writing. When the testing program involves procurement of materials available commercially, the designated individual must be the sole individual in the district authorized to procure commercial test instruments which are utilized in testing programs administered by or through the State Board of Education.

V. Individuals must adhere to all procedures specified in all operating manuals governing the mandated testing programs. Manuals are provided by or through the SCDE.

VI. A. The State Board of Education may invalidate test scores that reflect improbable gains and that cannot be satisfactorily explained through changes in student populations or instruction.

B. In cases where test results are invalidated because of a breach of security or action of the State Board of Education, any programmatic, evaluative, or certification criteria dependent upon the data will be deemed to not have been met.

VII. Any individual(s) who knowingly engage(s) in any activity that results in the invalidation of scores derived from teacher certification examinations, the examinations for admission to teacher education programs, and/or the high school equivalency tests forfeits all opportunities to retake the test(s).

VIII. Any knowing involvement in the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to a test administration site for any of the tests administered by or through the State Board of Education will be considered a breach of test security within the meaning of S.C. Code Ann. Section 59–1–445 (1990, 2004). Any individual(s) who knowingly cause(s) or allow(s) the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to any test administration site specified in this paragraph forfeits all opportunities to retake the test(s).

IX. Each of the following is considered a breach of professional ethics which may jeopardize the validity of the inferences made on the basis of test data and, as such, are viewed as security violations which could result in criminal prosecution and/or disciplinary action to an educator’s professional certificate.

- A. Failing to administer tests on the test dates specified by the SCDE.
- B. Failing to maintain an appropriate testing environment, free from undue distractions.
- C. Failing to proctor the test to ensure that examinees are engaged in appropriate test-taking activities.
- D. Providing examinees with access to test questions or specific test content prior to testing.
- E. Providing examinees with access to answer keys prior to or during testing.
- F. Keeping, copying, reproducing, or using in any manner inconsistent with the instructions provided by or through the SCDE any test, test question, or specific test content.
- G. Keeping, copying, or reproducing in any manner inconsistent with the instructions provided by or through the SCDE any portion of examinee responses to any item or any section of a secured test.
- H. Coaching examinees, altering examinee responses, or interfering with examinee responses in any way prior to, during, or after testing. This includes hinting to examinees about the correctness of their responses.
- I. Failing to follow instructions specified in the test manuals for the distribution, storage, or return of test materials or failing to account for test materials before, during, or after testing.
- J. Failing to follow all directions pertaining to the administration of a test as specified in the test manuals for that test. This section includes failure to clear the memory of calculators used on a test as directed in the test manual.
- K. Allowing, participating in, assisting in, or encouraging any unauthorized access to test materials prior to, during, or after testing.
- L. Disclosing the contents of any portion of secure materials or discussing the contents of secure tests with examinees, teachers, or other educators before, during, or after testing.
- M. Leaving in view of examinees during test administration materials that are content or conceptually related to the subject areas being assessed.
- N. Providing references or tools other than those specifically allowed in test manuals. Providing references or tools during test administration at times other than those specifically allowed in test manuals.
- O. Failing to provide accommodations and/or customized materials as specified in the student's Individualized Education Program (IEP) or 504 plan. Providing accommodations and/or customized materials not included in the student's IEP or 504 plan.
- P. Excluding examinees or exempting from assessment students who should be assessed; however, this does not include students who opt out of the assessment.
- Q. Failing to return test materials for all examinees.
- R. Engaging in inappropriate test preparation practices that invalidate the test scores. These practices include activities that result in an increase in test scores without a simultaneous increase in the examinee's real achievement or performance in the content area.
- S. Revealing test scores or test performance to anyone not involved in the education of the examinee.
- T. Altering test scores in electronic records or files.
- U. Failing to report a security breach.
- X. The SCDE has the right and responsibility to observe test administration activities without prior notice in order to monitor adherence to test security. Examinees should be made aware that monitoring may occur.
- XI. Any suspected violation of security must be reported to the South Carolina Law Enforcement Division.
- XII. If a security breach occurs in a district, or charter school, rendering test forms or test items unusable, funds equivalent to replacement costs may be withheld from the district or charter school by the SCDE at the discretion of the State Board of Education.

XIII. At the discretion of the State Board of Education, an educator may receive a public or private reprimand or the credential of an educator may be suspended or revoked based on evidence of violation of test security provisions.

**HISTORY:** Amended by State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003; State Register Volume 39, Issue No. 6, Doc. No. 4531, eff June 26, 2015. State Register Volume 40, Issue No. 6, Doc. No. 4606, eff June 24, 2016.

## ARTICLE 10 DEFINED MINIMUM PROGRAM

**43–130. Repealed** by State Register Volume 38, Issue No. 6, Doc. No. 4401, eff June 27, 2014.

### Editor's Note

Former R. 43–130 was titled **Accreditation Standards Filed** and had the following history: Amended by State Register Volume 16, Issue No. 6, eff June 26, 1992; State Register Volume 17, Issue No. 4, eff April 23, 1993; State Register Volume 17, Issue No. 5, Part 1, eff May 28, 1993; State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 19, Issue No. 3, eff March 24, 1995; State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997.

## ARTICLE 13 GENERAL SCHOOL ADMINISTRATION

**43–161. Appointment (Term) of School Superintendent.**

Each school district shall employ a chief administrative officer who serves as the executive officer of the board of trustees and the professional leader of the school district. Administrators serving as area or district superintendents for the first time after June 30, 1968, shall hold a superintendent's certificate. Annually, by October 15, the chairman of the district board of trustees shall request an out-of-field permit from the Office of Teacher Education and Certification for a superintendent not properly certified.

**43–162. Repealed** by State Register Volume 38, Issue No. 6, Doc. No. 4391, eff June 27, 2014.

### Editor's Note

Former R. 43–162 was titled **School Superintendent Compensation and Benefits/Expenses**.

**43–165.1. Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP).**

### I. PURPOSE

The State Board of Education, through the South Carolina Department of Education, is required to adopt statewide performance standards and criteria that shall serve as a foundation for all processes used for assisting, developing, and evaluating principals employed in the school districts of this state. School districts shall use the standards and procedures adopted by the State Board of Education for the purposes of conducting evaluations and guiding the professional development of principals. Districts are to consider evaluation results in making decisions regarding principal development, compensation, promotion, retention, and removal.

The South Carolina Department of Education shall ensure the implementation of principal evaluation in the school districts.

Principals must be evaluated using the Performance Standards and Criteria for Principal Evaluation adopted by the State Board of Education. Additional performance standards and criteria may be established by the superintendent. As required by S.C. Code Ann. Section 59–24–30, the principal's annual Professional Development Plan (PDP) shall be established on the basis of the PADEPP Performance Standards and Criteria and the school's renewal plan.

### II. DEFINITIONS FOR THE PURPOSES OF THIS EVALUATION PROGRAM

A. **PRINCIPAL:** A principal is the chief administrative head or director of an elementary, middle, or secondary school or of a vocational, technical, special education, or alternative school. Induction

principals are those serving for the first time as building-level principals. These principals are considered probationary until they have completed the requirements of the Principal Induction Program (PIP) and have received an overall rating of Proficient or higher on the PADEPP evaluation instrument.

B. **EVALUATOR:** The evaluator is the district superintendent and/or the superintendent's designee. All evaluators must have successfully completed the Office of School Leadership's (OSL) Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) training before evaluating principals.

C. **EVALUATION INSTRUMENT:** The evaluation instrument developed by the South Carolina Department of Education is based upon the PADEPP Performance Standards and Criteria and is available from the Office of School Leadership. In lieu of the state instrument, districts may request permission to use an alternative evaluation process that meets state requirements and national standards. This instrument must be approved by the South Carolina Department of Education and the State Board of Education.

D. **EVALUATION CYCLE:** The evaluation cycle shall be consistent with the school year as defined by law. After induction, principals shall be evaluated as stated in Section III.

### III. PROGRAM IMPLEMENTATION

#### A. PRINCIPALS WITH TIER 1 CERTIFICATION

(1) First-year principals shall participate in an induction program as provided for in State Board of Education Regulation 43-167, "Principal Induction Program." The superintendent or his or her designee shall provide the first-year principal with written and oral feedback relative to each performance standard and criterion. Principals are to receive this feedback at least at mid-year and end-of-year conferences. The superintendent or his or her designee will observe, collect relevant data, consult with the first-year principal on a regular and consistent basis, and provide the first-year principal with an informal written evaluation.

(2) Upon successful completion of both the South Carolina Principal Induction Program (PIP) and a full evaluation on the PADEPP evaluation instrument, the principal will be eligible for Tier 2 principal certification. If the overall rating on the PADEPP evaluation instrument in any year immediately subsequent to the induction year of employment as a principal is below Proficient, the principal will remain on Tier 1 certification until the South Carolina Department of Education receives verification from the employing school district that the principal has achieved an overall rating of Proficient or higher on PADEPP.

#### B. PRINCIPALS WITH TIER 2 CERTIFICATION

The superintendent or his or her designee shall evaluate Tier 2 principals annually. A full evaluation using all PADEPP Performance Standards will be conducted at least every third year. The evaluation shall address each of the PADEPP Performance Standards and accompanying Criteria. Principal evaluations on years between full evaluations will include Performance Standards for Instructional Leadership, Student Growth, and all Performance Standards rated the previous year as below "Proficient," as well as any additional Performance Standards identified in the Principal's Professional Development Plan (PDP). Full evaluations may, of course, be conducted every year, if the superintendent chooses to do so. A principal is to receive feedback from the superintendent or his designee regarding the principal's performance at least at mid-year and end-of-year conferences.

### IV. PERFORMANCE STANDARDS AND CRITERIA

Principal preparation programs and school districts must address, but are not limited to, the Performance Standards and Criteria for the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP), as specified in the State Board of Education's PADEPP implementation guidelines.

### V. EVALUATION PROCESS

A. The evaluation of each principal shall consist of both formative and summative phases.

(1) The formative phase shall begin with an initial review of the evaluation instrument by the evaluator with the principal. Regular conferences shall be held to discuss the principal's progress and shall include an analysis of the data collected during the year.

(2) The summative phase shall provide for evaluative conclusions regarding the principal's performance based upon the data collected. Upon completion of the evaluation, the evaluator will meet with the principal to discuss the findings in terms of each of the PADEPP Performance Standards, as well as the overall results. At the conclusion of the meeting, the evaluator and the principal shall sign the evaluation form, and a copy shall be given to the principal.

B. After reviewing the overall results of the evaluation, the principal and evaluator shall establish the principal's annual Professional Development Plan (PDP) on the basis of the identified strengths and weaknesses, as well as the school's renewal plan.

C. Satisfactory performance on an evaluation does not guarantee reemployment as a principal.

D. Each principal has the right to respond in writing to the completed principal evaluation instrument. This written response must be submitted to the evaluator within ten working days of the summative conference.

E. All appeals shall follow local school district policies and procedures governing the local appeal process.

## VI. DISTRICT RESPONSIBILITIES

A. Each school district shall ensure that principals receive awareness training that includes

- (1) the PADEPP Performance Standards and Criteria for Principal Evaluation,
- (2) the PADEPP principal evaluation instrument, and
- (3) Regulation 43-165.1, "Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)."

B. Each school district shall ensure that the district superintendent and the superintendent's designee(s) are trained as evaluators of principals.

C. Each school district shall designate one individual to be trained as a district coordinator for PADEPP. This coordinator shall be responsible for the administration of the evaluation program consistent with this regulation, including an annual submission for all principals in their district.

D. Each school district shall maintain principal evaluation data and shall ensure the confidentiality of the evaluation results in accordance with the Freedom of Information Act.

E. Each school district shall submit annual assurances and required principal evaluation data to the South Carolina Department of Education indicating compliance with this regulation and PADEPP implementation guidelines.

F. Each school district shall utilize the results from the principal evaluations in decisions regarding principal development, compensation, promotion, retention, and removal.

## VII. SOUTH CAROLINA DEPARTMENT OF EDUCATION RESPONSIBILITIES

A. The South Carolina Department of Education shall ensure that the PADEPP is appropriately implemented by each school district in accordance with this regulation and PADEPP implementation guidelines.

B. The South Carolina Department of Education shall collect from school districts required principal evaluation data, as well as Assurance/Validation forms, in order to

- (1) determine trends and inform decisions concerning educational leadership preparation and professional development, and
- (2) ensure that the Program for Assisting, Developing, and Evaluating Principal Performance is being appropriately administered in accordance with this regulation and the law governing the evaluation of principals.

C. The South Carolina Department of Education shall provide school districts with ongoing technical assistance in the form of training, consultation, and advisement. Specifically, the training will ensure that participants have the knowledge and skills necessary to collect and document data relative to a principal's performance, analyze the data to identify the principal's performance strengths and weaknesses, provide feedback to the principal in terms of the PADEPP Performance Standards and Criteria, and counsel, coach, and assist the principal to improve effectiveness. Additionally, the training will ensure that participants are prepared to evaluate the principal in a valid, reliable manner, and to make a summative judgment regarding the principal's performance.

## VIII. TRAINING REQUIREMENTS

- A. Each school district shall ensure that principals receive awareness training that includes
  - (1) the Standards and Criteria for Principal Evaluation,
  - (2) the selected principal evaluation instrument, and
  - (3) Regulation 43–165.1, “Program for Assisting, Developing, and Evaluating Principal Performance.”
- B. Each school district shall ensure that the district superintendent and the superintendent’s designee(s) are trained as evaluators of principals.
- C. Each school district shall designate one individual to be trained as a district coordinator for the Program for Assisting, Developing, and Evaluating Principal Performance. This coordinator shall be responsible for the administration of the evaluation program consistent with this regulation.
- D. The South Carolina Department of Education shall provide school districts with ongoing technical assistance in the form of training, consultation, and advisement.

## IX. PROGRAM IMPLEMENTATION AND ADMINISTRATION

- A. The South Carolina Department of Education shall ensure that the Program for Assisting, Developing, and Evaluating Principal Performance is appropriately implemented by each school district in accordance with this regulation.
- B. Local school districts shall provide annual assurances to the Department that the Program for Assisting, Developing, and Evaluating Principal Performance is being appropriately administered in accordance with this regulation and the law governing the evaluation of principals.
- C. The South Carolina Department of Education has the authority to develop guidelines, approved by the State Board of Education, in accordance with the provisions of this regulation.

**HISTORY:** Added by State Register Volume 25, Issue No. 6, eff June 22, 2001. Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 35, Issue No. 6, eff June 24, 2011; State Register Volume 39, Issue No. 6, Doc. No. 4495, eff June 26, 2015.

## **43–166. Student and School Safety.**

### A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools’ safety strengths and weaknesses. The checklist must include items addressing the following topics:
  - a. the existence of a comprehensive safety plan;
  - b. communication of discipline policies and procedures;
  - c. intra-agency and interagency emergency planning;
  - d. recording of disruptive incidents;
  - e. training of staff and students;
  - f. assessment of buildings and grounds;
  - g. procedures for handling visitors;
  - h. assignment of personnel in emergencies;
  - i. emergency communication and management procedures; and
  - j. transportation rules and accident procedures.
2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.
3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.
4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improve-

ment purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools check list should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness.

**B. First Aid Supplies**

Each school shall provide adequate first aid supplies and equipment.

**C. Support for Authorities**

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

**D. Emergency and Disaster Plans**

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

**HISTORY: Amended by State Register Volume 21, Issue No. 3, eff March 28, 1997.**

### **43-167. Principal Induction Program.**

(Statutory Authority: 1976 Code §§ 59-5-60 and 59-24-80)

**A. Purpose**

The purpose of the Principal Induction Program is to add one component of many strategies which are to be combined by the districts to meet the intent of the Education Accountability Act to improve teaching and learning so that students are equipped with a strong academic foundation. The Principal Induction Program will assist public school districts in providing support and professional development for first year principals.

The State Board of Education recognizes that a school district makes one of its most important personnel decisions when it appoints a principal. The Board also recognizes the value of formal induction programs that provide novice school principals with an academy that focuses on developing and refining the leadership skills necessary to help their faculties provide the most effective instructional programs possible. Therefore, the following regulations have been developed to facilitate the implementation of the South Carolina Principals Induction Program.

**B. Definitions**

1. The Principal Induction Program is a yearlong program (July to June) of support and professional development for new principals in which instructional leadership skills, use of effective schools research, and planning for curricular improvement through the analysis of test scores are central components of the curriculum.

2. A principal is the chief administrator or head building administrator of any public elementary or secondary school or specialized education unit as defined by the local school district, or the chief administrator of an occupational education center.

3. A Principal Induction Program mentor is an experienced, practicing building-level principal or director selected by the school district superintendent designee to provide support and assistance to new principals.

**C. Participation**

1. Beginning with the school year 1999-2000, any person appointed to serve for the first time as a building level principal, director of a specialized education unit, or occupational education center director must participate in the Principal Induction Program.

2. Principals appointed after the Principal Induction Program Summer Institute held for a week in July must participate in a make-up session in September and in Induction Program activities for the remainder of that school year.

**D. Program Design and Content**

The Principal Induction Program must consist of New Principals' Academy activities provided by the State Department of Education and school district orientation activities provided by the individual school districts as follows:

1. The combination of time for New Principals' Academy and district activities must not be less than twelve days: five days for the New Principals' Academy Summer Institute, three days for New Principals' Academy follow-up meetings, two days for district orientation activities, and two days for professional development related to the individual new principal's Professional Development Plan.

2. Districts developing their own program in lieu of the program offered by the Leadership Academy must secure approval of the program from the South Carolina Leadership Academy.

3. Each district must design a district orientation for new principals. Activities should include, but are not limited to, fiscal/budgetary policies and procedures, plant maintenance procedures, special education policies, student support services, outside agencies available in the district, curriculum requirements and resources, human resource policies and procedures, including ADEPT, and instruction on the Principal Evaluation Program criteria and standards.

4. The Leadership Academy must design a curriculum for the New Principals' Academy program. The New Principals' Academy curriculum should include, but is not limited to, planning, developing, and implementing a standards-driven system, instructional leadership skills, use of effective schools research, analysis of test scores for curricular improvement, school culture, school management, planning for school improvement, public relations, and/or planning for professional development.

5. Each new principal must be assigned a mentor principal from another nearby school district to provide support, information, and feedback. The mentor will assist the protege in developing, refining, and implementing the protege's Professional Development Plan based on the protege's individual needs and the needs of the school as specified in the School Improvement Report. Mentors will be reimbursed travel costs at the state rate.

6. The Leadership Academy will train mentors for their role, Mentor responsibilities include calling and visiting the assigned new principal and having the new principal visit the mentor's school.

7. Each new principal will receive an on-site visit during the fall and one during the spring from a member of the South Carolina Leadership Academy staff to provide coaching, technical assistance, and feedback related to school leadership.

8. New principals may earn three hours of recertification credit if course requirements for attendance and participation are met.

#### **E. Fiscal and Technical Requirements**

1. The State Department of Education will pay for all training costs related to the New Principals' Academy. The district will be responsible for costs related to the district orientation and for participants' travel costs.

2. Reimbursement for mentor travel expenses will be made in accordance with the established State Department of Education fiscal policies.

#### **F. Reporting Requirements**

1. Each district superintendent will notify the South Carolina Leadership Academy of the appointment of new principals within two weeks of the appointment by the local board of school trustees.

2. Principals appointed after the make-up session must participate in the remaining Principal Induction Program activities for that school year and/or the New Principals' Academy Summer Institute the following year.

3. Each district superintendent will submit the names of experienced principals to serve as mentors when requested to do so by the Leadership Academy.

4. Each district will conduct evaluations for the district orientation and use the results to modify the orientation on an annual basis.

#### **G. Additional Leadership Academy Responsibilities**

1. The Leadership Academy will maintain a database of mentors nominated by the district superintendents and will assign mentors for new principals based on school level and proximity.

2. The Leadership Academy will maintain a database of new principals for each school year to provide information about program activities for all new principals.



3. The Leadership Academy will conduct evaluations for each part of the New Principals' Academy and use the results to modify the program on an annual basis.

**HISTORY:** Added by State Register Volume 24, Issue No. 3, eff March 24, 2000.

## **43–168. Nutrition Standards for Elementary Schools (K-5) School Food Service Meals and Competitive Foods.**

(Statutory Authority: Students Health and Fitness Act, 2005 S.C. Acts 59 (to be codified at S.C. Code Ann. § 59–1–310) and S.C. Code Ann. § 59–5–60 (2004))

### I. School Meals

Federal law—specifically, the National School Lunch Act (42 U.S.C. § 1758(f), the National School Lunch Program (7 C.F.R. § 210.10), and the School Breakfast Program (7 C.F.R. § 220.8)—regulates the nutritional quality of foods served in the nation's school meal programs. For a school meal program to receive USDA subsidies, school meals must meet nutrition standards for saturated fat, vitamins, minerals, protein, calories, and portion sizes.

A. School food service meals should be made attractive to students by appealing to their taste preferences and meeting their cultural needs. Therefore, school districts must:

1. Offer a choice of entrées at lunch—a minimum of two in elementary (K-5) schools (one choice may be an entrée salad).
2. Encourage input regarding the selection of food items in elementary (K-5) schools to be offered in the school meal programs by promoting and encouraging student and parent participation in taste-testing events, in menu-review panels, and in online recipe reviewing.
3. Require that school cafeteria managers meet with student advisory committees in grades four through five a minimum of twice each year.
4. Allow students to purchase at à la carte prices additional servings of any food item that is part of a reimbursable school meal (serving sizes should be comparable to those of the meal components).

B. School food service meals should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students, including their learning to eat a variety of foods. Therefore, school districts must:

1. Offer a minimum of two milk choices (1 percent fat and nonfat milk) for all grade levels at breakfast and lunch. Whole milk is no longer required by USDA regulations.
2. Offer a low-fat meal choice (30 percent or less of calories from fat) at every meal.
3. Provide low-fat and nonfat salad dressings.
4. Provide information on calories, percentages of fat, and serving sizes of school meal items to help children select appropriate portions of food.
5. Offer a minimum of four choices of fruits and vegetables daily, including fresh fruits and vegetables in season, in elementary (K-5) schools (salad bars or prepackaged salads may be included). Students can take two to four servings based on the school district's discretion.
6. Offer whole-grain foods in all programs in elementary (K-5) schools, whenever possible, to meet bread and cereal requirements.
7. Encourage preschool, kindergarten, and elementary students to try a variety of foods by serving the full reimbursable meal.

### II. Other Foods and Beverages (Competitive Foods)

A. All foods sold at any K-5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must:

1. Ensure that one serving of snacks, sweets, and side dishes has no more than 30 percent of calories from fat, less than 10 percent of calories from saturated fat, no more than 1 percent of calories from trans fatty acids, and no more than 35 percent of added sugar by weight. (Note: Nuts, seeds, and some cheeses are exceptions. Although more than 30 percent of their calories come from fat, these foods can be considered appropriate and nutritious snacks when served in small portions.)

2. Limit single-serving food items sold to students to the following maximum portion sizes: 1.25 ounces for snacks (includes baked chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruits, jerky); 2 ounces for cookies or cereal bars; 3 ounces for other bakery items (sweet rolls, muffins, etc.); 4 ounces for frozen desserts, including ice cream; 8 ounces for yogurt (not frozen); and ½ cup for fried potatoes or other fried vegetables.

3. Ensure that single servings of entrée items and side dishes are no larger than the portions of those foods served by school food services.

B. All beverages sold or otherwise made available to students at any K-5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must:

1. Make the following beverages available to all students: nonfat and 1 percent milk, water, and 100 percent juices that do not contain added sugars or sweeteners.

2. Not sell or serve the following beverages to students until after the last regularly scheduled class: soda, soft drinks, sports drinks, punches, iced teas and coffees, and fruit-based drinks that contain less than 100 percent real fruit juice or that contain added sweeteners.

3. Not sell beverages—except water or nonfat, low fat, or reduced-fat milk—in portions larger than 12 ounces.

**HISTORY:** Added by State Register Volume 30, Issue No. 6, eff June 23, 2006. Amended by State Register Volume 33, Issue No. 2, eff February 27, 2009.

## **43–169. Food Service Management Company Contracts.**

### **I. PURPOSE**

Pursuant to regulations and policy guidelines promulgated by the United States Department of Agriculture (USDA), the South Carolina Department of Education (SCDE) is charged with the state-level administration and monitoring of local child nutrition programs funded by and subject to the provisions of the National School Lunch, Breakfast, and After-School Snack Programs. Part of this responsibility relates to the development, execution, and monitoring of contracts between local child nutrition programs and private food service management companies. This regulation provides that a statewide contract template and uniform timeframe shall be used for all contracts approved by the SCDE.

### **II. DEFINITIONS**

A. **SCHOOL FOOD AUTHORITY (SFA):** A school food authority (SFA) is USDA verbiage used to identify any public school district, private, parochial, and charter school, as well as residential child care facility that participates in the National School Lunch, Breakfast, and After-School Snack Programs.

B. **FOOD SERVICE MANAGEMENT COMPANY (FSMC):** A food service management company (FSMC) is USDA verbiage used to identify a private sector entity that manages a child nutrition program for a SFA versus the SFA operating their own program.

### **III. IMPLEMENTATION**

#### **A. SOUTH CAROLINA DEPARTMENT OF EDUCATION (SCDE) RESPONSIBILITIES**

(1) The SCDE shall create and update, as needed, a template contract document with appropriate terms and conditions that encompass all federal and state requirements for procurement agreements and child nutrition programs.

(2) The SCDE shall communicate all contractual requirements to all affected parties as part of any solicitation, bid, award, and final contract process initiated by a SFA.

(3) The SCDE reserves the right to accept, modify, and/or reject any request for deviations and/or amendments to the template contract document.

#### **B. SCHOOL FOOD AUTHORITY (SFA) RESPONSIBILITIES**

(1) A SFA shall communicate in writing any requested deviations and/or amendments to the template contract document, to include a justification as to why said changes are necessary.

#### **C. FOOD SERVICE MANAGEMENT COMPANY (FSMC) RESPONSIBILITIES**

(1) A FSMC shall communicate in writing any requested deviations and/or amendments to the template contract document, to include a justification as to why said changes are necessary

#### D. CONTRACT TIMEFRAMES

(1) The fiscal year for all food service management company contracts shall commence on July 1 and conclude on June 30.

**HISTORY: Added by State Register Volume 35, Issue No. 6, eff June 24, 2011.**

### ARTICLE 14 FISCAL MANAGEMENT

#### **43–171.1. Disbursement of Funds for Pressing Repairs, Renovations and Construction.**

##### I. ALLOCATION OF FUNDS

Funds will be allocated to the district annually on a per pupil basis, based on the Districts' 135-day cumulative average daily membership for the previous fiscal year. These funds are to be kept in an account separate from all other funds allocated from the State General Fund.

##### II. QUALIFICATION CRITERIA

1. In order to qualify for allocation of the funds, the District Board of Trustees shall:

a) Maintain at least the level of financial effort per pupil for non-capital programs as in prior years as set forth under Division V of the Education Improvement Act: and

b) By June 30, 1985, adopt and file with the Division of General Services a procurement code modeled after the South Carolina Consolidated Procurement Code or the model set forth in the Report of the Local Government Task Force on procurement Code or the model set forth in the Report of the Local Government Task Force on procurement as set forth under Division V, Section 6 of the Education Improvement Act.

##### III. PURPOSE OF FUNDS

Funds are available for two purposes pursuant to Subdivision G, Section 1:

(a) For the renovation, capital improvement, or repair of school classrooms, libraries, laboratories, and other institutional facilities including music rooms as set forth in the Education Improvement Act.

(b) For the reduction of millage required to pay principal and interest on bonds issued for any capital improvement programs.

##### IV. STIPULATIONS REGARDING EXPENDITURE OF FUNDS

1. If a school district has issued bonds or otherwise undertaken any capital improvement programs during any of the most recent five fiscal years, at least fifty percent of the funds allocated from the Education Improvement Act funds must be used to reduce the millage required to pay debt service on such outstanding bonds unless a waiver is granted by the State Board of Education. (See V. WAIVERS) (Subdivision G, Section 1(b))

A Capital Improvement Program for purposes of this funding is defined as incurring debt for school building purposes or levying and collecting school taxes for school building purposes over the district's last five fiscal years averaged at least one half the amount of Education Improvement Act Funds the district is entitled to receive during Fiscal Year 1984–85.

If the district has fiscal autonomy to any degree, it shall provide for the manner in which the school millage must be reduced. If the district does not have fiscal autonomy, the governing body of the county wherein the district is located shall provide for the manner in which the school millage must be reduced. (Subdivision G, Section 1(c))

2. Funds must be expended, in accordance with the rules set forth in the "South Carolina School Facilities Planning and Construction Guide."

3. The funds authorized herein for reduction in millage for debt service may not be expended in conjunction with the authorization of bonds that increase a school district's bonded indebtedness above the limit provided for in Article X of the South Carolina Constitution or expended to pay debt serve on bond anticipation notes authorized which would put the total bonded indebtedness of the

school district (general obligation and bond anticipation) above the constitutionally mandated limit. (Subdivision G, Section 1(d))

4. Any funds received pursuant to the Education Improvement Act must be expended or contractually committed within forty-eight months of the appropriation provided for school buildings under this act. No school district may use the funds allocated for school building purposes for operational, instructional, or any purposes other than those enumerated in these regulations.

Any school district using these funds as herein prohibited is prohibited from receiving any other funds under this act until the school district has reimbursed the Education Improvement Act of 1984 Fund for the fund allocated for school building purposes it has received pursuant to this Act. (Subdivision G, Section 3)

## V. WAIVERS

Waivers of the requirement that fifty percent of the Education Improvement Act Funds must be expended to reduce millage may be granted by the State Board of Education. A school district may request a waiver provided:

(a) That the district anticipates a significant increase in need for additional classroom space or

(b) In the event that a school district sold bonds or secured a loan at an interest rate less than prevailing rates and has an identified need for funds in excess of fifty percent of the funds allocated to the district from the Education Improvement Act Funds.

If a school district is eligible and wishes to request a waiver under (a) or (b) above, the school district must submit a waiver request form to the State Department of Education along with substantiating evidence for the waiver. The Department will review the waiver request, request any necessary review from the State Treasurer and make its recommendations for approval or disapproval to the State Board of Education. (Subdivision G, Section 1(b))

If a waiver is granted, the remaining sums may be used either to reduce millage to pay debt service or to pay for capital improvements, repairs, or renovations otherwise authorized during the then current fiscal year. If, on the occasion when the annual millage would otherwise be increased to provide for capital improvements, repairs, or renovations, there is on hand with the county treasurer sums from the appropriation herein authorized, sufficient to meet all or a portion of the payments of principal and interest on bonds to be outstanding in the ensuing fiscal year, such portion of the millage required to pay such debt service need not be imposed. (Subdivision G, Section 1(b))

## VI. APPLICATION PROCEDURES

1. Districts shall apply for Education Improvement Act Funds to the State Board of Education utilizing forms designed by the State Department of Education.

2. Projects must be submitted to the State Board of Education in accordance with the "South Carolina School Facilities Planning and Construction Guide."

## **43-172. Accounting and Reporting.**

### I. Pupil Accounting

According to Section 4, paragraph (1)(c) of the South Carolina Education Finance Act of 1977, each pupil in the state shall be counted in only one of the pupil classifications and must meet all qualifications both general and specific, before the pupil can be classified and claimed in a public school.

#### A. General Qualifications Criteria:

1. A pupil will be counted in membership on the first day of entrance in an instructional program either through original entry, reentry, or transfer.

2. Membership is defined as the number of pupils present plus the number of pupils absent.

3. Cumulative average daily membership is the aggregate number of days in membership divided by the total number of days the school is in session.

4. A pupil shall maintain membership in the appropriate instructional program for the minimum length of the school day.

5. To be eligible for membership a pupil must not be more than twenty-one years old (or in a graduating class and becomes twenty-one before graduation) before September 1 of the current school year.

6. A pupil shall be dropped from membership on the day when the number of unlawful days absent exceeds ten consecutive days or when the pupil leaves school because of transfer, death, expulsion, graduation, legal withdrawal, or for any other reason. Notwithstanding any other provision, students with disabilities who have been expelled and continue to receive educational services pursuant to Regulation 43-279 (Section V, Part D) shall not be dropped from membership.

7. An unlawful absence is defined in State Board of Education Regulation 43-274.

8. A class period is defined as a minimum of fifty minutes, or an accumulation of the equivalency of 120 hours required for a Carnegie Unit of Credit.

9. A pupil whose program of instruction meets the criteria for more than one category shall be classified in the highest weighted category.

**B. Specific Qualifications Criteria:**

1. A pupil shall be five years old or older on or before September 1 of the current school year to be admitted in a kindergarten program.

2. Specific qualifications for grades 1-12

a. A pupil shall be six years old or older on or before September 1 of the current school year to be admitted to the first grade.

b. A pupil in an ungraded class shall be classified in the grade level corresponding to the pupil's age.

c. A pupil shall maintain membership in a minimum of 200 minutes of daily instruction or its equivalency for an annual accumulation of 36,000 minutes.

3. Specific qualifications criteria for exceptional programs

a. To be counted in membership in an exceptional program, a pupil must be at least five (5) years of age by September 1 of the current school year, except for hearing disabled or visually disabled pupils who must be at least four (4) years of age by September 1 of the current school year.

b. To be counted in membership in a disabilities program, a pupil must be placed in a program in specific compliance with Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Disabled.

c. A pupil must maintain membership in a program designed for the appropriate disability and meet the time constraints for regular programs consistent with the provisions of the Defined Program.

d. An itinerant program is one where specialized instruction, materials, and/or equipment is delivered within the framework of a regular education setting. A resource room program is one in which mildly disabled pupils are enrolled for a portion of their education program and receive direct specialized instruction. A self-contained program is one in which the pupil receives full delivery of special education from one teacher. A homebound/hospitalized program is one in which the incapacitated pupil receives his educational program in accordance with the State Board of Education regulations.

e. Minimum number of minutes of instructional time per week or its equivalent for disabled pupils in resource, itinerant, self-contained and homebound models approved by the State Department of Education are as follows:

	Minutes of Instructional Time Per Week or Its Equivalent
(1) Educable Mentally Disabled	250
(2) Learning Disabilities	250
(3) Orthopedically Disabled	250
(4) Emotionally Disabled	250

	Minutes of Instructional Time Per Week or Its Equivalent
(5) Visually Disabled	250
(6) Hearing Disabled	250
(7) Homebound	250
(8) Speech Disabilities	50
(9) Trainable Mentally Disabled	*

4. Specific qualifications criteria for occupational education

a. A pupil shall be assigned in grades 9-12 and maintain membership in at least 250 minutes of instructional time per week or its equivalent in an appropriate occupational education program approved by the State Department of Education.

b. A pupil shall maintain membership in a minimum of 200 minutes of daily instructional time or its equivalent.

II. Audits

An annual audit of all financial records shall be made by a certified or licensed public accountant selected by the district, county board of education, or occupational education center. A copy of the audit in the format prescribed by the State Department of Education shall be filed with the Office of School District Auditing, State Department of Education, by November 15 following the close of the fiscal year.

III. Accountability

Financial Resources are to be allocated, expended, and accounted for in accordance with accounting practices specified in the Financial Accounting Handbook, Funding Manual and the Pupil and Staff Accountability Manual.

**HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997.**

**ARTICLE 15  
BUSINESS MANAGEMENT**

**43-180. Repealed** by State Register Volume 37, Issue No. 5, eff May 24, 2013.

**Editor's Note**

Former R. 43-180 was entitled "Buildings and Grounds. Defined Minimum Program for South Carolina School District".

**43-181. Repealed** by State Register Volume 37, Issue No. 5, eff May 24, 2013.

**Editor's Note**

Former R. 43-181 was entitled "Buildings and Grounds Management-Fire Prevention".

**43-183. Repealed** by State Register Volume 37, Issue No. 5, eff May 24, 2013.

**Editor's Note**

Former R. 43-183 was entitled "Buildings and Grounds-Cleaning Program".

**43-187. Repealed** by State Register Volume 37, Issue No. 5, eff May 24, 2013.

**Editor's Note**

Former R. 43-187 was entitled "Buildings and Grounds-Heating and Lighting".

**43-188. Displaying the Flag.**

(Statutory Authority: S.C. Code Ann. §§ 59-5-60 (2004),  
59-1-320 (2004) and 4 U.S.C. § 1, et seq.)

I. Display of the United States Flag

\* Must meet time constraints consistent with the provisions of the Defined Program.

Schools shall display the United States flag each school day and shall fly the flag in accordance with the laws regulating the display of the United States flag as set forth in 4 U.S.C. Section 6–10 and consistent with the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10–1–161.

## II. South Carolina Flag

The South Carolina flag shall be flown consistent with 4 U.S.C. Section 6–10 and the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10–1–161 as it applies to the flying of state flags with the United States flag.

**HISTORY:** Added by State Register Volume 30, Issue No. 5, eff May 26, 2006. Amended by State Register Volume 38, Issue No. 6, Doc. No. 4403, eff June 27, 2014.

## ARTICLE 16 FACILITY EXPANSION PROGRAM

**43–190. Repealed** by State Register Volume 37, Issue No. 5, eff May 24, 2013.

### Editor's Note

Former R. 43–190 was entitled “Project Plans and Specifications”.

**43–191. Repealed** by State Register Volume 37, Issue No. 5, eff May 24, 2013.

### Editor's Note

Former R. 43–191 was entitled “Facility Specifications”.

## ARTICLE 17 PERSONNEL

**43–201.1. Repealed** by State Register Volume 38, Issue No. 6, Doc. No. 4409, eff June 27, 2014.

### Editor's Note

Former R. 43–201.1 was titled **Teacher Grants** and had the following history: Amended by State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003.

**43–205. Administrative and Professional Personnel Qualifications, Duties, and Workloads.**

(Statutory Authority: 1976 Code Sections 59-5-60, 59-59-10 et seq., and Pub. L. No. 114-95)

### I. District-Level Administrative Personnel

Personnel employed as administrative assistants, supervisors, and consultants having responsibilities for supervising instructional programs and student services must hold a master's degree and be certified in their area of primary responsibility or must earn a minimum of 6 semester hours annually toward appropriate certification. The district superintendent must request from the Office of Educator Services a certification permit for members of the central staff who are not properly certified. (see Reg. 43–53).

### II. Pre-kindergarten through Grade Five

#### A. Professional Personnel Qualifications and Duties

##### 1. Principals

Each school with an enrollment of more than 375 students must be staffed with a full-time properly certified principal. Each school with an enrollment of fewer than 375 students must be staffed with at least a part-time properly certified principal. A principal's duties and responsibilities are to be prescribed by the district superintendent. The district superintendent must request a certification permit from the Office of Educator Services for each principal who is not properly certified. (see Reg. 43–53).

##### 2. Assistant Principals or Curriculum Coordinators

Each school with an enrollment of 600 or more students must be staffed with at least one full-time properly certified assistant principal or curriculum coordinator.

### 3. Teachers, School Counselors, and Library Media Specialists

Each teacher, school counselor, and library media specialist must be properly certified by the State Board of Education. The duties and responsibilities of teachers, school counselors, and library media specialists are to be prescribed by the school principal. The district superintendent must request a certification permit from the Office of Educator Services for each eligible teacher, school counselor, and library media specialist who are not properly certified. (see Reg. 43–53).

### 4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

## B. Professional Personnel Workload

### 1. Regular Education Teachers

a. The average student-teacher ratio in any school must not exceed 28:1 based on the average daily enrollment. The total number of teachers must include all regular, special-area, and resource teachers whose students are counted in the regular enrollment.

b. Each district must maintain an average student-teacher ratio of 21:1 based on the average daily enrollment in reading and mathematics classes in grades kindergarten through three.

c. Class sizes must not exceed the following student-teacher ratios:

Grade Level	Maximum Student-Teacher Ratio
Pre-kindergarten	20:1
Grades K-3	30:1
Grades 4–5, English language arts and mathematics	30:1
Grades 4–5, all other subjects	35:1

d. Paraprofessionals may be counted in computing the student-teacher ratio at the rate of .5 per paraprofessional if they work under the supervision of a teacher and make up no more than 10 percent of the total staff. Excluded from the computation are the following:

1. teachers of self-contained special education classes, pre-kindergarten and kindergarten classes, principals, assistant principals, library media specialists, school counselors; and
2. students in self-contained special education classes, pre-kindergarten classes, or kindergarten classes.

### 2. School Counselors and Specialists in Art, Music, and Physical Education

a. Schools having any combination of grades kindergarten through five must employ the full-time equivalent (FTE) of a school counselor and specialists in art, music, and physical education (PE) in the following ratios for each area:

Average Daily Enrollment	FTE	Minimum Allotted Time Daily
800 or more	1.0	300 minutes
640–799	.8	240 minutes
480–639	.6	180 minutes
320–479	.4	120 minutes
Less than 320	.2	60 minutes

b. Music teachers may teach a maximum of 40 students per class period. The total teaching load must not exceed 240 students per day. Exceptions: When band, chorus, and orchestra



require rehearsals of their entire enrollment, any number is acceptable if adequate space is available.

c. PE teachers may teach a maximum of 40 students per class period. The total teaching load must not exceed 240 students per day. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

3. Library Media Specialists

Schools with fewer than 375 students must provide at least half-time services of a certified library media specialist. Schools with 375 or more students must provide the services of a full-time certified library media specialist.

4. Special Education Teachers

a. The teaching load for teachers of self-contained special education classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	15:1
Emotional Disabilities	12:1
Learning Disabilities	15:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	12:1
Visually Impaired	10:1
Deaf and Hard of Hearing	10:1

b. Cross-categorical self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	15:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	12:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	12:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

c. The maximum teaching load required for resource teachers and itinerant teachers for students with disabilities based on the average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

d. When resource teachers and/or itinerant teachers serve students with differing disabilities, the maximum teaching load must be determined by the majority of the students in enrollment in an area of disability.

e. The maximum caseload for speech language therapists must not exceed 60 students.

### III. Grades Six through Eight

#### A. Professional Personnel Qualifications and Duties

##### 1. Principals

a. Each school with an enrollment of 250 students or more must employ a full-time properly certified principal. Schools with fewer than 250 students in enrollment must be staffed with at least a half-time properly certified principal. A principal's duties and responsibilities are to be prescribed by the district superintendent. The district superintendent must request a certification permit from the Office of Educator Services for each principal who is not properly certified (see Reg. 43-53).

b. Each campus principal of a multicampus school with an enrollment of 250 students or more must comply with certification regulations prescribed for a principal of a single campus school.

##### 2. Assistant Principals/Assistant Directors or Curriculum Coordinators

In addition to employing a full-time principal, each school with an enrollment of 500 or more students must be staffed with one full-time properly certified assistant principal or curriculum coordinator. An additional properly certified assistant principal or curriculum coordinator must be employed for a school with an enrollment of 1,000 or more.

##### 3. Teachers, School Counselors, and Library Media Specialists

Each teacher, school counselor, and library media specialist must be properly certified by the State Board of Education. The duties and responsibilities of teachers, school counselors, and library media specialists are to be prescribed by the school principal. The district superintendent must request a certification permit from the Office of Educator Services for each eligible teacher, school counselor, and library media specialist who are not properly certified (see Reg. 43-53).

##### 4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

##### 5. Career Specialists

Each career specialist must work under the supervision of a certified school counselor. The career specialist must hold a bachelor's degree and must have earned either a Global Career and Development Facilitator (GCDF) certification or Career Development Facilitator (CDF) certification. The school counselor may serve as the career specialist if he or she holds the GCDF or the CDF credential. If this person is to provide classroom instruction, he or she must be certified.

#### B. Professional Personnel Workload

##### 1. School Counselors

a. Schools with fewer than 600 students must provide the services of a school counselor in the following ratios:

Minimum Allotted Time	Enrollment	Daily
Up to 200		100 minutes
201 to 300		150 minutes
301 to 400		200 minutes
401 to 500		250 minutes
501 to 600		300 minutes

b. Schools with an enrollment of 501 or more students must employ one full-time certified school counselor. Schools with more than 600 students must provide school counseling services at the ratio of one 50-minute period for every 100 students or major portion thereof.

c. A career specialist may be employed to provide career school counseling services.

d. By the 2011–12 school year, the student-to-school counseling personnel ratio will be reduced to 300 to 1 as funds become available.

2. Library Media Specialists

a. Schools with fewer than 400 students must employ a library media specialist who devotes not less than 200 minutes daily to library media services.

b. Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full time to library media services.

c. Schools having an enrollment of 750 or more must employ an additional full-time person (paraprofessional or certified library media specialist) in the library media center.

3. Classroom Teachers

a. The teaching load must not exceed 150 students daily. No class may exceed 35 students in enrollment.

Grade Level	Maximum Student-Teacher Ratio
Grade 6, English language arts and mathematics	30:1
Grade 6, all other subjects	35:1
Grades 7–8	35:1

b. A maximum of 40 students per class with a total teaching load of 240 students per day is permitted for music and PE teachers. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per class and a total of 150 students per day. Exceptions: When band, chorus, and orchestra require rehearsals of the entire enrollment, any number is acceptable if adequate space is available.

c. When a teacher’s daily schedule includes a combination of academic subjects and nonacademic subjects, the maximum daily teaching load must be calculated on the basis of 30 students per academic class and 40 students for each music or PE class. (Example: 3 classes of math with 30 students each = 90 + 2 classes of PE with 40 students each = 80. The teaching load totals 170 students. The teacher is not overloaded but does teach the maximum allowable.)

d. Maximum teacher load requirements and individual class size limits are the same for minicourses as any other classes.

4. Special Education Teachers

a. The teaching load for teachers of self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	18:1
Emotional Disabilities	15:1
Learning Disabilities	18:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	15:1
Visually Impaired	12:1
Deaf and Hard of Hearing	12:1

b. Cross-categorical self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	18:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	15:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	15:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

c. The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on the average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

d. When resource teachers and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability.

e. The maximum caseload for speech-language therapists must not exceed 60 students.

#### IV. Grades Nine through Twelve

##### A. Professional Personnel Qualifications and Duties

###### 1. Principals/Directors

a. Each school must be staffed with a full-time properly certified principal/director whose duties and responsibilities must be prescribed by the district superintendent. The district superintendent must request a certification permit from the Office of Educator Services for each principal/director who is not properly certified (see Reg. 43–53).

b. Each campus principal of a multicampus school with an enrollment of 250 students or more must comply with certification regulations prescribed for a principal of a single-campus school.

###### 2. Assistant Principals/Assistant Directors or Curriculum Coordinators

a. In addition to being staffed with a full-time principal/director, each school with an enrollment of 400 to 499 students must be staffed with at least one half-time properly certified assistant principal or the equivalent.

b. In addition to being staffed with a full-time principal/director, each school with an enrollment of 500 or more students must be staffed with at least one full-time properly certified assistant principal/assistant director and a properly certified assistant principal or the equivalent for each additional 500 students.

###### 3. Teachers, School Counselors, and Library Media Specialists

Each teacher, school counselor, and library media specialist must be properly certified by the State Board of Education. Their duties and responsibilities are to be prescribed by the principal. The district superintendent must request a certification permit from the Office of Educator Services for each eligible teacher, school counselor, and library media specialist who are not properly certified (see Reg. 43–53).

###### 4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

###### 5. School Transition Coordinators

When a school-to-work transition coordinator is employed, the coordinator must be certified in one or more occupational subjects, have at least a bachelor's degree, and have two years' work

experience. In lieu of these requirements, a qualified person with an employment background in business or industry may be employed as a school-to-work transition coordinator if the person possesses at least a bachelor's degree and five years of business/industry work experience in the fields of personnel or administration. If this person is to provide classroom instruction, he or she must be certified.

## 6. Career Specialists

Each career specialist must hold a bachelor's degree and must have obtained a Global Career and Development Facilitator (GCDF) credentialing after completing the 120 hours Career Development Facilitator (CDF) course. If the career specialist has not obtained the national global career development facilitators credentialing at the time of hire, a period of two years will be granted in order to obtain the required Center for Credentialing and Education (CCE) work experience. A school counselor may serve as the career specialist if he or she holds GCDF or CDF credential.

### B. Professional Personnel Workload

#### 1. School Counselors

a. Schools with fewer than 600 students must provide the services of a school counselor in the following ratios:

Enrollment	Minimum Allotted Time Daily
Up to 200	100 minutes
201 to 300	150 minutes
301 to 400	300 minutes
401 to 500	250 minutes
501 to 600	300 minutes

b. Schools with enrollments of 501 or more must employ one full-time certified school counselor. Schools with more than 600 students must provide school counseling services at the ratio of 50 minutes for each additional 51 to 100 students to the extent that the total school enrollment reflects a minimum of 50 minutes of school counseling services for every 100 students.

c. A career specialist may be employed to provide career school counseling services.

d. By the 2011–12 school year, the student-to-school counseling personnel ratio will be reduced to 300 to 1 as funds become available.

#### 2. Library Media Specialists

a. Schools having an enrollment of fewer than 400 students must employ a library media specialist who must devote not less than 200 minutes daily to library media services.

b. Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full time to library media services.

c. Schools having an enrollment of 750 or more students must employ an additional full-time person (paraprofessional or certified library media specialist) in the library media center.

#### 3. Classroom Teachers

a. The maximum daily teaching load for teachers of academic classes is 150 students. No class may exceed 35 students in enrollment.

b. A teacher must not be permitted to teach more than 1,500 minutes per week.

c. A teacher must not be assigned classes requiring more than four preparations per day.

d. A maximum of 40 students per class with a total teaching load of 240 students per day is permitted for music and PE teachers. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the maximum teaching load is 35 students per class and a total of 150 students per day. Exception: When band, chorus, and orchestra require rehearsals of the entire enrollment, any number is acceptable if adequate space is available.

e. When a teacher's daily schedule includes a combination of academic and nonacademic subjects, the maximum daily teaching load must be calculated on the basis of 30 students per academic class and 40 students per music or PE class. (Example: 3 classes of math with 30 students

each = 90 + 2 classes of PE with 40 students each = 80. The teaching load totals 170 students. The teacher is not overloaded but does teach the maximum allowable.)

f. In calculating teaching load, the number of students supervised in study hall by a regular teacher must be divided by 4 (example: 60 divided by 4 = 15). Study hall students must not be placed in an instructional class.

4. Special Education Teachers

a. The teaching load for teachers of self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	18:1
Emotional Disabilities	15:1
Learning Disabilities	18:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	15:1
Visually Impaired	12:1
Deaf and Hard of Hearing	12:1

b. Cross-categorical classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	18:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	17:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	16:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

c. The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

d. When resource room and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability.

e. The maximum caseload for speech-language therapists must not exceed 60 students.

**HISTORY:** Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 29, Issue No. 6, eff June 24, 2005; State Register Volume 31, Issue No. 5, eff May 25, 2007; State Register Volume 41, Issue No. 6, Doc. No. 4695, eff June 23, 2017.

## 43–205.1. Assisting, Developing, and Evaluating Professional Teaching (ADEPT).

### I. State Standards for Professional Teaching

Teacher preparation programs and school districts must address, but are not limited to, the performance standards for Assisting, Developing, and Evaluating Professional Teaching (ADEPT), as specified in the State Board of Education's ADEPT implementation guidelines.

## II. Teacher Candidates

A. All teacher education programs must adhere to State Board of Education regulations governing the preparation and evaluation of teacher candidates.

B. Each teacher education program must develop and implement a plan for preparing, evaluating, and assisting prospective teachers relative to the ADEPT performance standards in accordance with the State Board of Education's ADEPT implementation guidelines. ADEPT plans must be approved by the State Board of Education prior to implementation.

C. By July 1 of each year, teacher education programs must submit assurances to the South Carolina Department of Education (SCDE) that they are complying with the State Board of Education's ADEPT implementation guidelines. Proposed amendments to previously approved ADEPT plans must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

D. Teacher education programs must submit information on their teacher candidates, as requested annually by the SCDE.

E. The SCDE will provide teacher education programs with ongoing technical assistance such as training, consultation, and advisement, upon request.

## III. Induction-Contract Teachers

A. Teachers who possess a valid South Carolina pre-professional teaching certificate, as defined by the State Board of Education, may be employed under an induction contract for up to, but not to exceed, three years. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under induction contracts.

B. Each local school district must develop and implement a plan to provide induction-contract teachers with comprehensive guidance and assistance throughout each induction year. District induction plans must comply with the State Board of Education's guidelines for assisting induction-contract teachers and must be approved by the State Board of Education prior to implementation.

C. On or before the date that the district extends offers of teaching employment for the following school year, teachers employed under induction contracts are to be notified in writing concerning their employment status. Teachers who complete an induction-contract year may, at the discretion of the school district, be employed under another induction-contract or an annual contract, or they may be released from employment. Teachers who are released may seek employment in another school district at the induction-contract level. The maximum induction period for a teacher is three years, regardless of the district in which the teacher is employed. A teacher who is completing a third year of induction is eligible for employment at the annual-contract level.

D. School districts must submit information on all teachers employed under induction contracts, as requested annually by the SCDE. Available flow-through funds to school districts will be provided on a first-year induction teacher basis.

E. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for assisting induction-contract teachers. A copy of the district's proposed induction timeline must accompany the assurances. Proposed amendments to the district's previously approved induction plan must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

F. By June 20 of each year, school districts must submit end-of-year information on teachers employed under induction contracts and on the employment contract decisions made for the following year, as requested by the SCDE.

G. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

## IV. Annual-Contract Teachers

A. Teachers who have satisfied their induction requirements may be employed under an annual contract. Full procedural rights under the employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under annual contracts. However, annual-contract teachers do have the right to an informal hearing before the district superintendent, under the provisions of S.C. Code Ann. Section 59-26-40 (Supp. 2012).

B. Teachers employed under an annual contract must be evaluated or assisted with procedures developed or adopted by the local school district in accordance with the State Board of Education's ADEPT implementation guidelines. These procedures must include the development, implementation, and evaluation of an individualized professional growth plan for each teacher.

C. Teachers must not be employed under an annual contract for more than four years.

D. During the first annual-contract year, the annual-contract teacher must, at the discretion of the school district, either undergo a formal performance evaluation or be provided with diagnostic assistance. The term "formal performance evaluation" is defined as a summative evaluation of teaching performance relative to the state standards and evaluation processes, as specified in the State Board of Education's ADEPT implementation guidelines. All formal evaluation processes must meet the general technical criteria of validity, reliability, maximum freedom from bias, and documentation. The term "diagnostic assistance" is defined as an optional process for providing individualized support to teachers who have demonstrated potential but who are not yet ready to successfully complete a formal performance evaluation.

1. An annual-contract teacher who has met the formal evaluation criteria set by the State Board of Education, the requirements for annual-contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate is eligible for employment at the continuing-contract level. At its discretion, the district may either employ the teacher under a continuing contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district. At the discretion of the next hiring district, the teacher may be employed at the annual or continuing-contract level.

2. An annual-contract teacher who has met the formal evaluation criteria set by the State Board of Education and the requirements set by the local board of trustees but who has not yet satisfied all requirements established by the State Board of Education for the professional teaching certificate is eligible for employment under a subsequent annual contract, with evaluation being either formal or informal (i.e., goals-based), at the discretion of the local school district. At its discretion, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level.

3. An annual-contract teacher who for the first time fails to meet the formal evaluation criteria set by the State Board of Education or who fails to meet the requirements set by the local board of trustees is eligible for employment under a subsequent annual contract. At its discretion, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level.

An annual-contract teacher who has demonstrated potential but who has not yet met the formal evaluation criteria set by the State Board of Education and/or the requirements set by the local board of trustees is eligible for a diagnostic-assistance year at the annual-contract level. This diagnostic-assistance year must be provided, if needed, at the discretion of the employing school district, either during the teacher's first annual-contract year or during the annual-contract year following the teacher's first unsuccessful formal evaluation. A teacher is eligible to receive only one diagnostic-assistance year. At the end of the diagnostic assistance year, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level. A diagnostic-assistance year must be followed by formal (summative) evaluation at the annual-contract level during the teacher's next year of teaching employment.

4. An annual-contract teacher who for the second time fails to meet the formal evaluation criteria set by the State Board of Education will have his or her teaching certificate automatically suspended



by the State Board of Education, as prescribed in Section 59–5–60 of the South Carolina Code of Laws, 1976, and in State Board of Education Regulation 43–58. Subsequent to this action, the teacher will be ineligible to be employed as a classroom teacher in a public school in this state for a minimum of two years. Before reentry into the profession, the teacher must complete a state-approved remediation plan based on the area(s) that were identified as deficiencies during the formal evaluation process. Remediation plans must be developed and implemented in accordance with the State Board of Education’s ADEPT implementation guidelines.

Following the minimum two-year suspension period and the completion of the remediation plan, as verified by the SCDE, the teacher’s certificate suspension will be lifted, and the teacher will be eligible for employment at the annual-contract level. Upon his or her reentry into the profession, the teacher must be formally evaluated. If, at the completion of the evaluation process, the teacher meets the formal evaluation criteria set by the State Board of Education, he or she may continue toward the next contract level. If, at the completion of the evaluation process, the teacher does not meet the formal evaluation criteria set by the State Board of Education, he or she is no longer eligible to be employed as a public school teacher in this state.

E. Each school district must develop a plan to evaluate and provide diagnostic assistance to teachers at the annual-contract level, in accordance with the State Board of Education’s ADEPT implementation guidelines. District plans also must include procedures for developing, implementing, and evaluating individualized professional growth plans for annual-contract teachers.

F. School districts must establish criteria or requirements that teachers must meet at the annual-contract level. At a minimum, districts must require annual-contract teachers to meet the ADEPT formal evaluation criteria and all other requirements for the professional teaching certificate, as specified by the State Board of Education, in order to advance to the continuing-contract level.

G. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education’s ADEPT implementation guidelines for evaluating and assisting teachers at the annual-contract level. A copy of the district’s proposed formal evaluation and diagnostic assistance timelines must accompany the assurances. Proposed amendments to the district’s previously approved ADEPT plan for annual-contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

H. By June 20 of each year, school districts must submit end-of-year information on teachers employed under annual contracts and on the employment contract decisions made for the following year, as requested by the SCDE.

I. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

#### V. Continuing-Contract Teachers

A. Teachers who have met the formal evaluation criteria set by the State Board of Education, the requirements for annual-contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate are eligible for employment at the continuing-contract level. Teachers employed under continuing contracts have full procedural rights relating to employment and dismissal as provided for in Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws.

B. Teachers employed under continuing contracts must be evaluated on a continuous basis. The evaluation may be formal or informal (i.e., goals-based), at the discretion of the district. Districts must develop policies for recommending continuing-contract teachers for formal evaluation. Continuing-contract teachers who are being recommended for formal evaluation the following school year must be notified in writing on or before the date the school district issues the written offer of employment or reemployment. The written notification must include the reason(s) that a formal evaluation is recommended, as well as a description of the formal evaluation process. Continuing-contract teachers who are new to the district must be advised at the time of their hiring if they are to receive a formal evaluation.

C. Each school district must develop a plan, in accordance with State Board of Education’s ADEPT implementation guidelines, to continuously evaluate teachers who are employed under continuing contracts. At a minimum, district ADEPT plans for continuing-contract teachers must address formal and informal evaluations and individualized professional growth plans.

D. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for continuously evaluating teachers at the continuing-contract level. A copy of the district's proposed formal and informal evaluation timelines must accompany the assurances. Proposed amendments to the district's previously approved ADEPT plan for continuing-contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

E. By June 20 of each year, school districts must submit end-of-year information on teachers employed under continuing contracts and on the employment decisions made for the following year, as requested by the SCDE.

F. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

#### VI. Teachers Who Do Not Have Sufficient Opportunity to Complete the ADEPT Process

A. A teacher who is employed under an induction, annual, or continuing contract and who is absent for more than 20 percent of the days in the district's SBE-approved annual evaluation cycle may, at the recommendation of the district superintendent, have his or her ADEPT results reported to the SCDE as "incomplete."

B. Teachers whose ADEPT results are reported to the SCDE as "incomplete" are eligible to repeat their contract level during the next year of employment.

#### VII. Teachers Employed from Out of State

A. Teachers employed from out of state who receive a South Carolina initial teaching certificate based on reciprocity are eligible for employment under an induction contract.

B. Teachers employed from out of state who receive a South Carolina professional teaching certificate based on reciprocity are eligible for employment under an annual contract. At the annual-contract level, teachers may receive either a diagnostic-assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet the formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual-contract level before they are eligible to receive a continuing contract.

C. Teachers who are employed from out of state or from a nonpublic-school setting and who are certified by the National Board for Professional Teaching Standards (NBPTS) are exempted from initial certification requirements and are eligible for continuing contract status (S.C. Code Ann. Section 59-26-85 (Supp. 2012)).

#### VIII. Career and Technology Education Teachers, Candidates Pursuing Alternative Routes to Teacher Certification, and Teachers Employed on a Part-Time Basis

A. Teachers certified under the Career and Technology Education certification process must follow the same sequence as traditionally prepared teachers in terms of contract levels (i.e., induction, annual, and continuing) and ADEPT evaluation and assistance processes.

B. Candidates pursuing alternative routes to teacher certification must follow the same sequence as traditionally prepared teachers in terms of contract levels (i.e., induction, annual, and continuing) and ADEPT evaluation and assistance processes.

C. Teachers who are employed part-time and who receive a teaching contract (i.e., induction, annual, or continuing) must participate in the ADEPT evaluation and assistance processes.

#### IX. Teachers Employed under a Letter of Agreement

A. Teachers who are eligible for an induction or an annual contract but who are hired on a date that would cause their period of employment to be less than 152 days during the school year may be employed under a letter of agreement.

B. Teachers employed under a letter of agreement do not fall under ADEPT. However, districts must ensure that these teachers receive appropriate assistance and supervision throughout the school year.

C. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under a letter of agreement.

## X. Teachers Who Hold an International Teaching Certificate

A. Teachers from outside the United States who hold an international teaching certificate must follow the same sequences as traditionally prepared teachers in terms of the beginning contract levels (i.e., induction and annual) and ADEPT evaluation and assistance processes.

B. Teachers from outside the United States who hold an international teaching certificate may remain at the annual-contract level but may not be employed under a continuing contract.

## XI. Teachers Employed in Charter Schools

A. Except as otherwise provided in the Charter Schools Act (S.C. Code Ann. Section 59–40–50(A) (Supp. 2012)), charter schools are exempt from all provisions of law and regulations applicable to a public school, a school board, or a district. However, a charter school may elect to comply with one or more of these provisions of law or regulations, such as the provisions of the ADEPT statute and regulation.

B. Charter schools that elect not to implement the ADEPT system may assist and/or evaluate their teachers according to the policies of their respective charter school committees. Certified teachers in these schools will accrue experience credit in a manner consistent with the provisions of State Board of Education Regulation 43–57 (S.C. Code Ann. Regs. 43–57 (2011)). Teachers in non-ADEPT charter schools who hold an initial teaching certificate are eligible to advance to a renewable limited professional certificate, as specified in State Board of Education Regulation 43–53 (S.C. Code Ann. Regs. (Supp. 2012)).

C. Charter schools that elect to implement the ADEPT system must comply with all provisions of the amended ADEPT statute (S.C. Code Ann. Sections 59–26–30 and 59–26–40, to be codified at Supp. 2012), this regulation, and the State Board of Education’s ADEPT implementation guidelines. In fulfilling these requirements, the contract between the charter school and its sponsor must include an ADEPT provision. All certified teachers in the charter school must be assisted and evaluated in a manner consistent with the sponsor’s State Board of Education-approved ADEPT plan for induction, formal evaluation, and goals-based evaluation. The ADEPT provision must address the charter school’s responsibilities for ensuring the fidelity of the implementation of the ADEPT system. The provision also must address the sponsor’s responsibilities in terms of staff training and program implementation. At a minimum, the sponsor must agree to disseminate all ADEPT-related information from the SCDE to the charter school and to report charter school teacher data to the SCDE. The provision must be included in the sponsor’s ADEPT plan and approved by the State Board prior to implementation.

## XII. Teachers Who Hold a Limited Professional Certificate

An educator who holds a valid South Carolina limited professional certificate is eligible for employment in a “regulated” South Carolina public school at the annual-contract level. At the annual-contract level, teachers may receive either a diagnostic-assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet the formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual-contract level before they are eligible to move from a limited professional certificate to a full professional certificate and to be employed under a continuing contract.

## XIII. Reporting Requirements

Failure of a teacher education program or local school district to submit all required assurances or requested information pursuant to this regulation may result in the State Board of Education’s withholding ADEPT funds.

**HISTORY:** Amended by State Register Volume 22, Issue No. 6, Part 1, eff June 26, 1998; State Register Volume 24, Issue No. 6, eff June 23, 2000; State Register Volume 29, Issue No. 6, eff June 24, 2005; State Register Volume 37, Issue No. 6, eff June 28, 2013.

## **43–206. Professional Personnel Resignation.**

Any teacher who fails to comply with the provisions of his contract without the written consent of the school board shall be deemed guilty of unprofessional conduct. A breach of contract resulting from the execution of an employment contract with another board within the State without the consent of the

board first employing the teacher makes void any subsequent contract with any other school district in South Carolina for the same employment period. Upon the formal complaint of the school board, substantiated by conclusive evidence, the State Board shall give notice to the said teacher by registered mail to appear before the State Board of Education to show cause why such teacher's certificate should not be revoked or suspended, the notice to contain the information that the teacher is entitled to counsel if he so desires and to bring counsel with him to the meeting. If the teacher fails to appear before the State Board, or if the teacher does appear and the said Board rules that such teacher did not have sufficient cause for terminating the contract, the said Board shall suspend or revoke the teacher's certificate, for a period not to exceed one calendar year. State education agencies in other states with reciprocal certification agreements shall be notified of the revocation of the certificate.

The term "teacher" as herein used shall include all school personnel required to be certified by the State Board of Education.

### **43-207. Health Examination.**

All personnel shall be screened for tuberculosis as required by Section 44-29-150 and Section 44-29-160 of the Code of Laws of South Carolina, 1976, as amended April 24, 1979. Guidelines for screening of school employees for tuberculosis are available in each county health department.

### **43-209. Support Personnel/Paraprofessional Personnel Positions, Qualifications and Duties.**

(Statutory Authority: S.C. Code Ann. § 59-5-60 (1990) and 20 U.S.C. § 6301 et seq. (2002))

#### **A. Support personnel positions for school district superintendents and school principals**

1. Secretarial services shall be provided.
2. Custodial services shall be provided.

#### **B. Paraprofessional personnel positions**

1. Each teacher of trainable, orthopedically, emotionally, or visually disabled pupils in a self-contained classroom model shall have a paraprofessional full time, provided that the class has a minimum membership of four pupils.
2. Each teacher of a kindergarten unit shall have a paraprofessional full time.

#### **C. Paraprofessional Personnel Qualifications and Duties**

##### **1. Paraprofessionals helping with classroom instruction or programs shall meet the following requirements:**

- a. All instructional paraprofessionals must be at least 18 years of age.
- b. All instructional paraprofessionals must have at least a high school diploma or state equivalency certificate.

##### **c. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired after January 8, 2002, must either**

- (1) hold a two-year associate's degree from an accredited institution, or
- (2) have completed two years (60 semester hours) of college coursework from an accredited institution, or
- (3) have passed a state-approved examination of content knowledge and pedagogy.

##### **d. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired before January 8, 2002, must meet the requirements listed in C.1.c. by January 8, 2006.**

##### **e. All instructional paraprofessionals must work under the direct supervision of a certified teacher.**

##### **f. All instructional paraprofessionals must participate in preservice and inservice training programs for instructional paraprofessionals.**

2. The State Department of Education will maintain an electronic registry of instructional paraprofessionals that indicates whether the instructional paraprofessional has met the requirements listed in C.1.c.

**HISTORY:** Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997; State Register Volume 27, Issue No. 11, eff November 28, 2003.

## **43–210. School Resource Officers.**

### I. Expectations for School Resource Officers in South Carolina Public Schools

School campuses are learning environments where public education students are prepared for success in college, careers, and citizenship. School resource officers are necessary to provide law enforcement and police services to assist in providing a safe learning environment. School resource officers shall act in accordance with policies and procedures of police departments, sheriff's offices, and other law enforcement agencies to enforce state laws and county and municipal ordinances.

### II. Resource Officers Defined

A school resource officer is a sworn law enforcement officer, pursuant to the requirements of any jurisdiction of South Carolina, who has completed the basic course of instruction, as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this state to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

A school resource officer has statewide jurisdiction to arrest any persons committing crimes in connection with a school activity or school-sponsored event.

### III. Role of the School Resource Officer

#### A. Law Enforcement Officer

As sworn law enforcement officials, school resource officers have a major role in campus security. School resource officers shall not only be called to respond to criminal incidents, but also to assist in emergency crisis planning, building security, and training school personnel on handling crisis situations. It is important for school administrators to establish and maintain close partnerships with school resource officers, as they are valuable resources for providing a safe school environment.

#### B. Law-Related Educator

Teachers and staff shall utilize school resource officers within the classroom to help design and present law-related topics regarding the role of law enforcement in our society.

#### C. Community Liaison

School administrators shall encourage school resource officers' visibility within the school community, as well as attendance and participation at school functions, to build working relationships with school personnel, students, and parents.

#### D. Positive Role Model

School resource officers should be positive role models and may be used to promote the profession of law enforcement as a career choice for students. School administrators shall support positive interactions between school resource officers and students on school campuses.

### IV. Procedures

#### A. Student Behavior

School resource officers are law enforcement officers, not school disciplinarians and shall not ordinarily be requested or permitted to intervene in school discipline matters. The school resource officers shall only be called in these situations when a student's behavior has exceeded the level of disruptive conduct as determined by school administration, based on district policy and reached conduct amounting to a Level III violation for which law enforcement involvement is required (see Regulations 43–279 for levels of disruptive and criminal conduct). School resource officers shall only be called to respond to Level II misconduct when

1. the conduct rises to a level of criminality, and
2. the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year.

When law enforcement referrals are required, a school resource officer shall be the first line of contact for local law enforcement to ensure that the matter is resolved expeditiously to decrease significant interruption to the learning process.

B. General provision for visitors, employees, and unauthorized persons.

Students deserve school environments that are safe and conducive to learning. Visitors and employees will not disrupt the learning environment or school activity inappropriately or unlawfully.

State law mandates that it is unlawful to willfully or unnecessarily interfere with or disturb school, loiter about a school, or act in an obnoxious manner while at a school. The school resource officer should be called immediately to handle a disturbance or emergency regarding a visitor or employee who disrupts the learning environment or school activity.

#### V. Memorandum of Understanding

Prior to placing a school resource officer at a school or in a school district, a memorandum of understanding must be executed between the school district, and the local law enforcement agency, which employs the school resource officers. The role of the school district, individual schools, local law enforcement agency, school administration, and the school resource officer shall be clearly defined in the memorandum of understanding. The role of the school resource officer as a law enforcement official must clearly be defined pursuant to state law in the memorandum. That definition must include the provisions of this regulation and Regulation 43–279 which distinguish school discipline from law enforcement and prohibit the involvement of school resource officers in school discipline.

The school district shall provide the school administration with a copy of the memorandum of understanding, and review it with the school administration and with the school resource officer prior to the start of every school year.

**HISTORY:** Added by State Register Volume 41, Issue No. 5, Doc. No. 4659, eff May 26, 2017.

## ARTICLE 19 INSTRUCTIONAL PROGRAM

(Statutory Authority: 1976 Code §§ 59-5-60, 59-30-10 et seq., 59-33-30, 59-53-1810)

### **43–220. Gifted and Talented.**

(Statutory Authority: S.C. Code Ann. § 59–29–170 (Supp. 2002))

**Purpose:** The State Board of Education recognizes the need to provide gifted and talented education services to identified students in grades one through twelve. These regulations provide the framework for provision of these services. All regulations must be followed in order to qualify for state funding. In order to comply with the South Carolina Education Improvement Act of 1984, school districts must provide programming for all gifted and talented students at the elementary and secondary levels. These programming services shall develop the unique talents of students.

#### I. DEFINITIONS

##### A. Population

1. Gifted and talented students are those who are identified in grades one through twelve as demonstrating high performance ability or potential in academic and/or artistic areas and therefore require educational programming beyond that normally provided by the general school programming in order to achieve their potential.

2. Gifted and talented abilities for these regulations include

(a) Academic and Intellectual Ability: Students who have the academic and/or intellectual potential to function at a high level in one or more academic areas.

(b) Visual and Performing Arts: Students who have the artistic potential to function at a high performance level in one or more of the fine arts (dance, music, theatre, and visual arts).

## B. Terms

1. Academic areas: any or all of the academic disciplines and performance skills that cross the disciplines to include research, technology, and reasoning
2. Academic discipline/disciplines: English language arts, mathematics, science, social studies, and foreign language
3. Artistic areas: any or all of the artistic disciplines and performance skills that cross the disciplines to include research, technology, creativity, and aesthetics
4. Assessment: evaluation and re-evaluation of student aptitudes, attributes, and behaviors according to specified dimensions
5. Confluent: blending and moving forward together
6. Demonstrating (academic): making evident or establishing by reasoning; proving
7. Demonstrating (artistic): making evident or establishing by reasoning, performing, and producing
8. Differentiation: the deliberate adaption and modification of the curriculum, instructional processes, and assessments to respond to the individual needs of gifted and talented learners
9. High level: functional or performance level set by the identification dimensions in these regulations
10. Multi: more than one
11. Multiage classroom: regular classroom where gifted and talented students are served through grade placement above chronological grade placement
12. Placement: evaluation of student profiles for service indications
13. Referral: consideration of one or more students based upon the screening and identification process established in these regulations
14. Regular classroom cluster/itinerant teacher: an intra-classroom model in which students in grades 1-2 receive services from the trained classroom teacher or an itinerant teacher
15. Resource room/pull out: self-contained gifted and talented class that meets away from the regular classroom to provide the services established in these regulations
16. Screening: consideration of all students on consistent measures as established in these regulations
17. Special class: self-contained gifted and talented class organized around one or more disciplines
18. Special school: full-time academic/artistic gifted and talented magnet school: full-time academic/artistic gifted and talented school within a school
19. State identification criteria: the originating state must have a statewide (not local) definition of gifted and talented academic and/or gifted and talented artistic, and the student must satisfy those statewide requirements

## II. ACADEMICS

### A. Programming

1. Districts will plan for and provide a comprehensive, aligned, and coordinated continuum of services that address the advanced learning needs of gifted and talented students. To document planning, districts will submit a local gifted and talented programming plan every five years and delineate progress on this plan annually. The South Carolina Department of Education (SCDE) will review the plan annually and provide written feedback to the districts. The SCDE shall establish a format and template for the plan. The following academic programming requirements will be addressed in a district plan:

(a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students;

(b) support services that facilitate student learning and personalized education (e.g., mentorships, online courses, independent study, assistive technologies, guidance, academic support, staff development, academic competition);

- (c) programming models that facilitate the delivery of differentiated curriculum and instruction;
- (d) a teacher-pupil ratio that fosters positive results;
- (e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and
- (f) systematic assessment of student progress and programming effectiveness relative to goals.

2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for academically gifted and talented students must reflect the following characteristics:

- (a) content, process, and product standards that exceed the state-adopted standards for all students and that provide challenges at appropriate levels for strengths of individual students;
- (b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking, and problem-solving skills;
- (c) instructional strategies that promote inquiry and accommodate the unique needs of gifted and talented learners;
- (d) a confluent approach that incorporates acceleration and enrichment;
- (e) opportunities for the critical consumption, use, and creation of information using available technologies; and
- (f) evaluation of student performance and programming effectiveness.

3. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for programming models and curriculum requirements.

4. The models and teacher-pupil ratios that are approved for programming service at respective grade levels are

Grades	Approved Programming Model Choices
1–2	Regular Classroom/Itinerant Teacher (1:10) Multiage Classroom (NA) Resource Room/Pull-out (1:15)
3–5	Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20)
6–8	Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20)
9–12	Special School (1:25) Special Class (1:25)

5. An appropriate teacher-pupil ratio fosters positive results. The teacher-pupil ratios are listed beside the models in the chart above.

6. Extension Models, while encouraged to supplement service, may not be substituted for one of the Approved Programming Model Choices. They include but are not limited to

Grades	Extension Model
1–2	After School/Summer Services Individual Educational Plan Grade/Subject Acceleration Independent Study Special Training/Services for Parents Critical Thinking Seminars
3–5	Regular Classroom Cluster/Itinerant Model After School/Summer Services



Independent Study  
 Virtual School Courses  
 Charter School Experiences  
 International Baccalaureate Classes

6-12

Mentorship/Internship  
 Regular Classroom Cluster/Itinerant Model  
 After School/Summer Services  
 Independent Study  
 Seminars  
 Exploratory Courses  
 Virtual School Courses  
 Charter School Experiences  
 International Baccalaureate Classes

7. A school or district may elect to serve students in any of the above Approved Programming Models through a consortium agreement with other school districts. Other innovative models developed by the school district must receive written approval annually from the SCDE.

8. The programming must provide appropriate and sufficient time to assure that the goals and objectives of the programming are met. The following time requirements must be met by resource room/pull-out (R/P) and regular special classroom/itinerant (SC) teacher programming models at respective grade levels to assure funding:

Grades	Programming Model	Minimum Minutes Per Year (Per Week*)
1-3	R/P	4500 (125)
	SC	8100 (225)
4-8	R/P	7200 (200)
	SC	8100 (225)
9-12	SC	8100 (225)

\* = Assumes programming services of 36 weeks per school year.

The special school model requires full-time (academic) service.

9. The preparation of differentiated curriculum for gifted and talented students requires planning time for teachers at each level. Teachers shall be provided two hundred and fifty minutes per week or the appropriate grade-level equivalent for planning.

10. Annual professional development on differentiated curriculum, instructional strategies, social-emotional support, assessments, or other gifted and talented student-focused topics shall be provided by the district for all teachers working with gifted and talented students.

**B. Identification of Population to be Served**

1. The purposes of identification are (1) to find students who display characteristics of the gifted and talented; (2) to assess the aptitudes, attributes, and behaviors of each student; and (3) to evaluate each student for the purposes of placement. Student aptitudes, attributes, and academic behaviors will be identified, assessed, and reviewed through a multistep, multimodal, and multidimensional identification system.

2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations of students with disabilities.

3. Identification is a multistep process, which consists of screening and referral, assessment of eligibility, and placement.

4. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for the identification process.

5. The following students are deemed eligible for services with the approval of the District Evaluation Placement Team:

- (a) students who meet the criteria in two out of three dimensions that follow in Section II.B.7,
- (b) students who meet the 96th national age percentile composite score or higher (placement grades three through twelve) or the 98th national age percentile composite score or higher (placement grades one through two) on an individual or group aptitude test,

(c) students identified in one South Carolina school district are eligible for services in any South Carolina school district, and

(d) students who have met the *state identification criteria* in another state and who transfer into a South Carolina public school are eligible for Gifted and Talented services as deemed appropriate by the Evaluation Placement Team.

## 6. Screening/Referral Procedures

(a) Districts shall screen all students by reviewing census aptitude and achievement test scores. Referrals from administrators, parents, teachers, and students must be accepted. Initial screening does not in itself guarantee placement.

(b) Districts shall include the following procedures in the screening/referral process:

(1) provide all parents/guardians with effective, written notice of the gifted and talented education programming, screening/referral procedures, and eligibility requirements;

(2) implement processes for identifying the academically gifted and talented from all student populations;

(3) provide training/guidance regarding the characteristics of academic giftedness for teachers and other district staff involved in the identification process; and

(4) use screening criteria and procedures that are directly related to the purpose of the gifted and talented programming (i.e., identifying all students with demonstrated potential for high academic performance as well as those who have demonstrated high achievement).

(c) All students with the potential for eligibility after screening and all students with referrals must continue into the assessment for eligibility phase of the identification process. The SCDE will establish procedures for screening and referral criteria with options for districts. Districts must use one of these options or obtain SCDE approval of an alternative proposal.

## 7. Assessment for Eligibility

(a) Districts must ensure that all assessment instruments/measures are reviewed for bias and accurately assess the abilities/skills/potential intended to be measured; these abilities/skills/potentials are consistent with the definition of population set forth in this regulation; and, to the extent that subjective assessment criteria are used, those individuals conducting the assessment are trained to ensure proper evaluation.

(b) No private testing will be accepted for eligibility, but those results may be considered for referral purposes.

(c) The following criteria organized by dimensions shall be used in the screening/referral/assessment processes of identification:

### (1) Dimension A: Reasoning Abilities

These students demonstrate high aptitude (93rd national age percentile or above) in one or more of these areas: verbal/linguistic, quantitative/mathematical, nonverbal, and/or a composite of the three.

a) Individual aptitude test (full-scale or component score)

b) Group aptitude test (composite, verbal, or nonverbal scores)

### (2) Dimension B: High Achievement in Reading and/or Mathematical Areas

These students demonstrate high achievement (94th national percentile and above or meet criteria set forth by the SCDE) in reading and/or mathematical areas as measured by nationally normed or South Carolina statewide assessment instruments. (See the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for approved subtest areas.)

### (3) Dimension C: Intellectual/Academic Performance

These students demonstrate a high degree of interest in and commitment to academic and/or intellectual pursuits or demonstrate intellectual characteristics such as curiosity/inquiry, reflection, persistence/tenacity in the face of challenge and creative productive thinking. Characteristics for this dimension are demonstrated through

a) Evidence of commitment in academic disciplines through grades for placement in grades six through twelve; the standard is 3.75 points on a 4.0 scale (See the glossary of terms for a listing of the academic disciplines.);

or

b) Assessments of performance on STAR Performance Task Assessment for placement in grades three through six. Instruments for these assessments will be maintained secure under S.C. Code Ann. Section 59-1-445 (1990), Section 59-1-445, Violations of mandatory test security; penalties; investigations. The performance standard for the primary level is sixteen on either the verbal or nonverbal assessments for placement into grade three and eighteen on either the verbal or nonverbal assessment for placement into grade four. The performance standard for the intermediate level is sixteen on the verbal or twenty-two on the nonverbal for placement into grade five and eighteen on the verbal or twenty-five on the nonverbal for placement into grade six. The qualifying standards for new forms of STAR Performance Task Assessment will be equivalent to those of the base year.

(4) Districts will follow steps established by the SCDE to guarantee no single criterion eliminates students from gifted and talented programming participation.

## 8. Placement

(a) The evaluation step in the identification process of gifted and talented students shall be the responsibility of an evaluation/placement team within the school or district. The team shall be composed of at least a teacher, an administrator, and a guidance counselor or a psychologist (if employed by the district). In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories. The evaluation/placement team for an individual student may also include a guidance counselor and/or a community-related person whose training and expertise qualifies him or her to appraise the special competencies of students.

(b) The evaluation/placement team shall have the responsibility to interpret and evaluate student data in such a way that will insure appropriate placement. The evaluation/placement team may require additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Criteria for trial placement shall be established in guidelines established by the SCDE. Students whose progress within the gifted and talented programming at the end of trial placement is not deemed adequate by the evaluation/placement team may be withdrawn from the programming.

(c) The evaluation/placement team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. The criteria for these procedures according to the programming model shall be established by the SCDE. Removal from the programming must be preceded by appropriate counseling with the student and conferences with the student's parents and teachers. Records of any assessment and evaluative measures and other student information must be maintained in a confidential manner.

(d) Students identified and served according to prior eligibility criteria will continue to be eligible for placement and funding provided their programming service meets the requirements herein. Any student entering the programming once these regulation amendments are effective shall be considered for placement based on the eligibility criteria herein.

## C. Staff

### 1. Teacher Qualifications

(a) Teachers must hold valid teaching certificates appropriate to the grade level(s) or subject area(s) included in the programming.

(b) Each teacher of a state-funded gifted and talented course or class shall have completed a gifted and talented endorsement program approved by the SCDE. There are three levels of educator credentialing for gifted and talented: beginning endorsement, intermediate endorsement, and certification. The minimal credential level required will be established by the SCDE.

(1) Exception 1: Newly assigned teachers will have one year to meet gifted and talented endorsement requirements.

(2) Exception 2: Teachers who have a master's degree or higher in gifted education from an accredited Institution of Higher Learning may have this requirement waived upon approval of credentials by the SCDE.

## 2. Professional Development

Appropriate, data-driven and research-supported ongoing staff development activities in gifted and talented education shall be provided and documented annually as required in the annual reporting required by the SCDE.

## D. Reporting

1. Districts will report to the SCDE information, which includes, but is not limited to, student eligibility, screening, and referrals. Districts will annually collect and maintain, district statistical data on (1) the number, by race, of students referred for evaluation for eligibility for gifted and talented education services; (2) the number, by race, of students determined eligible for services; (3) the number, by race, of students actually served during the school year; and (4) the number, by school, by grade, by race, by model, of students actually served during the school year through the required statewide database as designated by the SCDE.

2. Districts shall review annually the performance of gifted and talented students on the state-approved assessment, AP exams, IB exams, SAT, ACT, and similar college entrance tests. Districts shall summarize the performance of gifted and talented students on these assessments and report trend data to the SCDE annually. These data will be disaggregated demographically and reported annually to the General Assembly.

3. Official enrollment reports to be used for funding purposes shall be submitted at the end of the 135-day enrollment period and shall be adjusted by the 45-day enrollment period or the year receiving funding. The enrollment reports shall be submitted on forms to be furnished by the SCDE.

## E. Funding

### 1. Allocation of Funds

The SCDE will annually calculate each district's allocation based on the number of gifted and talented students projected to be served in each district as it relates to the total of all such students in the state. Unobligated funds, which become available during the fiscal year (July 1-June 30) will be redistributed to serve additional eligible students.

### 2. Distribution of Funds

School districts will be authorized to expend allocated funds on students meeting the eligibility criteria of prior regulations and students meeting the eligibility criteria and being served in approved programming. Distribution of funds will be made periodically with a final adjustment occurring at the end of the 135-day attendance reporting period for regular academic programming.

### 3. Base Allocation for School Districts with Small Enrollments

School districts identifying and serving, according to the State Board of Education Regulations, forty students or less shall receive a minimum funding of \$15,000 for academic programming.

## F. Expenditures and Accounting Procedures

1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedures shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures.

2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept.

## III. ARTISTIC

### A. Programming

1. Districts shall develop a written plan to include the following artistic requirements:

(a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students;

(b) support services that facilitate student learning and personalized education (e.g., assistive technology, guidance, artistic support, staff development, artistic competition, independent study, and online courses);

(c) programming models that facilitate the delivery of differentiated curriculum and instruction;

(d) a teacher-pupil ratio that fosters positive results;

(e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and

(f) systematic assessment of student progress and programming effectiveness relative to goals.

2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for the artistic gifted and talented students must reflect the following characteristics:

(a) content, process, and product standards that exceed the state-adopted arts standards for all students and that provide challenges at an appropriate level for the strengths of the individual students;

(b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking skills, and problem-solving skills;

(c) instructional strategies that accommodate the unique needs of gifted and talented learners;

(d) opportunities for global communication and research using available technologies; and

(e) evaluation of student performance and programming effectiveness as related to the goals of the programming submitted in the local gifted and talented five-year plan.

### 3. Programming Models

(a) Visual and performing arts programming may be offered during the regular school year or during the summer for grades one through twelve. Visual and performing arts programming shall focus on creative expression in one or more of the following areas: dance, theatre, music, and/or visual arts. A diversified arts programming encompassing the disciplines of dance, theatre, music, and visual arts may be offered in grades one through six. (A diversified programming is one in which students take a variety of disciplines, typically in a summer programming.) The programming models are in-school programming, after-school programming, summer programming, Saturday programming, and consortium programs. Combinations of the approved programming models are also acceptable.

(b) A school district may elect to serve students in any of the models through consortium agreement with other school districts.

### 4. Length of Time in Models

#### Academic School Year

(In-school, after-school, and Saturday Programming)

Grades	Minimum Minutes Per Year
1-3	4500
4-8	7200
9-12	8100

Summer Programming (30 days in length)

Saturday Programming (minimum 30 Saturdays)

Grades	Minimum Hours Per Day
1-3	2 1/2 hours
4-8	4 hours
9-12	5 hours

5. Teacher-Pupil Ratios: an appropriate teacher-pupil ratio fosters positive results. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for further information.

### B. Identification of Population to be Served

1. The purposes of identification are (1) to find students who display talent beyond that of their peers in one or more artistic areas (dance, music, theatre, and visual arts); (2) to assess the aptitudes,

attributes, potential, interests, and artistic behaviors of each student; and (3) to evaluate each student for the purposes of referral.

2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations with physical disabilities, learning disabilities, or behavioral problems.

C. Identification/Selection is a three-step process, which consists of referral/recommendation, demonstration/audition/portfolio, and placement.

#### 1. Referral Procedures

(a) Students may be referred by a teacher, administrator, parent, self, or a peer using a SCDE-approved instrument appropriate to the visual and performing arts area, to include creativity and expressive qualities. The referral should be used to identify students who have an aptitude for the arts and may benefit from intense exploration and in-depth study in one or more of the arts. The initial referral does not itself guarantee placement.

(b) Districts shall include the following procedures in the referral process:

(1) provide all parents/guardians with effective, written notice of the gifted and talented education programming, referral procedures, and eligibility requirements;

(2) implement processes for identifying artistically gifted and talented from all student populations;

(3) provide training/guidance regarding characteristics of the artistically gifted and talented for teachers and other district staff involved in the identification process;

(4) use referral criteria and procedures that are directly related to the purpose of the artistically gifted and talented programming; and

(5) reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for the referral process.

(c) Assessment for Eligibility

Districts shall establish a review team comprised of at least three individuals to include an arts teacher, an administrator, and a community person with experience in the arts. In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories. The team shall ensure that all assessment instruments/measures are reviewed for bias and accurately assess the abilities/skills/potentials intended to be measured and, to the extent that subjective assessment criteria are used, that those individuals conducting the assessment are trained to ensure proper evaluation.

#### 2. Recommendation Form

(a) A recommendation form, which may be combined with the referral form, consisting of a checklist to assist with identifying the gifted and talented artistic student will be completed by the dance teacher, the physical education teacher, the classroom teacher, the theatre teacher (or the classroom teacher in the elementary school or middle school if the middle school does not have a theatre teacher), the music teacher, or the visual arts teacher.

(b) A teacher should base responses to the checklist on student behaviors that were observed throughout the school year.

(c) Districts should refer to the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for recommendation forms and checklists.

#### 3. Demonstration/Audition/Portfolio

(a) The demonstration/audition/portfolio should enable the evaluation-placement team to determine a student's artistic potential to function at a high level in one or more of the arts.

(b) The demonstration/audition/portfolio must also include either a student interview or questionnaire to assist the evaluation-placement team in determining suitability for placement. At the discretion of the district, guidelines may be established for electronic or other forms of demonstration/auditions/portfolio.

(c) Students will be rank ordered using results from the demonstration/audition/portfolio and the student interview or questionnaire.

(d) Parents of referred students may decide not to proceed with the demonstration/audition/portfolio.

#### 4. Placement

(a) The placement of gifted and talented students should be the responsibility of the evaluation-placement team comprised of one member of the arts faculty or district arts staff, an administrator, and an additional member from the community who has expertise in the arts area for which the student has been referred. In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories.

(b) The evaluation-placement team shall interpret and evaluate student data in such a way that will insure appropriate placement. The team may require additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Students whose progress within the programming is not deemed adequate by the team may be withdrawn from the programming.

(c) The team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. Removal from the programming must be preceded by appropriate counseling with the student and conferences with the student's parents and teachers. Records of any assessment and evaluative measures and other student information must be maintained in a confidential manner.

#### D. Staff

1. **Teacher Qualifications for Visual and Performing Arts Programming:** Teachers must hold a valid teaching certificate appropriate to the grade level(s) or subject area(s) included in the programming. Professionals in the visual and performing arts may teach in the gifted and talented programming if serving in the programming under the supervision of the appropriate district personnel.

2. **Professional Development:** Appropriate, ongoing staff development activities related to serving gifted and talented students shall be provided by the district annually.

#### E. Reporting

1. Districts will report to the SCDE information that includes, but is not limited to, student eligibility and referrals. Districts will annually collect and maintain district statistical data on (1) the number, by race, of students referred for evaluation; (2) the number, by race, of students determined eligible for services; and (3) the number, by race, by school, by grade, by arts area, of students actually served during the school year.

2. Official enrollment reports shall be submitted annually on appropriate SCDE forms.

3. Districts will submit a local gifted and talented programming plan every five years and delineate progress on these plans annually. The SCDE will review the plans annually and provide written feedback to the districts. The SCDE will provide a format and template for the plans.

#### F. Funding

**Distribution of Funds:** School districts will be authorized to expend allocated funds on students meeting eligibility criteria and being served in approved programming. Programming initiated prior to June 30 will be funded from that fiscal year's allocation.

#### G. Expenditures and Accounting Procedures

1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedures shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures.

2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept.

**HISTORY:** Amended by State Register Volume 23, Issue No. 5, eff May 28, 1999; State Register Volume 28, Issue No. 6, eff June 25, 2004; State Register Volume 37, Issue No. 6, eff June 28, 2013.

### **43–229. Defined Program for the Palmetto Unified School District (PUSD).**

Palmetto Unified School District No. 1 (PUSD) was established in 1981 by the South Carolina General Assembly, pursuant to S.C. Code Ann. § 24–25–10, to provide educational services to inmates

through a statewide school district. PUSD as a sanctioned school district is also mandated to comply with the regulations of the State Board of Education (SBE) unless otherwise noted in this regulation.

#### I. District Organization

The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees, district operations, secondary grades, and adult education, unless otherwise noted in this regulation.

A. Due to the uniqueness of the school population served by the PUSD (i.e., the large number of students over the public school age of 21 and age disparity within each institution), the operation of a dual program of secondary and adult education for the majority of the district's schools is necessary. The following classifications will be recognized as the organizational patterns for school operation within the district:

Secondary (Grades 9–12)

Adult Education (Level 1, Level 2, High School Equivalency Programs)

B. Students of public school age (17–21) are assigned under pupil classification system as set forth in the Education Finance Act (EFA) as either secondary students (grades 9–12), students enrolled in a high school equivalency program, students with disabilities, or career and technology education (CATE) students. Students who become twenty-one years old after September 1 of the school year will remain under the secondary grade pupil classification for the entire school year. Students over public school age will be assigned to the adult education program.

C. Accredited schools shall operate a minimum of 1,170 instructional hours for all students. Exercises for issuing diplomas to graduates shall be scheduled at the discretion of the PUSD. High school diploma credits will be awarded per Regulation 43–234, Defined Program, Grades 9–12 and Graduation Requirements.

#### II. District Governance

##### A. Board of Trustees

1. The school district Board of Trustees must ensure quality schooling by providing rigorous, relevant instructional programs for all students.

2. The PUSD shall be under the control and management of its Board of Trustees. With the consent of the agency director, the Board of Trustees shall operate as the executory agent for the schools under its jurisdiction and shall perform administrative functions as stated in S.C. Code Ann. § 24–25–70, Powers and Duties of School Boards.

##### B. Board Policies

Written school board policies, cooperatively developed by employees, administrative staff, and the Board of Trustees, are essential for successful operation of the district's school system. School board policies establishing the guidelines and responsibilities shall outline the relationship of board members, the superintendent, and staff; provide understanding and clarity of purpose; and facilitate administration. Copies of the school board policies shall be filed on the district's web page.

##### C. School Budgets

Notwithstanding any other provision of the law, the Board of Trustees in this state shall annually make available to the general public its budget for that year.

##### D. District Strategic Plan and School Renewal Plans

The PUSD will submit a five-year strategic plan to the South Carolina Department of Education (SCDE) with annual updates due by April 30 each year. The district strategic plan, school renewal plans, and annual updates must be reviewed and approved by the local Board of Trustees. District and school planning should be in compliance with Regulation 43–261.

#### III. School and District Reporting Requirements

The need for uniformity in collecting and reporting information makes it necessary for the district to maintain a record system for accurate reporting of information to the SCDE, the United States Department of Education (ED), and the General Assembly. Compatibility of data at the district level is required in the following areas:

##### A. Finance



The PUSD shall maintain accurate accounting records of all financial transactions in accordance with the SCDE's standard fiscal procedures as outlined by the State Budget and Control Board. Funds will be expended within the parameters set forth in the SCDE's Funding Manual.

#### B. Personnel

The PUSD shall maintain an accurate record of all personnel and submit required staff information utilizing a prescribed format to the appropriate office(s) at the SCDE.

#### C. Facilities and Equipment

The PUSD shall maintain an accurate inventory record of all equipment and real property owned by the district.

#### D. Students

The PUSD shall maintain accurate and confidential student records. The superintendent or designee shall verify the accuracy of enrollment, attendance, and membership by category which shall be submitted to appropriate office(s) at the SCDE.

##### 1. Student Records

a. The PUSD will maintain accurate student data according to the pupil accounting system prescribed by the SCDE.

b. The district superintendent or designee will verify the accuracy of the student enrollment, attendance, membership by category, and submit this information to the SCDE.

##### 2. Course Records for Students

The district superintendent or designee will verify the accuracy of course records for students.

##### 3. Student Enrollment

a. Students will not be concurrently enrolled in the Adult Basic Education (ABE) funding database and the EFA funding database.

b. Cases of extended or chronic illnesses that are certified by a physician and absences due to emergency conditions may be approved by the principal as excusable.

c. Any student who receives fewer than 120 clock hours of instruction during a school year will not be eligible to receive a full unit of credit unless the Board of Trustees approves excessive absences in accordance with Regulation 43-274, and the student makes up the work missed to satisfy the 120-hour requirement, unless that credit is earned in a proficiency-based course, as permitted under Regulation 43-234.

##### 4. Transfer of Students

a. Accurate accounting records shall be developed and maintained for student transfers and withdrawals according to Regulation 43-273. Comprehensive transcripts shall be submitted directly to the receiving school. A permanent record of the transferred student shall be retained in the school from which the student is transferred. All transfers and withdrawals shall be in accordance with Regulation 43-273, Transfers and Withdrawals.

b. Units earned by a student in an accredited high school of this state or in a school of another state, which is accredited under the regulations of the Board of Education of that state, will be accepted under the same value which would apply to students in the school to which they transferred.

#### IV. School Personnel Based on EFA Requirements

##### A. School Personnel Workload

1. PUSD will be divided into regions. Each region will have no more than three (3) schools. Each region will be staffed by a full-time properly certified principal.

2. Each region will be staffed by a properly certified guidance counselor.

3. Each region will be staffed by a properly certified media specialist.

4. All students with disabilities under the Individuals with Disabilities Education Act (IDEA) will receive special education and related services consistent with their individualized education program (IEP), in accordance with the IEP. Caseload and class size must adhere to the relevant state regulations governing special education.

## B. Minimum District Staff

The South Carolina Department of Corrections (SCDC) shall employ a superintendent of the PUSD who shall be employed full time.

## C. Additional District Staff

Operation of the school program involves functions of management and administration as well as teaching, counseling, supervising, and related activities. The enrollment and scope of the educational program will determine the size of the district staff as determined by the superintendent. Any additional personnel who may need to be employed and who have responsibilities for supervising instructional programs and pupil services shall be properly certified.

D. All certified staff will be paid according to the statewide minimum salary schedule, adjusted for 235-day school year.

## E. Program of Professional Development and Evaluation

1. The PUSD shall provide professional development for all educational personnel on an annual and long-range basis.

2. Each school shall implement a district-approved professional development program in addition to regularly scheduled faculty meetings. These activities shall be correlated with the district's professional development and strategic plans as well as the school renewal plan.

## V. Programs of Study

To assure a continuous learning experience, students may enter a course at any time. Students enrolled in a Carnegie unit course may receive one unit of credit upon successful completion of a course that requires a minimum of 120 hours of instruction. One-half credit may be awarded for a course that requires a minimum of 60 hours of instruction, and one-fourth credit may be awarded for a course requiring 30 hours of instruction. A student enrolled in a course offered by the SCDE's virtual education program or another Distance Learning program may receive one unit of credit upon successful completion of a course as required by the SCDE. In addition, the PUSD may offer proficiency-based courses pursuant to the requirements of Regulation 43–234.

### A. Minimum Course Offerings

1. The number of course offerings will be determined by the PUSD superintendent according to the size of student enrollment and course needs of students. The courses offered may include, but are not limited to, the areas of English language arts, mathematics, social studies, science, the arts, and CATE.

2. Each school shall provide adequate personnel, facilities, equipment, and supplies for its instructional program as determined by the superintendent.

3. The instructional day must be at least 6 hours, excluding lunch, or the equivalent weekly in accordance with § 59–1–425. In order to receive EFA funding, students must attend a minimum of 200 minutes daily or its equivalent for an annual accumulation of 36,000 minutes according to R.43–172.

4. Due to the individualized instructional program and the ever changing school population within the district, special consideration shall be given to allow credit and non-credit students to attend classes concurrently. Students at different unit credit levels shall also be allowed to attend classes concurrently in the same subject area.

### B. High School Credit Courses

1. No student may earn more than one unit of credit for 120 hours of instruction.

2. Regulation 43–262 regarding assessment shall apply to students enrolled in high school courses.

### C. High School Equivalency Programs

1. A candidate for a state high school equivalency certificate who is seventeen to twenty-one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA funding. The documentation must verify the candidate's date of birth and the date of his or her last

attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testing.

2. EFA students who pass a high school equivalency exam may be enrolled in a CATE vocational class or be withdrawn from school. Those who are under the age of twenty-one and fail the high school equivalency exam will remain in the EFA database. Students who re-enroll must meet the minimum requirements as set forth in the Pupil Accounting Manual per Regulation 43-172.

#### D. Classroom Instruction

Classroom instruction will be based on the current SBE-adopted and approved academic standards for a given content area. Content areas shall include, but not be limited to, English language arts, mathematics, science, social studies, the arts, and CATE. CATE programming shall be offered at each school. Additional courses may be offered depending upon student enrollment, need, and availability of a certified teacher as designated by the superintendent or designee and as required by SBE Regulation 43-234 to include financial literacy; environmental studies; foreign language; alcohol, tobacco, and other drugs; and visual and performing arts. Other courses in the areas of physical education, health education, other elective courses, and Advanced Placement offerings should be provided as appropriate.

#### E. Impact of Crime Classes

Impact of Crime classes may be offered in all schools that have teaching assistants as a transitional skill, as designated by the superintendent/designee.

#### F. Special Education

1. A specialized program of instruction utilizing the resource, itinerant, or self-contained model shall be made available to students with disabilities. Special education and related services must be provided to students with disabilities as set forth in their individualized education programs (IEPs); and to the maximum extent possible, they must be educated with their nondisabled peers in the least restrictive environment, consistent with the Individuals with Disabilities Education Act (2004) and SBE Regulation 43-243. Students with disabilities must have available to them a free appropriate public education, consistent with SBE Regulation 43-243 and 34 C.F.R. § 300.102(a)(2).

2. Student/teacher ratios will comply with SBE Regulation 43-205.

#### G. Instructional Materials

EFA students may be issued state-adopted instructional materials. Students will pay for lost or damaged materials. Replacement materials will not be issued until the debt is paid.

#### H. Media Center

The district shall utilize the institutional libraries. A committee, as designated by the superintendent/designee, and the media specialist shall be responsible for reviewing and selecting reading materials that are appropriate for the needs of students, including print and electronic or digital versions of materials.

#### I. Advisory Councils

The superintendent or designee may establish advisory councils, including but not limited to a Student Advisory Council, Teacher Advisory Council, School Improvement Council, and a Career and Technology Advisory Council. Advisory councils shall meet no less than annually. No advisory council shall have any of the powers and duties reserved by law or regulation of the Board of Trustees.

#### J. Accident Prevention

Each school will comply with safety regulations as prescribed in state law and approved in the individual institution's emergency plan (Section 59-63-910, S.C. Code of Laws, 1976, as amended).

#### K. Emergency Closings

All school closings, other than for security reasons, must be approved by the district superintendent or designee and reported to the SCDE.

#### L. Displaying of United States and South Carolina Flags (R.43-188)

Each school will display the American and State flags appropriately.

### VI. Adult Education

The adult education program is designed primarily for, but not limited to, adults over twenty-one years of age. Those students who are under twenty-one years of age that have withdrawn from a PUSD EFA school to prepare for a high school equivalency program may participate in the adult education program. The district shall provide educational programs, including the following:

Academic Education Level I (1–8), Level II (9–12), High School Diploma Program, and the SCDE virtual education program or other Distance Learning programs.

#### A. Academic Education

1. Level I: Basic education shall include organized and systematic instruction in the skills of language arts and mathematics.

2. Level II: High school completion shall provide a more defined and structured program which will allow the student to work concurrently toward preparing for the high school equivalency diploma and/or toward receiving high school unit credits.

3. High School Diploma Program: High school credit may be granted for a course completed in an approved adult education program provided (1) the teacher is properly certified to teach the course, and (2) the student receives a minimum of 60 clock hours of instruction. A school may award one unit of credit for a course that has been approved by the SCDE in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units (R.43–234). High school diploma credits will be awarded per R.43–259, Graduation Requirements.

#### 4. High School Equivalency Programs

a. Students who are not currently enrolled as part of the EFA funding formula will be eligible to take a high school equivalency program exam upon the recommendation of the principal or school leader. Attainment of a high school equivalency diploma will be determined by achieving a passing score as determined by the SCDE and approved by the SBE.

b. A candidate for a state high school equivalency certificate who is seventeen to twenty-one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA funding. The documentation must verify the candidate's date of birth and the date of his or her last attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testing.

#### B. Adult Basic Education (ABE) Personnel

1. Each adult education teacher must be properly certified and meet appropriate federal statutory requirements.

2. Each adult education high school subject area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach in order to award a Carnegie unit.

#### C. Special Education Services

Special education and related services must be provided to students with disabilities as set forth in their individualized education programs (IEPs); and to the maximum extent possible, they must be educated with their nondisabled peers in the least restrictive environment, consistent with the Individuals with Disabilities Education Act (2004) (IDEA) and SBE Regulation 43–243. Students with disabilities must have available to them a free appropriate public education, consistent with SBE Regulation 43–243 and 34 C.F.R. § 300.102(a)(2), until they graduate with a South Carolina high school diploma or reach the maximum age for coverage under the IDEA.

#### D. ABE Professional Development

ABE staff will participate in adult education professional development as required by the SCDE.

The following SBE Regulations do not apply to PUSD:

R.43–220—Gifted and Talented

R.43–231—Defined Program Grades K-5

R.43–232—Defined Program 6–8

- R.43-240—Summer School Programs
- R.43-241—Medical Homebound Instruction
- R.43-242—Driver Training
- R.43-244—Interscholastic Activities
- R.43-246—Instruction at a Place Other Than School
- R.43-265—Parental/Family Literacy
- R.43-268—Academic Assistance Programs Grades 4-12

**HISTORY:** Added by State Register Volume 38, Issue No. 6, Doc. No. 4421, eff June 27, 2014.

### **43-231. Defined Program K-5.**

Each school district board of trustees shall ensure quality schooling having a rigorous, relevant curriculum for all students.

Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work together to ensure that students are prepared to achieve these standards.

#### I. Basic Program/Curriculum, Kindergarten

The curriculum for children PreK-K shall consist of experiences and activities which will enhance their physical, emotional, social, and intellectual growth and development and help each child attain, at his own rate of speed, the educational goals set for the primary school.

#### II. Basic Program/Curriculum, Grades 1-5

Instruction in the subject areas shall be scheduled for each student for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis. The subjects shall include, but not be limited to:

##### A. Subject Areas

English/Language Arts <sup>1</sup>

Mathematics

Science <sup>2</sup>

Social Studies <sup>2</sup>

Health and Safety <sup>3</sup>

Physical Education <sup>4</sup>

Visual & Performing Arts <sup>5</sup>

Foreign Language <sup>6</sup>

Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six hours including lunch, or its equivalent weekly.

##### B. Alcohol and Drugs

Through special instruction, schools shall provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades K-5.

##### C. Guidance Program

A comprehensive guidance program including career awareness, is required in schools having any combination of grades K-5.

##### D. Library/Media Program

Library media programs and technology resources are required and accessible to all students and staff and are appropriate to achieve the strategies and goals in each school renewal or district strategic plan.

#### III. Innovative Approaches

A school encompassing any combination of grades K-5 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

#### IV. Class Size, Grades K-5

A. The average pupil-teacher ratio in any school shall not exceed 28 to 1 based on average daily membership. The total number of teachers shall include all regular, special area, and resource teachers whose pupils are counted in the regular membership.

B. Each district shall attain an average pupil-teacher ratio based on average daily membership in the basic skills of reading and mathematics in Grades 1-3 as 21 to 1.

C. Teacher aides may be counted in computing the ratio at the rate of .5 per aide if they work under the supervision of a teacher and make up no more than 10 percent of the total staff. Excluded from the computation are the following:

1. Teachers of self-contained special education classes and kindergarten, principals, assistant principals, library/media specialists, and guidance counselors.
2. Pupils in self-contained special education classes and kindergarten.

Maximum class size shall not exceed the following:

- |               |  |
|---------------|--|
| a. Grades K-3 | 30:1   |
| b. Grades 4-5 | 30:1 (English/language arts and mathematics) |
|               | 35:1 (other subjects)                        |
|               | 40:1 (physical education and music*)         |

\* Exception: When band, chorus, and orchestra require rehearsals of the entire membership, any number is acceptable if adequate space is available.

#### V. Additional Regulatory Requirements

Additional regulatory requirements related to the basic program include, but are not limited to, the following:

- Gifted and Talented Regulation (43-220)
- School-to-Work Regulation (43-225)
- Health Education Requirement Regulation (43-238)
- Summer Programs Regulation (43-240)
- Special Education Regulations\* (43-243 to 43-243.6)
- Early Childhood Assistance Programs-Grade K-3 (43-267)
- Academic Assistance Regulations-Grades 4-12 (43-268)

#### VI. Student Records

1. Each school shall have an appropriate means of reporting academic achievement to parents.

2. The district shall maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education. A record of all dropouts shall be filed by school, grade, race and sex. The superintendent shall verify the accuracy of the enrollment attendance, membership by category, and dropout reports submitted to the Office of Finance, State Department of Education.

#### VII. Emergency Closings

Full days missed because of weather or other circumstances must be made up. Early dismissal days shall be reported to the Director, Office of Organizational Development.

**HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997.**

<sup>1</sup> English/Language Arts shall include reading, writing, listening and speaking.

<sup>2</sup> Environmental Education is required as an integral part of science, social studies, and health.

<sup>3</sup> Health and Safety shall include components as outlined in the Comprehensive Health Education Act

<sup>4</sup> Students who are physically or mentally unable to take the physical education course provided for the regular student shall take a suitably modified course in physical education. (§ 59-29-80, S.C. Code of Laws, 1976, as amended.)

<sup>5</sup> Visual and Performing Arts shall include, but not be limited to, music and art.

<sup>6</sup> Foreign Language as a separate course is recommended but not required. If a separate course is not offered, foreign languages should be incorporated in the basic curriculum.

\* A teacher of children with disabilities in the resource or itinerant model shall be certified or have a permit in the area of handicapping condition in which the majority are classified, or be certified in one area of handicapping condition in which the teacher is teaching and successfully complete six semester hours annually toward certification in the area in which the majority of students are classified. Pupils participating in self-contained programs shall be of the same category of disability. The teacher must be certified or hold an out-of-field permit in the area of handicapping condition of the pupils served.

## **43–232. Defined Program 6–8.**

Each school district board of trustees shall ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work together to ensure that students are prepared to achieve these standards.

### **I. Basic Program/Curriculum for Grades 6–8**

Instruction in the subject areas shall be scheduled for each student for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis. The subjects shall include, but not be limited to:

#### **A. Subject Areas**

English/Language Arts <sup>1</sup>

Mathematics

Sciences <sup>2</sup>

Social Studies <sup>2 3</sup>

Health <sup>2 4</sup>

Physical Education <sup>5</sup>

Visual/Performing Arts <sup>6</sup>

Exploratory Programs <sup>7</sup>

Foreign Language <sup>8</sup>

Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six hours including lunch, or its equivalent weekly.

A school which includes any combination of grades 5–8 when housed with grades 7 or 8 may elect for all of the combination of grades 5–8 to meet, on a subject by subject basis, the minimum instructional times or the minimum curriculum requirements for either grades 4–5 or grades 6–8, unless otherwise prohibited by law.

#### **B. High School Credit**

When approved by the principal and the parents, a student promoted to the seventh or eighth grade may take units of ninth grade or higher work for high school credit. The high school courses offered must be limited to core, career and technology education, and foreign language courses that are currently in the 9–12 section of the *Activity Coding System for the Student Information System*.

#### **C. Alcohol and Drugs**

Through special instruction, schools shall provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades 6 through 8.

#### **D. Guidance Program/School-to-Work Initiative**

1. A comprehensive guidance program, including career development, is required in schools having any combination of grades 6–8.

2. Each school district shall offer a range of mentoring opportunities for students beginning no later than the seventh grade. Students participating in any of the work-based programs shall have the written permission of their parents or legal guardians in order to engage in such experiences. Adult supervision shall be provided for mentoring opportunities.

3. Curriculum activities consisting of educational opportunities, career information resources and career development programs shall be included in subject areas for Grades 6–8.

4. Beginning in Grade 6, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall prepare a plan for a variety of career options in which the student has an interest.

5. In Grade 7, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall revise career planning records in which the student has an interest.

6. In Grade 8, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall review and revise the career planning record. The record shall include a high school course of study based on a major plan and an alternate plan for career options in which the student has an interest and the postsecondary programs of study related to achieving a career goal.

#### E. Library/Media Program

Library media programs and technology resources are required and accessible to all students and staff and are appropriate to achieve the strategies and goals in each school renewal or district strategic plan.

#### II. Innovative Approaches

A school encompassing any combination of grades 6–8 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

#### III. Class Size, Grades 6–8:

A. The maximum teacher load shall not exceed 150 students daily. Maximum class size shall not exceed the following:

Grade 6	30:1 (English/language arts and math)
	35:1 (other subjects)

Grades 7–8	35:1 (all academic and exploratory subjects)
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No class shall exceed 35 students in membership.

#### B. Exceptions:

1. A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40 student maximum and 240 student total is also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

2. Music teachers may teach a maximum of 240 pupils daily. No class shall exceed 40 students in membership. Exception: When band, chorus, and orchestra require rehearsals of the entire membership, any number is acceptable if adequate space is available.

3. When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load shall be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example: 3 classes of math of 30 each = 90 + 2 classes of P.E. of 40 each = 80. Teacher is not overloaded but teaches maximum allowable.)

Maximum teacher load requirements and individual class size limits are the same for mini courses as any other classes.

#### IV. Additional Regulatory Requirements

Additional regulatory requirements related to the basic program include, but are not limited to, the following:

Gifted and Talented Regulation (43–220)

School-to-Work Regulation (43–225)

Health Education Requirement (43–238)

Summer Programs Regulation (43–240)

Special Education Regulations \* (43–243 to 243.1)



Academic Assistance Regulations--Grades 4–12 (43–268)

V. Student Records

1. Each school shall have an appropriate means of reporting academic achievement to parents.
2. The district shall maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education. A record of all dropouts shall be filed by school, grade, race and sex. The superintendent shall verify the accuracy of the enrollment attendance, membership by category, and dropout reports submitted to the Office of Finance, State Department of Education.

VI. Emergency Closings

Full days missed because of weather or other circumstances must be made up. Early dismissal days shall be reported to the Director, Office of Federal and State Accountability.

**HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 39, Issue No. 6, Doc. No. 4476, eff June 26, 2015.**

<sup>1</sup> English/Language Arts shall include reading, writing, listening and speaking.

<sup>2</sup> Environmental Education is required as an integral part of science, social studies and health.

<sup>3</sup> Eighth grade social studies must include South Carolina history as it relates to the United States.

<sup>4</sup> Health shall include components as outlined in the Comprehensive Health Education Act.

<sup>5</sup> Students who are physically or mentally unable to take the physical education course provided for the regular student shall take a suitably modified course in physical education. (Section 59–29–80, S.C. Code of Laws, 1976, as amended.)

<sup>6</sup> Visual/Performing Arts shall include, but not be limited to, music and art.

<sup>7</sup> At least one elective of an occupational exploratory must be scheduled. Programs in areas such as, but not limited to, industrial technology education (grades 7–8), keyboarding, computer literacy, and career exploration may be included.

<sup>8</sup> Foreign Language as a separate course is recommended but not required. If a separate course is not offered, foreign languages should be incorporated in the basic curriculum.

\* A teacher of children with disabilities in the resource or itinerant model shall be certified or have a permit in the area of handicapping condition in which the majority are classified, or be certified in one area of handicapping condition in which the teacher is teaching and successfully complete six semester hours annually toward certification in the area in which the majority of students are classified. Pupils participating in self-contained programs shall be of the same category of disability. The teacher must be certified or hold an out-of-field permit in the area of handicapping condition of the pupils served.

**43–234. Defined Program, Grades 9–12 and Graduation Requirements.**

Each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices.

I. Requirements for Earning a South Carolina High School Diploma

A. The student must earn a total of twenty-four units of credit as follows:

Unit Requirements

English language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies	1.0
physical education or Junior ROTC	1.0
computer science (including keyboarding)	1.0
foreign language or career and technology education	1.0
electives	7.0

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24.0 total

B. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American institutions and ideals. This instruction must be given for a period of at least one year or its equivalent, either within the required course U.S. History and Constitution or within another course. (For specific regulations regarding the end-of-course test for U.S. History and Constitution, see Reg. 43–262, Assessment Program.) As part of the high school curriculum regarding the United States government required credit, students are required to take the civics test as defined as the one hundred questions that officers of the United States Citizenship and Immigration Services use to demonstrate a knowledge and understanding of the fundamentals of United States history and the principles and form of the United States government.

C. The student must pass a high school credit course in science in which an end-of-course examination is administered.

D. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school program do not satisfy this requirement.

## II. Provisions for Schools in the Awarding of High School Credit

A. A school may award and accept credit in units of one-fourth, one-half, and a whole.

B. A school may award one unit of credit for an academic standards-based course that requires a minimum of 120 hours of instruction. A school may award one-half unit of credit for an academic standards-based course requiring a minimum of 60 hours of instruction and one-fourth unit of credit for an academic standards-based course requiring a minimum of 30 hours of instruction.

C. A school may award credit for courses that have been approved by the South Carolina Department of Education (SCDE) in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units. Each school district that seeks to implement a proficiency-based system must submit a plan to the SCDE that provides procedures for establishing and developing a proficiency-based system including the method for determining proficiency. The SCDE must approve the district-submitted plan prior to the district's use of the proficiency-based system. Districts are accountable for making sure that the academic standards and the individual learning needs of the students are addressed.

D. A school may award credit for those gateway courses that are a part of the End-of-Course Examination Program only if a student takes the course approved by the school in which he or she is enrolled and meets all the stipulated requirements of the End-of-Course Examination Program. (For specific regulations regarding end-of-course tests, see Reg. 43–262, Assessment Program.)

E. A school may award credit only for courses in summer programs—either district-wide or school-site programs—that meet all the regulatory requirements for courses offered for students in grades nine through twelve. A district-wide summer school program may meet the administrative certification requirement by employing a district supervisor as well as a lead teacher for each school site.

F. A school may award credit for a course that is approved by the district—whether that school offers the particular course or not—if the student receives prior approval.

G. A school may award credit toward the high school diploma for a course that the student takes in an approved adult education program if the course is granted approval by the local superintendent or his or her designee.

H. A school may award credit for locally designed courses under the following conditions:

1. Locally designed subject-area courses must be aligned with the state academic standards for the particular subject area and must be approved by the local board of trustees and the State Superintendent of Education.

2. Locally designed elective courses must be approved by the local board of trustees. No more than two units may be awarded to a student for released-time classes in religious instruction.

3. Locally designed CATE courses funded with state or federal CATE monies must be approved by the SCDE's Office of Career and Technology Education.

- I. A school may award the PE credit for a diploma if the PE course meets all statutory requirements including the personal fitness and wellness component and the lifetime fitness component.

J. A school may award the one-half unit of credit carried by the course Keyboarding for half of the required computer science unit.

K. A school may award credit for the American Sign Language course as the required unit in a foreign language.

L. A school may award credit for a college course that students in grades nine through twelve take under the district's dual credit arrangement.

### III. Dual Credit Arrangement

A. District boards of trustees may establish a policy allowing students to take college courses for units of credit toward the high school diploma. The district policy may allow for courses to be offered by an institution of higher education through a cooperative agreement.

B. A three-semester-hour college course transfers as one unit of credit.

C. Tuition costs and any other fees are the responsibility of the individual student or his or her parent(s) or legal guardian unless otherwise specified in local school district policy.

D. Students enrolled in a South Carolina public school may take only courses that are applicable to baccalaureate degrees or to associate degrees offered by institutions accredited by the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

### IV. Transfer Students

A transfer student is one who enrolls in a South Carolina public school after having been enrolled in another school in this state or in a school in another state. Credits that he or she earned at the former school may be accepted and applied toward the South Carolina high school diploma. (For specific regulations see Reg. 43-273, Transfers and Withdrawals.)

### V. Instructional Program

School districts must organize high school curricula around a minimum of three clusters of study and cluster majors. Such curricula must be designed to provide a well-rounded education that fosters artistic creativity, critical thinking, and self-discipline through the teaching of academic content and skills that students will use in postsecondary study and in the workplace. Students must declare an area of academic focus, also known as a career major, within a cluster of study before the end of the second semester of their tenth-grade year.

Each year, schools must offer a range of required college- and career-ready courses in the core subject areas as listed in the SCDE's *Activity Coding System* to meet the needs of all students in a four-year graduation cohort.

For students whose academic needs are greater than those courses offered by their school, Virtual SC courses, if available, must be offered by the district to the students in order to graduate with the four-year graduation cohort.

#### A. Career Clusters

School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio-Video Technology, and Communications). The sixteen state clusters are the same as the sixteen federal clusters:

- Agriculture, Food, and Natural Resources
- Architecture and Construction
- Arts, Audio-Video Technology, and Communications
- Business, Management, and Administration
- Education and Training
- Finance
- Government and Public Administration
- Health Science
- Hospitality and Tourism
- Human Services/Family and Consumer Sciences

Information Technology  
Law, Public Safety, and Security  
Manufacturing  
Marketing, Sales, and Service  
Science, Technology, Engineering, and Mathematics  
Transportation, Distribution, and Logistics

B. Schools must also offer instruction in each of the following areas:

1. Advanced Placement: Schools whose organizational structure includes grades eleven and twelve must offer Advanced Placement courses. (For specific regulations regarding the Advanced Placement program, see Reg. 43–258.1, Advanced Placement.)

2. Alcohol, tobacco, and other drugs: Schools must provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction must emphasize the negative effects that the use of such substances can have on the total community.

3. Career and technology education: Schools must offer CATE courses. Students who plan to complete a CATE program must earn at least three units in an approved sequence of CATE courses leading to a career goal.

4. Driver education: Schools must provide a complete program of driver education, including classroom and behind-the-wheel phases, each semester on an elective basis for eligible students. (For specific regulations regarding driver education, see Reg. 43–242, Driver Training.)

5. Environmental studies: Schools must include environmental studies as a part of their instructional program.

6. Financial literacy: Schools must include financial literacy as a part of the instructional program.

7. Foreign language (modern and classical languages): Schools must offer levels 1 and 2 of at least one modern or classical language. Most state four-year colleges/universities require at least two units of the same modern or classical language for admission.

8. Health education: Schools must have a program of instruction in comprehensive health education. (For specific requirements regarding health education, see Reg. 43–238, Health Education Requirement.)

At least one time during the entire four years of grades nine through twelve, each student shall receive instruction in cardiopulmonary resuscitation (CPR) which must include, but not be limited to, hands-only CPR and must include awareness in the use of an automated external defibrillator (AED) except that virtual schools may administer the instruction virtually and are exempt from any in-person instructional requirements.

9. Physical education: Schools must offer a physical education course that meets statutory requirements.

10. Visual and performing arts: Schools must offer courses in the visual and performing arts.

## VI. Other Program Requirements

### A. School Counseling Program

All schools encompassing any combination of grades nine through twelve are required to provide a comprehensive school counseling program that is based on grade-specific standards. The standards must address the academic, personal and social, and the career domains. Specifically, students must be provided school counseling and career awareness programs and activities that assist them in developing and fulfilling their individual graduation plans and prepare them for a seamless transition to relevant employment, further training, or postsecondary study.

### B. Library Media Program

Library media programs and technology resources must be available and accessible to all students and staff and must be appropriate for the accomplishment of the strategies and goals in each school renewal or district strategic plan.

### C. Length of School Day

1. The instructional day for secondary students must be at least 6 hours, excluding lunch, or the equivalent weekly.

2. Homeroom will not count as part of the instructional day. When no homeroom period is utilized, the administrative time that is used to determine attendance, make announcements, or complete other tasks normally accomplished during homeroom period will not be considered as part of the instructional day.

3. Schools may exercise options and vary the number of minutes in the instructional week, provided that such variation meets statutory requirements and is approved by the local board of trustees.

#### D. Class Size

1. The teacher load must not exceed the maximum of 150 students daily. Class size must not exceed the maximum of 35 students.

2. The above-stated maximums do not apply in the following circumstances:

a. A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

b. Music teachers may teach a maximum of 240 pupils daily. No class may exceed 40 students in membership. However, when band, chorus, or orchestra require rehearsals of the entire membership, any number of students is acceptable if adequate space is available.

c. When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load will be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example, 3 classes of math of 30 each = 90 + 2 classes of physical education of 40 each = 80. In this example, the teacher is not overloaded but teaches maximum allowable.)

d. Maximum teacher load requirements and individual class size limits are the same for mini-courses as for any other classes.

#### E. Additional Regulatory Requirements

1. Due to federal requirements, all students must take a science course for which an assessment is given.

2. For state accountability purposes, every student must take an end-of-course examination in biology.

3. State Board regulations that contain instructional program requirements are accessible on the SCDE web site on the "State Board of Education Regulations Table of Contents" page.

### VII. Reporting Requirements

#### A. High School Completers

1. Each school issuing the state high school diploma must submit to the State Superintendent of Education on or before May 1 the following data on its previous year's completers:

(a) the number of the school's completers who entered the freshman class of a postsecondary institution—either in South Carolina or out of state—and on whom such an institution has sent the school a first-term transcript or summary grade report,

(b) a breakdown of all postsecondary courses that this group of completers passed during their term,

(c) a breakdown of all postsecondary courses that this group failed during their first term,

(d) a breakdown of all postsecondary courses for which this group received a grade of "no credit" during their first term, and

(e) the number of the school's completers who did not enter a postsecondary institution but who instead chose a postsecondary alternative such as employment or military service or for whom no information is available.

2. Each school must use the official form to submit the required data on its previous year's completers.

#### B. Career and Technology Education Completers

Each district must survey all its high school graduates who are identified as career and technology education completers to determine their placement status with regard to employment, postsecondary education, and military service. A career and technology education completer is a student with an assigned Classification of Instructional Programs (CIP) code who has earned at least three units of credit in CATE courses leading to a career goal.

The district must conduct the survey ten months after graduation each year and must submit the results annually to the SCDE for the purpose of federal and state accountability requirements.

#### C. Student Records

1. Each school must have an appropriate means of reporting academic achievement to parents.

2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the SCDE.

3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his or her name, grade, race, sex, date of birth, free/reduced meals status, English proficiency status, and migrant status.

4. Each district superintendent must verify the accuracy of the student enrollment, attendance, membership by category, and dropout reports submitted to the SCDE's Office of Finance.

5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. Section 1232(g)).

#### D. Course Records for Students

1. Each district superintendent must verify the accuracy of course records for students.

2. The name and code number of every course that each student takes must be entered into the student data collection system active master scheduler at the time the student takes the course. Courses may not be added to the student's course history (transcript) without first being entered into the scheduler.

3. Courses offered in nontraditional settings such as online courses, courses offered in conjunction with a college or technical college (i.e., dual credit), and courses offered by the school through the district, state, or another type of provider must be included in the active master scheduler.

### VIII. Emergency Closings

All school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. All school districts shall designate annually at least three days within their school calendars to be used as make-up days in the event of these occurrences. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed, operate schools on Saturday, or may waive up to three days. A waiver granted by the local board of trustees may only be authorized by a majority vote of the local school board, and, after the completion of the 2014-2015 school year, may not be granted for a school in the district until the school has made up three full days, or the equivalent number of hours, missed due to snow, extreme weather, or other disruptions requiring the school to close during the same school year in which the waiver is sought. When a district waives a make-up day pursuant to this section, the make-up day also is waived for all charter schools located in the district and for all students participating in a home schooling program approved by the board of trustees of the district in which the student resides. Schools operating on a four-by-four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education, Office of Federal and State Accountability before implementation. Tutorial instruction for grades 7 through 12 may be taught on Saturday at the direction of the local school board. If a local school board authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

The State Board of Education may waive the requirements of making up days beyond the three days forgiven by the local school district, not to exceed three additional days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. Such a waiver only may be considered and granted upon the request of the local board of trustees through a majority vote of that local school board. The SCDE annually before July 1 shall provide the General Assembly with a detailed report of information from each district listing the number of days missed and the reason, regardless of whether any were missed; days made up; and days waived.

**HISTORY:** Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 28, Issue No. 5, eff May 28, 2004; State Register Volume 31, Issue No. 5, eff May 25, 2007; State Register Volume 37, Issue No. 6, eff June 28, 2013; State Register Volume 39, Issue No. 6, Doc. No. 4477, eff June 26, 2015; State Register Volume 41, Issue No. 5, Doc. No. 4700, eff May 26, 2017.

### **43–236. Career or Technology Centers/Comprehensive High Schools.**

Career or technology centers and/or comprehensive high schools shall, based on local needs, offer a variety of courses that will constitute a career major. These career majors are contained in the clusters defined and communicated to school districts by the Office of Career and Technology Education in conjunction with federal and state funding for career and technology courses and programs.

School districts will offer in high schools and/or career or technology centers a full complement of courses within a minimum of two career clusters to enable students to complete an approved sequence of Career and Technology Education coursework leading to a career goal. A student will have “completer” status upon meeting the requirements of the approved sequence, which must require at least three Carnegie Units.

**HISTORY:** Amended by State Register Volume 21, Issue No. 7, eff July 25, 1997; State Register Volume 27, Issue No. 2, eff February 28, 2003; State Register Volume 41, Issue No. 5, Doc. No. 4697, eff May 26, 2017.

### **43–237.1. Adult Education Program.**

#### **A. Adult Education Program**

The program of adult education is provided for adults who want to acquire a basic education, to prepare for a high school equivalency test, to develop literacy skills, to obtain the knowledge and skills necessary for employment and self-sufficiency, or to complete the requirements for a state high school diploma. Enrollment in the program of adult education for a state high school diploma shall be limited to adults who are residents in South Carolina.

#### **B. Basic Education Program**

The curriculum of an adult basic education program shall include organized and systematic instruction in reading, writing, and speaking the English language, numeracy, problem solving, English-language acquisition, and other literacy skills.

Each adult education program shall provide instruction at the various levels as defined in the National Reporting System for Adult Education (NRS).

Cooperation with other agencies and programs is needed in order for public education to provide for the adult population’s variety of needs. A school district with the written approval of the Office of Adult Education may contract with another school district in South Carolina for the operation of the adult program. Diploma programs must have written approval from the Office of Adult Education.

#### **C. Adult Education Facilities**

- (1) Buildings shall be adequate in size and arrangement.
- (2) Buildings shall be kept clean and comfortable.
- (3) Each room shall be designed and equipped to serve specific purposes. Adequate lighting, ventilation, and heating shall be provided in all utilized areas.
- (4) All operating adult school facilities shall comply with the safety regulations prescribed by the State Fire Marshal and with the sanitation and health regulations prescribed by the State Board of Health.

#### **D. Health Certificates**

All personnel shall be screened for tuberculosis as required by (S.C. Code Ann. Sections 44–29–150, 160 (1976)). Guidelines for screening of school employees for tuberculosis are available in all county health departments.

#### E. In-Service Education

Each adult education director shall develop and implement an organized in-service education program for professional personnel. Staff members should be involved in the planning and evaluation of these activities, which should focus on the problems, needs, purposes, and goals of the adult education program. A copy of the in-service education plan shall be made available to the adult education supervisor upon request.

#### F. Length of School Term

Each approved adult education high school diploma course shall include a minimum of sixty (60) hours of instruction for each unit of credit (exclusive of registration, exams, issuing materials, etc.), unless the course is offered via the virtual school program or via an approved proficiency-based system.

#### G. Supervision of Instruction

Supervision and improvement of the adult education instructional program is the direct responsibility of the adult education director.

#### H. Allocations to School Districts

State funds shall be allocated to school districts on a formula basis as determined by the adult student enrollment and student performance as of June 30 each year.

##### 1. General Program Support

Using actual allocations, school districts shall develop a budget that includes the following allowable expenses: directors' salaries, teacher salaries, instructional materials and supplies, "other costs," employee benefits, and indirect costs. These expenditures shall be approved by the Office of Adult Education. Disbursements for teacher salaries, instructional materials, equipment and supplies, and other costs shall be paid at a rate determined by the local board of education.

##### 2. Employee Benefits

Federal and state funds may be used for payment of employee benefits for those employees whose salaries are paid with federal and state funds.

#### I. Allocations to Other Entities

Allocations of federal funds to other entities that are deemed eligible under the Workforce Investment Act will be made on the same formula basis as school districts. The end-of-the-year report compiled by the Office of Adult Education shall be used as the basis for determining the amount to be allocated.

#### J. Allocations to Other Agencies

Allocations of federal funds to other agencies that are deemed eligible under the Workforce Investment Act will be made on the same formula basis as school districts. The end-of-the-year report compiled by the Office of Adult Education shall be used as the basis for determining the amount to be allocated.

#### K. Base Amount

After the costs of the State Office of Adult Education operations, local directors' salaries, leadership funds, other agencies' funds, special initiatives, and entities' allocations are subtracted from the state and federal grants, the remainder shall be distributed through a formula that considers the number of participants and the current student performance formula for adult education programs. This formula will produce the program allocation amount for the up-coming school year.

#### L. Non-fundable Classes

No class or course for adults that is recreational or social shall be eligible for funding; therefore, enrollment in such classes shall not be counted for funding purposes, and no state or federal adult education funds may be used to support such classes. This standard applies to physical education and physical fitness classes.

#### M. Enrollment Count



Adult students who have been instructed a minimum of twelve (12) hours in adult education classes may be counted for enrollment only once during a fiscal year in the same program. Approved programs of study are those outlined in the federally approved SC Assessment Policy (Adult Basic Education, Adult Secondary Education, English as a Second Language, or Workplace Literacy) and taught by certified adult education instructors or by qualified volunteers.

N. Quarterly Expenditure Claims

Adult Education Expenditure Reports shall be submitted to the Office of Finance on a quarterly basis.

O. Expenditure Reports

Program expenditure reports are reviewed quarterly by the staff of the Office of Adult Education to ascertain if expenditures are consistent with allocations.

P. Local Funds

Local funds for the adult education program are expended at the discretion of the local school officials.

Q. Project Proposals

Project proposals define the plans and methods by which the program will operate and include a needs assessment of the local community served by the program. No reimbursements are made prior to the final approval of a proposal.

R. Indirect Costs

If a school district chooses to claim indirect costs, the restricted cost rate is applicable to adult education federal funds.

S. Travel Reimbursement

When travel expenses are reimbursed through the Office of Adult Education, current state employee travel regulations apply.

T. Membership

The fees for memberships in professional organizations are disallowed as expenditures from state or federal adult education funds.

U. Local Program Income

If the adult education program charges fees for tuition or materials, those funds can only be spent on additional, approved adult education activities. The funds may not go into the district's general fund or be used for any activity other than adult education.

**HISTORY: Amended by State Register Volume 18, Issue No. 5, eff May 27, 1994; State Register Volume 25, Issue No. 4, eff April 27, 2001; State Register Volume 25, Issue No. 7, eff July 27, 2001; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 38, Issue No. 6, Doc. No. 4420, eff June 27, 2014.**

### **43-238. Health Education Requirements.**

The Comprehensive Health Education (CHE) Act of 1988 (59-32-5) requires that public school health instruction be planned, age-appropriate, and sequential. The CHE Act further requires that, at least one time during the four years of grades 9-12, each student shall receive a program of instruction in comprehensive health education to include the following subjects:

- community health
- consumer health
- environmental health
- growth and development
- nutritional health
- personal health
- prevention and control of diseases and disorders
- safety and accident prevention
- substance use and abuse
- dental health
- mental and emotional health
- reproductive health ) a minimum of 750 minutes of
- pregnancy prevention ) instruction is required for

sexually transmitted diseases\* ) these three together.  
family life (option in grades 9–12)

\* Instruction in sexually transmitted diseases (STDs) includes AIDS education and must be taught within the reproductive health, family life, or pregnancy prevention education components or it must be presented as a separate component (59–32–30(E)).

A school program shall provide instruction in Comprehensive Health Education from one or more of the following:

1. Each student shall receive instruction in a comprehensive health education course for 36 weeks or a semester from the list of approved high school health courses.
2. Each student shall receive instruction in each of the comprehensive health subjects through a series of mini courses, e.g., three-week short courses selected or developed by the school or district.
3. A school or district shall select or develop modular units of instruction for each of the comprehensive health education subjects and integrate them into existing required courses.
4. If options 1, 2, or 3 are not selected, a school shall develop a written plan that demonstrates that all students shall receive instruction in the required comprehensive health subjects within existing courses before graduation. This plan must be submitted to the Division of Curriculum for written approval at least six weeks prior to implementation.

**HISTORY:** Amended by State Register Volume 16, Issue No. 7, eff July 24, 1992.

### **43–240. Summer School Programs.**

(Statutory Authority: 1976 Code §§ 59–6–60(3&6), and 59–39–100)

A. Summer school programs are provided for the following purposes: to deliver academic assistance to students in grades three through eight under the Education Accountability Act of 1998 (EAA), to promote students in grades one through eight, or to award Carnegie units of credit toward meeting the requirements for a state high school diploma. Other school services offered during the summer are not considered summer school programs under this regulation. Gifted and Talented programs are required to meet the provisions of State Board of Education Regulation 43–220, Gifted and Talented.

B. Instruction offered in summer programs must meet the same rigor and standards required during the regular school year. A district summer school program must be directed by a staff member with administrative certification as a district wide program or school site program. Each school in a district wide program must designate a lead teacher. The final accreditation status of the summer school program will be reflected in the overall district rating for the next year.

(1) Qualifications of Teachers: Kindergarten, Grades 1–12:

The qualifications of each teacher shall be the same as those for the regular term.

(2) Organization and Administration: Kindergarten, Grades 1–8:

(a) Pupil teacher ratio shall not exceed 25:1 in each classroom for grades K-5, or 30:1 in each classroom for grades 6–8.

(b) For students in grades 3–8, a summer school program designed for academic assistance under the Educational Accountability Act of 1998 (EAA) will be no less than 30 instructional hours. For students in grades K, 1, and 2, not on academic plans established by EAA, the districts may determine the length of the school day and the number of days scheduled.

(c) Summer school programs operated for students who are earning Carnegie units of credit must meet all the requirements established for grades 9–12.

(3) Organization and Administration: Grades 9–12.

(a) Pupil teacher ratio shall not exceed 30:1 in each classroom.

(b) All students taking a course for one unit of credit must receive at least 120 hours of instruction in that subject area.

(c) No teacher shall be assigned to teach more than one subject or one level of the same subject during one period for credit. (Exception: Two consecutive levels of coursework in the same

subject area may be taught during one period if all students are repeating a course and the combined membership does not exceed 15 students.)

(d) The recommended number of units of credit that a student may earn during one summer school session is two. However, a student may earn more than two credits with prior approval from the school principal.

(e) There is no limit on the number of credits a student may earn in a summer program that is operated on a quarterly basis as part of a twelve-month school program.

**HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 22, Issue No. 4, eff April 24, 1998; State Register Volume 24, Issue No. 4, eff April 28, 2000; State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002.**

### **43–241. Medical Homebound Instruction.**

I. Students who cannot attend public school because of illness, accident, or pregnancy, even with the aid of transportation, are eligible for medical homebound or hospitalized instruction.

(A) A physician must certify that the student is unable to attend school but may profit from instruction given in the home or hospital.

(B) Any student participating in a program of medical homebound instruction or hospitalized instruction must be approved by the district superintendent or his or her designee on standardized forms provided by the State Department of Education.

(C) A South Carolina school district may count in membership a pupil who is compelled to reside outside the State to receive medical services provided the teacher is certificated by the Department of Education in the state where services are rendered.

(D) All approved forms must be maintained by the district for documentation.

II. A student is eligible for medical homebound instruction (1) on the day following his or her last day of school attendance or (2) on the first day of the regular nine-month academic year of the school in which he or she is enrolled and would otherwise be in attendance. The student remains eligible (1) until the day before he or she returns to school or (2) until the last day of the regular academic year in the school year he or she would normally be enrolled, whichever occurs first.

III. The State Department of Education shall fund a maximum of five periods per week of medical homebound instruction pursuant to the Education Finance Act (EFA).

(A) A day of instruction must be based on the student's individual need but may be no less than fifty minutes to qualify for state funding.

(B) There is no limit to the amount of instruction that may be provided with funds other than state funds.

(C) If more instruction is needed, the school district must provide the additional funds.

IV. Should an approved student not be provided the medical homebound instruction that he or she is entitled to receive, the student is eligible to have the medical homebound instruction made up by the district.

(A) This make up may occur during the student's remaining eligibility for medical homebound instruction or may occur after the student returns to school provided the make-up periods are not during the regular school day.

(B) State funding for medical homebound instruction is available until the last day of the regular school year. If the school district delays the start of services for any reason, the student is still entitled to the instructional services, and the school district must make up the missed instructional periods even if the regular school year has ended and services are provided without the benefit of state funding.

V. All teachers providing medical homebound instruction to students domiciled in South Carolina must hold a valid South Carolina teacher's certificate.

(A) The teacher shall teach the medical homebound student or students in a room especially set aside for the period of instruction.

(B) Medical homebound teachers are required to keep a weekly record of teaching services provided.

**HISTORY:** Amended by State Register Volume 19, Issue No. 6, eff June 23, 1995; State Register Volume 27, Issue No. 6, Part I, eff June 27, 2003.

### **43–242. Driver Training.**

A school program shall include the complete program of driver education, classroom and behind-the-wheel phases, and it shall be provided each semester on an elective basis for eligible students. Schools organized on grades 9–12 or 10–12 basis shall provide this program.

Summer programs of driver education are permissible and recommended but may not be substituted for the regular school year program.

1. The course shall be organized on a semester basis and shall include as a minimum 30 classroom hours of instruction in driver education, 6 hours of actual behind-the-wheel driving, and 6 hours of actual observation. Twelve hours of simulation instruction may replace 3 hours of behind-the-wheel driving.

2. Behind-the-wheel driving refers to actual experiences in road instruction with the student as the driver with the teacher present.

Behind-the-wheel instruction shall include the following:

a. Actual experience in driving a properly marked automobile. It is required that a dual-control automobile be used.

b. A minimum of 6 hours of behind-the-wheel practice driving with a certified driving instructor. Twelve hours of simulation instruction may replace 3 hours of behind-the-wheel driving.

3. The instructional materials shall be selected from the list of state adopted instructional materials list for driver education.

4. Driver education must be offered at a grade level that complies with Section 8 of the Highway Safety Act (R-521, Act No. 362 of 1965). It is recommended that the course be offered at the grade level where most of the students have or are approaching legal driving age, which is the ninth grade. However, the course may be offered in any grade 9–12. The course shall be limited to students whose physical and mental condition gives reasonable promise of being able to pass the requirements of the State Highway Department for a driver's license.

5. The teacher must (a) hold a valid South Carolina teacher's certificate, (b) be certified to teach driver education, (c) have completed successfully a basic and advanced driver and traffic education instructor's course, (d) have a good personal driving record, (e) hold a valid South Carolina driver's license, and (f) hold a valid behind-the-wheel instructor permit.

6. All school districts operating driver education programs must have liability insurance as required by State Law. The Board recommends that medical expense insurance be obtained for drivers and passengers in an amount to be determined by the school district or county.

**HISTORY:** Amended by State Register Volume 22, Issue No. 6, Part I, eff June 26, 1998.

### **43–243. Special Education, Education of Students with Disabilities.**

#### **I. Purpose**

The purpose of this regulation is to promulgate the state's requirements of educational programs for students with disabilities, as outlined by the Individuals with Disabilities Education Act, 2004 (IDEA). The South Carolina Department of Education (SCDE), as the state educational agency (SEA); all local educational agencies (LEAs); all state-operated programs (SOPs); and all other public programs providing special education and related services as outlined in the IDEA follow and comply with all statutory and regulatory requirements of the IDEA as outlined in 20 U.S.C. Section 1400 et seq. and the Code of Federal Regulations (C.F.R.), Chapter 34, Part 300.

In addition to the statutory and regulatory requirements to which the state adheres, this regulation further delineates state-specific requirements of the IDEA.

#### **II. Policies and Procedures**

Pursuant to the statutory requirements in Part B of the IDEA and regulatory requirements found in 34 C.F.R. Part 300, the state has in effect policies and procedures governing public educational programs for children with disabilities. These state policies and procedures are reviewed and approved by the SCDE. These state policies and procedures are broadly disseminated and are found in electronic format on the SCDE's website.

### III. Clarified Definitions

A. Child with a disability. For the purposes of the definitions of a child with a disability, SBE R.43–243.1 provides the definitions of a child with a disability as outlined at 34 CFR Part 300 Section 8.

B. Children with disabilities enrolled by their parents in private schools. Parentally placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools, homeschool programs, or facilities that meet the definition of elementary schools in 34 C.F.R. Section 300.13 or secondary schools in 34 C.F.R. Section 300.36; or in homeschool programs as defined by S.C. Code Ann. Sections 59–65–40, 45, and 47; other than children with disabilities covered under 34 C.F.R. Sections 300.145 through 300.147.

C. Free appropriate public education. A free appropriate public education must be available to all children residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 34 C.F.R. Section 300.530(d). In South Carolina, this means that if any student turns age 21 after September 1 of the school year, the LEA must permit the student to enroll and complete the school year, and all applicable statutes and regulations apply. If a student turns age 21 on or prior to September 1, the LEA is not required to permit the student to enroll.

D. Intellectual disabilities. For the purposes of this regulation, all references in 34 C.F.R. Part 300 to mental disabilities or mental retardation are forthwith referred to as intellectual disabilities, as required by Pub. L. No. 111–256.

E. Residential treatment facilities. For the purposes of this regulation, residential placements defined at 34 C.F.R. Section 300.104 include residential treatment facilities authorized by the South Carolina Department of Health and Environmental Control and are governed by state statutes, regulations, and annually through state provisos in the State Appropriations Act. Requirements set forth in state statutes, regulations, and provisos delineate the responsibilities of the state and LEAs with regards to those children who are placed, or referred to such placements, by public agencies.

F. Transfer of rights at age of majority.

1. General Requirements. Beginning not later than one year before the child reaches the age of majority under state law, the child's Individualized Education Program (IEP) must include a statement that the child has been informed of his or her rights under Part B of the IDEA, if any, that will transfer to the child on reaching the age of majority under 34 C.F.R. Section 300.520. For the purposes of this definition, the age of majority in South Carolina is 18 years.

2. Exceptions to transfer of rights at age of majority.

a) Parental rights transfer to a child with a disability who reaches the age of majority under state law that applies to all children, except for a child with a disability who has been determined to be incompetent under the laws of South Carolina (S.C. Code Ann. Sections 62–5–501 et seq).

b) The state has established procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the child's eligibility under the IDEA when the child has not been determined to be incompetent under state law (S.C. Code Ann. Sections 62–5–501 et seq).

G. Transition services. Beginning not later than the first IEP to be in effect when the child turns 13 years, or younger if deemed appropriate by the IEP team, and updated annually thereafter, the IEP must include-

1. appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

2. transition services (including courses of study) needed to assist the child in reaching those goals that align with the child's career goals and course of study in the child's Individualized Graduation Plan (IGP) as outlined in S.C. Code Ann. Section 59-59-140.

#### IV. Monitoring, Enforcement, and Program Information

A. General Requirements. As outlined throughout the IDEA, the state is responsible for ensuring-

1. that the requirements of the IDEA and SBE R.43-243 are carried out; and
2. that each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency (but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)-

- a) is under the general supervision of the persons responsible for educational programs for children with disabilities in the state; and

- b) meets the educational standards of the state.

B. State Monitoring. As outlined in 34 C.F.R. Sections 300.600 et seq., the state monitors the implementation of educational programs for students with disabilities, as provided by the IDEA.

C. Local Determinations. As outlined in 34 C.F.R. Sections 300.600, 300.603, 300.604, and 300.608, the state makes determinations annually about the performance of each LEA and SOP using the categories in 34 C.F.R. Section 300.603(b)(1). The state makes these determinations based on the totality of information the state has regarding the compliance and performance of each LEA and SOP with regards to its educational programs for students with disabilities covered under the IDEA.

D. Enforcement. The state retains all rights for enforcement of this regulation and of the state and federal statutory and regulatory requirements as outlined in the IDEA, in the Education Department General Administrative Regulations (EDGAR), and in 2 C.F.R. Section 200.300.

E. Fiscal Sanctions. If the state, represented by the SEA, finds that an LEA, special school, or other agency, herein referred to as an applicant, with the responsibility under state law for the provision of a free appropriate public education (FAPE) to students with disabilities is failing to comply with any requirement described under Part B of the IDEA, the applicable federal or state regulations, or state policies and procedures related to the requirements of the IDEA, the state may impose sanctions, including the reduction, withholding, or recovery of payments made relative to the IDEA grant administered by the state. In accordance with Part B of the IDEA and EDGAR 34 C.F.R. Parts 75 and 76, and 2 C.F.R. Section 200.300, the state shall provide reasonable notice and an opportunity for a hearing prior to taking any final action regarding the reduction, withholding, or recovery of payments to the applicant.

1. Hearing Issues. The state shall provide the applicant with notification of the right to a hearing and the procedures for a hearing if the state determines

- a) an applicant is not eligible for assistance under Part B of the IDEA;

- b) an applicant, for three or more consecutive years, needs intervention or substantial intervention in implementing the requirements of Part B of the IDEA;

- c) an applicant is unable or unwilling to consolidate with other applicants or agencies in accordance with the IDEA;

- d) an applicant failed to submit an accurate and unduplicated count of the number of students with disabilities receiving special education and related services, or in the case of children enrolled by their parents in private or homeschool programs, failed to accurately report the count of students eligible to receive special education and related services;

- e) an applicant is not meeting the requirements of Part B of the IDEA and the provision of an applicable FAPE to students with disabilities and the applicant has not, or the state has reason to believe the applicant cannot, correct the problem within one year; or

- f) an applicant is not meeting any of the other federal or state requirements relative to Part B of the IDEA that allow the reduction, withholding, or recovery of funds.

2. Hearing Appeals Panel. When an applicant requests a hearing relative to these matters, in writing, the State Superintendent of Education (Superintendent) shall select a three-member hearing

panel to conduct the proceeding. The hearing panel shall consist of at least two of the SEA's deputy superintendents, or their designees, and one additional individual designated by the superintendent.

### 3. Hearing Procedures.

a) An applicant shall request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in these procedures.

b) The applicant shall include the nature of the request for the hearing, including the reasons for any disagreement with the determinations by the state, and the facts on which the request for the hearing is based.

c) The applicant shall request a hearing within thirty calendar days of the date of the state's notification of the intent to impose the specified sanction. For purposes of these procedures, the date of the notification by the state is the date the notice is received by the applicant.

d) The hearing shall be scheduled before a hearing panel within thirty calendar days from the receipt of the request.

e) The applicant shall receive written notice at least ten days prior to the hearing date. The notice shall include the date, location, and time of the hearing.

f) The applicant and the state may present evidence in writing and through witnesses and may be represented by counsel at the hearing. The parties shall exchange the names of proposed witnesses no later than five days prior to the hearing. The parties shall have six copies available of written materials that will be used as evidence during the hearing.

g) The hearing panel may determine the length and order of the presentations by the parties and determine the course of the proceedings. The hearing panel shall take all steps necessary to conduct a fair and impartial proceeding, avoid delays, maintain order, and comply with the additional procedures set forth in the SEA *Policies and Procedures for Programs for Students with Disabilities*.

h) The hearing panel shall make a formal recommendation to the Superintendent within five calendar days following the hearing.

i) If the applicant or its authorized representative fails to appear at the hearing, the appeal shall be considered closed and the hearing process terminated.

j) If the state determines that its proposed action is contrary to federal or state statutes, regulations, or applicable policies and procedures related to the requirements of the IDEA, the state shall review its proposal and determine what, if any, alternative action is warranted.

k) The Superintendent shall issue a written decision within ten days of the date of the conclusion of the hearing. The written decision shall include the findings of fact and reasons for the decision.

l) The Superintendent's decision is final unless the applicant disagrees with the decision and files an appeal of the decision with a court of competent jurisdiction. If the state does not receive notice of an intent to appeal the decision within thirty calendar days of the issuance of the written decision, the state shall implement the proposed action in whole or in part until the state is satisfied that the applicant is complying with the applicable federal and state requirements.

m) The SEA shall keep a record of the proceedings. Any party, at its expense, may obtain a copy of the record of the proceedings.

4. Decision. The Superintendent shall issue a written decision within ten days of the date of the conclusion of the hearing by transmitting the written decision to the applicant or other representative authorized by the applicant.

5. Public attention. Any applicant that receives notice that the state is proposing to take or is taking an enforcement action pursuant to this section must, by means of public notice, take such actions as may be necessary to notify the public of the pendency of the action, including, at a minimum, posting the notice on the applicant's web site and distributing notice of the proposed act to the media and through public agencies.

F. State Advisory Panel. The state has established and maintains an advisory panel for the purposes of providing policy guidance with respect to special education and related services for children with disabilities in the state. In addition to the state advisory panel requirements at 34 C.F.R. Section

300.167, the state has expanded the State Advisory Panel to meet the requirements of S.C. Code Ann. Section 59-36-30.

V. The South Carolina State Board of Education authorizes the South Carolina Department of Education to develop and amend special education policies and procedures as necessary to meet U.S. Department of Education approval.

**HISTORY:** Amended by State Register Volume 17, Issue No. 8, eff August 27, 1993; State Register Volume 18, Issue No. 1, eff Jan 28, 1994; State Register Volume 25, Issue No. 4, eff April 27, 2001; State Register Volume 26, Issue No. 12, eff December 27, 2002; State Register Volume 31, Issue No. 8, eff August 24, 2007; State Register Volume 34, Issue No. 5, eff May 28, 2010; State Register Volume 35, Issue No. 11, eff November 25, 2011; State Register Volume 37, Issue No. 7, eff July 26, 2013; State Register Volume 40, Issue No. 5, Doc. No. 4586, eff May 27, 2016.

### **43-243.1. Criteria for Entry into Programs of Special Education for Students with Disabilities.**

#### **A. General Requirements**

These criteria for entry into programs of special education for students with disabilities will be used by all members of the multidisciplinary team, who may include school psychologists, speech-language therapists, and other persons responsible for the identification and evaluation of students with disabilities.

The federal definitions for all categories of disabilities have been used, as included in the Individuals with Disabilities Act (IDEA). All examiners, however, must be appropriately credentialed or licensed and should have completed training that is directly relevant to the assessment procedure being conducted. Examiners may administer supplementary measures such as curriculum-based assessments to gain additional information.

All evaluation procedures must ensure that the following minimal requirements are met:

1. Tests and other evaluation materials used to assess a student suspected of having a disability are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the student's native language or other mode of communication unless it is clearly unfeasible to use that language or any mode of communication.

2. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the student, including information provided by the parent and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities) that may assist in determining whether the student is one with a disability and what the content of the student's IEP should be.

4. Any standardized tests that are given to a student have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, such as the qualifications of the person administering the test or the method of test administration, must be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

6. Tests are selected and administered so as best to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

7. No single procedure is used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student.



8. The student is assessed in all areas related to the suspected disability, including, if appropriate, his or her health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

9. In the assessment of each student with a disability, the methods of evaluation are sufficiently comprehensive to identify all of the student's special education and related-services needs, whether or not they are commonly linked to the category in which the student is suspected of having a disability.

10. Each school district/agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

11. Each school district/agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

## B. Autism

### 1. Definition

Autism is a developmental disability, generally evident before age three, which adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines. Students with autism vary widely in their abilities and behavior. The diagnosis of Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disorder. Autism may exist concurrently with other areas of disability.

Autism, also referenced as autism spectrum disorder, for the purpose of eligibility, may include Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), or Asperger's Syndrome provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements.

### 2. Eligibility Criteria

There is evidence that the child has any of the Pervasive Developmental Disorders, such as Autistic Disorder, Asperger's Disorder, PDD-NOS as indicated in the following diagnostic references:

#### a. Asperger's Disorder:

(1) There is evidence that the child demonstrates impairments in social interaction, such as marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction; failure to develop peer relationships appropriate to developmental level; a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (i.e., by a lack of showing, bringing, or pointing out objects of interest); or lack of social or emotional reciprocity are noted; and

(2) Restricted repetitive and stereotyped patterns of behavior, interests, and activities such as encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus, apparently inflexible adherence to specific, nonfunctional routines or rituals, stereotyped and repetitive motor mannerisms, persistent preoccupation with parts of objects.

(3) The adverse effects of the Asperger's Disorder on the child's educational performance require specialized instruction and/or related services.

#### b. Autistic Disorder

(1) In addition to the characteristics listed in (a)(1) and (2) of this subsection, there also is evidence that the child demonstrates impairments in communication, such as delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime). In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others, stereotyped and repetitive use of language or idiosyncratic language, or lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level is noted.

(2) The adverse effects of the Autistic Disorder on the child's educational performance require specialized instruction and/or related services.

c. PDD-NOS

(1) There is evidence that the child demonstrates any of the characteristics listed in a or b of this subsection without displaying all of the characteristics associated with either Asperger's Disorder or Autistic Disorder.

(2) The adverse effects of the PDD-NOS on the child's educational performance require specialized instruction and/or related services.

C. Deaf-blindness

1. Definition

Deaf-blindness means concomitant hearing loss and visual impairment, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children who are deaf or hard of hearing or children who are blind or visually impaired.

2. Eligibility Criteria

a. There is evidence that the child meets the criteria for both the Deaf/Hard of Hearing category and the Visual Impairment category.

(1) a hearing loss that is 20 dB or greater at anyone frequency, either unilaterally or bilaterally, or

(2) a fluctuating hearing loss, either unilaterally or bilaterally, and

(3) The visual acuity with correction is 20/70 or worse in the better eye; or

(4) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field of 40 degrees or less; or

(5) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or

(6) There is evidence of cortical visual impairment.

b. The adverse effects of the hearing and visual impairment on the child's educational performance require specialized instruction and/or related services.

D. Deaf/Hard of Hearing

1. Definition

Deaf means a hearing loss that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's academic or functional performance. Hard of Hearing means a hearing loss, whether permanent or fluctuating, that adversely affects a student's academic or functional performance with or without amplification, but that is not included under the definition of deaf in this section.

2. Eligibility Criteria

a. There is evidence that the child has

(1) a hearing loss that is 20 dB or greater at anyone frequency, either unilaterally or bilaterally, or

(2) a fluctuating hearing loss, either unilaterally or bilaterally.

b. The adverse effects of the deafness or hard of hearing impairment on the child's educational performance require specialized instruction and/or related services.

E. Developmental Delay

1. Definition

A child with developmental delay is a child age 3-9 who has been identified before the age of 7 as experiencing significant developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development: and who, by reason thereof, needs special education and related

services. The term significant developmental delay refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or social development to the extent that, if not provided with special intervention, it may adversely affect his/her educational performance in age-appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage, lack of experience in age appropriate activities, lack of appropriate instruction in reading, lack of appropriate instruction in math, limited English proficiency or the child does not otherwise meet the eligibility criteria as a child with a disability.

## 2. Eligibility Criteria

a. There is evidence that child is exhibiting a significant developmental delay in one or more of the following areas:

- (1) physical development
- (2) cognitive development
- (3) communication development
- (4) social or emotional development
- (5) adaptive behavior development.

b. There is evidence that the delay is not due to:

Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the Elementary and Secondary Education Act;

- (1) Lack of appropriate instruction in math;
- (2) Limited English proficiency; or
- (3) The presence of any other disability for children ages six through seven.

c. The adverse effects of the developmental delay on the child's educational performance require specialized instruction and/or related services.

## F. Emotional Disability

### 1. Definition

Emotional Disability means an emotional disturbance defined as a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the student's educational performance:

- a. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
- b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- c. inappropriate types of behavior or feelings in normal circumstances;
- d. a general pervasive mood of unhappiness or depression;
- e. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to children who are socially maladjusted unless it is determined that they have a serious emotional disturbance.

### 2. Eligibility Criteria

a. There is evidence that the child exhibits one or more of the following characteristics over a long period of time and to a marked degree: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings in normal circumstances; general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems.

b. The adverse effects of the emotional disability on the child's educational performance require specialized instruction and/or related services.

## G. Intellectual Disabilities

## 1. Definitions

Intellectual Disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

## 2. Eligibility Criteria

a. There is evidence that the child has:

(1) Significant limitations in intellectual functioning must be evidenced by scores on both verbal and nonverbal scales that are at least two standard deviations below the mean (+/- the standard error of measurement) on an individually administered intelligence test.

(2) Significant deficits in adaptive behavior must be evidenced by a score at least two standard deviations below the mean (+/- the standard error of measurement) in at least two adaptive skill domains.

(3) Significant deficits in educational performance (pre-academic, academic and/or functional academic skills) must be evidenced by significant delays in functioning when compared to the child's same aged peers.

b. The adverse effects of the intellectual disability on the child's educational performance require specialized instruction and/or related services.

## H. Multiple Disabilities

### 1. Definition

Multiple Disabilities means concomitant impairments (such as intellectual disabilities-blindness or intellectual disabilities-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

### 2. Eligibility Criteria

a. There is evidence that the child meets all eligibility requirements for two or more disabilities. The term does not include developmental delay, deaf-blindness, or speech/language impairment.

b. The adverse effects of the multiple disabilities on the child's educational performance cannot be accommodated in special education programs solely for one of the disabilities and require specialized instruction and/or related services.

## I. Other Health Impairment

### 1. Definition

Other Health Impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's syndrome and adversely affects a student's educational performance.

### 2. Eligibility Criteria

a. There is evidence that the child has a chronic or acute health problem.

b. There is evidence that the diagnosed chronic or acute health problem results in limited alertness to the educational environment due to limited strength, limited vitality, limited or heightened alertness to the surrounding environment.

c. The adverse effects of the other health impairment on the child's educational performance require specialized instruction and/or related services.

## J. Orthopedic Impairment

### 1. Definition

Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone

tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

## 2. Eligibility Criteria

- a. There is evidence that the child has a severe orthopedic impairment.
- b. The adverse effects of the orthopedic impairment on the child's educational performance require specialized instruction and/or related services.

## K. Specific Learning Disabilities

### 1. Definition

Specific Learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

### 2. Eligibility Criteria

- a. There is evidence that the child does not achieve adequately for his/her age or to meet state-approved grade level standards in one or more of the following areas: Basic reading skills, Reading fluency, Reading comprehension, Mathematics calculation, Mathematics problem-solving, Written expression, Oral expression, or Listening comprehension; and either

(1) does not make sufficient progress to meet age or state-approved grade-level standards when using a process based on the child's response to scientific, research-based intervention, or

(2) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

- b. The child's underachievement is not due to: visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; limited English proficiency; or lack of appropriate instruction in reading or math.

- c. The adverse effects of the learning disability on the child's educational performance require specialized instruction and/or related services.

## L. Speech-Language Impairment

### 1. Definition

Speech-Language Impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance.

### 2. Eligibility Criteria

- a. There is evidence that the child has one or more of the following impairments:

(1) fluency - interruption in the flow of speech characterized by an atypical rate, or rhythm in sounds, syllables, words, and phrases that significantly reduces the child's ability to participate within the learning environment with or without his or her awareness of the dysfluencies or stuttering

(2) articulation - atypical production of phonemes characterized by substitutions, omissions, additions or distortions that impairs intelligibility in conversational speech and adversely affects academic achievement and/or functional performance in the educational setting

(3) language - impaired comprehension and/or use of spoken language which adversely affects written and/or other symbol systems and the child's ability to participate in the classroom environment

(4) voice - interruption in one or more processes of pitch, quality, intensity, resonance, or a disruption in vocal cord function that significantly reduces the child's ability to communicate effectively

- b. The adverse effects of the speech-language impairment on the child's educational performance require specialized instruction and/or related services

## M. Traumatic Brain Injury

### 1. Definition

Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

### 2. Eligibility Criteria

a. There is evidence that the child had a traumatic brain injury.

b. The adverse effects of the traumatic brain injury on the child's educational performance require specialized instruction and/or related services.

## N. Visual Impairment

### 1. Definition

Visual impairment, including blindness, means impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

### 2. Eligibility Criteria

a. There is evidence that

(1) The visual acuity with correction is 20/70 or worse in the better eye; or

(2) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field of 40 degrees or less;

(3) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or

(4) There is evidence of cortical visual impairment.

b. The student's visual impairment adversely affects his or her educational and functional performance. The adverse effects of the visual impairment on the child's educational performance require specialized instruction and related services.

## O. Reevaluation

Reevaluations for all categories of disability must be conducted at least once every three years and must be conducted more frequently if conditions warrant, if the parents or school personnel request such reevaluations, or if the student's dismissal from special education is being considered.

1. This reevaluation must be planned and conducted by an IEP team and other qualified professionals as appropriate.

2. The IEP team must review existing evaluation data on the student, including evaluations and information provided by his or her parents, current classroom-based assessments, and observations of teachers and related service providers.

3. On the basis of that review and input from the student's parents, the IEP team must identify what additional data, if any, are needed to determine the following:

a. whether the student continues to have a disability;

b. what the present levels of performance and the educational needs of the student are;

c. whether the student continues to need special education and related services; and

d. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set forth in his or her IEP and to participate, as appropriate, in the general curriculum.

4. Appropriate, qualified professionals must administer such tests and/or collect other evaluation information to produce the data identified by the IEP team.

5. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed, the team must document the justification for this determination.

**HISTORY:** Amended by State Register Volume 23, Issue No. 5, eff May 28, 1999; State Register Volume 25, Issue No. 4, eff April 27, 2001; State Register Volume 26, Issue No. 12, eff December 27, 2002; State Register Volume 31, Issue No. 8, eff August 24, 2007.

**43–243.4. Repealed** by State Register Volume 38, Issue No. 6, Doc. No. 4396, eff June 27, 2014.

**Editor’s Note**

Former R. 43–243.4 was titled **Utilization of General Teacher Certification** and had the following history: Amended by State Register Volume 29, Issue No. 6, eff June 24, 2005.

**43–244. Interscholastic Activities.**

Kindergarten; Grades 1–6: Each school shall prohibit competitive sports of a varsity pattern with scheduled league games and championships for Grades 1–6.

**43–244.1. Interscholastic Activities: Academic Requirements for Participation.**

I. To participate in interscholastic activities, students in grades 9–12 must have passed at least four academic courses, including each unit the student takes that is required for graduation, with an overall passing average in the preceding semester. Academic courses must be defined as those courses of instruction for which credit toward high school graduation is given. These may be required or approved electives.

A. An ineligible student shall not be allowed to participate in any interscholastic activity.

B. Interscholastic activities shall be defined as all school-sponsored activities for which preparation occurs outside of the regular school day. Individuals or members of groups involved in activities which include out-of-school practice on more than one occasion weekly shall meet eligibility requirements.

C. Academic course shall be defined as any approved course of instruction in the secondary curriculum, required or elective, for which one unit of credit or its equivalent is awarded on a yearly basis, or one-half unit of credit or its equivalent is awarded on a semester basis. If more than one unit of credit is awarded on a yearly basis in a particular subject, this subject shall count as more than one academic course. (Example: A subject taught for three units of credit shall be considered the equivalent of three academic courses.)

D. To be eligible in the first semester, each student must have passed four academic courses that were completed during the second semester of the previous school year.

E. To be eligible in the second semester, each student in grades 9 through 12 must pass at least four academic courses during the first semester.

F. Those courses specifically mandated for a high school diploma shall be considered required courses. A course may not be considered as an elective until all requirements in that subject area have been met. When a student is enrolled in more than four required courses, he must pass four required courses to be eligible for interscholastic activities. When a student is enrolled in four or less required courses, he must pass each required course.

G. Credit courses used for eligibility purposes must be courses that are applicable as credit toward a state high school diploma. If a student has met or is meeting all requirements for graduation and is enrolled in college credit courses, these college credit courses may be used to meet eligibility requirements.

H. Credits earned in a summer school approved by the State Department of Education may be applied toward first semester eligibility if all other requirements of this regulation are met. Academic deficiencies may not be made up through enrollment in correspondence courses or adult education programs.

I. Each student graduating prior to 1987 and needing only 18 units for a South Carolina high school diploma shall be required to pass at least four of the following subjects when enrolled:

1. Language Arts I, II, III, IV (or Remedial English, developmental reading, or remedial reading when taken to meet language arts requirements for graduation)
2. U. S. History
3. Economics
4. Government
5. Other Social Studies (additional one unit taken to meet graduation requirements)
6. Mathematics (to meet two-unit requirement for graduation).
7. Natural Science (to meet one-unit requirement for graduation).
8. Physical Education or ROTC (to meet one-unit requirement for graduation)

J. Each student entering the ninth grade for the first time in the 1983-84 school year or graduating in 1987 or thereafter and needing 20 units for a South Carolina high school diploma shall be required to pass at least four of the following subjects when enrolled:

1. Language Arts I, II, III, IV (or remedial English, with emphasis on reading and functional English, developmental reading, or remedial reading when taken to meet language arts requirements for graduation)
2. U. S History
3. Economics
4. Government
5. Other Social Studies (additional one unit taken to meet graduation requirements)
6. Mathematics (to meet three-unit requirement for graduation). If an approved course in computer science is taken to count as one unit of the mathematics requirement, this course will be considered a required course.
7. Natural Science (to meet two-unit requirement for graduation). If a student is taking the six units in a specific occupational area in lieu of the second unit required in natural science, all courses taken to accumulate these six units shall be considered required courses.
8. Physical Education or ROTC (to meet one-unit requirement for graduation)

K. Each student must maintain an overall passing average during the preceding semester in order to be eligible for participation in interscholastic activities.

1. Each student's overall passing average shall be determined by a numerical average or the district's grading system that determines pass/fail of all courses taken during the previous semester. A passing average shall be consistent with the district's established grading systems.

2. Overall passing average for first semester eligibility shall be determined using numerical scores or the district's grading system to determine pass/fail on all courses completed during the previous semester. (Note: Courses taken during summer school must be included in the determination of this average. If a course is repeated in summer school, the highest grade would be used in determining this average.)

3. Overall passing average for second-semester eligibility shall be determined by using numerical scores or the district's grading system that determines pass/fail on all courses taken during first semester.

L. If interscholastic activities are connected with curriculum experiences in a regular classroom situation (e.g., band, chorus, vocational), a student determined to be ineligible will be allowed to continue as part of the class and earn the grade and credit(s) for that course. Ineligible students will not be allowed to participate in interscholastic activities and shall not be penalized or have the course grade lowered because of their ineligibility to participate in those activities.

II. All activities currently under the jurisdiction of the South Carolina High School League shall remain in effect.

III. The monitoring of all other interscholastic activities is the responsibility of the local board of trustees.



A. Local boards of trustees shall develop and implement a system of monitoring the eligibility of students in grades 9-12 within the individual school districts who are involved in interscholastic activities not under the jurisdiction of the S. C. High School League.

B. The State Department of Education shall provide schools and school districts with a monitoring format for reporting to the local boards of trustees. This format shall be designed to monitor requirements of this regulation and all necessary implications.

C. Eligibility for any interscholastic activity shall be determined and reported prior to participation in that activity. Eligibility for each student will continue from first semester through the 95th day of the school year allowing five days for grades to be averaged and recorded after the end of the first semester.

D. Compliance with this portion of the regulation shall be reported to the State Department of Education through the assurances portion of the Basic Educational Data System accreditation process for district superintendents and boards of trustees.

E. Failure to comply with this regulation shall result in an accreditation deficiency for the local board of trustees.

IV. Those students diagnosed as handicapped in accordance with the criteria established by the State Board of Education and satisfying the requirements of their Individualized Education Plan (IEP) as required by Public Law 94-142 shall be permitted to participate in interscholastic activities.

A. Each student in grades 9-12 classified as handicapped and being served by a program designed for his/her handicapping condition that does not lead to a state high school diploma will be considered eligible for participation if he/she is successfully meeting the requirements of his/her Individual Education Plan.

B. Each student in grades 9-12 classified as handicapped and being served in a program leading to a state high school diploma shall be required to meet the requirements previously stated in this regulation for eligibility to participate in interscholastic activities.

V. Any local board of trustees in its discretion is authorized to impose more stringent standards than those contained in this section for participation in interscholastic activities by students in grades 9-12.

VI. The provisions for eligibility in interscholastic activities shall take effect at the beginning of the second semester of the 1984-85 school year.

A. Eligibility for participation in interscholastic activities for first semester of the 1984-85 school year will be determined by previously existing rules and regulations of the S. C. High School League and/or local school districts and will not be influenced by the requirements of this regulation.

B. Beginning with second semester of the 1984-85 school year and thereafter, each student must meet requirements of this regulation (59-39-160) in order to be eligible for participation in interscholastic activities.

### **43-246. Instruction at Place Other Than School.**

(Statutory Authority: 1976 Code §§ 59-5-60 and 59-65-40)

A parent or guardian denied permission by a district board of trustees to begin or continue a program of home instruction may appeal that decision to the State Board of Education, pursuant to Section 59-65-40 of the Code of Laws of South Carolina, 1976. When permission to operate a home instruction program is denied by a district board of trustees, the district board must notify the parent or guardian in writing of his/her right to appeal to the State Board of Education. The notice of appeal must be submitted, in writing, to the State Superintendent within ten days of receipt of the written denial by the district board of trustees, and the parent or guardian must notify the district superintendent of the appeal. The district superintendent shall send a copy of the record of the meeting held by the district board of trustees to consider the home instruction application to the State Superintendent of Education.

The record will be referred to the State Board of Education or its designee. The parties will be notified of the date on which the State Board of Education will review the record. The parties may submit a written brief at least five (5) working days before the date set for review. The State Board of

Education may invite the parties to make an oral presentation. The Chair of the State Board of Education will notify the parties in writing of the final decision of the board.

## **43–248. Virtual Education Program.**

### I. Overview of the Virtual Education Program

A. The State Board of Education (SBE) is authorized under S.C. Code Ann. Sections 59–16–10 through 59–16–80 to “establish the virtual education program to ensure consistent high quality education for the students of South Carolina utilizing technology-delivered courses.” These procedural regulations are based on that legislation.

B. The virtual education legislation makes the following stipulations:

1. Any public, private, or homeschooled student legally residing in South Carolina who is twenty-one years of age or younger is eligible to enroll in the virtual education program.

2. A private school or homeschooled student enrolled in the virtual education program is not entitled to receive any of the services or privileges that are available to public school students other than the right to receive an appropriate unit of credit for a completed course.

3. The virtual education program is not a school but a program; therefore, it is not authorized by statute to issue a state high school diploma.

C. These regulations—which are predicated on the virtual education program statute, other state statutes, and SBE regulations—are subject to modification by the South Carolina Department of Education (SCDE) only if those statutes or regulations are amended.

### II. Virtual Education Program Sponsorship

#### A. Sponsor Registration

1. In order to become a virtual education sponsor, a public school district, a public school, a private school, or a homeschooling parent (statutes that apply to homeschooling are S.C. Code Ann. Sections 59–65–40, 59–65–45, 59–65–46, and 59–65–47) must be registered with the virtual education program.

2. In order to be registered as a virtual education program sponsor, the school district, public school, private school, or homeschooling parent must fulfill the following requirements:

- a. have in place a program of studies that leads to a diploma,
- b. comply with the policies governing online courses established by the virtual education program,
- c. identify the individual(s) who will advise the student regarding courses he or she will need to earn a diploma, and
- d. identify the individual who will assist the student in resolving any technology issues that may arise.

#### B. Sponsor Responsibilities

1. All registered virtual education program sponsors must fulfill the following responsibilities:

- a. verify that a student is a legal resident of the state of South Carolina before enrolling him or her in the virtual education program,
- b. update sponsor registration information, and
- c. respond to a student’s request to enroll in a virtual education course.

2. A sponsor may forfeit its right to enroll students in the virtual education program if it fails to abide by these requirements.

### III. Virtual Education Program Student Enrollment

#### A. Student Responsibilities

##### 1. Sponsor Approval

a. The student must secure approval to take a specific course from the public school or district or nonpublic sponsor:

(1) *In-school students*—those who are in membership in a public school (includes homebound, home-placed, and off-campus students and students enrolled in an adult education program)—must have approval from the school principal or his or her designee.

(2) *Nonpublic school students*—those who are not in membership in a public school but are instead enrolled in a private school or are homeschooled—must have approval from the nonpublic sponsor:

(a) the private school that the student attends, or

(b) the homeschooling parent/legal guardian.

(3) *Out-of-school students*—those who have not officially withdrawn from a particular public school and are entered in the student database as non-funded (includes expelled students) or those who have not officially withdrawn from a particular private school—must have approval from the district superintendent or the head of the private school. If a district or private school policy does not allow credit to be recorded on an *out-of-school* student's transcript, the student cannot be granted approval to take a virtual education program course.

b. A student who is no longer enrolled in any school and who is at least seventeen years of age must enroll in a public adult education program for sponsorship to take a course from the virtual education program.

## 2. Computer Access

The student must furnish his or her own computer, or have access to one, and must have Internet access in order to take the virtual education program courses, although the sponsor is not prohibited from providing these.

## 3. Online Agreements

a. The student must indicate a willingness to abide by the acceptable use policy posted on the virtual education program's Web site.

b. The student must agree to abide by the virtual education program policies and expectations posted on the virtual education program Web site.

## 4. Online Application

a. The student must complete an online application for the course(s) he or she has approval to take.

b. The student must contact his or her instructor within three days of the start of class.

## B. Parent/Legal Guardian Responsibility

1. The parent/legal guardian of a student who is seventeen years of age or younger must give approval for the student to take a course with the virtual education program.

2. The parent/legal guardian of a student who is seventeen years of age or younger must agree that the student will abide by the acceptable use policy posted on the virtual education program Web site.

## C. SBE Responsibility

1. The SBE will implement a system for prioritizing the students who have enrolled in virtual education program courses if the virtual education program is unable to provide the courses these students need.

2. First priority will be given to students needing an initial credit course(s) to graduate on time.

3. The next priority will be given to those students who need to take a content recovery course required for graduation.

4. The next priority will be given to those students who need to take a course(s) needed for graduation not being offered in their schools.

5. Beyond these three priorities, students will be served on a first-come, first-served basis.

## IV. Virtual Education Program Course Grades and Units of Credits

### A. Virtual Education Program Responsibilities

1. The virtual education program must provide to the student's sponsor a certified grade report specifying the course title, the inclusive course dates, the final numeric grade, the quality points, and the unit value after the student has completed the final exam(s).

2. The certified grade report for courses requiring an End-of-Course Examination Program (EOCEP) test will be provided to the sponsors of all nonpublic school students after the test has been administered. The final numeric grade on this report will be calculated in accordance with the requirements outlined in Regulation 43–262.4, End-of-Course Tests.

3. The virtual education program may authorize another entity to provide the grade report to a nonpublic sponsor.

4. The virtual education program must maintain student course records.

#### B. Sponsor Responsibilities

1. All sponsors must award the numeric grade and unit value to the student enrolled in a course through the virtual education program by recording them on the student's transcript in his or her permanent record in the same manner as is done with any other course the student takes.

2. All nonpublic sponsors must contact the district test coordinator in the public school district in which they reside to arrange for students to take the appropriate EOCEP tests online.

3. Each district must determine whether it will charge nonpublic sponsors a fee for the administration of the EOCEP tests. If a fee is charged, it must be reasonable and must be directly related to the district's added costs for providing this testing service and cannot exceed the fee established by the SBE. Districts that fail to reasonably accommodate nonpublic school students will be ineligible to participate in the virtual education program.

4. All sponsors must ensure that the final examination for each course is conducted in a proctored environment.

5. All sponsors must provide all reports as stipulated in these regulations.

6. Units earned by a student through the virtual education program will be accepted in the public schools if the student presents his or her grade report from the virtual education program or if his or her transcript reflects the numeric grade and unit value that were recorded on the grade report issued by the virtual education program.

#### C. Student Responsibilities

1. The student must complete all assignments, course examinations, and state assessments that are required for the particular course in order for the virtual education program to issue the grade report.

2. The student must complete the course requirements within the enrollment course period or request an extension from his or her instructor.

#### D. Instructor Responsibilities

1. The instructor must establish the minimum course requirements that the student must complete.

2. The instructor must consult the virtual education program to determine whether the circumstances surrounding the student's request for a course extension is warranted.

#### V. EOCEP Assessments

A. All EOCEP tests must be administered under the supervision of a public school district in accordance with stipulations specified in the current SCDE EOCEP test administration manual. All test security statutes and SBE regulations in this manual apply to nonpublic sponsors and nonpublic students.

B. A student who is taking a course for which an EOCEP test is required must take the test online in the school district where he or she resides. If an online testing location is unavailable, the district's test coordinator must find a location in a nearby district. The district's responsibility extends no further than locating the test site.

#### VI. Virtual Education Program Course-Selection Procedures and Criteria

A. The virtual education program may offer a particular course only if that course is either

1. required to be offered by Regulation 43–234, Defined Program, Grades 9–12; or

2. requested by students, parents, or sponsors on the virtual education program online survey;  
or

3. requested by a sponsor under circumstances that the virtual education program deems valid.

B. The virtual education program must ensure that any course it develops, purchases, or contracts meets the following three criteria:

1. is aligned with the state academic standards,
2. integrates high quality Web-based strategies into instruction, and
3. uses the level of technology required for a computer-mediated environment.

#### VII. Virtual Education Program Course Costs

A. The SBE will determine when and if the virtual education program may charge fees and tuition. If program funds are either reduced or unavailable, the virtual education program may charge a fee to students. The virtual education program may charge a fee to students so long as the fee does not exceed the per pupil cost of the program. Students eligible for free and reduced lunch will not be charged.

B. In addition, the virtual education program may contract with districts/schools to provide a course(s) to a class of students enrolled in that course during a specific period of the school day and/or districts/schools that wish to guarantee that their students are served regardless of their priority.

#### VIII. Virtual Education Program Instructors

##### A. Instructor Employment

1. The SCDE is responsible for employing all virtual education program instructors.
2. Instructors may be employed either as SCDE-classified staff or as SCDE-contracted adjunct staff.

##### B. Instructor Qualifications

1. A virtual education program instructor must either hold a valid teaching certificate (with attendant training, if required) in the subject area he or she is teaching or receive special approval from the SCDE on the basis of his or her credentials.

2. An in-state virtual education program instructor who does not hold a valid South Carolina teaching certificate or who has not been employed by a South Carolina public school district in the last five years must undergo a criminal records check by the South Carolina Law Enforcement Division. An out-of-state virtual education program instructor must undergo any criminal records check that the SCDE determines to be necessary.

##### C. Instructor Requirements

1. Virtual education program instructors must successfully complete all virtual education program pre-service and in-service training requirements.
2. Training topics must include the development and organization of online courses; the technical aspects of online course delivery; the management of virtual classrooms; and the monitoring and assessment of student performance, progress, and achievement.

##### D. Instructor Evaluation

1. Virtual education program instructors who are SCDE-classified staff will be evaluated in accordance with state laws and regulations. Virtual education program instructors who are SCDE-contracted adjunct staff employed as temporary employees will be evaluated on the basis of the same criteria as are SCDE-classified staff.

2. Virtual education program instructors must meet all applicable Assisting, Developing, and Evaluating Professional Teaching (ADEPT) requirements.

##### E. Instructor Loads

1. The student load for each instructor is determined by the particular course(s) the instructor is teaching.
2. The teaching load for each instructor must not exceed one hundred and fifty students at any given time.

#### IX. Required Reports

#### A. Sponsor Responsibility

1. School districts and nonpublic sponsors must report to the virtual education program the reason for a student's withdrawal from a course at the time he or she withdraws.
2. The report must be submitted at the time the student withdraws.

#### B. Virtual Education Program Responsibility

1. The virtual education program will report to the SBE annually.
2. The report must contain the following information:
  - a. the courses being offered through the virtual education program during the current school year,
  - b. the number of local school districts participating and the number of the district students participating,
  - c. the number of private schools participating and the number of the private school students participating,
  - d. the number of homeschool students participating,
  - e. the success rates for students by courses,
  - f. the number of students who withdraw from a course and the reason for each student's withdrawal,
  - g. the number of students who were prevented from enrolling in a course because of space limitations,
  - h. the total monies expended by the virtual education program, and
  - i. the results of the virtual education program online survey of students, parents, and sponsors.

#### C. SCDE Responsibility

1. The SCDE will provide the Education Oversight Committee with access to student records annually.
2. All records must contain final course grades and scores on state assessments.

**HISTORY: Added by State Register Volume 34, Issue No. 6, eff June 25, 2010. Amended State Register Volume 38, Issue No. 6, Doc. No. 4407, eff June 27, 2014.**

### **43–258.1. Advanced Placement.**

#### I. DEFINITION OF ADVANCED PLACEMENT COURSES

Advanced Placement (AP) Courses: Courses developed by the College Board with prescribed curricula and tests for which students receive high school credit and for which students scoring at an acceptable level on the AP examination will be eligible to receive college credit from participating institutions.

#### II. SCHOOL REQUIREMENTS FOR ADVANCED PLACEMENT OFFERINGS

All secondary schools whose organizational structure includes grades 11 or 12 shall offer an AP course(s).

#### III. POPULATION TO BE SERVED

All students enrolled in AP programs for which funding is provided under these regulations shall be required to take the College Board administered examination.

#### IV. REQUIREMENTS FOR ADVANCED PLACEMENT TEACHERS

The South Carolina Department of Education (SCDE) will fund and coordinate AP teacher training courses. Each teacher of an AP course shall have added the specialized AP course endorsement. The specialized AP course endorsement may be earned by: (1) successful completion of the three-semester hours graduate training program or other training program approved by the SCDE, or (2) successful completion of at least thirty hours of training by a College Board endorsed provider, or (3) documentation of a Ph.D. or other terminal degree in the course subject area.

Newly assigned teachers of AP courses will have one calendar year to meet the AP course training requirements.

Teachers of AP courses shall meet annually with their Professional Growth and Development Plan evaluators to discuss appropriate goal setting and/or revision. The plan may include, but is not limited to, College Board workshops, College Board trainings, and approved professional development opportunities.

**HISTORY:** Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 32, Issue No. 7, eff July 25, 2008; State Register Volume 41, Issue No. 5, Doc. No. 4696, eff May 26, 2017.

## **43–259. Adult Education.**

### **I. The State High School Equivalency Diploma**

The State Board of Education (SBE) will issue a state high school equivalency diploma to eligible candidates who successfully complete a SBE approved high school equivalency test. The SBE authorizes the administration of approved high school equivalency tests by the South Carolina Department of Education (SCDE) under policies established by the SBE.

#### **A. Eligibility Requirements for Equivalency Diploma Candidates**

##### **1. Service Personnel and Veterans**

To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older and must be either a resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

##### **2. General Adult Population**

a. To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older, must not be currently enrolled in high school, and must either be a current resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

b. A candidate for a state high school equivalency diploma who is seventeen or eighteen years of age must submit a “Verification of School Withdrawal” form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent of the school. The “Verification of School Withdrawal” form must verify the candidate’s date of birth and the date of his or her last attendance at the school. In the event that the last school he or she attended was outside South Carolina, a person seventeen or eighteen years of age may either submit a letter signed by his or her high school principal or designee verifying his or her date of birth and the date of last attendance in school or submit a letter from the superintendent of schools in the district in which he or she currently resides indicating that the candidate is not enrolled in any schools within the school district. A copy of the candidate’s driver’s license, state-issued identification card, or birth certificate must accompany the letter. Verification letters are to be submitted with the application for testing.

c. A candidate over the age of eighteen who has been enrolled in high school during the current school year must submit a “Verification of School Withdrawal” form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent. The “Verification of School Withdrawal” form must verify the candidate’s date of birth and the date of his or her last attendance at the school.

##### **3. Juvenile Offenders**

Certain juvenile offenders who are under the jurisdiction of the State Department of Juvenile Justice may be granted an exception to the requirement that in order to be eligible for a state high school equivalency diploma, a candidate must be seventeen years of age or older and not be currently enrolled in high school during the current school year.

For a juvenile offender to qualify for this exception, the following criteria must be met:

a. The juvenile is at least sixteen years of age.

b. The juvenile is under the jurisdiction of the family court based on an adjudication of delinquent behavior and must be committed to a juvenile correctional institution or committed to participate in community-based alternative programs under the jurisdiction of the Department of Juvenile Justice.

c. The family court certifies that it is in the best interest of the juvenile for him or her to be exempted from the public school compulsory attendance law.

d. The juvenile's enrollment in public school or completion of a community-based alternative program would not be feasible upon his or her release from a juvenile correctional institution either because it is necessary that he or she find immediate employment or because he or she will immediately enroll in postsecondary education.

#### B. Passing Score Requirements

1. Eligible candidates who were initial examinees before July 1, 1991, were awarded a state high school equivalency certificate if they attained an average standard score of 45 or above for the five tests in the GED battery. The South Carolina high school equivalency certificate was not awarded after July 1, 1995.

2. Eligible candidates who were examinees after July 1, 1991, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 35 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

3. Eligible candidates who were examinees after January 1, 1997, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 40 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

4. Eligible candidates who are examinees after January 1, 2002, will be awarded a state high school equivalency diploma if they attain a minimum standard score of 410 on each of the five tests in the GED battery and an average standard score of 450 or above for the five tests.

5. Passing score requirements for all high school equivalency tests authorized by the SCDE after December 31, 2013, will follow test publisher's guidelines and any additional requirements established by the SBE.

#### C. Testing and Credential Application Procedures

##### 1. High School Equivalency Testing in South Carolina

a. High school equivalency tests may be scheduled and administered at adult education centers, technical or community colleges, and other locations approved by the director of the SCDE's Office of Adult Education.

b. Eligible candidates must submit an application to the SCDE's High School Equivalency Testing Office, or an approved high school equivalency testing center, and pay the required fee set by the SCDE for the testing service and the diploma.

c. Official score reports will be provided to initial examinees only after the completion of the entire high school equivalency test battery.

d. Nonresident individuals who are living temporarily in South Carolina may be permitted to take the high school equivalency tests in South Carolina if they meet minimum age requirements and are not enrolled in high school. Nonresident individuals will not be awarded a state high school equivalency diploma unless their most recent elementary or secondary school of attendance was in South Carolina. Nonresidents must submit an application for testing services to the SCDE's High School Equivalency Testing Office or an approved high school equivalency test center and must pay the required fee set by the SCDE to cover the full costs of the testing and the score report.

e. Guidelines for the re-testing of high school equivalency candidates are outlined in the SCDE High School Equivalency Testing Office Policies and Procedures Manual.

##### 2. High School Equivalency Testing Outside South Carolina

Eligible candidates tested outside South Carolina must submit a diploma application to the SCDE's High School Equivalency Testing Office and must pay the required fee to cover the costs of the diploma. Applicants must arrange for official score reports to be sent to the chief examiner in the SCDE's High School Equivalency Testing Office. Score reports will be accepted as official only when sent directly by an official high school equivalency testing center, by the transcript service of the Defense Activity for Nontraditional Education Support (DANTES), or by the GED Testing Service in Washington, D.C. Eligible candidates who are tested outside of South Carolina must meet the state's passing score requirements in order to receive a state high school equivalency diploma.

## II. Adult Education: High School Diploma Program

### A. Graduation Requirements



1. The student must earn a total of 24 prescribed units of credit to earn a state high school diploma. The unit requirements are distributed as follows:

Unit Requirements	
English/language arts	4.0
Mathematics	4.0
Science	3.0
U.S. History and Constitution	1.0
Economics	0.5
U.S. Government	0.5
Other social studies course(s)	1.0
Computer science (including keyboarding)*	1.0
Electives	9.0
	<hr/>
	24.0 total

\* Keyboarding may count up to one-half unit of the computer science requirement.

2. A student may transfer credit earned in the adult education program to a secondary school to count toward the units of credit required for a state high school diploma earned through the regular course of study at a high school, if for each unit being transferred, the student has spent a minimum of 120 hours in class time in that subject at that level and the teacher was properly certified to teach the course.

3. Membership in an adult education program shall be limited to individuals eighteen years of age or older who have left the elementary or secondary school, except when the local school board assigns students under the age of eighteen years who are not officially in membership in a regular school. Students under eighteen may be assigned to an adult education program when they exhibit either an unusual educational need or physical, social, or economic problem that can be served more effectively by the adult education program. Schools should provide counseling regarding all alternatives available to high school students considering dropping out. No student under the age of sixteen may be assigned to the adult education program for any reason.

4. No student shall be graduated from the adult education program prior to the time that he or she would have graduated from a regular high school unless written approval is granted by the high school principal and the SCDE's Office of Adult Education. For a student to be eligible to receive a state high school diploma, he or she must complete one semester in residence (i.e., through actual attendance in the adult education program). This semester in residence is a prerequisite for the state high school diploma and may not be waived. For the purposes of adult education programs, a semester in residence is defined as follows: a minimum of 60 hours of classroom attendance for a student needing only one unit to graduate, and a minimum of 30 hours of classroom attendance for a student who needs only one-half unit to graduate. Completion of a one-half unit or one unit via the virtual school program while enrolled in an adult education program will satisfy the semester-in-residence requirement.

5. The student must complete a study of and pass an examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the *Federalist* papers, and American institutions and ideals.

6. A student may earn an unlimited number of units of credit per school year with a maximum of six earned through classroom attendance.

#### B. Provisions for Granting Course Credit

1. Course credit shall be accepted when official transcripts are received from schools that are accredited by a state or by one of the following: New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

2. An adult education program may award credit for courses that have been approved by the SCDE in a proficiency-based system, see R.43-234(II)(C), Defined Program, Grades 9-12 and Graduation Requirements. Credit shall only be accepted from institutions validated by the SBE or accredited by one of the following: New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the

North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

3. High school diploma credit may be granted only by a teacher certified in the specific area in which credit is to be awarded. If the adult education teacher is not certified in the specific area in which the student is seeking credit, another currently employed adult education teacher that is certified in the specific area may review the student's work and award the unit of credit on that basis. Documentation of the high school credit awarded becomes part of the student's permanent record.

4. Adult Education students are eligible to earn high school units through the district's dual credit arrangement, see R.43-234(III), Defined Program, Grades 9-12 and Graduation Requirements.

### C. Approved Programs and Granting of Credit

No credit toward a state high school diploma shall be granted to any adult education student unless the program has been officially approved in writing by the Office of Adult Education and the Office of Federal and State Accountability at the SCDE. Program-related requirements include, but are not limited to, the following:

1. Each district must provide properly certified administrative, teaching, and supervisory staff for the adult education program. Staff members may be either full-time or part-time, according to the size of the program.

2. Each director must either be certified in one of the acceptable areas of certification for an adult education director or hold both an advanced degree in the field of adult education and a South Carolina teaching certificate.

3. Each adult education program must have a director (full-time or part-time).

4. Each center supervisor or program coordinator must either meet the same qualifications for certification as set forth in item 2 above for adult education directors or have a master's degree or a bachelor's degree and five years of adult education experience.

5. Each adult education teacher must be properly certified and meet the appropriate federal statutory requirements.

6. Each adult education high school subject-area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach.

7. Any staff member who is assigned duties in a subject for which he or she is not properly certified must hold a valid teaching credential, must have completed 12 semester hours of credit in the assigned subject, and must have obtained an out-of-field permit in that subject from the Office of Educator Certification. The staff member must earn 6 semester hours toward proper certification each year for renewal of the out-of-field permit. After June 30, 2006, out-of-field permits will no longer be issued to teachers who teach core academic subjects as specified by the appropriate federal statutory requirements. These core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The Director of the Office of Adult Education may waive the requirement of properly certified teachers in instances of critical needs. Critical needs may include but are not limited to the following: there is no certification available in the particular subject area; there is no certified teacher available because of the location of the class or meeting time of the class. Non-certified teachers must work under the supervision of an on-site, properly certified teacher. Non-certified teachers may not provide instruction in courses awarding Carnegie units of credit.

8. In order to earn credit toward a state high school diploma earned through an adult education program, a student must attend class a minimum of 60 hours to receive consideration for a unit of high school credit and 30 hours for consideration for one-half unit of high school credit. Actual course credit will be awarded only after the student has completed all course requirements. Completion of a one-half unit or one unit via the virtual school program while enrolled in an adult education program will satisfy the attendance requirement.

9. Applications for innovative-approach programs must be submitted to the SCDE's Office of Adult Education when a departure from certain established standards is necessary for the implemen-

tation of the new program. Requests for prior approval must be made to the Office of Adult Education and must be approved by the SCDE's Office of Federal and State Accountability.

10. An accurate record of the attendance and achievements of each student must be kept and must be stored in locked, fireproof filing cabinets or vaults or in a secure database with backup copies. Records of high school credits earned must be retained indefinitely.

11. Students enrolled in the high school completion program must be given access to appropriate library facilities or the Internet.

**HISTORY:** Amended by State Register Volume 19, Issue No. 3, eff March 24, 1995; State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 22, Issue 6, Part 1, eff June 26, 1998; State Register Volume 24, Issue No. 5, eff May 26, 2000; State Register Volume 26, Issue No. 4, eff April 26, 2002; State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003; State Register Volume 30, Issue No. 3, eff March 24, 2006; State Register Volume 37, Issue No. 6, eff June 28, 2013; State Register Volume 38, Issue No. 6, Doc. No. 4419, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4491, eff June 26, 2015.

**43–260. Repealed** by State Register Volume 39, Issue No. 6, Doc. No. 4532, eff June 26, 2015.

#### **Editor's Note**

Former R. 43–260 was titled **Use and Dissemination of Test Results** and had the following history: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 33, Issue No. 6, eff June 26, 2009.

### **43–261. District and School Planning.**

(Statutory Authority: S.C. Code Ann. §§ 59–5–60 (1990), 59–18–1300 (Supp. 2002), 59–18–1310 (to be codified in Supp. 2003), 59–18–1510 (Supp. 2002), 59–139–05 et seq. (Supp. 2002), and 59–20–60 (Supp. 2002), and the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq. (2002))

#### **A. Development of District Strategic Plan and School Renewal Plans**

1. Each school district must develop a five-year district strategic plan and each school must develop a five-year school renewal plan as required by the Early Childhood Development and Academic Assistance Act of 1993 and the Education Accountability Act of 1998. District and school plans shall coordinate and align improvement initiatives.

2. New five-year district and school plans shall be submitted to the State Department of Education by April 30, 2005, and every five years thereafter. Plans will become effective on July 1 of the same year. The annual update of the district strategic plan must be submitted to the State Department of Education by April 30 of each year or, if applicable, on the AdvancED plan deadline, whichever is later.

3. The district strategic plan includes the accountability system that directs an annual needs assessment; prioritizes the performance goals; and reports how the district supports schools, students, and families. The district strategic plan and school renewal plans must establish priorities and prioritize efforts to focus on raising student achievement levels for all students, the prevention of academic problems, and reducing the achievement gaps identified on the annual report card. It is imperative that the planning processes demonstrate a commitment to continuous improvement and respond to accountability requirements in both state and federal legislation. The plans must be developed collaboratively by a broad-based group of stakeholders using a consensus process.

4. The district strategic plan, school renewal plans, and annual updates must be reviewed and approved by the local board of trustees and coordinate funding from local, state, federal, and private sources.

5. Districts and schools are urged to follow the model planning process developed by the State Department of Education, although no single planning format is required for district or school plans. Whatever process is used for developing a district strategic plan and school renewal plans must include each of the following components:

- a. comprehensive needs assessment,
- b. performance goals,
- c. interim performance goals,
- d. strategies and action plans,

- e. evaluation of the strategies,
  - f. evidence of comprehensive consensus building, and
  - g. assurances.
6. Schools that use the Southern Association of Colleges and Schools (SACS) accreditation process may substitute the SACS plan for the school renewal plan provided that it includes the components (a) through (g) listed above and described below.

a. Comprehensive Needs Assessment

The annual needs assessment will provide focus for planning teams to set priorities for the plan. The comprehensive needs assessment must identify targeted areas of discrepancy between the desired performance levels and the current status as indicated by available data. Any discrepancies in the following areas identified by the school and district report cards must be included in the plan:

- (1) achievement,
- (2) achievement by subgroups,
- (3) graduation rates,
- (4) attendance,
- (5) discipline,
- (6) teacher/administrator quality and professional growth, and
- (7) other priority areas.

b. Performance Goals

Measurable performance goals, written in five-year increments, shall be developed to address the major areas of discrepancy found in the needs assessment in key areas reported in the district and school report cards. Performance goals in the district strategic plan and school renewal plans must address:

- (1) student achievement,
- (2) teacher/administrator quality,
- (3) school climate (parent involvement, safe and healthy schools, and other locally identified areas), and
- (4) other innovation initiatives or priorities as identified by districts and schools.

c. Interim Performance Goals

Interim performance goals will establish annual measurable targets for the five-year performance goals.

d. Strategies and Action Plans

Strategies shall be derived from scientifically-based education research and best practices and shall be designed to meet the performance and interim performance goals. Action plans, which may include innovative initiatives, will provide details (action/activity, person responsible, start and end dates for major action steps, professional development, necessary resources, and progress measures) regarding the implementation of each data-driven strategy to ensure continuous improvement. Staff development shall meet national professional development standards and must provide participants with the knowledge and skills necessary to implement the strategies. Coordination of funding from local, state, federal, and private sources is imperative. Schools visited by an external review team (ERT) must incorporate appropriate recommendations into their annual update.

e. Evaluation of the Strategies

Ongoing evaluation (formative and summative) will assess the progress toward performance goals and annual interim performance goals. Measures of effectiveness must include outcome and process indicators of improvement. The methods of assessing the efficacy of the strategies must provide data regarding the impact of the strategies and whether they should be continued, modified, or terminated. After the initial year of the plan, the evaluation results from the annual update will become a key component of the ongoing needs assessment process.

f. Evidence of Comprehensive Consensus Building

Shared decision making is central to the formulation of a functional plan. Therefore, a collaborative consensus building process shall be used in the development of the district strategic plan and school renewal plans. Stakeholders, including teachers, administrators/principals, parents/guardians, and community representatives, must be actively involved in the district strategic planning and school renewal planning processes. The School Improvement Council must actively participate in the development of the school renewal plan.

g. Assurances

Assurances, signed by the district superintendent, attest that the district and schools comply with all applicable federal and state statutory and fiscal requirements.

B. Review of District Strategic Plan and School Renewal Plans

1. The district strategic plan, school renewal plans, and annual updates shall be submitted to the local board of trustees for review and approval. Five-year plans approved by the local board of trustees must be submitted to the State Department of Education for review and approval by peer review panels convened and trained by the Department.

2. The review panel will do one of the following: (1) approve the plan, (2) provisionally approve the plan pending suggested modifications, or (3) disapprove the plan. The Department shall provide technical assistance, directly or indirectly, to districts and schools with provisionally approved or disapproved plans to ensure that all plans are approved.

3. All district strategic plan updates will be reviewed by the State Department of Education on an annual basis.

C. Waivers

Upon request of a district board of trustees or its designee, the State Board of Education may waive any regulation that would impede the implementation of an approved district strategic plan or school renewal plan. The State Board of Education may delegate to the State Superintendent the ability to waive regulatory requirements for similarly situated school districts and schools. The Superintendent will report regularly to the State Board of Education all waivers issued by the Superintendent. The State Department of Education will maintain a central electronic location of all waivers issued by the State Board of Education and the Superintendent.

**HISTORY: Amended by State Register Volume 19, Issue No. 5, eff May 26, 1995; State Register Volume 28, Issue No. 6, eff June 25, 2004; State Register Volume 40, Issue No. 6, Doc. No. 4605, eff June 24, 2016.**

## **43–262. Assessment Program.**

### I. STATEWIDE ASSESSMENT PROGRAM

A. The Education Accountability Act of 1998 (EAA), S.C. Code Ann. Section 59–18–310, and the No Child Left Behind Act of 2001 (NCLB), 20 U.S.C. Section 6301, et seq. require that the State Board of Education develop or adopt a statewide assessment program in certain grades and selected content/skill areas.

B. The statewide assessment program will involve testing public school students at selected grade levels and in selected content and skill areas at times specified by the South Carolina Department of Education (SCDE). The grade(s) and content/skill areas to be included in the assessment program are identified by the EAA, NCLB, and State Board of Education regulations.

The statewide assessment program includes assessments administered to assist in the identification of students for participation in programs for the gifted and talented, and assessments administered for accountability purposes, including but not limited to the following:

South Carolina Palmetto Assessment of State Standards (SCPASS),

South Carolina Alternate Assessment (SC-Alt), and

End-of-Course Examination Program.

C. The program is funded through an annual appropriation included in the South Carolina General Appropriations Act. The request for such funding is included in the annual budget request of the State Superintendent of Education. Continued operation of the program is contingent upon the availability of funds.

D. The following are responsibilities of the SCDE for assessments in which school districts are required to participate.

1. Supply all necessary test materials regardless of the testing format, (e.g., paper/pencil, online, customized), scoring, and standard score reports at no cost to the local school districts. Test materials do not include hardware or software for online testing.
2. Pay all shipping costs for the transportation of test materials and score reports between the SCDE, school districts, and scoring service(s).
3. Provide workshops on test administration, interpretation, and utilization for district test coordinators and other selected staff.
4. Report the statewide results of the program to the State Board of Education on an annual basis.
5. The SCDE will report statewide and school district test results as may be necessary for accurate and meaningful interpretation.
6. Test data for individuals shall be released only in a manner that is consistent with the provisions of Section 438 (Privacy Rights of Parents and Students) of the General Education Provisions Act (Title IV of Public Law 90–247, as amended) and any other relevant legislation, including but not limited to Act 200 of 2014.
7. Field/pilot-test, at the discretion of the State Superintendent of Education, new assessment instruments and/or procedures and recommend changes in the Statewide Assessment Program to the State Board of Education, the Education Oversight Committee, and other appropriate policy-making bodies.

E. The participation of local school districts in the statewide testing program is required under Section 59–20–60(7)(c) of the South Carolina Education Finance Act and the South Carolina Education Accountability Act of 1998. The following are responsibilities of local school districts.

1. As used in these regulations, “local school district” shall mean public school districts, the South Carolina Public Charter School District, a public or independent institution of higher learning serving as a charter school sponsor pursuant to the South Carolina Charter Schools Act, as well as other publicly funded educational institutions providing instruction to public school students.
2. Designate one or more district test coordinators (DTCs) who will be the point of contact for the SCDE or its contractors as well as attend the workshops provided by the SCDE. The DTC is responsible for ensuring that school test coordinators (STCs) and test administrators are trained. DTCs and/or STCs are responsible for the distribution, receipt, storage, and return of test materials and reports.
3. Administer the tests (including field/pilot tests) in accordance with procedures and at dates and times specified by the SCDE.

F. Students with disabilities shall be included in the assessment program in compliance with the provisions of South Carolina and federal statutes and regulations.

G. The State Superintendent of Education is authorized to develop and implement such administrative procedures as he or she may deem necessary and appropriate for the purpose of implementing the South Carolina Statewide Assessment Program. Any administrative action taken under this regulation will be presented to the State Board of Education during the next regularly scheduled meeting of the Board.

H. End-of-Course Examination Program (EOCEP)

1. Gateway courses in English/language areas, mathematics, science, and social studies as required in Section 59–18–310 of the EAA will be defined by the State Board of Education. The End-of-Course test for social studies is the United States History and the Constitution.

2. Purposes and Uses

- a. The purposes and uses of the end-of-course examinations shall be as follows:

- i. The examinations shall encourage instruction in the specific academic standards for the courses, encourage student achievement, and document the level of students’ mastery of the academic standards.

ii. The examinations shall serve as indicators of program, school, and school district effectiveness in the manner prescribed by the Education Oversight Committee in accordance with the provisions of the Education Accountability Act of 1998 (EAA).

iii. The examinations shall be weighted 20 percent in the determination of students' final grades in the gateway courses.

b. The examination may be used for such other purposes as the State Board of Education may determine to be appropriate and consistent with the Standards for Educational and Psychological Testing (Joint Standards) of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education.

3. The content of the subject-area examinations that are selected or developed pursuant to the provisions of this policy shall be aligned with the academic standards approved by the State Board of Education.

4. Student performance standards for the examinations shall be established by the SCDE.

5. The academic standards for the examinations shall be reviewed on a schedule that is consistent with the requirements of the EAA. Following any revisions of the academic standards, the examinations will be reviewed and revised as necessary to ensure their continued alignment with the standards.

6. Students who are enrolled in the gateway courses shall be provided with copies of the academic standards that pertain to those particular courses. Students will be advised that the final examination for each gateway course will be based on the skills and content represented in the academic standards. District personnel shall provide this information to students no later than the first day of instruction in the course.

## II. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)

NAEP tests will be administered annually to samples of students. Schools selected for NAEP will participate in the assessment program as prescribed by NAEP policies.

**HISTORY:** Amended by State Register Volume 26, Issue No. 5, Part 1, eff May 24, 2002; State Register Volume 28, Issue No. 1, eff January 23, 2004; State Register Volume 30, Issue No. 4, eff April 28, 2006; State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 39, Issue No. 6, Doc. No. 4529, eff June 26, 201; State Register Volume 40, Issue No. 6, Doc. No. 4604, eff June 24, 2016.

**43–262.4. Repealed** by State Register Volume 39, Issue No. 6, Doc. No. 4530, eff June 26, 2015.

### Editor's Note

Former R. 43–262.4 was titled **End-of-Course Tests** and had the following history: Added by State Register Volume 26, Issue No. 5, Part 1, eff May 24, 2002; Amended by State Register Volume 28, Issue No. 5, eff May 28, 2004; Amended by State Register Volume 36, Issue No. 4, eff April 27, 2012.

## **43–264.1. Half-Day Child Development Programs.**

(Statutory Authority: 1976 Code §§ 59-5-60 and 1993 Act 135 The Early Childhood Development and Academic Assistance Act)

### I. Legislation

In order to comply with the South Carolina Education Improvement Act of 1984 and the Early Childhood Development and Academic Assistance Act of 1993 school districts may establish and provide for the education of three- and four-year-old children who have predicted significant readiness deficiencies. The legislation requires that each district will provide for at least a half-day early childhood development program for four-year-old children. Districts have the option of serving three-year-old children.

Each district shall provide at least one program for four-year-old children and may serve identified three-year-old children who have significant readiness deficiencies.

Districts and schools shall integrate the planning and direction of the half-day program with the Early Childhood Initiative.

### II. Plan for Enrollment

#### A. Public Notification of Program Availability

School districts shall attempt to contact parents or guardians of children who will reach age three or four on or before September 1 and who have potential for later school failure. The district shall make substantial efforts to publicize the availability of the program for four-year-olds, and for three-year-olds if appropriate.

#### B. Criteria for Enrollment

Each district shall develop criteria for the enrollment of children who have predicted significant readiness deficiencies. These criteria shall include the following:

1. A screening instrument approved by the State Department of Education for use in determining each child's developmental level,
2. An entrance age requirement which specifies a child must be three if the program serves three-year-olds, or four years of age on or before September 1 of the applicable school year,
3. Legal birth certificate issued by the Department of Health and Environmental Control or other appropriate authorized agency,
4. South Carolina Certificate of Immunization,
5. Comprehensive Health Appraisal if deemed necessary or appropriate.

### III. Coordination

In the event that a local advisory committee exists in a community to coordinate early childhood education and development, school districts shall consult with the committee in planning and developing services to make maximum use of resources and avoid duplication of effort. When a local advisory committee does not exist, the school district shall identify available early childhood development and education resources in order to avoid duplication of public services. This may include Headstart and other Child Development Block Grant Programs.

### IV. Program Description

#### A. Organization

A developmental educational program in a classroom setting shall be the major component of the program.

#### B. Program Length

The classroom program shall operate five days a week (or the equivalent) for at least 2 ½ hours of instructional time, exclusive of breakfast, lunch and transportation. Program year will include 190 days of operation for staff (180 days service to children) subject to the same conditions for waiver of make-up days as prescribed by state law.

#### C. Staff Ratio and Group Size

Each classroom shall be staffed with one appropriately certified teacher and one teaching assistant for a maximum of 20 children per each half-day session. Teaching assistants shall have at least a high school diploma or the equivalent.

### V. Funding

Child development funds will be allocated on an annual basis effective July 1 through June 30. Unobligated funds which become available during the fiscal year will be redistributed to serve additional eligible children.

#### A. District Allocation and Distribution of Funds

##### 1. District Allocation

The State Department of Education will annually calculate each district allocation based on the number of kindergarten children who are eligible for free and reduced lunch.

##### 2. Distribution of Funds

School districts will be authorized to expend allocated funds on students meeting the eligibility criteria and being served in approved programs.

#### B. Extended Day

Any extension of the child development program beyond 2 1/2 hours using funds from other sources such as Chapter 1, Social Services Block Grant funds shall be in compliance with



regulations and guidelines governing the half-day program. Before or after school services may be provided by other state or federal programs designed for three-and-four-year-olds if consistent with federal regulations for eligibility.

#### C. Subcontracting

School districts may contract with appropriate groups and/or agencies to provide part or all of the program. In such cases, the school district is charged with the responsibility of maintaining compliance with the regulations governing this program. An exception to the regulation governing indirect costs may be made when state or federal regulations require the subcontractor to utilize an indirect cost rate. Subcontracting may be based on a fixed cost rate.

#### D. Fees

Eligible children may not be charged fees for the 2 1/2 -hour instructional program outlined in these regulations.

### VI. Fiscal Requirements

#### A. Allowable Expenditures

Expenditures must adhere to definitions and guidelines established by the Office of Finance, State Department of Education, or the State Procurement Code.

B. A minimum of 10 percent of the total budget shall be utilized in the following categories:

##### 1. Supplies and Materials

- a. Instructional
- b. Parent information materials
- c. Nutritional supplement
- d. Evaluation materials

##### 2. Equipment for Instructional Purposes

### VII. Staff Development

Appropriate ongoing staff development activities shall be described and incorporated in the school or district's comprehensive plan as required by the Early Childhood Development and Academic Assistance Act of 1993 (Act 135), State Board of Education Regulations and guidelines.

### VIII. Evaluation

Districts shall participate in evaluation efforts coordinated by State Department of Education. This will include tracking child development program participants through kindergarten and at least the third grade to determine the program's impact on school success.

IX. Additional information relating to the implementation of this regulation, including but not limited to:

1. Educational program
2. Reporting requirements
3. Staffing
4. Health and Safety Standards

is contained in the "Guidelines for Half Day Child Development Programs" available at the State Department of Education. The State Board of Education will review and update, "Guidelines" as needed.

**HISTORY: Amended by State Register Volume 18, Issue No. 6, eff June 24, 1994; State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003.**

## **43-265. Parenting/Family Literacy.**

(Statutory Authority: S.C. Code Ann. §§ 59-5-60(1) (1990) and 59-139-10(A)(1) (Supp. 1998))

### I. Program Goals

- A. To strengthen parent involvement in the learning process of preschool children ages birth through five years
- B. To promote school readiness of preschool children

- C. To offer parents special opportunities to improve their literacy skills and education
- D. To identify potential developmental delays in preschool children by offering developmental screening

## II. Requirements

- A. Each school district must design and implement a parenting or family literacy program to support parents of children ages birth through five years in their role as principal teachers of their preschool children.
- B. Intensive and special efforts must be made to recruit parents whose children are at risk for school failure.

## III. Program Components

### A. Parent Education

Programs must provide parent education that

1. enhances the relationships between parents and children and connects the value of interactions to literacy experiences;
2. provides literacy development of parents and children;
3. promotes interaction of parents with schools and the wider community;
4. develops understanding of child development; and
5. provides support services that address health, nutrition, transportation, childcare, and other related issues.

### B. Family Literacy

Family literacy uses a more holistic and integrated approach to serving families. Districts must use this approach for families requiring more intense experiences to change intergenerational patterns associated with low literacy and undereducation. The South Carolina definition is consistent with federal legislation. Family literacy is clearly and consistently defined in the Adult Education and Family Literacy Act of 1998, Even Start, Head Start and the Reading Excellence Acts. These acts define “family literacy services” as services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

1. Interactive literacy activities between parents and their children
2. Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children
3. Parent literacy training that leads to economic self-sufficiency
4. An age appropriate education to prepare children for success in school and life experiences

### C. Evaluation

Districts must participate in evaluation efforts coordinated by the State Department of Education. This will include tracking children of participating parents through first grade to determine the program’s impact on school readiness. The evaluation should include a variety of other indicators, such as

1. increased level of school readiness,
2. improved parenting skills,
3. change in the educational level of parent participants,
4. parent satisfaction with the program,
5. number of developmental screenings completed and referrals, and
6. efforts to identify and recruit families of children at risk of school failure.

## IV. Service Delivery Methods

The methods for service delivery will vary in specific type, mix, and intensity according to community needs and priorities.

### A. Home Visits

Programs must provide instructional home visits that

1. provide individualized parenting or family literacy training for parents and preschool children;
2. build on the strengths that are apparent in a familiar setting;
3. demonstrate that the home is the child's first and most important learning environment; and
4. increase the intensity of program activities as well as increase access to services for some families.

#### B. Group Meetings

Programs must provide group meetings to

1. encourage parent mentoring,
2. develop support networks, and
3. provide parenting information.

#### V. Funding

Funding will be allocated as determined by the General Assembly.

#### VI. Coordination

Collaboration and coordination with other local agencies and community organizations must be integrated into all phases of program development, design, and implementation. School districts must consult with a local advisory committee to plan and develop parenting and family literacy services to maximize resources and avoid duplication of effort. This may include district early childhood, adult education, literacy, Success By 6, Head Start, Department of Social Services, and other community services.

#### VII. Professional Development

The State Department of Education will provide or coordinate activities to train parent educators in developing and implementing parenting and family literacy initiatives. Nationally validated program and curriculum training, such as Parents As Teachers, Motherread, Parent-Home-Child, etc., must be included. Appropriate ongoing staff development activities must be incorporated in the district's Strategic Plan as required by Act 135.

#### VIII. Guidelines

Additional information relating to the implementation of this regulation, including service delivery methods, developmental screening instruments, and at-risk factors/criteria is contained in the "Guidelines for Implementing Parenting/Family Literacy Programs," available at the State Department of Education. The State Board of Education will review and update the "Guidelines" as needed.

**HISTORY:** Added by State Register Volume 24, Issue No. 6, eff June 23, 2000.

### **43-267. Early Childhood Assistance Programs — Grades K-3.**

(Statutory Authority: 1976 Code § 59-5-60 and 1993 Act #135, The Early Childhood Development and Academic Assistance Act)

#### I. Program Goals

- A. To place an emphasis on early childhood education and prevention.
- B. To focus the state's resources on academic success and prevention of academic problems.
- C. To establish the expectation that by providing extra assistance and learning time, all children will be prepared for the fourth grade.
- D. To promote the advancement of developmentally appropriate curriculum.
- E. To promote coordinated programs from preschool through grade three which are supportive of the curriculum for grades four through twelve.
- F. To allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance.
- G. To plan for accelerating the performance of students performing below their peers.

#### II. Requirements

A. Districts and schools shall develop and implement a developmentally appropriate curriculum model from pre-school through grade three.

If alternatives to the options listed in the guidelines are chosen for use in the Early Childhood Assistance Programs, they should be based on the needs assessment performed as a part of the district and/or school comprehensive plan and on strategies found to be effective in research.

B. Schools shall establish programs of activities for assisting children and their parents with the transitions between the various levels of schooling.

C. Districts and schools shall integrate the planning and direction of the half-day program for four-year-olds with other early childhood initiatives.

D. Districts and schools shall integrate the planning and direction of the parenting/family literacy program established in Section 59-1-450 with the early childhood initiatives.

E. Districts and schools shall design methods of assessing the efficacy of the early childhood programs or strategies implemented.

F. Districts and schools shall demonstrate coordination of the program or strategies implemented with federally-funded early childhood programs.

G. Districts and schools shall demonstrate the interrelationship of the various components of the early childhood initiatives for grades K-3 and the academic assistance programs for grades 4-12.

H. Districts and schools shall implement a program that expands and improves early child development activities.

I. Districts and schools shall implement an Early Childhood Assistance program that plans for accelerating the performance of students performing below their peers.

### III. Funding

The General Assembly shall determine an appropriation level for the funding.

A. The number of students in kindergarten through grade three who are eligible for the federal free and reduced-price lunch program will generate funds at a specified add-on weight.

B. Funds generated shall be used to provide needed academic assistance to any student in these grades.

C. Funds may be used to support other components of the early child development initiative as detailed in each district/school's comprehensive plan.

D. Districts may request a waiver from the State Board of Education to use a portion of the funds generated by students in kindergarten through grade three for students in grades four through twelve, if such a change promotes better coordination of state and federal funds.

E. A portion of the funds may be used to support other components of the early childhood initiatives in order to better prepare children for entering school.

F. Expenditures must adhere to definitions and guidelines established by the Office of Finance, South Carolina Department of Education, or the State Procurement Code.

### IV. Professional Development

Appropriate training to prepare teachers and administrators in the teaching techniques and strategies needed to implement the regulations shall be included in the district strategic plan and school renewal plans.

### V. Guidelines

Additional information relating to the implementation of this regulation, including but not limited to:

1. definition of terms,
2. explanation of program models,
3. procedures for selecting alternative options for methods of service

is contained in the "Guidelines for Implementing Early Childhood Assistance Programs —Grades K-3" available at the State Department of Education. The State Board of Education will review and update, if required, the "Guidelines" on an as needed basis.

## **43–268. Academic Assistance Programs — Grades 4–12.**

(1976 Code § 59–5–60 and 1993 Act #135, The Early Childhood Development and Academic Assistance Act)

### I. Program Goals

- A. To focus the state’s resources on academic success and prevention of academic problems.
- B. To establish the expectation that by providing extra assistance and learning time all students will graduate from high school with their peers.
- C. To allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance.
- D. To support students with academic difficulties in grades four through twelve so they are able to progress academically and move through school with their peers.

### II. Requirements

A. Districts and schools shall develop and implement academic assistance programs which address alternatives to year-long and pull-out remediation methods of service. If alternatives to the options listed in the guidelines are chosen, they should be based on the needs assessment performed as a part of the district and/or school comprehensive plan and on strategies found to be effective in research.

B. Options for methods of service and descriptions of service that are available to districts and schools are included in the “Guidelines to Academic Assistance Programs —Grades 4–12”.

C. Districts and schools may choose to target resources in certain grade levels or areas of learning.

D. Assistance may be for short, intensive periods or for longer, on-going assistance as needed by each student.

E. Emphasis is on providing assistance at the time of need and on accelerating the progress of students performing below their peers.

F. Districts and schools shall implement a parent involvement program in grades four through eight.

G. Districts and schools shall develop a system for maintaining a record of parent conferences annually that identify the date, time, and response of parent/teacher conferences.

### III. Funding

The General Assembly shall determine an appropriation level for the funding.

A. The number of students in grades 4–12 who score below minimum basic skills act standards in reading, mathematics, or writing, or their equivalent will generate funds at a specified add-on weight.

B. Funds generated shall be used to provide needed academic assistance to any student in these grades.

C. Expenditures must adhere to definitions and guidelines established by the Office of Finance, State Department of Education, or the State Procurement code.

### IV. Professional Development

Appropriate training to prepare teachers and administrators in the teaching techniques and strategies needed to implement the Academic Assistance Programs shall be included in the district strategic plan and school renewal plans.

### V. Guidelines

Additional information relating to the implementation of this regulation, including but not limited to:

1. Definitions of terms,
2. Explanations of program models,
3. Procedures for selecting alternative options for methods of service

is contained in the “Guidelines for Implementing Academic Assistance Programs” available at the State Department of Education. The State Board of Education will review and update, if required, the “Guidelines” on an as needed basis.

**HISTORY:** Added by State Register Volume 18, Issue No. 6, eff June 24, 1994.

## **ARTICLE 20**

### **STUDENTS**

#### **43–272. School Admission.**

A. Kindergarten and Grades 1–12: Each kindergarten and first-grade pupil not previously enrolled shall submit a birth certificate or other documentation to verify a birth record in special situations as allowed by a local board of trustees. All students in grades K-12 must show evidence of compliance with Department of Health and Environmental Control rules and regulations concerning immunization.

B. Preregistration for Grades 9–12: Each high school shall develop a preregistration form outlining the courses in which a student may enroll for their entire high school career.

C. Preregistration for Career Centers: Each career center shall develop a preregistration form in cooperation with participating high schools which outlines the career and technology education courses students may take in Grades 9–12.

**HISTORY:** Amended by State Register Volume 21, Issue No. 3, eff March 28, 1997; State Register Volume 38, Issue No. 6, Doc. No. 4397, eff June 27, 2014.

#### **43–272.2. State-Level Resolution Process for Disputes Involving Unaccompanied Youth and Homeless Children.**

(Statutory Authority: 20 U.S.C. § 7844 (Supp. 2003))

The federal Stewart B. McKinney Homeless Assistance Act requires that each state implement a state-level process to review district-level decisions regarding the enrollment of a homeless child or an unaccompanied youth. An unaccompanied youth or the parent or guardian of a homeless child may request that the state conduct a review of a school district’s final decision regarding an enrollment issue. The contact person at the State Department of Education is the coordinator for the Office of Coordinator for Education of Homeless Children and Youth.

Under no circumstances must resolution of a dispute delay the school enrollment of an unaccompanied youth or a homeless child. That is, during the pendency of any administrative or judicial proceeding regarding a dispute over the enrollment of an unaccompanied youth or homeless child, the student must continuously be enrolled in school, be provided all relevant services, and be allowed to participate fully in all school activities (as consistent with the Stewart B. McKinney Homeless Assistance Act, as amended).

##### **I. Responsibilities of the School District**

A. When it is determined that a dispute cannot be settled at the district level, the school district must carry out the following responsibilities in a timely manner:

1. inform the unaccompanied youth or the parent or guardian of the homeless child concerning his or her right to request that the State Department of Education review the decision of the school district,
2. inform the unaccompanied youth or the parent or guardian of the homeless child that this request must be made either on the district-supplied request-for-review form or by a telephone interview with the coordinator in the State Department of Education’s Office of Coordinator for Education of Homeless Children and Youth,
3. give the unaccompanied youth or the parent or guardian of the homeless child a copy of the State Department of Education’s request-for-review form and the contact information for the Office of Coordinator for Education of Homeless Children and Youth, and
4. inform the unaccompanied youth or the parent or guardian of the homeless child that he or she may seek the assistance of advocates or attorneys for the review.

B. Once the Office of Coordinator for Education of Homeless Children and Youth has received either the completed request-for-review form or has conducted a full telephone interview with the youth or the parent or guardian, the coordinator will send a copy of the completed form and any other relevant material to the school district.

The school district must send a written response to the state and to the person filing the state review request within five business days from the date it receives the request-for-review form.

#### II. Responsibilities of the Youth or the Parent or Guardian

A. The unaccompanied youth or the parent or guardian of the homeless child must complete and return the request-for-review form to the address designated on the form or must telephone the coordinator in the Office of Coordinator for Education of Homeless Children and Youth and make an oral report on the circumstances surrounding the request for review.

B. The youth or the parent or guardian either may attach to the form any additional information he or she thinks is relevant or may telephone the coordinator and provide the information orally.

#### III. Responsibilities of the Coordinator

A. The coordinator for the education of homeless children and youths will conduct all state reviews requested by unaccompanied youths or the parents or guardians of homeless children.

B. The coordinator will review all written documents submitted concerning the particular dispute. The coordinator may request additional information from the parties in making his or her determination.

C. The coordinator will make a final decision within ten business days of receiving the written response from the school district. The decision of the coordinator is binding and will be effective immediately.

**HISTORY:** Added by State Register Volume 31, Issue No. 1, eff January 26, 2007.

### **43–273. Transfers and Withdrawals.**

Kindergarten; Grades 1–6; 7–8:

#### Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

A school must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

Schools must transfer these records within ten business days upon receiving the written request from the public or private school to which the student is transferring. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

Grades 9–12:

#### Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

A. Accurate accounting records shall be developed and maintained for student transfers and withdrawals. Comprehensive transcripts shall be submitted directly to the receiving school when requested in writing, as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. A permanent record of the transferred student shall be retained in the school from which the student is transferred. The school of record must transfer a student's disciplinary record of suspensions and expulsions to the

public or private school to which the student is transferring as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

B. Units earned by a student in an accredited high school of this state or in a school of another state which is accredited under the regulations of the board of education of that state, or the appropriate regional accrediting agency (New England Association of Colleges and Schools, Middle States Association of Colleges and Schools, Southern Association of Colleges and Schools, North Central Association of Colleges and Schools, Western Association of Colleges and Schools, and the Northwest Association of Colleges and Schools), will be accepted under the same value which would apply to students in the school to which they transferred.

C. If a student transfers from a school, which is not accredited, he or she shall be given tests to evaluate prior academic work and/or be given a tentative assignment in classes for a probationary period.

**HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997; State Register Volume 27, Issue No. 12, eff December 26, 2003; State Register Volume 37, Issue No. 6, eff June 28, 2013.**

## **43–274. Student Attendance.**

### **I. Lawful and Unlawful Absences**

School districts must adopt policies to define and list lawful and unlawful absences.

#### **(A) Lawful absences include but are not limited to**

(1) absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,

(2) absences due to an illness or death in the student's immediate family,

(3) absences due to a recognized religious holiday of the student's faith, and

(4) absences due to activities that are approved in advance by the principal.

#### **(B) Unlawful absences include but are not limited to**

(1) absences of a student without the knowledge of his or her parents, or

(2) absences of a student without acceptable cause with the knowledge of his or her parents.

(C) Suspension is not to be counted as an unlawful absence for truancy purposes.

### **II. Truancy**

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

#### **(A) Truant**

A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

#### **(B) Habitual Truant**

A "habitual" truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

#### **(C) Chronic Truant**

A "chronic" truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a "habitual" truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the "chronic" truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.



### III. Intervention Plans

(A) Each district must develop a policy relating to requirements for intervention. The district plan for improving students' attendance must be in accordance with any applicable statutes.

(B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student's continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written "intervention plan" to address the student's continued absence in conjunction with the student and parent(s) or guardian(s).

(C) The intervention plan must include but is not limited to

(1) Designation of a person to lead the intervention team. The team leader may be someone from another agency.

(2) Reasons for the unlawful absences.

(3) Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

(4) Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.

(5) Actions to be taken by intervention team members.

(6) Actions to be taken in the event unlawful absences continue.

(7) Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).

(8) Documentation of involvement of team members.

(9) Guidelines for making revisions to the plan.

(D) School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse, and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

### IV. Referrals and Judicial Intervention

At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. Section 59-65-50 (2004), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. Section 20-7-490(2)(c)(Supp. 2002).

#### (A) Petition for a School Attendance Order

If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an "habitual" truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

#### (B) Petition for Contempt of Court

Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a "chronic" truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated

sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

#### V. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

#### VI. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school. School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

#### VII. Approval of Absences in Excess of Ten Days and Approval of Credit

##### (A) Approval or Disapproval of Absences

The district board of trustees, or its designee, shall approve or disapprove any student's absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K-12. For the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

##### (B) High School Credit

In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed, or must demonstrate proficiency as determined by the local school district. This exception to the 120-hour requirement is to be administered by local school districts on a case-by-case basis and only for students who have excessive absences that have been approved by the local school board. General request for proficiency-based credit must be made through the process described in Regulation 43-234. Students whose absences are approved should be allowed to make up any work missed in order to satisfy this requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not meet the minimum attendance requirements. Therefore, districts should allow students, whose excessive absences are approved in part 1 of this section, to make-up work missed to satisfy this requirement.

Examples of make-up work may include

(1) after-school and/or weekend make-up programs that address both time and academic requirements of the course(s), or

(2) extended-year programs that address both time and academic requirements of the course(s). All make-up time and work must be completed within thirty days from the last day of the course(s). The district board of trustees or its designee may extend the time for student's completion of the requirements due to extenuating circumstances that include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Make-up requirements that extend beyond thirty days due to extenuating circumstances must be completed prior to the beginning of the subsequent new year.

#### VIII. Reporting Requirements

The South Carolina Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

#### IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in South Carolina Department of Education Guidelines. The South Carolina Department of Education will review and update these guidelines as needed.

**HISTORY:** Amended by State Register Volume 21, Issue No. 5, eff May 23, 1997; State Register Volume 27, Issue No. 11, eff November 28, 2003; State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 38, Issue No. 6, Doc. No. 4408, eff June 27, 2014.

### Editor's Note

State Register Volume 10, Issue, page 182, dated February 28, 1986, provides as follows:

"These regulations supercede Defined Minimum Program requirements regarding Attendance, VIII, F, pp. 51-52."

## **43–274.1. At-Risk Students.**

(Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.)

### I. At-Risk Student Definition

A. A student at risk of dropping out of school is any student who, because of his or her individual needs, requires temporary or ongoing intervention in order to achieve in school and to graduate with meaningful options for his or her future.

B. Students—depending on their degree of resiliency and connectedness to caring adults in the home, in the community, and/or at school—may respond differently to those things frequently cited as barriers, predictors, or indicators of being “at risk.” Therefore, educators and other responsible adults working with students should consider the whole child, who might have both short-term and long-term needs requiring intervention.

### II. At-Risk Student Indicators, Predictors, and Barriers

The South Carolina Education and Economic Development Act mandates the promulgation of State Board of Education regulations outlining specific objective criteria for districts to use in identifying students who may be poorly prepared for the next level of study or who are at risk of dropping out of school. The Act calls for these criteria to include diagnostic assessments for districts to use in order to identify the strengths and weaknesses of individual students in the core academic areas.

A. Poor academic performance—generally, a grade point average of 2.0 or lower on a 4.0 scale—in the core content areas is a significant predictor that districts must consider in identifying at-risk students. Careful consideration should be given to students demonstrating declining academic performance. School districts are encouraged to carefully review a variety of assessments, including the following, in diagnosing students’ academic difficulties and selecting appropriate short-term and long-term interventions:

1. results of statewide assessments used for accountability purposes and other state-funded (e.g., formative) assessments,
2. Preliminary Scholastic Assessment Test (PSAT) or PLAN test results,
3. district- or school-adopted CAI (computer-aided instruction) assessments,
4. end-of-course examination results,
5. classroom-level assessments related to the state’s academic standards, and
6. other district-approved diagnostic assessments.

B. The following are among the specific behaviors and characteristics that school districts must consider as indicators, predictors, and barriers in identifying at-risk students:

1. being overage for their grade level due to retention attributable to risk factors such as a high rate of absences and truancy;
2. showing a lack of effort or interest in their academic work;
3. working an excessive number of hours per day or week;
4. having a history of discipline problems leading to suspension, expulsion, and/or probation;
5. showing or expressing feelings of being disconnected from the school environment;
6. showing evidence of physical and/or emotional abuse;
7. coming from and/or living in a disadvantaged socioeconomic environment;
8. living in a home situation that does not include at least one parent;
9. being a single parent; and
10. having limited proficiency in the English language.

### III. At-Risk Student Model, Initiative, and Program Selection

By the 2007–08 school year each high school of the state must implement one or more model programs approved by the South Carolina Department of Education (SCDE).

Schools must select at-risk student models, initiatives, and programs that meet the needs of the at-risk populations to be served and must ensure that models, initiatives, and programs selected provide students with the opportunity to graduate with a high school diploma. The SCDE will provide an implementation document that will include a tiered matrix of approved evidence-based models, initiatives, and programs to facilitate the selection process in accordance with the Education and Economic Development Act requirements for implementing evidence-based models, initiatives, and programs. The document will also contain a more extensive list of indicators, predictors, and barriers as well as one-page descriptions for each evidence-based model, initiative, and program included in the matrix.

#### IV. Population and Model, Initiative, and Program Identification Parameters

Each high school either must implement a model, initiative, or program that is chosen from a list provided by the SCDE or must submit to the SCDE for approval a specific dropout prevention model, comprehensive initiative, or multifaceted program that it wants to use. High schools may explore and implement newly developed models with approval from the SCDE. One criterion for SCDE approval of any newly developed model will be evidence presented by the district and/or school that the model is centered in research-based dropout-prevention strategies.

A. Implementation efforts related to any model, initiative, or program (or combination of models, initiatives, and programs) must ensure that students are properly identified and provided timely, appropriate guidance and assistance and must ensure that no group is disproportionately represented.

B. When subpopulations are identified, high schools must ensure that these groups reflect the demographics of populations identified as at risk of dropping out of school.

C. When no subpopulations are identified, high schools implementing comprehensive initiatives will not have to address the disproportionate representation of any one group of students. In such cases, methods of determining the effectiveness of the at-risk initiative must be given careful consideration with regard to collecting data and preparing necessary reports.

D. Parental involvement must be part of final placement decisions in any model, initiative, or program where small groups of students are identified for services in a particular school or district.

E. The target population must reflect the demographics of the population identified in Section II, above, as being at risk of dropping out of school.

F. High schools must provide relevant data related to identifying the at-risk student population and to addressing the needs of these at-risk students as required for SCDE reports.

#### V. Building-Level Program Evaluation

##### A. Evaluation Criteria

All high schools must annually evaluate their dropout-prevention models, initiatives, and/or programs using, at a minimum, the following criteria:

1. an identification process, including (where appropriate and based on the particular model, initiative, or program) the number of at-risk students identified and the specific risk factors identified;
2. the extent of parental involvement in the school's dropout-prevention efforts;
3. the number of students served;
4. a formative assessment of strengths and weaknesses of the model, initiative, and/or program; and
5. a qualitative assessment of desired outcomes (see item B, immediately below).

##### B. Desired Outcomes

Schools should establish desired outcomes or performance criteria based on the specific needs of the at-risk population identified and on the nature and structure of the particular model, initiative, and/or program they are implementing. Examples of desired outcomes among the target population include, but are not limited to, the following:

1. decreased percentages of truancy, absenteeism, discipline problems, and retentions;

2. increases in students' grade point averages; and
3. increased percentages of students who are on grade level and students who graduate on time.

Model-, initiative-, and/or program-specific data and PowerSchool™ data elements should be used to assess desired outcomes on the basis of specific evaluation criteria. The state's PowerSchool™ data management system can be used to collect, sort, and report data related to each student's attendance record; age and grade level; gender; ethnicity; grade point average; and retention, truancy, and dropout status.

C. Teacher and/or counselor assessments may be used to provide supplemental anecdotal documentation and insights related to the effectiveness of the model, initiative, and/or program implemented. A district or school checklist may be beneficial in the evaluation process.

#### VI. Model, Initiative, and/or Program Evaluation and Assessment Reporting

All high schools must annually provide reports requested by the SCDE that relate to the implementation and effectiveness of models, initiatives, and/or programs addressing the needs of students at risk of dropping out of school. District and school report card contents must contain information on the disciplinary climate, promotion and retention ratios, dropout ratios, dropout reduction data, and attendance data. Districts and schools must be prepared to provide accurate and relevant data to the SCDE.

**HISTORY:** Added by State Register Volume 31, Issue No. 5, eff May 25, 2007. Amended by State Register Volume 31, Issue No. 4 eff April 27, 2012; State Register Volume 41, Issue No. 5, Doc. No. 4656, eff May 26, 2017.

### **43–279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.**

#### I. Expectations for Student Conduct in South Carolina Public Schools

The mission of the SCDE is to provide leadership and support so that all public education students graduate prepared for success in citizenship, college, and careers as envisioned by the Profile of the South Carolina Graduate. Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

#### II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts that previously have adopted discipline policies that are consistent with and contain the elements included in this regulation may retain their local policies as adopted.

#### III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: behavioral misconduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible consequences and/or sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary consequences and/or sanctions increases.

D. Suggested consequences within the Level I misconduct category range from verbal reprimand to detention. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion. Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards and consequences than those contained in this regulation.

#### IV. Minimum Standards

##### A. Behavioral Misconduct-Level I

1. Behavioral misconduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of behavioral misconduct shall include, but are not limited to:

- a. Classroom tardiness;
- b. Cheating on examinations or classroom assignments;
- c. Lying;
- d. Abusive language between or among students;
- e. Failure to comply with directives from school/district personnel or agents (to include volunteer aides or chaperones);
- f. Use of forged notes or excuses;
- g. Cutting class;
- h. School tardiness;
- i. Truancy (three consecutive unlawful absences from school or a total of five unlawful absences);
- j. Possession of an electronic communication device (including, but not limited to, cell phones, tablets, computers, and iPods) inconsistent with school board policy. An electronic communication device is a device that emits an audible signal, vibrates, displays a message, image or otherwise summons or delivers a communication to the possessor;
- k. Other acts of behavioral misconduct as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of behavioral misconduct are:

- a. Upon observation or notification and verification of acts of behavioral misconduct, the staff member shall take immediate action to rectify the misconduct. The staff member shall impose an appropriate consequence, and maintain a record of the misconduct and the consequence.
- b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem shall be referred to the appropriate administrator for action specified by local school board policy.
- c. The administrator shall meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract.
- d. A complete record of the procedures shall be maintained.

4. Possible consequences to be applied in cases of behavioral misconduct may include, but are not limited to:

- a. Verbal reprimand;
- b. Withdrawal of privileges;
- c. Demerits;
- d. Detention (silent lunch, after school, weekends, or another time that does not interfere with the instructional day);
- e. Other consequences as approved and communicated by local school authorities.

## B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Behavioral misconduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

- a. Violation of a Level I intervention plan and/or behavioral contract;
- b. Use of an intoxicant;
- c. Fighting;
- d. Vandalism (minor);
- e. Stealing;
- f. Threats against others;
- g. Trespass;
- h. Abusive language to staff;
- i. Repeated refusal to comply with directives from school personnel or agents (such as volunteer aides or chaperones);
- j. Possession or use of unauthorized substances, as defined by law and/or local school board policy;
- k. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;
- l. Unlawful assembly;
- m. Disrupting lawful assembly;
- n. Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites);
- o. Other acts as determined and communicated by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator shall investigate the circumstances of the misconduct and shall confer with staff on the extent of the consequences.

b. The administrator shall notify the parent or guardian of the student's misconduct and related proceedings. The administrator shall meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct and impose the appropriate disciplinary action. Verification shall be defined as the following:

- (1) self-admittance by the student
- (2) witnessed involvement of the student by school administrators staff
- (3) parental admission of student involvement
- (4) evidence obtained through investigation by school administrators and staff

c. The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action.

d. The administrator or other school officials may refer Level II misconduct to the School Resource Officer or other local law enforcement authorities only when the conduct rises to a level of criminality, and the conduct presents an immediate safety risk to one or more people or it is the third or subsequent act which rises to a level of criminality in that school year.

e. A complete record of the procedures shall be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

- a. Temporary removal from class;
- b. Alternative education program;
- c. In-school suspension;
- d. Out-of-school suspension;
- e. Transfer;

- f. Referral to outside agency;
- g. Expulsion;
- h. Restitution of property and damages, where appropriate, shall be sought by local school authorities;
- i. Other sanctions as approved and communicated by local school authorities.

### C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. When school officials have a reasonable belief that students have engaged in such actions, then these activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of the School Resource Officer or other law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and during other school-sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

- a. Assault and battery that poses a serious threat of injury or results in physical harm;
- b. Extortion;
- c. Threat of the use of a destructive device (bomb, grenade, pipe bomb or other similar device);
- d. Possession, use, or transfer of dangerous weapons;
- e. Sexual offenses;
- f. Vandalism (major);
- g. Theft, possession, or sale of stolen property;
- h. Arson;
- i. Furnishing or selling unauthorized substances, as defined by law and/or local school board policy;
- j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons);
- k. Illegal use of technology (e.g., communicating a threat of a destructive device, weapon, or event with the intent of intimidating, threatening, or interfering with school activities and maliciously transmitting sexual images of minors other than images of the student or images transmitted with the uncoerced consent of the individual in the images).

3. "Acts of criminal conduct," for purposes of defining Level III conduct, do not include acts that only amount to disturbing schools, breach of peace, disorderly conduct, or affray under South Carolina law.

4. The basic enforcement procedures to be followed in instances of criminal conduct are:

- a. Upon observation or notification and verification of a criminal offense, the administrator shall contact the School Resource Officer or local law enforcement authorities immediately.
- b. An administrator shall notify the student's parent or guardian as soon as possible.
- c. An administrator shall impose the appropriate disciplinary action. If warranted, the student shall be removed immediately from the school environment.
- d. Established due process procedures shall be followed when applicable.
- e. A complete record of the incident shall be maintained in accordance with district policy.

5. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

- a. Out-of-school suspension;
- b. Assignment to alternative schools;
- c. Expulsion;



d. Restitution of property and damages, where appropriate, shall be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances

1. A local school board may confer upon the appropriate administrator the authority to consider extenuating or mitigating circumstances which may exist in a particular case of misconduct, excluding criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.

2. A local school board may confer upon the appropriate administrator the authority to consider aggravating circumstances which may exist in a particular case of misconduct or criminal conduct. Such circumstances shall be considered in determining the most appropriate sanction to be used.

V. Discipline of Students with Disabilities

For additional information regarding Disciplinary Procedures for students with disabilities, see Reg.43-243.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;
2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Speech and assembly within the public schools;
5. Publications produced and/or distributed in the public schools;
6. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
7. Other activities not in conflict with existing state statutes or regulations as approved and communicated by the local school authorities.

B. Rules of student conduct are required by state and federal law to be reasonable exercises of the local school board's authority in pursuance of legitimate educational and related functions and shall not infringe upon students' constitutional rights.

**HISTORY: Amended by State Register Volume 38, Issue No. 6, Doc. No. 4404, eff June 27, 2014; State Register Volume 41, Issue No. 5, Doc. No. 4657, eff May 26, 2017.**

# Appendix A.

The following chart is presented as a summary of types of misconduct, examples of misconduct, disciplinary procedures, and examples of sanctions. The chart includes much of the information covered in this regulation.

LEVELS OF MISCONDUCT	ACTS OF MISCONDUCT	ENFORCEMENT PROCEDURES	EXAMPLES OF THE RANGE OF SANCTIONS
I. <u>Disorderly Conduct</u>	<p>Misconduct which tends to impede orderly classroom procedure; or instructional activities, or daily operation of the school, or the frequency or seriousness of which disturbs the classroom or school</p>	<p>Classroom tardiness Cheating on examinations or classroom assignments Lying Acting in a manner so as to interfere with the instructional process Abusive language between or among students Failure to complete assignments or carry out directions Use of forged notes or excuses Cutting class School tardiness Truancy Other disorderly acts as determined by local school authorities</p>	<p>Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.</p> <p>If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.</p> <p>The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.</p> <p>A complete record of the procedures should be maintained.</p>
			<p>Verbal reprimand Withdrawal of privileges Demerits Detention Corporal punishment In-school suspension Other sanctions as approved by local school authorities</p>

**MINIMUM STANDARDS OF STUDENT CONDUCT AND  
DISCIPLINARY ENFORCEMENT PROCEDURES**  
(Continued)

LEVELS OF MISCONDUCT	ACTS OF MISCONDUCT	ENFORCEMENT PROCEDURES	EXAMPLES OF THE RANGE OF SANCTIONS
II.	<u>Disruptive Conduct</u>		
Misconduct directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school	Use of an intoxicant Fighting Vandalism (minor) Stealing Threats against others Trespass	Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.	Temporary removal from class Alternative education program In-school suspension Out-of-school suspension
Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times.	Abusive language to staff Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students Possession or use of unauthorized substances as defined by law or local school board policy Illegally occupying or blocking in any way school property with the intent to deprive others of its use	The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should confer with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.	Referral to outside agency Expulsion Restitution of property and/or damages, where appropriate, should be sought by local school authorities Other sanctions as approved by local school authorities
Unlawful assembly Disrupting lawful assembly Other acts as determined by local school authorities		A complete record of the procedures should be maintained.	

**MINIMUM STANDARDS OF STUDENT CONDUCT AND  
DISCIPLINARY ENFORCEMENT PROCEDURES**  
(Continued)

LEVELS OF MISCONDUCT	ACTS OF MISCONDUCT	ENFORCEMENT PROCEDURES	EXAMPLES OF THE RANGE OF SANCTIONS
<p>III. <u>Criminal Conduct</u></p> <p>Misconduct which results in violence to oneself or another's person or property or which poses a direct and serious threat to the safety of oneself or others in the school</p>	<p>Assault and battery</p> <p>Extortion</p> <p>Bomb threat</p> <p>Possession, use, or transfer of dangerous weapons</p> <p>Sexual offenses</p> <p>Vandalism (major)</p> <p>Theft, possession, or sale of stolen property</p> <p>Arson</p> <p>Furnishing or selling unauthorized substances as defined by local school board policy</p> <p>Furnishing, selling, or possession of controlled substances (drugs, narcotics, and poisons)</p>	<p>Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.</p> <p>If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.</p> <p>If appropriate, school officials should contact law enforcement authorities.</p> <p>Established due process procedures shall be followed when applicable.</p> <p>A complete record of the procedures should be maintained.</p>	<p>Out-of-school suspension</p> <p>Assignment to alternative schools</p> <p>Expulsion</p> <p>Restitution of property and damages, where appropriate, should be sought by local school authorities</p> <p>Other sanctions as approved by local school authorities</p>

## **APPENDIX B. Relevant State Law**

The following code citations pertain to rule making powers of boards, suspension, expulsion, student's right to hearing, transfer, corporal punishment, regulation of clubs, and disciplinary powers of school bus drivers.

59-19-90 (3). General powers and duties of school trustees.

The board of trustees shall also:

(3) Promulgate rules and regulations. Promulgate rules prescribing scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils as a condition to the right of such pupils to attend the public schools of such district. The rules shall take into account the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that such rules may result in the ineligibility of pupils who fail to observe the required standards, and require the suspension or permanent dismissal of such pupils.

59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for a commission of any crime, gross misbehavior, persistent disobedience, or for violation of written rules and regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Every expelled pupil shall have the right to petition for readmission for the succeeding school year. Expulsion or suspension shall be construed to prohibit a pupil from entering the school, or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions or riding a school bus. The provisions of this section shall not preclude enrollment and attendance in any adult or night school.

59-63-220. Suspension of pupils by administrators.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty-four hours of the suspension.

59-63-230. Notices of suspensions; conferences with parents or guardian.

When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. The conference shall be set within three days of the date of the suspension. After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

59-63-240. Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in Section 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

59-63-250. Transfer of pupils.

The board or a designated administrator may transfer a pupil to another school in lieu of suspension or expulsion but only after a conference or hearing with the parents or legal guardian. The parents or legal guardian may appeal a transfer made by an administrator to the board.  
59-63-260. Corporal punishment.

The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.

59-63-270. Regulation or prohibition of clubs or like activities.

Any district board of trustees may regulate, control, or prohibit clubs or other such activities on school property or during school hours.

59-67-240. Other duties of driver; discipline of pupils for misconduct.

The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all his pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the mornings and give pupils within sight a reasonable time in which to board his bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any misconduct or any violation of the driver's instructions by any person riding in his bus.

District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the driver.

## ARTICLE 23 EDUCATIONAL AGENCY RELATIONS

### **43-300. Accreditation Criteria.**

I. Each school district shall provide the defined program approved by the State Board of Education that complies with standards prescribed for the boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education centers; summer school programs; and adult education. If a school district's defined program is evaluated as failing to comply with prescribed standards, it shall be considered as offering a program that is deficient in meeting local educational needs and such failure shall be indicated in the status of the accreditation classification.

II. State Board of Education Approval Procedures: To be accredited by the State Board of Education, a school district or school shall obtain approval for the school district's or school's educational program by one of the following procedures.

A. Option 1. Accreditation through the South Carolina Department of Education (SCDE). Meet the standards in the defined program and all current statutes and regulations as prescribed by the State Board of Education and General Assembly determined by the SCDE through the procedures described below. With regard to special schools, the following documents contain the full text of accreditation standards adopted by the State Board of Education. The documents are on file in the Offices of the South Carolina Department of Education and the South Carolina Legislative Council:

Defined Minimum Program for the John de la Howe School

Defined Minimum Program for the South Carolina School for the Deaf and the Blind

Defined Minimum Program for the South Carolina Wil Lou Gray Opportunity School

Defined Minimum Program for the South Carolina Department of Juvenile Justice

B. Option 2. Accreditation through an Accrediting Entity Accepted by Higher Education. Submit documentation to the State Board of Education that the district and schools meet all accreditation standards and are considered fully accredited by an accrediting entity accepted by higher education (i.e., AdvancED/Southern Association of Colleges and Schools (SACS)). Use of an accrediting entity other than AdvancED will require approval by the State Board of Education. All deficiencies identified through desk or on-site monitoring must be resolved prior to the district or school utilizing Option 2. If district's or school's accreditation rating becomes less than fully accredited when utilizing Option 2, the district or school will automatically be reviewed by the South Carolina Department of Education's

Option 1 procedures. A list of schools and/or districts selecting Option 2 for accreditation will be included in the SCDE's Annual Report of the Accreditation of School Districts in South Carolina to the State Board of Education.

III. Option 1 accreditation procedures for each school district or school not submitting documentation of Option 2 accreditation:

A. On or before October 15, data assurances documenting the compliance of standards for boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education; summer school programs; and adult education will be submitted to the South Carolina Department of Education.

B. The South Carolina Department of Education will process the accreditation data and identify existing deficiencies for the following educational units: (1) Boards of Trustees, (2) District Operations, (3) Elementary Grades, (4) Middle Grades, (5) Secondary Grades, (6) Summer School Programs, (7) Career and Technology Education, and (8) Adult Education. Accreditation data will also be collected annually through desk and on-site monitoring of selected schools and districts. The listings of deficiencies will be reviewed by South Carolina Department of Education staff and results of the preliminary analysis indicating existing deficiencies will be provided to districts and schools for verification.

C. The preliminary analysis data shall result in the SCDE assigning one of the following accreditation preliminary classifications no later than February 1:

Accredited/All Clear indicates that a district or school is in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly.

Accredited/Advised indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly, but the deficiencies may be easily corrected and/or substantial progress can be made in removing existing deficiencies.

Accredited/Warned indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a second year. Districts that have a Warned accreditation classification are required to make substantial progress toward removal of deficiencies before submitting accreditation data the subsequent school year or the district's accreditation will be placed on Probation.

Accredited/Probation indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a third year. Serious deficiencies exist and the district, school, or program will lose its accreditation unless satisfactory progress is made toward the removal of the deficiencies before the next school year.

Accreditation Denied indicates that the district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a fourth year and does not merit accreditation. If the accreditation of a high school is denied, that school cannot issue State high school diplomas subsequent to the school year in which the accreditation is denied. Schools which have been classified as Accreditation Denied by the defined program accreditation procedures shall not be eligible for funding in the following fiscal year until an acceptable plan to eliminate the deficiencies is submitted and approved by the State Board of Education.

D. Each district and school is required to reply to the preliminary accreditation classification in writing to the South Carolina Department of Education, no later than February 22 and to provide written documentation to request removal of deficiencies prior to the South Carolina Department of Education assigning a final accreditation classification.

E. A copy of the final accreditation classification report for all Option 1 schools and districts will be provided to district superintendents, school principals, directors of career and technology education, directors of adult education, and members of the boards of trustees. The State Board of Education will receive the accreditation classification of all districts and schools utilizing Option 1 in the SCDE's Annual Report of the Accreditation of School Districts in South Carolina.

#### IV. Additional Requirement for Career and Technical Education:

In addition to the policies of the State Board of Education, programs under the jurisdiction of other state accrediting, certifying, or licensing boards shall meet requirements established by these boards.

#### V. On-Site Verification Visits by State Accountability Team

In addition to annual recommendation of a district's or school's accreditation classification, the SCDE's state accountability team will conduct desk audits and on-site verification visits on all districts and schools following a five-year cycle and yearly on those which have an accreditation status of accredited/warned, accredited/probation, or those districts and schools whose previous visit violations are still unresolved for the current year. The state accountability team will facilitate and conduct on-site verification visits within thirty days to districts and schools as directed by the State Board of Education or the State Superintendent of Education. The results of the verification visit will be reported to the State Board of Education.

**HISTORY: Amended by State Register Volume 38, Issue No. 6, Doc. No. 4400, eff June 27, 2014.**

### **43-302. Palmetto Gold and Silver Awards Program.**

(Statutory Authority: 1976 Code §§ 59-5-60, 59-18-1100)

#### A. Program Implementation

The Palmetto Gold and Silver Awards Program is established to recognize and reward schools for academic achievement. Awards will be established for schools attaining high levels of absolute performance and for schools attaining high rates of improvement. The program shall be operated by the State Department of Education in accordance with program criteria established by the Division of Accountability of the Education Oversight Committee.

#### B. Expenditure of Award Funds

Award funds are to be used to improve and/or maintain exceptional student academic performance according to the school's renewal plan. Funds may be utilized for professional development support.

Allowable costs include equipment, materials and supplies, contractual services, substitutes, and travel. Specific guidelines for the expenditure of award funds will be provided to each school receiving an award. An expenditure report specifying the manner in which those monies were expended must be submitted to the Department of Education at the conclusion of the grant period.

**HISTORY: Amended by State Register Volume 27, Issue No. 3, eff March 28, 2003.**

### **43-303. Flexibility Through Deregulation Program.**

(Statutory Authority: S.C. Code Ann. §§ 59-18-1110 and 59-18-1120 (Supp. 2002))

#### I. Program Implementation

The Education Accountability Act, S.C. Code Ann. §§ 59-8-1110 and 59-18-1120 (2002), provide for the recognition of schools based on student performance. Schools that continually receive recognition are rewarded by exemptions from regulations and statutes (59-18-1110). Special provisions also allow exemptions from some regulations or statutes to other schools (59-18-1120).

The State Department of Education (SDE) will operate the program in accordance with program guidelines developed by the State Board of Education (SBE) in consultation with the Education Oversight Committee (EOC). The guidelines shall include eligibility criteria, operation procedures, related monitoring activities, reporting requirements, and state statutes and regulations exempted under the program. Approved program guidelines will be made available by the SDE upon request. The SBE may revise program guidelines on an annual basis in consultation with the EOC. Current guidelines will be posted on the SDE Web site.

Schools deregulated under former flexibility through deregulation statute, S.C. Code Ann. § 59-18-15 (repealed), and former State Board of Education Regulation 43-303 (amended) must re-qualify for flexibility status under these regulations.

#### II. Eligibility Criteria

A. Eligibility for flexibility begins in February 2005.



B. A school may be eligible in one of three ways. Special conditions apply to each type of eligibility.

1. Criteria for Deregulated Schools

Each of the following criteria must be met during the three-year period prior to the school year in which the school is given flexibility status.

- a. The school has twice been a recipient of either a Palmetto Gold or Silver Award.
- b. The school has met annual improvement standards for subgroups of students in reading and mathematics.
- c. The school must have exhibited no recurring accreditation deficiencies.

2. Criteria for Unsatisfactory Schools

An unsatisfactory school may be given flexibility status when each of the following conditions are met:

- a. The statutes or regulations exempted must deal with the core academic areas.
- b. The External Review Team (ERT) recommends specific regulations and statutes for flexibility to the SBE in the ERT report.
- c. If recommended by the ERT, the school plan must be amended to explain how the exemption will improve school and student performance.

3. Criteria for Schools through School Plans

Schools may receive flexibility status when each of the following conditions are met:

- a. The school has met annual improvement standards for subgroups of students in reading and mathematics.
- b. Amendments to the school renewal plan must explain why exemptions are expected to improve the academic performance of the students.
- c. The plan meets the approval by the SBE.

III. Stability of School Grade Organization

Changes in grade structure that result in less than a majority of grades being maintained from the preceding school year will cause a school to be removed from flexibility status. The flexibility status is not transferable to another school if the school that has such status is closed or consolidated with another school.

IV. Notification of Schools and School Districts

The SDE will annually determine schools that are eligible to receive flexibility status based on meeting criteria as deregulated, meeting SBE criteria through a school plan, and meeting criteria for specific exemptions recommended by the ERT. The SBE must approve flexibility status for schools meeting SBE criteria through a school plan and for schools meeting criteria for specific exemptions recommended by the ERT. Flexibility status will be in effect immediately upon determination of deregulated schools or approval by the SBE of other schools. The local boards of trustees, district superintendents, and principals of the schools will be notified by the SDE of their flexibility status.

V. Nonacceptance of Flexibility Status

A. A local board of trustees may notify the SBE of its decision not to accept the flexibility status of an deregulated school within the district. Written notification by the local board of trustees will result in the school's immediate removal from flexibility status and the restoration of all statutory and regulatory requirements. Written notification for nonacceptance must be received within sixty days of the declaration of flexibility status.

B. Subsequent monitoring by the SDE in a school that is removed from flexibility status will not include a review of program records for the exempted period.

VI. Continuation of Flexibility Status

A. A deregulated school initially given flexibility status will be eligible to continue in that status provided that annually the following conditions are met:

1. The school exhibits improvement at or above the state average as computed in the Palmetto Gold and Silver Awards Program pursuant to S.C. Code Ann. § 59-18-1100 (2002).

2. The school must meet the gains required for subgroups of students in reading and mathematics.

3. The school must have exhibited no recurring accreditation deficiencies.

B. An unsatisfactory school initially given flexibility status through an approved ERT report will be eligible to continue in that status provided that annually the following conditions are met:

1. The ERT reviews the overall improvement as outlined in the amended plan and recommends continuation.

2. The school must meet the gains required for subgroups of students in reading and mathematics.

3. The school must have exhibited no recurring accreditation deficiencies.

C. A school initially given flexibility status through an amended school plan will be eligible to continue in that status provided that annually the following conditions are met:

1. The school must exhibit overall improvement as outlined in the amended plan.

2. The school must meet the gains required for subgroups of students in reading and mathematics.

3. The school must have exhibited no recurring accreditation deficiencies.

#### VII. Application for Extension of Flexibility Status

A school that does not re-qualify for flexibility status may apply to the SBE for an extension of the status for one year, provided extenuating circumstances exist that account for its inability to meet the requirements to maintain that status. The district superintendent and school principal must make the application for extension to the SBE within thirty (30) days of the receipt of notification of the school's removal from flexibility status.

A school no longer unsatisfactory may apply for a one-year extension of flexibility status for those exemptions approved in the ERT report provided the district superintendent and school principal make the application for extension to the State Board of Education within thirty days (30) of the receipt of notification of the school's removal from unsatisfactory status.

#### VIII. Exemptions from Requirements

Schools receiving flexibility status are exempted from those regulatory and statutory provisions governing the defined program including, but not limited to, class scheduling, class structure, and staffing. Specific standards exempted appear in an appendix of the SBE-approved guidelines.

#### IX. Resumption of Statutory and Regulatory Requirements

A school removed from flexibility status will be subject to regulatory and statutory provisions exempted under this program at the beginning of the school year following notification of the change in status by the SDE. Nonacceptance of flexibility status requires compliance with all regulatory and statutory provisions immediately. Subsequent monitoring by the SDE in a school that is removed from flexibility status will not include a review of program records exempted under program guidelines for the period that the school was given flexibility status.

**HISTORY:** Amended by State Register Volume 28, Issue No. 6, eff June 25, 2004.

### **43–307. Alignment of Assessment and Accountability Elements with the No Child Left Behind Act.**

I. The State Board of Education and the South Carolina Department of Education will align its assessment and accountability elements with the measures mandated by federal law.

II. The State Board of Education authorizes the South Carolina Department of Education to develop and amend the State Accountability Workbook as necessary to meet U.S. Department of Education approval.

**HISTORY:** Added by State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4603, eff June 24, 2016.

## ARTICLE 25

### TEACHER TRAINING PROGRAMS IN MATHEMATICS, SCIENCE AND COMPUTER EDUCATION

**43–500.** Repealed by State Register Volume 38, Issue No. 6, Doc. No. 4405, eff June 27, 2014.

#### Editor's Note

Former R. 43-500 was titled **Operation and Funding of Teacher Training Courses in Mathematics, Science, Reading and Computer Education.**

## ARTICLE 26

### CHARTER SCHOOLS

**43–601. Procedures and Standards for Review of Charter School Applications.**

#### I. DEFINITIONS

A. A “charter school” means a public, nonreligious, nonhome-based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

B. “Applicant” means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

C. “Sponsor” means the South Carolina Public Charter School District Board of Trustees; the local school board of trustees in which the charter school is to be located, as provided by law; a public institution of higher learning, as defined in Section 59–103–5; or an independent institution of higher learning, as defined in Section 59–113–50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school’s local education agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

D. “Charter committee” means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

E. “Certified teacher” means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59–27–10 and 59–25–115.

F. “Noncertified teacher” means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59–25–115.

G. “Charter school contract” means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

H. “Resident public school” means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.”

I. "Local school district" means any school district in the state except the South Carolina Public Charter School District, or a public institution of higher learning, as defined in Section 59-103-5; or an independent institution of higher learning, as defined in Section 59-113-50 and does not include special school districts.

J. "Scholastic year" means the year that begins on the first day of July of each year and ends on the thirtieth day of June following.

K. "Alternative Education Campus (AEC)" means any charter school with an explicit mission as outlined in its charter to serve an enrolled student population as outlined in Section 59-40-111.

## II. APPLICATION REVIEW GUIDELINES FOR SPONSORS

### A. Review of Applications

All charter school applications must be reviewed by the sponsor to determine compliance with the standards established below. The applications submitted to the sponsor must demonstrate compliance with each standard. The sponsor must make a determination to either approve or deny the charter.

### B. Application Timeline

An applicant shall submit a letter of intent at least ninety days before submitting an application to the selected sponsor and a copy to the South Carolina Department of Education. Applications must be submitted to the sponsor and one copy to the South Carolina Department on or before February 1, beginning with the 2016 charter school application cycle. The sponsor's deadline must ensure completion of the review process by December 1 of the year preceding the opening of the charter school. If a charter, to include a conditional charter, is not issued by December 1, the opening will be delayed one scholastic year. Charter applications must propose school openings that are consistent with South Carolina's definition of a scholastic year.

### C. Requests for Clarifying Information

If the sponsor determines that an application does not meet one or more of the standards, it may request clarifying information from the applicant prior to or during the hearing. The sponsor has the authority to incorporate this clarifying information into the application.

### D. Proposed Contract

A contract between the charter school and the sponsor must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

## III. CHARTER SCHOOL APPLICATION STANDARDS

The charter school application, based on an application template with compliance guidelines developed by the South Carolina Department of Education, must include:

### A. Executive Summary

The charter school application must include an executive summary which must be consistent with the intent of the Charter Schools Act of 1996 and must not exceed two pages in length.

### B. Mission Statement

The charter school application must include a mission statement that must be clear and must support the principles of the Charter Schools Act.

### C. Support for Formation of a Charter School

1. The application must include evidence that an adequate number of parents or legal guardians with students eligible to attend the proposed school pursuant to Section 59-40-50 support the formation of the charter school and justify the projected per pupil allocation in the application budget.

2. If the social situation of the proposed school's targeted population precludes establishing parental support, evidence should demonstrate support from community groups and agencies, including letters from these entities that specify the level of their commitment to the school.

3. In the case of a proposal to convert a school, the application must also include evidence that two-thirds of the faculty and instructional staff voted to support the filing of the application and evidence that two-thirds of the voting parents or legal guardians voted to support the filing of the application. Parents or guardians shall have one vote for each of their children enrolled in the school (i.e., each student may be represented by only one vote). All parents or legal guardians of students enrolled in the school must be given the opportunity to vote.

#### D. Admissions Policies and Procedures

The application must include a description of the charter school's admission policies and procedures:

1. The admission policies and procedures must reflect compliance with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services.

2. The admission policies and procedures must provide that, subject to space limitations, the charter school admits all children who are eligible to attend public school in the school district where the charter school is operating, except in the case of an application to create single-gender schools. For schools within the South Carolina Public Charter School District, or institutions of higher education, the enrollment is open to all children who are eligible to attend public school in the state. If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, as specified in federal or state guidance. There is no appeal to the sponsor.

3. The policies and procedures must not limit or deny admission or show preference to any individual group except in the case of an application to create single-gender schools; however, priority, which may not exceed twenty percent of the enrollment of the charter school for the categories in (b) and (c) below, may be given to

- a. a sibling of a pupil currently enrolled or attending, or who within the last six years attended the school for at least one complete academic year,
- b. children of charter school employees, and
- c. children of the charter school committee.

4. Admission priority must be given to all students enrolled in a school undergoing a conversion. All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

5. The policies and procedures must include provisions to grant or deny permission for students to attend the charter school if they reside in a school district other than the one where the charter school is located. This section is not applicable to schools authorized by the South Carolina Public Charter School District or institutions of higher education.

- a. In-district students will be given priority.
- b. Out-of-district student enrollment must not exceed 20 percent of the total enrollment of the charter school without the approval of the receiving district board of trustees. The sending district must be notified immediately of the transferring students. Out-of-district students must be considered on the basis of the order in which their applications are received.
- c. If the 20 percent of the out-of-district students are from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school.

6. A charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school, as its principal location, also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed 50 percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by

this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority.

7. If a charter school denies admission to a student for reasons other than the results of a lottery, the student may appeal the denial to the sponsor. The decision will be binding on the student and the charter school.

#### E. Goals, Objectives, Educational Program, Curriculum, and Academic Performance Standards

The charter school's goals, objectives, educational program, curriculum, and academic performance standards must be clearly described in the application and must meet or exceed any student academic standards adopted by the school district in which the charter school is located. The application must demonstrate that the educational program is designed to enable each student to achieve these standards.

1. The goals and objectives must be clearly stated and must provide enough detail to indicate specific outcomes.

2. The student population must be identified by grade level, unique educational needs, and projected enrollment. A converted charter school must offer the same grades, or non-graded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion and may also provide additional grades and further educational offerings.

3. The educational goals must reflect the school's mission statement.

4. Strategies to accomplish the educational goals must be included.

5. The school calendar must be at least 180 instructional days.

6. Academic standards must identify what students will achieve at each grade level and must meet or exceed the South Carolina curriculum standards, as adopted by the State Board of Education. A correlation or other documentation must be included or process identified to ensure that the school will provide an instructional program that meets or exceeds the academic standards.

7. If the charter school plans to offer the South Carolina State High School Diploma, the application must set forth the method for meeting the state requirements for the High School Diploma, including, but not limited to, course unit requirements, seat time for Carnegie Units, as applicable, and the administration of the required examinations.

8. Provisions must be included for determining if all students are achieving or attaining the standards, including the methods by which student performance information will be gathered and monitored.

9. The application must include an explanation as to how the school will comply with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

#### F. Student Assessment

The application must include a description of the charter school's plan for evaluating pupil achievement and progress toward accomplishment of the school's achievement standards. The school's evaluation plan must include state-mandated assessments and other assessments as well as the timeline for meeting these standards and the procedures to be taken if pupil achievement falls below the standards.

1. Methods for evaluating pupil achievement at each grade level must be specified. These methods must include but should not be limited to the state assessments.

2. The timeline must identify the expected yearly progress toward meeting the school's long-term performance goals. The expected yearly progress must meet or exceed the expectation of the federal accountability system recognized by the U.S. Department of Education.

3. Provisions must be included to address the needs of students who do not perform at acceptable levels of proficiency in the statewide assessment program.

#### G. Budget and Accounting System

The application must include a plan for the charter school that is economically sound and in compliance with state and federal requirements:

1. A budget for the term of the charter must be included. The charter school must use the same budget codes as are required of school districts. The budget must be based on documented State Department of Education estimated revenues in accordance with the allocations in S.C. Code Ann. Section 59–40–140(A)-(C). If the budget includes funds acquired through grants, the application must present evidence that the funds, including federal public charter school start-up grants, are likely to be received, and the terms of the projected grants must be explained. Anticipated expenditures must include all costs associated with initial implementation and continued operation, including but not limited to instructional and support costs for:

- a. salaries,
- b. employee benefits,
- c. purchased services (includes insurance and transportation),
- d. supplies and materials (includes noncapital equipment), and
- e. capital outlay.

2. The application must include a description of the annual audit of the financial and administrative operations of the charter school, including evidence that the charter school will adhere to the accounting, auditing, and reporting procedures and requirements that are applied to public schools operating in South Carolina. Accounting, auditing, and reporting requirements must be in compliance with the principles set forth in the following publications, published annually by the Office of Finance:

- a. Single Audit Guide,
- b. Financial Accounting Handbook, and
- c. Funding Manual.

3. The application must include documentation regarding the pupil accounting system, including evidence that the charter school will adhere to the procedures and regulations that are applied to public schools operating in South Carolina. Pupil accounting and reporting requirements must be in compliance with the S.C. Pupil Accounting Manual and the S.C. Student Accountability Manual, published by the State Department of Education.

4. The application must include documentation of any negotiated services provided by the sponsor, including but not limited to financial accounting, payroll services, food services, custodial services, maintenance, curriculum, library and media services, and warehousing.

#### H. Governance and Operation

The application must include a description of the governance and operation of the charter school including:

1. A detailed school start-up plan, resumes and background information on the charter committee members, the capacity and experience of the school leadership and management team, any involvement with the replication of existing successful public charter schools, any proposed management company or educational service provider responsibilities, and the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school.

2. The charter school must be organized as a South Carolina non-profit corporation and the application must include a copy of the non-profit corporation's articles of incorporation and bylaws.

3. The charter committee must include at least one teacher.

4. The board of directors must consist of seven or more individuals with the exact number specified in or fixed in accordance with the bylaws. Members of a board of directors may serve a term of two years, and may serve additional terms. A choice of the membership of the board must take place every two years. Fifty percent of the members of the board as specified by the bylaws must be individuals who have a background in K-12 education or in business, and the bylaws of the charter school also must provide for the manner of selection of these members. In addition, at least 50 percent of the members of the board as specified by the bylaws must be elected by the employees and the parents or guardians of students enrolled in the charter school. Parents or guardians shall have one vote for each student enrolled in the charter school. All members must be residents of the State of South Carolina. A person who has been convicted of a felony must not be elected to a board

of directors. If the board of directors consists of an odd number of members, the extra member must be an individual who has a background in K-12 education or in business;

5. The charter committee must assume the following responsibilities:

- a. employing and contracting with teachers and nonteaching employees;
- b. ensuring that teachers, whether certified or noncertified, undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school;
- c. contracting for other services;
- d. developing pay scales, performance criteria, and discharging policies for its employees;
- e. deciding all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures; and
- f. ensuring that the charter school will adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools operating in the same school district.

6. The application must include a description of the administrative structure of the charter school, including the roles and responsibilities of each administrative staff member.

7. Evidence of the nature and extent of parental, community, and professional educator involvement in the governance and operation of the school must be provided.

8. Evidence must be provided that the charter school and its governing body will comply with the Freedom of Information Act. Such evidence may include the bylaws of the nonprofit corporation, which must be established prior to application.

#### I. Administrative and Teaching Staff

The charter school must employ administrators and teachers in a manner consistent with the Charter Schools Act:

1. Part-time noncertified teachers must be considered pro rata in calculating staff percentages based on the hours which they are expected to teach.

2. A noncertified teacher must be appropriately qualified for the subject matter taught, must have completed at least one year of study at an accredited college or university, and must meet the qualifications outlined in S.C. Code Ann. Section 59–25–115.

3. A certified teacher must hold current certification by the State of South Carolina to teach in a public elementary, middle, or secondary school.

#### J. Racial Composition

The application must describe how the charter school intends to ensure that the enrollment of the school is similar to the racial composition of the school district or to the targeted student population the charter school proposes to serve and must also provide assurance that the school complies with any school district desegregation plan or order in effect:

1. The application must demonstrate timely, fair, and realistic policies and procedures for recruiting, registering, and admitting students that reflect the racial composition of the school district or the targeted school population.

2. The proposed procedures and policies must reflect an understanding of the racial composition of the district and the targeted student population.

3. To ensure compliance with a desegregation plan or order, the charter school applicant should take the following steps and provide documentation that these steps were taken in its application:

- a. request and receive a letter from the district indicating whether the school will be subject to any desegregation plan or order;
- b. secure a copy of the desegregation plan or order if the school is subject to such;
- c. determine and demonstrate that the charter school's policies and procedures are in compliance with the desegregation plan or order;



d. request and receive a letter from the district that indicates whether the charter school's proposed policies and procedures are in compliance with any desegregation plan or order in effect in the district or whether clarification must be received from the Office for Civil Rights.

#### K. Transportation

The application must include a description of how the charter school intends to meet the transportation needs of its pupils:

1. If the charter school will provide transportation by school bus, the application must include a plan that complies with the state requirements for drivers and training and the state safety requirements for school buses.

If the lack of transportation is preventing students from attending, the charter school should provide a plan to address their transportation needs.

2. If the charter school intends to contract with the district or a third party for transportation services, a description of those services and a proposed contract must be provided in the application.

3. A charter school is not required to provide or facilitate transportation for out-of-district students.

#### L. Facilities and Equipment

The application must include a description of the building, facilities, and equipment and an explanation as to how they will be obtained.

1. If a facility suitable for use by the charter school is identified at the time of application, the application must provide the following information with regard to the facility that the charter school intends to occupy:

(a) the address of the facility;

(b) a description of the facility;

(c) a floor plan of the facility, including a notation of its size in square footage;

(d) the name and address of the owner of the facility;

(e) a copy of the proposed lease or rental agreement if the facility will be leased or rented; and

(f) a description of the equipment that will be used to support the proposed curriculum and an explanation as to how the equipment will be obtained.

2. If the charter school has not identified a suitable facility, the application must specify a plan for obtaining such a facility and must include:

(a) a description of the facility needs

(b) a statement as to whether an existing facility will be remodeled or a new facility will be built;

(c) a schedule for completing or obtaining a suitable facility and, if applicable, a description of and timeline for any plan to raise funds for completing or obtaining the facility; and

(d) a description of the equipment that will be used to support the proposed curriculum and an explanation as to how the equipment will be obtained.

#### M. Employee Relations

The application must explain the relationship that will exist between the charter school and its employees, including evaluation procedures:

1. The application must include a description of the process that will be used to advertise for, select, and employ instructional staff and other employees.

2. The procedure for the evaluation of teachers of the charter school must be outlined in the application.

a. The charter school may choose to use the ADEPT (Assisting, Developing, and Evaluating Professional Teaching) program or other teacher evaluation method consistent with the state-approved evaluation systems. If ADEPT is to be used, the school must meet all requirements of the program.

b. If the charter school selects another method of evaluation other than ADEPT, that method must be explained with adequate detail. Teachers with Initial Teaching Certificates in those

schools can advance to a renewable Limited Professional Teaching Certificate but cannot advance to a full Professional Teaching Certificate.

3. The application must explain how the terms and conditions of employment will be addressed with affected employees.

#### N. Grievance and Termination Procedures

The charter school must have a reasonable grievance and termination procedure for its employees:

1. The charter school may, with agreement from the sponsor, adopt the procedures for the employment and dismissal of teachers outlined in S.C. Code Ann. Section 59-25-410 et seq. (1990).

2. If the charter school does not adopt procedures for the employment and dismissal of teachers outlined in S.C. Code Ann. Section 59-25-410 et seq. (1990), the charter school must establish employment and termination procedures that provide for notice and a right to a hearing before the governing board.

3. The charter school application must include grievance or termination procedures for paraprofessionals and other staff.

4. Teachers and other staff members who are employed at a public school that converts and who desire to continue to teach or work at the converted school may do so but will remain employees of the local school district with the same compensation and benefits including any future increases.

#### O. Student Conduct, Rights, and Responsibilities

The charter school application must include a policy governing student conduct, student rights and responsibilities, and student discipline standards and procedures:

1. The policy must set forth disciplinary actions to be taken by the administration for breaches of the student conduct policy.

2. The application must set forth an appeal process for students recommended for expulsion that includes a right to appeal a decision to the charter school board.

3. The application must set forth an assurance that the charter school will comply with S.C. Code Ann. Section 59-63-235 (Supp. 2001), which provides for the expulsion of any student who brings a firearm to school.

4. The application must include an assurance that the charter school will comply with the Family Education Rights and Privacy Act (20 U.S.C. Section 1232).

5. The application must contain the explanation of the policies with regard to student conduct, rights, and responsibilities that will be given to parents and students at the beginning of the school year.

#### P. Indemnification

The charter school must assume the liability for the activities of the charter school and must agree to indemnify and hold harmless the school district, its servants, agents, and employees from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise that arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school.

#### Q. Insurance

The application must include a description of the types and amounts of insurance coverage to be obtained by the charter school. The application must address, but is not limited to, the following types of insurance: workers' compensation, liability, property, indemnity, and automotive.

### IV. VIRTUAL CHARTER SCHOOLS

A. Definition: a virtual charter school is a charter school whereby students are taught primarily through online methods; however, at least 25 percent of the instruction in core areas as defined in Section IV(E)(1) must be through regular instructional opportunities. Regular instructional opportunities may include, but are not limited to, the opportunities outlined in Section IV(E)(2).

B. The following additional information must be submitted to the sponsor with the charter application:

1. List of currently developed courses that are ready for curriculum alignment;

2. Access to one course per level that can be previewed by South Carolina Department of Education (SCDE) to assess depth of work necessary for curriculum alignment;
3. Description of how the proposed charter will comply with the 25 percent real time requirement;
4. A timeline of how curriculum development will be completed and then approved by the SCDE;
5. A description of how much teacher interaction students will receive within the online instruction;
6. A description of the portal used and how it works;
7. A description of how the applicant plans to comply with the teacher requirements in S.C. Code Ann. Section 59-40-50.

#### C. Curriculum

1. All courses in core areas for which there are state-adopted curriculum standards must be reviewed to determine whether the courses meet content and grade specific standards, and approved by the SCDE prior to offering the course.

##### 2. Review by the Sponsor

After the approval or conditional approval of a charter by the sponsor, the virtual charter school may submit courses for approval by the sponsor.

#### D. Additional Program Requirements

The program must provide the following:

1. Each course must be taught by a teacher meeting the requirements of S.C. Code Ann. Section 59-40-50;
2. Ensure that a parent or legal guardian verifies the number of hours of educational activities completed by the student each year;
3. Provide for frequent, ongoing monitoring of an individual student's program to verify each student is participating in the program;
4. Include proctored assessments for core subjects per semester that are graded or evaluated by the teacher;
5. Conduct at least bi-weekly parent-teacher conferences in person, electronically, or by telephone;
6. Provide for a method to verify student attendance;
7. Provide for verification of ongoing student progress and performance in each course as documented by assessments and examples of coursework.

#### E. Regular Instructional Opportunities

1. The charter school must provide regular instructional opportunities in real time that are directly related to the school's curricular objectives. Core academic instruction includes instruction in English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

2. Regular instructional opportunities include, but are not limited to, the following:
  - a. meetings with teachers;
  - b. educational field trips and outings;
  - c. virtual field trips that are in real time attended by other charter school students;
  - d. virtual conferencing sessions; and
  - e. offline work or projects assigned by the teacher of record.

#### V. CONDITIONAL CHARTERS

The sponsor may grant a conditional charter, instead of a full charter, to an applicant whose application meets the standards, and may do so only if one or more of the following conditions exists: a charter school has not yet secured its space and been issued a certificate of occupancy by the Office of School Facilities, secured its equipment, facilities, and/or personnel.

The conditional approval must be in writing and outline the specific conditions that must be met for approval and must include the specific date by which the conditions need to be met in order to secure approval. The sponsor must make a determination as to whether the charter applicant has met the conditions of the conditional approval on or before the date specified in the conditional approval. Failure to make a ruling by the date outlined in the conditional charter shall be deemed approved.

#### VI. ADVERSE IMPACT ON STUDENTS

A local school board of trustees may deny an application if the charter school would adversely affect the other students in the district.

A. The local school board of trustees must demonstrate adverse impact on students. The impact must be specific and must have a negative effect on students. If the local school board of trustees finds that the charter school would adversely affect other students of the district, the written explanation of the reasons for denial required by Section 59–40–70(C) must describe detrimental effects upon other students of the district.

B. If the district is claiming an adverse impact based upon the redirection of funding to the charter school, the district must demonstrate that the funds being redirected to the charter school will have a direct negative impact on students.

1. The district must show options it has considered in an effort to reduce the adverse financial impact of the charter school.

2. The district has considered the net fiscal impact of the charter school, including the fiscal benefits that the charter school may bring to the district.

#### VII. FEDERAL REQUIREMENTS OF CHARTER SCHOOLS

##### A. Annual Audits

Each authorized charter school in the State must have an annual, independent audit conducted by a qualified auditing or accounting firm and must file the audit annually with the school's authorized public chartering agency.

##### B. Academic Achievement

1. Each authorized charter school in the State operates under a legally binding charter and performance contract between itself and the school's authorized public charter agency that demonstrates improved student academic achievement.

2. Charter schools must provide evidence of improved student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA. Authorizers must use increases in student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter. Each authorizer and charter school must enter into a contractual agreement stating that student performance of all students described in Section 1111(b)(2)(C)(v) of the ESEA is the most important factor when determining to renew or revoke a school's charter.

#### VIII. GUIDELINES

The South Carolina Department of Education may issue guidelines to assist charter schools in complying with federal legislation, including, but not limited to, the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Improvement Act (IDEA).

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