CHAPTER 26

Training, Certification and Evaluation of Public Educators

**SECTION 59‑26‑10.** Intent; guidelines for implementation.

 It is the intent of this chapter to provide for a fair, cohesive, and comprehensive system for the training, certification, initial employment, evaluation, and continuous professional development of public educators in this State. The following guidelines, which further constitute the intent of this chapter must be adhered to by all state and local officials, agencies, and boards in interpreting and implementing the provisions of this chapter so that the system provided for herein shall:

 (a) upgrade the standards for educators in this State in a fair, professional, and reasonable manner;

 (b) assure that prospective teachers have basic reading, mathematics, and writing skills;

 (c) improve the educator training programs and the evaluation procedures for those programs;

 (d) assure that prospective teachers know and understand their teaching areas and are given assistance toward the achievement of their potential;

 (e) assure that school districts implement a comprehensive system for assisting, developing, and evaluating teachers employed at all contract levels.

HISTORY: 1979 Act No. 187 Section 1; 1997 Act No. 72, Section 1.

CROSS REFERENCES

General qualifications of teachers, see Section 59‑25‑20.

Interstate agreement on qualification of educational personnel, see Sections 59‑27‑10 et seq.

Requirements for teacher education and certification regulations, see S.C. Code of Regulations R. 43‑50 et seq.

LIBRARY REFERENCES

Schools 128.

Westlaw Key Number Search: 345k128.

C.J.S. Schools and School Districts Sections 191, 264.

Attorney General’s Opinions

Act No. 187 of 1979 [Sections 59‑26‑10 et seq.] limits certification of teachers in South Carolina to graduates of approved teacher training programs; the term “teachers” as used in Act No. 187 of 1979 generally includes classroom teachers, supervisors of classroom teachers, and evaluators of classroom teachers; the term “teachers” in Act No. 187 of 1979 includes trade and industrial education teachers; Act No. 187 of 1979 does not apply to persons such as school psychologists who do not otherwise come within the definition of “teacher”; the requirement in Act No. 187 of 1979 for a full semester of student teaching does not apply to service personnel such as school psychologists or guidance counselors; school districts upon employing certified teachers who initially taught in private schools must comply with the requirements for provisional and annual contracts in Act No. 187 of 1979. 1980 Op Atty Gen, No 80‑60, p 107.

**SECTION 59‑26‑20.** Duties of State Board of Education and Commission on Higher Education.

 The State Board of Education, through the State Department of Education, and the Commission on Higher Education shall:

 (a) develop and implement a plan for the continuous evaluation and upgrading of standards for program approval of undergraduate and graduate education training programs of colleges and universities in this State;

 (b) adopt policies and procedures which result in visiting teams with a balanced composition of teachers, administrators, and higher education faculties;

 (c) establish program approval procedures which shall assure that all members of visiting teams which review and approve undergraduate and graduate education programs have attended training programs in program approval procedures within two years prior to service on such teams;

 (d) render advice and aid to departments and colleges of education concerning their curricula, program approval standards, and results on the examinations provided for in this chapter;

 (e) adopt program approval standards so that all colleges and universities in this State that offer undergraduate degrees in education shall require that students successfully complete the basic skills examination that is developed in compliance with this chapter before final admittance into the undergraduate teacher education program. These program approval standards shall include, but not be limited to, the following:

 (1) A student initially may take the basic skills examination during his first or second year in college.

 (2) Students may be allowed to take the examination no more than four times.

 (3) If a student has not passed the examination, he may not be conditionally admitted to a teacher education program after December 1, 1996. After December 1, 1996, any person who has failed to achieve a passing score on all sections of the examination after two attempts may retake for a third time any test section not passed in the manner allowed by this section. The person shall first complete a remedial or developmental course from a post‑secondary institution in the subject area of any test section not passed and provide satisfactory evidence of completion of this required remedial or developmental course to the State Superintendent of Education. A third administration of the examination then may be given to this person. If the person fails to pass the examination after the third attempt, after a period of three years, he may take the examination or any sections not passed for a fourth time under the same terms and conditions provided by this section of persons desiring to take the examination for a third time.

 Provided, that in addition to the above approval standards, beginning in 1984‑85, additional and upgraded approval standards must be developed, in consultation with the Commission on Higher Education, and promulgated by the State Board of Education for these teacher education programs.

 (f) administer the basic skills examination provided for in this section three times a year;

 (g) report the results of the examination to the colleges, universities, and student in such form that he will be provided specific information about his strengths and weaknesses and given consultation to assist in improving his performance;

 (h) adopt program approval standards so that all colleges and universities in this State that offer undergraduate degrees in education shall require that students pursuing courses leading to teacher certification successfully complete one semester of student teaching and other field experiences and teacher development techniques directly related to practical classroom situations;

 (i) adopt program approval standards whereby each student teacher must be evaluated and assisted by a representative or representatives of the college or university in which the student teacher is enrolled. Evaluation and assistance processes shall be locally developed or selected by colleges or universities in accordance with State Board of Education regulations. Processes shall evaluate and assist student teachers based on the criteria for teaching effectiveness developed in accordance with this chapter. All college and university representatives who are involved in the evaluation and assistance process shall receive appropriate training as defined by State Board of Education regulations. The college or university in which the student teacher is enrolled shall make available assistance, training, and counseling to the student teacher to overcome any identified deficiencies;

 (j) the Commission on Higher Education, in consultation with the State Department of Education and the staff of the South Carolina Student Loan Corporation, shall develop a loan program in which talented and qualified state residents may be provided loans to attend public or private colleges and universities for the sole purpose and intent of becoming certified teachers employed in the State in areas of critical need. Areas of critical need shall include both geographic areas and areas of teacher certification and must be defined annually for that purpose by the State Board of Education. The definitions used in the federal Perkins Loan Program shall serve as the basis for defining “critical geographical areas”, which shall include special schools, alternative schools, and correctional centers as identified by the State Board of Education. The recipient of a loan is entitled to have up to one hundred percent of the amount of the loan plus the interest canceled if he becomes certified and teaches in an area of critical need. Should the area of critical need in which the loan recipient is teaching be reclassified during the time of cancellation, the cancellation shall continue as though the critical need area had not changed. Additionally, beginning with the 2000‑2001 school year, a teacher with a teacher loan through the South Carolina Student Loan Corporation shall qualify, if the teacher is teaching in an area newly designated as a critical needs area (geographic or subject, or both). Previous loan payments will not be reimbursed. The Department of Education and the local school district are responsible for annual distribution of the critical needs list. It is the responsibility of the teacher to request loan cancellation through service in a critical needs area to the Student Loan Corporation by November first.

 Beginning July 1, 2000, the loan must be canceled at the rate of twenty percent or three thousand dollars, whichever is greater, of the total principal amount of the loan plus interest on the unpaid balance for each complete year of teaching service in either an academic critical need area or in a geographic need area. The loan must be canceled at the rate of thirty‑three and one‑third percent, or five thousand dollars, whichever is greater, of the total principal amount of the loan plus interest on the unpaid balance for each complete year of teaching service in both an academic critical need area and a geographic need area. Beginning July 1, 2000, all loan recipients teaching in the public schools of South Carolina but not in an academic or geographic critical need area are to be charged an interest rate below that charged to loan recipients who do not teach in South Carolina.

 Additional loans to assist with college and living expenses must be made available for talented and qualified state residents attending public or private colleges and universities in this State for the sole purpose and intent of changing careers in order to become certified teachers employed in the State in areas of critical need. These loan funds also may be used for the cost of participation in the critical needs certification program pursuant to Section 59‑26‑30(A)(8). Such loans must be cancelled under the same conditions and at the same rates as other critical need loans.

 In case of failure to make a scheduled repayment of an installment, failure to apply for cancellation of deferment of the loan on time, or noncompliance by a borrower with the intent of the loan, the entire unpaid indebtedness including accrued interest, at the option of the commission, shall become immediately due and payable. The recipient shall execute the necessary legal documents to reflect his obligation and the terms and conditions of the loan. The loan program, if implemented, pursuant to the South Carolina Education Improvement Act, is to be administered by the South Carolina Student Loan Corporation. Funds generated from repayments to the loan program must be retained in a separate account and utilized as a revolving account for the purpose that the funds were originally appropriated. Appropriations for loans and administrative costs incurred by the corporation are to be provided in annual amounts, recommended by the Commission on Higher Education, to the State Treasurer for use by the corporation. The Education Oversight Committee shall review the loan program annually and report to the General Assembly.

 Notwithstanding another provision of this item:

 (1) For a student seeking loan forgiveness pursuant to the Teacher Loan Program after July 1, 2004, “critical geographic area” is defined as a school that:

 (a) has an absolute rating of below average or unsatisfactory;

 (b) has an average teacher turnover rate for the past three years that is twenty percent or higher; or

 (c) meets the poverty index criteria at the seventy percent level or higher.

 (2) After July 1, 2004, a student shall have his loan forgiven based on those schools or districts designated as critical geographic areas at the time of employment.

 (3) The definition of critical geographic area must not change for a student who has a loan, or who is in the process of having a loan forgiven before July 1, 2004.

 (k) for special education in the area of vision, adopt program approval standards for initial certification and amend the approved program of specific course requirements for adding certification so that students receive appropriate training and can demonstrate competence in reading and writing braille;

 (l) adopt program approval standards so that students who are pursuing a program in a college or university in this State which leads to certification as instructional or administrative personnel shall complete successfully training and teacher development experiences in teaching higher order thinking skills;

 (m) adopt program approval standards so that programs in a college or university in this State which lead to certification as administrative personnel must include training in methods of making school improvement councils an active and effective force in improving schools;

 (n) the Commission on Higher Education in consultation with the State Department of Education and the staff of the South Carolina Student Loan Corporation, shall develop a Governor’s Teaching Scholarship Loan Program to provide talented and qualified state residents loans not to exceed five thousand dollars a year to attend public or private colleges and universities for the purpose of becoming certified teachers employed in the public schools of this State. The recipient of a loan is entitled to have up to one hundred percent of the amount of the loan plus the interest on the loan canceled if he becomes certified and teaches in the public schools of this State for at least five years. The loan is canceled at the rate of twenty percent of the total principal amount of the loan plus interest on the unpaid balance for each complete year of teaching service in a public school. However, beginning July 1, 1990, the loan is canceled at the rate of thirty‑three and one‑third percent of the total principal amount of the loan plus interest on the unpaid balance for each complete year of teaching service in both an academic critical need area and a geographic need area as defined annually by the State Board of Education. In case of failure to make a scheduled repayment of any installment, failure to apply for cancellation or deferment of the loan on time, or noncompliance by a borrower with the purpose of the loan, the entire unpaid indebtedness plus interest is, at the option of the commission, immediately due and payable. The recipient shall execute the necessary legal documents to reflect his obligation and the terms and conditions of the loan. The loan program must be administered by the South Carolina Student Loan Corporation. Funds generated from repayments to the loan program must be retained in a separate account and utilized as a revolving account for the purpose of making additional loans. Appropriations for loans and administrative costs must come from the Education Improvement Act of 1984 Fund, on the recommendation of the Commission on Higher Education to the State Treasurer, for use by the corporation. The Education Oversight Committee shall review this scholarship loan program annually and report its findings and recommendations to the General Assembly. For purposes of this item, a ‘talented and qualified state resident’ includes freshmen students who graduate in the top ten percentile of their high school class, or who receive a combined verbal plus mathematics Scholastic Aptitude Test score of at least eleven hundred and enrolled students who have completed one year (two semesters or the equivalent) of collegiate work and who have earned a cumulative grade point average of at least 3.5 on a 4.0 scale. To remain eligible for the loan while in college, the student must maintain at least a 3.0 grade point average on a 4.0 scale.

HISTORY: 1979 Act No. 187 Section 2; 1981 Act No. 80, Sections 1, 2; 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, SubPart 1, Section 3, and SubPart 3, Sections 1, 3; 1989 Act No. 178, Section 1; 1989 Act No. 194, Sections 7, 28; 1990 Act No. 612, Part II, Section 11; 1992 Act No. 259, Sections 1, 2; 1992 Act No. 282, Section 1,; 1997 Act No. 72, Section 2; 1998 Act No. 400, Section 15; 2000 Act No. 393, Section 10; 2004 Act No. 307, Section 3, eff September 8, 2004; 2008 Act No. 353, Section 2, Pt 1.I.1, eff July 1, 2008.

Effect of Amendment

The 2004 amendment, in item (j), added the undesignated paragraph at the end relating to loan forgiveness.

The 2008 amendment, in item (j), in the first undesignated paragraph in the third sentence added “, which shall include special schools, alternative schools, and correctional centers as identified by the State Board of Education”; and made nonsubstantive language changes throughout.

CROSS REFERENCES

Examination and certification of teachers, generally, see Sections 59‑25‑110 et seq.

General powers of Board of Education, see Section 59‑5‑60.

General qualifications of teachers, see Section 59‑25‑20.

Implementation of evaluation system for continuing contract teachers by school districts, see Section 59‑19‑97.

Increase of teacher salary for teacher meeting minimum standards on the basic skills examination, see Section 59‑20‑50.

Interstate agreement on qualification of educational personnel, see Sections 59‑27‑10 et seq.

Regulations pertaining to the State Board of Education and the South Carolina Student Loan Corporation, see S.C. Code of Regulations R. 43‑50 et seq., 62‑110 et seq.

Requirement that parents who seek to teach their children at home, and not in school, pass the basic skills examination developed pursuant to this section, see Section 59‑65‑40.

LIBRARY REFERENCES

Colleges and Universities 9.25(2), 9.35(2).

Schools 128.

Westlaw Key Number Searches: 81k9.25(2); 81k9.35(2); 345k128.

C.J.S. Colleges and Universities Sections 34, 41.

C.J.S. Schools and School Districts Sections 191, 264.

Attorney General’s Opinions

Act 187 [Section 59‑26‑20] appears to require approval of graduate and undergraduate programs which lead to degrees in education; the Basic Skills examination should be administered only to future undergraduate teacher education program students who were not enrolled in such programs in the Fall of 1982; MAT students are not required to take a full semester of student teaching; only the Legislature has the power to revise the implementation dates in Act 187; the Basic Skills examination may be administered no more than twice a year. 1981 Op Atty Gen, No 81‑14, p 19.

(1) Act No. 187 of 1979 [Section 59‑26‑20] requires the State Board of Education to adopt program approval standards for student teaching programs in South Carolina’s teacher training institutions as a prerequisite to teacher certification, and (2) The program approval standards, which are effective for the school year 1981‑82, require Fall 1981 graduates who are candidates for teacher certification, to have completed one semester of student teaching, which teaching must comply with the standards. 1980 Op Atty Gen, No 80‑5, p 15.

Notes of Decisions

Constitutional issues 1

1. Constitutional issues

State’s educational funding scheme, as a whole, denied students in plaintiffs’ school districts the constitutionally required opportunity to receive a minimally adequate education, as guaranteed by the education clause of the state constitution; districts’s students received instruction in many cases from corps of unprepared teachers, were grouped by economic class into what amounted to no more than educational ghettos, rated by Department of Education’s guidelines as substandard, and large percentages of students, over half in some instances, were unable to meet minimal benchmarks on standardized tests, but were nonetheless pushed through the system to “graduate.” Abbeville County School Dist. v. State (S.C. 2014) 410 S.C. 619, 767 S.E.2d 157, rehearing denied, amended 414 S.C. 166, 777 S.E.2d 547, superseded 415 S.C. 19, 780 S.E.2d 609. Education 219

**SECTION 59‑26‑30.** Cognitive assessments for teachers and teacher certification; examinations; regulations.

 (A) In the area of cognitive assessments for teachers and teacher certification, the State Board of Education, acting through the State Department of Education, shall:

 (1) adopt a basic skills examination in reading, writing, and mathematics that is suitable for determining whether students may be admitted fully into an undergraduate teacher education program. The examination must be designed so that results are reported in a form that shall provide colleges, universities, and students with specific information about his strengths and weaknesses. Procedures, test questions, and information from existing examinations must be validated in accordance with current legal requirements. The passing score on the examination shall be set at a level that reflects the degree of competency in the basic skills that, in the judgment of the State Board of Education, a prospective school teacher reasonably is expected to achieve;

 (2) adopt nationally recognized teaching examinations that measure the cognitive teaching area competencies desired for initial job assignments in typical elementary and secondary schools in this State. The examinations shall contain a minimum amount of common or general knowledge questions. They shall be designed so that results are reported in a form that provide a student with specific information about the student’s strengths and weaknesses. Procedures, test questions, and information from existing examinations and lists of validated teacher competencies are used to the maximum extent in the development of the examinations. An examination that is completely developed by an organization other than the special project may be considered for use as a whole only if the State Board of Education concludes that the development and maintenance of a specific area test is impractical or would necessitate exorbitant expenses. The examinations must be validated. The teaching examinations must be developed or selected only for those areas in which State Board of Education approved area examinations are not available;

 (3) use nationally recognized specific teaching area examinations approved by the State Board of Education for certification purposes. The qualifying scores on the area examinations shall be set at the same level at which they are now set. The State Board of Education shall examine these levels to determine if adjustments are required. Periodic examinations shall be made to assure the validity of qualifying scores. The qualifying scores may be adjusted if new legal requirements or validity studies indicate the adjustments are necessary. In an area in which an area teaching examination approved by the State Board of Education is not available, the state board shall use the teaching examinations developed in accordance with this section for certification purposes as soon as those examinations are prepared, validated, and ready for use;

 (4) report the results of the teaching examinations to the student in written form that provides specific information about the student’s strengths and weaknesses. Every effort must be made to report the results of the area examinations and common examinations in written form that provides specific information about the student’s strengths and weaknesses;

 (5) report to each teacher training institution in the State the performance of the institution’s graduates on the teaching examinations. The report to the institution must be in a form that assists the institution in further identifying strengths and weaknesses in its teacher training programs;

 (6) provide for the security and integrity of the tests that are administered under the certification program as currently provided by the State Department of Education;

 (7) award a teaching certificate to a person who successfully completes the scholastic requirements for teaching at an approved college or university and the examination he is required to take for certification purposes;

 (8) award a conditional teaching certificate to a person eligible to hold a teaching certificate who does not qualify for full certification under item (7) above provided the person has earned a bachelor’s degree from an accredited college or university with a major in a certification area for which the board has determined there exists a critical shortage of teachers, and the person has passed the appropriate teaching examination. The board may renew a conditional teaching certificate annually for a maximum of three years, if the holder of the certificate shows satisfactory progress toward completion of a teacher certification program prescribed by the board. In part, satisfactory progress is the progress that the holder of a conditional certificate should complete the requirements for full certification within three years of being conditionally certified;

 (9) promulgate regulations and procedures whereby course credits that may be applied to the recertification requirements of all public school teachers are earned in courses that are relevant to the area in which the teacher is recertified.

 (B) For purposes of assisting, developing, and evaluating professional teaching, the State Board of Education acting through the State Department of Education shall:

 (1) adopt a set of state standards for teaching effectiveness which shall serve as a foundation for the processes used for assisting, developing, and evaluating teacher candidates, as well as teachers employed under induction, annual, or continuing contracts;

 (2) promulgate regulations to be used by colleges and universities for evaluating and assisting teacher candidates. Evaluation and assistance programs developed or adopted by colleges or universities must include appropriate training for personnel involved in the process. Teacher candidates must be provided with guidance and assistance throughout preparation programs, as well as provided with formal written feedback on their performance during their student teaching assignments with respect to state standards for teaching effectiveness;

 (3) promulgate regulations to be used by local school districts for providing formalized induction programs for teachers employed under induction contracts. Induction programs developed or adopted by school districts must provide teachers with comprehensive guidance and assistance throughout the school year, as well as provide teachers with formal written feedback on their strengths and weaknesses relative to state standards for teaching effectiveness;

 (4) promulgate regulations to be used by local school districts for evaluating and assisting teachers employed under annual contracts. Formal evaluation processes developed or adopted by school districts must address legal and technical requirements for teacher evaluation and must assess typical teaching performance relative to state standards for teaching effectiveness. Evaluation results must be provided in writing and appropriate assistance must be provided when weaknesses in performance are identified;

 (5) promulgate regulations to be used by local school districts for conducting evaluations of teachers employed under continuing contracts. Continuing contract teachers must be evaluated on a continuous basis. At the discretion of the local school district, evaluations for individual teachers may be formal or informal. Formal evaluation processes developed or adopted by school districts must address legal and technical requirements for teacher evaluation and must assess typical teaching performance relative to state standards for teaching effectiveness. Evaluation results must be provided in writing and appropriate assistance must be provided when weaknesses in performance are identified. Informal evaluations must be conducted with a goals‑based process that requires teachers to continuously establish and accomplish individualized professional development goals. Goals must be established by the teacher in consultation with a building administrator and must be supportive of district strategic plans and school renewal plans;

 (6) promulgate regulations so that college, university, and school district strategies, programs, and processes for assisting, developing, and evaluating teachers pursuant to this section must be approved by the State Board of Education. Regulations also must establish procedures for conducting periodic evaluations of the quality of the strategies, programs, and processes adopted by school districts and institutions of higher education in implementing the provisions of this chapter in order to provide a basis for refining and improving the programs for assisting, developing, and evaluating teacher candidates and teachers on induction, annual, and continuing contracts, planning technical assistance, and reporting to the General Assembly on the impact of the comprehensive system for training, certification, initial employment, evaluation, and continuous professional development of public educators in this State;

 (7) promulgate regulations that establish procedures for the State Department of Education to provide colleges, universities, and school districts with ongoing technical assistance for assisting, developing, and evaluating teachers pursuant to this section;

 (8) promulgate regulations and procedures so that school districts shall report to the State Department of Education teacher evaluation results and teaching contract decisions on an annual basis. The State Department of Education shall maintain this information and make it available to colleges, universities, and school districts upon request;

 (9) beginning with the 1997‑98 school year, the Assessments of Performance in Teaching (APT) must not be used to evaluate student teachers. Until regulations promulgated pursuant to this section become effective, colleges and universities shall evaluate and assist teacher candidates in accordance with State Board of Education guidelines; and

 (10) during the 1997‑98 school year, the APT must not be required for evaluating induction contract teachers. During this year, if school districts are ready to implement a formal induction program for induction contract teachers as required by this section, they may do so. If school districts are not ready to implement such a program, they must progress toward developing or adopting a program to be implemented beginning with the 1998‑99 school year. In this circumstance, school districts may use the APT. Beginning with the 1998‑99 school year, a school district may not use the APT for evaluating induction contract teachers. Until regulations promulgated pursuant to this section become effective, school district strategies, programs, and processes for assisting, developing, and evaluating teachers must be developed, adopted, and implemented in accordance with State Board of Education guidelines.

HISTORY: 1979 Act No. 187 Section 3; 1981 Act No. 80, Sections 3‑5; 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, SubPart 1, Section 4; 1984 Act No. 512, Part II, Section 13; 1989 Act No. 194, Sections 8‑10; 1997 Act No. 72, Section 3; 2004 Act No. 283, Section 1, eff July 22, 2004.

Effect of Amendment

The 2004 amendment, in subsection (B), substituted “teacher candidates” for “student teachers”, deleted references to the 1998‑1999 school year and made nonsubstantive language changes throughout; in paragraph (B)(1) and the second sentence of paragraph (B)(5), deleted “provisional,” preceding “annual”; in paragraph (B)(2) in the third sentence substituted “preparation programs” for “the student teaching assignment” and added “during their student teaching assignments”; deleted paragraph (B)(4); redesignated paragraphs (B)(5) to (B)(11) as paragraphs (B)(4) to (B)(10); in paragraph (B)(5), in the second sentence substituted “on a continuous basis” for “at least once every three years” and in the sixth sentence added “continuously establish and”; and in paragraph (B)(8), deleted “, beginning with the 1998‑1999 school year or until such time as regulations required by this section become effective and, thereafter,” preceding “school districts”.

CROSS REFERENCES

Examination and certification of teachers, generally, see Sections 59‑25‑110 et seq.

General powers of Board of Education, see Section 59‑5‑60.

General qualifications of teachers, see Section 59‑25‑20.

Identification of higher order thinking and problem solving skills, see Section 59‑29‑179.

Assisting, Developing, and Evaluating Professional Teaching (ADEPT), see S.C. Code of Regulations R. 43‑205.1.

Interstate agreement on qualification of educational personnel, see Sections 59‑27‑10 et seq.

Requirements for teacher education and certification regulations, see S.C. Code of Regulations R. 43‑50 et seq.

LIBRARY REFERENCES

Schools 130.

Westlaw Key Number Search: 345k130.

C.J.S. Schools and School Districts Sections 196 to 199, 201 to 203.

Attorney General’s Opinions

Freedom of Information Act requests for teacher evaluation results and the internal investigation of complaints concerning a certain teacher evaluation. 2015 S.C. Op.Atty.Gen. (February 19, 2015) 2015 WL 992702.

The applicability of Act 187’s [Section 59‑26‑10 et seq] provisions varies according to the type of requirement and the teaching or educational status of the person concerned; ROTC teachers are not subject to Act 187; school psychologists, guidance counselors, and support personnel are excluded from taking the Basic Skills examination and state‑developed area teaching examinations; Act 187 permits the State Board to continue its requirements for maintaining the validity of a certificate; Act 187 program approval standards should be implemented beginning in the 1982‑83 school year, and thereafter, course‑by‑course analysis cannot be applied in a manner which would circumvent the use of those standards; Act 187 requires that a teacher have successfully completed area teaching examinations that cover each area in which he or she teaches; the State Department of Education may continue to upgrade certificates previously issued. 1981 Op Atty Gen, No 81‑14, p 19.

Act No. 187 of 1979 [Sections 59‑26‑10 et seq.] does not require a prospective school teacher to retake a teaching area examination of the National Teacher Examinations as one qualification for the Professional Certificate if such individual attained the minimum score established by the State Board of Education for a particular teaching area examination prior to August 2, 1979. 1979 Op Atty Gen, No 79‑107, p 150.

**SECTION 59‑26‑40.** Induction, annual and continuing contracts; evaluations; termination of employment for annual contract teacher; hearing.

 (A) A person who receives a teaching certificate as provided in Section 59‑26‑30 may be employed by a school district under a nonrenewable induction contract. School districts shall comply with procedures and requirements promulgated by the State Board of Education relating to aid, supervision, and evaluation of persons teaching under an induction contract. Teachers working under an induction contract must be paid at least the beginning salary on the state minimum salary schedule.

 (B) Each school district shall provide teachers employed under induction contracts with a formalized induction program developed or adopted in accordance with State Board of Education regulations.

 (C) At the end of each year of the three‑year induction period, the district may employ the teacher under another induction contract, an annual contract, or may terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the induction contract level. At the end of the three‑year induction contract period, a teacher shall become eligible for employment at the annual contract level. At the discretion of the local school district in which the induction teacher was employed, the district may employ the teacher under an annual contract or the district may terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the annual contract level. A person must not be employed as an induction teacher for more than three years. This subsection does not preclude his employment under an emergency certificate in extraordinary circumstances if the employment is approved by the State Board of Education. During the induction contract period, the employment dismissal provisions of Article 3, Chapter 19 and Article 5, Chapter 25 of this title do not apply.

 (D) Annual contract teachers must be evaluated or assisted with procedures developed or adopted by the local school district in accordance with State Board of Education regulations. Teachers employed under an annual contract also must complete an individualized professional growth plan established by the school or district. Professional growth plans must be supportive of district strategic plans and school renewal plans. Teachers must not be employed under an annual contract for more than four years, in accordance with State Board of Education regulations.

 (E) During the first annual contract year, at the discretion of the school district in which the teacher is employed, the annual contract teacher either must complete the formal evaluation process or be provided diagnostic assistance. During subsequent annual contract years, teachers must be evaluated or assisted in accordance with State Board of Education regulations. Teachers are eligible to receive diagnostic assistance during only one annual contract year.

 (F) Once an annual contract teacher has successfully completed the formal evaluation process, met the criteria set by the local board of trustees, and satisfied requirements established by the State Board of Education for the professional teaching certificate, the teacher becomes eligible for employment at the continuing contract level. At the discretion of the school district in which the teacher is employed, the district may 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. An annual contract teacher who has completed successfully the evaluation process and met the criteria 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, at the discretion of the local school district. At the discretion of the school district in which the teacher is employed, the district may 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. If at the end of an annual contract year a teacher did not complete successfully the formal evaluation process or if it is the opinion of the school district that the teacher’s performance was not sufficiently high based on criteria established by the local board of trustees, the teacher is eligible for employment under a subsequent annual contract. Formal evaluation or assistance must be provided consistent with State Board of Education regulations. At the discretion of the school district, the district may employ the teacher under a subsequent annual contract or terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the annual contract level.

 (G) An annual contract teacher who has not completed successfully the formal evaluation process or the professional growth plan for the second time must not be employed as a classroom teacher in a public school in this State for a minimum of two years. Before reentry as an annual contract teacher, he must complete a state‑approved remediation plan in areas of identified deficiencies. Upon completion of this requirement, the teacher is eligible for employment under an annual contract for one additional year to continue toward the next contract level. The provisions of this subsection granting an opportunity for reentry into the profession are available to a teacher only once. This subsection does not preclude the teacher’s employment under an emergency certificate in extraordinary circumstances if the employment is approved by the State Board of Education.

 (H) During the annual contract period the employment dismissal provisions of Article 3, Chapter 19 and Article 5, Chapter 25 of this title do not apply. Teachers working under a one‑year annual contract who are not recommended for reemployment at the end of the year, within fifteen days after receipt of notice of the recommendation, may request an informal hearing before the district superintendent. The superintendent shall schedule the hearing not sooner than seven and not later than thirty working days after he receives a request from the teacher for a hearing. At the hearing the evidence must be reviewed by the superintendent. The teacher may provide information, testimony, or witnesses that the teacher considers necessary. The decision by the superintendent must be given in writing within twenty days of the hearing. The teacher may appeal the superintendent’s decision to the school district board of trustees.

 An appeal must include:

 (1) a brief statement of the questions to be presented to the board; and

 (2) a brief statement in which the teacher states his belief about how the superintendent erred in his judgment.

 Failure to file an appeal with the board within ten days of the receipt of the superintendent’s decision causes the decision of the superintendent to become the final judgment in the matter. The board of trustees shall review the materials presented at the earlier hearing, and after examining these materials, the board may or may not grant the request for a board hearing of the matter. Written notice of the board’s decision on whether or not to grant the request must be rendered within thirty‑five calendar days of the receipt of the request. If the board determines that a hearing by the board is warranted, the teacher must be given written notice of the time and place of the hearing which must be set not sooner than seven and not later than fifteen days from the time of the board’s determination to hear the matter. The decision of the board is final.

 (I) A person who receives a conditional teaching certificate as provided in Section 59‑26‑30 may be employed by a school district under an induction contract or an annual contract in accordance with the provisions of this section. The holder of a conditional teaching certificate must be employed to teach at least a majority of his instructional time in the subject area for which he has received conditional certification.

 (J) After successfully completing an induction contract period, not to exceed three years, and an annual contract period, a teacher shall become eligible for employment at the continuing contract level. This contract status is transferable to any district in this State. A continuing contract teacher shall have full procedural rights that currently exist under law relating to employment and dismissal. A teacher employed under a continuing contract must be evaluated on a continuous basis. At the discretion of the local district and based on an individual teacher’s needs and past performance, the evaluation may be formal or informal. Formal evaluations must be conducted with a process developed or adopted by the local district in accordance with State Board of Education regulations. The formal process also must include an individualized professional growth plan established by the school or district. Professional growth plans must be supportive of district strategic plans and school renewal plans. Informal evaluations which should be conducted for accomplished teachers who have consistently performed at levels required by state standards, must be conducted with a goals‑based process in accordance with State Board of Education regulations. The professional development goals must be established by the teacher in consultation with a building administrator and must be supportive of district strategic plans and school renewal plans.

 (K) If a person has completed an approved teacher training program at a college or university outside this State, has met the requirements for certification in this State, and has less than one year of teaching experience, he may be employed by a school district under an induction contract. If he has one or more years of teaching experience, he may be employed by a district under an annual contract.

 (L) A teacher certified under the career and technology education work‑based certification process is exempt from the provisions of the South Carolina Education Improvement Act of 1984 which require the completion of scholastic requirements for teaching at an approved college or university. After completing the induction contract period, not to exceed three years, the teacher may be employed for a maximum of four years under an annual contract to establish his eligibility for employment as a continuing contract teacher. Before being eligible for a continuing contract, a teacher shall pass a basic skills examination developed in accordance with Section 59‑26‑30, a state approved skill assessment in his area, and performance evaluations as required for teachers who are employed under annual contracts. Certification renewal requirements for teachers are those promulgated by the State Board of Education.

 (M) Before the initial employment of a teacher, the local school district shall request a criminal record history from the South Carolina Law Enforcement Division for past convictions of a crime.

 (N) The State Department of Education shall ensure that colleges, universities, school districts, and schools comply with the provisions established in this chapter.

HISTORY: 1979 Act No. 187 Section 4; 1981 Act No. 43; 1982 Act No. 391; 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, SubPart 1, Section 5, and SubPart 4, Section 5; 1984 Act No. 512, Part II, Section 57A; 1997 Act No. 72, Section 4; 2004 Act No. 283, Section 2, eff July 22, 2004; 2012 Act No. 231, Sections 1, 2, 3, eff June 18, 2012.

Effect of Amendment

The 2004 amendment deleted subsection (D) relating to provisional contract teachers, redesignated subsection (E) as subsection (D) and added a new subsection (E), rewrote subsections (C), (F), (G) and (L); added the last sentence of subsection (D) placing a four year limit on employment under an annual contract; in subsection (H), in the second sentence substituted “request, within fifteen days after receipt of notice of the recommendation,” for “have”; in subsection (I), substituted “an induction contract” for “a provisional contract”; and, in subsection (J), in the third sentence substituted “on a continuous basis” for “at least once in every three years”.

The 2012 amendment rewrote subsections (C), (J), and (L).

CROSS REFERENCES

Assisting, Developing, and Evaluating Professional Teaching (ADEPT), see S.C. Code of Regulations R. 43‑205.1.

Employment and dismissal of teachers, generally, see Section 59‑25‑410 et seq.

Examination and certification of teachers, generally, see Section 59‑25‑110 et seq.

General qualifications of teachers, see Section 59‑25‑20.

Interstate agreement on qualification of educational personnel, see Section 59‑27‑10 et seq.

Power of school trustees as to hiring and discharge of teachers, see Section 59‑19‑90.

Requirements for teacher education and certification regulations, see S.C. Code of Regulations R. 43‑50 et seq.

LIBRARY REFERENCES

Schools 133.6(7), 147.26.

Westlaw Key Number Searches: 345k133.6(7); 345k147.26.

C.J.S. Schools and School Districts Sections 231 to 234, 279.

Attorney General’s Opinions

The State Board of Education has the authority to define an “approved” out‑of‑state teacher training program; the State Board has no authority to issue emergency certificates and temporary certificates, except as provided in Section 59‑26‑40; a teacher employed under a continuing contract in one district may obtain employment under such a contract in another district; a teacher who had left the teaching profession for a number of years could be employed under a continuing contract upon his or her return; a teacher who had not successfully completed two provisional years of teaching could be employed for a third year in that district under an emergency permit. 1981 Op Atty Gen, No 81‑14, p 19.

State Department of Education does not have legal authority to bar applicant from taking Education Entrance Examination (“EEE”) who previously did not pass EEE while holding a provisional trade and industry credential. Moreover, if such applicant should thereafter earn passing score on EEE and satisfy all of then existing criteria for certification, such applicant is eligible for issuance of professional trade and industry certificate. 1993 Op Atty Gen No. 93‑65.

NOTES OF DECISIONS

In general 1

1. In general

Substantial evidence supported school board’s decision to terminate teacher because she manifested an evident unfitness for teaching based on her dishonesty in dealing with fundraising account, where teacher wrote $2,000 check from fundraising account to her mother‑in‑law’s checking account, kept fundraising profits for personal use, and shorted deposits to the account on two separate occasions when she was given verified amounts of cash to deposit. Barrett v. Charleston County School Dist. (S.C.App. 2001) 348 S.C. 426, 559 S.E.2d 365, rehearing denied, certiorari denied. Education 600(1); Public Employment 617

Section 59‑26‑40 did not require a school district to provide a teacher with remediation prior to refusal to rehire her where the teacher’s contract was not renewed based on performance concerns that arose independently of the evaluation process; the plain language of Section 59‑26‑40 requires that a school district provide remedial assistance only in those areas in which deficiencies are noted during the 3 required classroom evaluations. Schofield v. Richland County School Dist. (S.C. 1994) 316 S.C. 78, 447 S.E.2d 189.

The plain language of Section 59‑26‑40 provides that even though a provisional teacher receives an evaluation indicating he or she has performed in an adequate manner, the teacher is only eligible for an annual contract; therefore, Section 59‑26‑40 does not mandate renewal of a provisional contract even when a teacher has performed adequately. Schofield v. Richland County School Dist. (S.C. 1994) 316 S.C. 78, 447 S.E.2d 189.

It is not against public policy to allow a school district to refuse to renew a provisional contract based on perceived teaching deficiencies when no remedial action has been afforded since Section 59‑26‑40 does not provide for remedial procedures for deficiencies noted outside the evaluation for provisional teachers. Schofield v. Richland County School Dist. (S.C. 1994) 316 S.C. 78, 447 S.E.2d 189.

**SECTION 59‑26‑50.** Creation and membership of Educator Improvement Task Force; duties and powers.

 (a) There is created as an agency of state government the South Carolina Educator Improvement Task Force composed of thirteen members. The State Superintendent of Education with the advice and consent of the State Board of Education shall appoint six members, one of whom may be himself, one of whom must be a public school teacher and one of whom must be a public school administrator. The Governor shall appoint seven members, one from each congressional district and not less than two of whom must be employed at state institutions of higher education and not less than one of whom is a member of a local school board. A vacancy must be filled in the manner of the original appointment. The members shall receive per diem, mileage, and subsistence as provided by law for members of state boards, committees, and commissions to be paid from funds appropriated for the operation of the State Department of Education. Every consideration must be given to insure appropriate racial balance in appointments.

 (b) The Task Force shall organize by electing such other officers as it deems necessary. Bylaws may be adopted by a majority vote as deemed necessary.

 (c) The powers and duties of the Task Force shall be as follows:

 (1) Employ as director of the special project a person who has specific skills and experience to carry out the requirements of this chapter.

 (2) Exercise supervision over the special project to insure that the intent of this chapter is carried out.

 (3) Seek input from the public and other state agencies concerning the implementation of this chapter.

 (4) Confer periodically with the State Board of Education and submit a final report to the Board concerning the implementation of this chapter. The report shall include a plan for the implementation of the responsibilities assigned to the Task Force by this chapter. The Board shall approve or disapprove the implementation plan within forty‑five days. If the Board disapproves the plan, it shall submit the reasons for disapproval to the Chairman of the Task Force within fifteen days, and the Task Force shall, after consideration of the reasons for the disapproval, submit a revised implementation plan or the original plan with justification therefor to the State Board of Education within thirty days. If the Board then disapproves the original or revised plan, the Chairman of the Task Force and the Chairman of the Board shall within thirty days call a joint meeting and a majority vote of the Board and Task Force shall determine the plan to be implemented.

 (5) Report to the Governor, the State Board of Education, the Chairman of the Senate Education Committee and the Chairman of the House Education and Public Works Committee by March 1, 1980, and annually thereafter, on the status of the implementation of this chapter. The annual report shall include any recommendations for legislative or executive action to facilitate achieving the intent of this chapter.

 (6) Provide advice to the Board of Education and Commission on Higher Education concerning actions that may be needed to upgrade teacher training programs or otherwise facilitate progress toward achieving the intent of this chapter. Such advice shall include a determination of the minimum financial support per provisional and annual contract teacher that should be provided to local school districts by the General Assembly to compensate the districts for the additional duties imposed upon them by the provisions of this chapter.

 (d) The Task Force shall terminate July 1, 1982, and may be extended only by a vote of two‑thirds of the members of the House present and voting and two‑thirds of the members of the Senate present and voting. If any of the implementation dates set forth in this chapter are extended by the General Assembly, the termination date of the Task Force may be extended for the same length of time by a majority vote of the members of the House and a majority vote of the members of the Senate.

HISTORY: 1979 Act No. 187 Section 5; 1991 Act No. 248, Section 6; 2012 Act No. 279, Section 27, eff June 26, 2012.

Editor’s Note

2012 Act No. 279, Section 33, provides as follows:

“Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.”

Effect of Amendment

The 2012 amendment rewrote subsection (a).

CROSS REFERENCES

Authorization for General Assembly committee members rather than chairmen to be elected to serve ex officio on boards and commissions, see Section 2‑1‑90.

General qualifications of teachers, see Section 59‑25‑20.

Interstate agreement on qualification of educational personnel, see Sections 59‑27‑10 et seq.

Requirements for teacher education and certification regulations, see S.C. Code of Regulations R. 43‑50 et seq.

State Commission on Higher Education, see Sections 59‑103‑10 et seq.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

C.J.S. Schools and School Districts Sections 81 to 92, 174.

**SECTION 59‑26‑60.** Educational Improvement Task Force; appropriation.

 The General Assembly shall appropriate the necessary funds for operation of the Educator Improvement Task Force.

HISTORY: 1979 Act No. 187, Section 6.

CROSS REFERENCES

Requirements for teacher education and certification regulations, see S.C. Code of Regulations R. 43‑50 et seq.

**SECTION 59‑26‑70.** Adjustments in instructional time permitted; foreign language requirements for diploma.

 The State Board of Education, through the State Department of Education, in order to offer students more instructional time in a particular basic skill, may allow adjustments in the amount of instructional time required in each of the subjects in the State’s defined minimum program. No commission or agency of the State shall require any public high school in this State to require foreign language as a prerequisite to receiving a regular high school diploma.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision B, SubPart 3, Section 4.

LIBRARY REFERENCES

Schools 164.

Westlaw Key Number Search: 345k164.

C.J.S. Schools and School Districts Sections 701, 782 to 785, 817.

**SECTION 59‑26‑85.** NBPTS recertification; development of application fee loan program.

 (A)(1) Teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) before July 1, 2010, shall enter a recertification cycle for their South Carolina certificate consistent with the recertification cycle for National Board certification and NBPTS certified teachers moving to this State are exempted from initial certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with National Board certification. Teachers receiving national certification from the NBPTS before July 1, 2010, shall receive an increase in pay for the initial ten‑year National Board certification and no more than one ten‑year renewal of National Board certification. The pay increase shall be determined annually in the appropriations act. The established amount shall be added to the annual pay of the nationally certified teacher.

 (2) Teachers who apply on or after July 1, 2010, for certification by the NBPTS shall enter a recertification cycle for their South Carolina certificate and consistent with the initial ten‑year cycle for National Board certification, and teachers moving to this State who apply for National Board certification on or after July 1, 2010, and subsequently achieve National Board certification are exempted from initial certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with the initial ten‑year cycle. Teachers receiving national certification from the NBPTS on or after July 1, 2010, only shall receive an increase in pay for the initial ten years of the certification. The pay increase shall be determined annually in the appropriations act. The established amount shall be added to the annual pay of the nationally certified teacher.

 (B) The Center for Teacher Recruitment shall develop guidelines and administer the programs whereby teachers applying to the National Board for Professional Teaching Standards for certification before July 1, 2010, may receive a loan equal to the amount of the application fee. One‑half of the loan principal amount and interest shall be forgiven when the required portfolio is submitted to the National Board. Teachers attaining certification within three years of receiving the loan will have the full loan principal amount and interest forgiven. This subsection does not apply to any application submitted on or after July 1, 2010.

HISTORY: 2000 Act No. 393, Section 11; 2010 Act No. 201, Section 1, eff June 3, 2010.

Effect of Amendment

The 2010 amendment added the item designator (1) to subsection (A), and in subsection (A) added the date restriction to the first and third sentences, and substituted “the initial ten‑year National Board certification and no more than one ten‑year renewal of National Board certification” for “the life of the certification”; added subsection (A)(2) regarding recertification cycle for teachers who apply on or after July 1, 2010; and in subsection (B), added the date restriction in the first sentence, and added the last sentence regarding applications submitted after July 1, 2010.

CROSS REFERENCES

Assisting, Developing, and Evaluating Professional Teaching (ADEPT), see S.C. Code of Regulations R. 43‑205.1.

LIBRARY REFERENCES

Schools 130.

Westlaw Key Number Search: 345k130.

C.J.S. Schools and School Districts Sections 196 to 199, 201 to 203.

**SECTION 59‑26‑90.** Teacher of the year honorarium programs.

 The State Department of Education shall establish a program for the State Teacher of the Year to include an honorarium of no less than twenty‑five thousand dollars. In addition, the program is to recognize the four honor roll teachers of the year with awards of no less than ten thousand dollars each and award local district teachers of the year with honoraria of no less than one thousand dollars each.

HISTORY: 2000 Act No. 393, Section 13.

LIBRARY REFERENCES

Schools 144(1).

Westlaw Key Number Search: 345k144(1).

C.J.S. Schools and School Districts Sections 315 to 316, 321 to 322, 329 to 331, 338.

**SECTION 59‑26‑100.** Incentives for teachers serving as mentors.

 The State Board of Education, acting through the Department of Education, shall establish a program whereby schools and school districts may be awarded funds to develop various types of incentives for those teachers who are trained and serve as mentors to new teachers as a part of the induction program established in Section 59‑26‑20. Among the incentives that may qualify are additional pay, release time, and additional assistance in the classroom. To qualify for these funds, the school or school district must meet the criteria established by the state board.

HISTORY: 2000 Act No. 393, Section 14.

LIBRARY REFERENCES

Schools 144(1).

Westlaw Key Number Search: 345k144(1).

C.J.S. Schools and School Districts Sections 315 to 316, 321 to 322, 329 to 331, 338.

**SECTION 59‑26‑110.** Youth suicide prevention teacher training.

 (A) Beginning with the 2013‑2014 school year, the Department of Education shall require two hours of training in youth suicide awareness and prevention as a requirement for the renewal of credentials of individuals employed in a middle school or high school as defined in Section 59‑1‑150. The required training shall count toward the one hundred twenty renewal credits specified in Department of Education regulations for renewal of credentials.

 (B)(1) The department shall develop guidelines suitable for training and materials that may be used by schools and districts; however districts may approve materials to be used in providing training for employees.

 (2) The training required in this section may be accomplished through self‑review of suicide prevention materials that meet guidelines developed by the Department of Education.

 (C) No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this section or resulting from any training, or lack of training, required by this section unless the loss or damage was caused by wilful or wanton misconduct. The training, or lack of training, required by the provisions of this section must not be construed to impose any specific duty of care.

HISTORY: 2012 Act No. 170, Section 2, eff May 14, 2012.

Editor’s Note

2012 Act No. 170, Section 1, provides as follows:

“This act may be cited as the ‘Jason Flatt Act’.”