CHAPTER 5

State Board of Education

**SECTION 59‑5‑10.** Composition and organization of State Board of Education.

 The State Board of Education shall be composed of one member from each judicial circuit. The members shall serve terms of four years and until their successors are elected and qualify, except of those first elected, the members from the fifth, tenth and fourteenth circuits shall serve terms of one year; the members from the first, sixth, eighth and twelfth circuits shall serve terms of two years and the members from the fourth, seventh, ninth and eleventh circuits shall serve terms of three years. The terms of all members shall commence on January first following their election.

 The legislative delegations representing the counties of each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to be designated in such call for the purpose of electing a member of the Board to represent such circuit. A majority present, either in person or by written proxy, of the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of the county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegations shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secretary of the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State who shall forthwith issue to such person, after he has taken the usual oath of office, a certificate of election as a member of the State Board of Education. The Governor shall thereupon issue a commission to such person and pending such issuance the certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office.

 Any vacancy shall be filled in the same manner as the original appointment for the unexpired portion of the term.

 Representation of a given judicial circuit on the State Board of Education shall be rotated among the counties of the circuit, except by unanimous consent of all members of the county legislative delegations from the circuit. No member shall succeed himself in office except by unanimous consent of the members of the county legislative delegations from the circuit. Members of the legislative delegation of any county entitled to a member of the Board shall nominate persons for the office, one of whom shall be elected to the Board.

 The Board shall select its chairman and other officers to serve for such terms as the Board may designate. Provided, the Superintendent of Education shall serve as secretary and administrative officer to the Board. The Board shall adopt its own rules and procedures. The chairman and other officers shall have such powers and duties as may be determined by the Board not inconsistent with the law.

 At the initial meeting of the legislative delegations representing the counties of each circuit, it shall be determined by lot the sequence in which each county shall be entitled to nominate persons for the office.

HISTORY: 1962 Code Section 21‑41; 1952 Code Section 21‑41; 1942 Code Section 5279; 1932 Code Section 5282; Civ. C. ‘22 Section 2542; Civ. C. ‘12 Section 1705; Civ. C. ‘02 Section 1181; 1896 (22) 150; 1941 (42) 285; 1963 (53) 512.

CROSS REFERENCES

Constitutional provisions concerning the State Board of Education, see SC Const, Art 11, Section 1.

State Board of Education regulations, see S.C. Code of Regulations R. 43‑50 et seq.

State Board of Education’s responsibilities with respect to Preschool Programs for Children with Disabilities, see Sections 59‑36‑20 et seq.

State Department of Education reorganized, see Section 1‑30‑40.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

Attorney General’s Opinions

Members of the State Board of Education may legally holdover beyond the normal four year term, until a successor is elected and qualified; no specific statutory requirement exists for the recording of joint legislative delegation actions in appointing members to the State Board of Education; no agency or office in the State of South Carolina has specific responsibility to inform joint legislative delegations of the approaching end of a four year term of a member of the State Board, but this task could best be accomplished by the State Board itself; members of the State Board of Education serve specific terms of office in accordance with the scheme outlined in Section 59‑5‑10. 1979 Op Atty Gen, No 79‑137, p 218.

Members of the State Board of Education may not vote by proxy. 1966‑67 Op Atty Gen, No 2367, p. 212.

**SECTION 59‑5‑20.** Persons eligible for membership; oath.

 Any person shall be eligible for membership on the Board who is a registered elector of this State, and each member of the Board shall take the oath prescribed in the Constitution of South Carolina before entering upon the duties of his office.

HISTORY: 1962 Code Section 21‑41.1; 1973 (58) 767.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑30.** Compensation of members.

 The members of the Board shall receive as compensation a per diem and mileage as is provided for members of the General Assembly.

HISTORY: 1962 Code Section 21‑42; 1952 Code Section 21‑42; 1942 Code Section 5280; 1932 Code Section 5287; Civ. C. ‘22 Section 2547; Civ. C. ‘12 Section 1706; Civ. C. ‘02 Section 1182; 1896 (22) 150; 1951 (47) 506; 1963 (53) 512.

CROSS REFERENCES

State Board of Education regulations, see S.C. Code of Regulations R. 43‑50 et seq.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

Attorney General’s Opinions

Specific provisions of an appropriations act prevail over a permanent statute when determining the compensation of an employee of State board. 1968‑69 Op Atty Gen, No 2731, p. 193.

**SECTION 59‑5‑40.** Meetings of Board; quorum; seal.

 The Board shall meet on the call of its chairman or upon the request of a majority of its members at the office of the State Superintendent of Education or at such other place as may be designated in the call. A majority of the Board shall constitute a quorum for transacting business. The official seal of the State Superintendent of Education shall be used for the authentication of the acts of the Board.

HISTORY: 1962 Code Section 21‑43; 1952 Code Section 21‑43; 1942 Code Section 5280; 1932 Code Section 5287; Civ. C. ‘22 Section 2547; Civ. C. ‘12 Section 1706; Civ. C. ‘02 Section 1182; 1896 (22) 150.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

NOTES OF DECISIONS

In general 1

1. In general

Quorum required for revocation of teacher’s certificate. A quorum of the Board must pass on the question whether there is sufficient evidence to justify revoking a teacher’s certificate, since the determination of that question clearly constitutes “transacting business.” Pettiford v. South Carolina State Bd. of Ed. (S.C. 1950) 218 S.C. 322, 62 S.E.2d 780, certiorari denied 71 S.Ct. 742, 341 U.S. 920, 95 L.Ed. 1354.

It it is not necessary that a quorum take testimony at hearings in a proceeding to revoke a teacher’s certificate, and the designation of two members to take the testimony at those hearings and to report such testimony to the full Board in meeting duly assembled does not constitute an unlawful delegation of power. Pettiford v. South Carolina State Bd. of Ed. (S.C. 1950) 218 S.C. 322, 62 S.E.2d 780, certiorari denied 71 S.Ct. 742, 341 U.S. 920, 95 L.Ed. 1354.

**SECTION 59‑5‑50.** Records, papers and effects of Board; minutes of proceedings.

 The secretary shall be custodian of the records, papers and effects of the Board and shall keep the minutes of its proceedings. Such records, papers and minutes shall be kept in the office of the State Superintendent of Education and shall be open to inspection by the public.

HISTORY: 1962 Code Section 21‑44; 1952 Code Section 21‑44; 1942 Code Section 5279; 1932 Code Section 5282; Civ. C. ‘22 Section 2542; Civ. C. ‘12 Section 1705; Civ. C. ‘02 Section 1181; 1896 (22) 150; 1941 (42) 285.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑60.** General powers of Board.

 The State Board of Education shall have the power to:

 (1) Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools.

 (2) Annually approve budget requests for the institutions, agencies, and service under the control of the Board as prepared by the State Superintendent of Education prior to being submitted to the Governor and to the General Assembly.

 (3) Adopt minimum standards for any phase of education as are considered necessary to aid in providing adequate educational opportunities and facilities.

 (4) Prescribe and enforce rules for the examination and certification of teachers.

 (5) Grant State teachers’ certificates and revoke them for immoral or unprofessional conduct, or evident unfitness for teaching.

 (6) Prescribe and enforce courses of study for the free public schools.

 (7) Prescribe and enforce the use of textbooks and other instructional materials for the various subjects taught or used in conjunction within the free public schools of the State, both high schools and elementary schools in accordance with the courses of study as prepared and promulgated by the Board.

 (8) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Board.

 (9) Cooperate fully with the State Superintendent at all times to the end that the State system of public education may constantly be improved.

 (10) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law or as it may find necessary to aid in carrying out the purpose and objectives of the Constitution of the State.

HISTORY: 1962 Code Section 21‑45; 1952 Code Section 21‑45; 1942 Code Section 5282; 1932 Code Section 5289; Civ. C. ‘22 Section 2549; Civ. C. ‘12 Section 1708; Civ. C. ‘02 Section 1184; 1896 (22) 150; 1914 (28) 450; 1915 (29) 188; 1923 (33) 147; 1927 (35) 354; 1928 (35) 1215; 1931 (37) 391; 1940 (41) 1763, 1886; 1947 (45) 55; 1963 (53) 512.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

CROSS REFERENCES

Charter schools, see S.C. Code of Regulations R. 43‑601.

Control of school bus transportation by state board of education, see Section 59‑67‑410.

Food service management company contracts, general school administration, see S.C. Code of Regulations R. 43‑169.

For additional powers and duties of the board regarding training, certification, and evaluation of teachers, see Sections 59‑26‑20 and 59‑26‑30.

At‑risk students, see S.C. Code of Regulations R. 43‑274.1.

Textbook adoption regulations, see S.C. Code of Regulations R. 43‑70.

Powers and duties of State Educational Finance Commission devolved upon State Board of Education, see Sections 59‑5‑90 et seq.

Powers and duties of State Schoolbook Commission devolved upon State Board of Education, see Section 59‑5‑90.

School districts providing copies of annual budgets and audit reports, see Section 59‑17‑100.

State contracts for textbooks, see Sections 59‑31‑510 et seq.

State textbook rental system, see Sections 59‑31‑210 et seq.

State textbook system generally, see Sections 59‑31‑10 et seq.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

Attorney General’s Opinions

A court would likely not enforce the master’s degree requirement of S.C. Code of Regulations R. 43‑64(II)(C) and, consequently, would not find that the Department of Education improperly certified individuals as speech‑language therapists who have only a bachelor’s level education. S.C. Op.Atty.Gen. (September 26, 2012) 2012 WL 4836946.

Remedial instruction appears to be required for all students who fail to pass the exit examination given in 1985‑86 and/or subsequent years. For these students, programs must be provided prior to the next time the examination is offered. The State Board of Education and local school districts appear to have reasonable discretion to ensure compliance with enrollment requirements for these programs. 1986 Op Atty Gen, No. 86‑27, p 91.

Teacher aides may be counted as .5 in computing the pupil‑teacher ratio as required in Section 4(5) of the Finance Act. 1978 Op Atty Gen, No 78‑101, p 129.

The State Department of Education’s notes in the amount of $300,000.00 are valid obligations. 1976‑77 Op Atty Gen, No. 77‑111, p 98.

The State Board of Education may implement the new certification requirements based on NTE scores despite the pending litigation challenging the use of the NTE. Pursuant to the new regulations, all persons with incomplete applications on file with the State Department of Education would be subject to the new requirements. Further action of the State Board of Education is necessary in order to reinstate and/or revise the regulation relating to adding endorsements to valid certificates. 1975‑76 Op Atty Gen, No 4476, p 335.

Minimum standards for private schools. In areas where the compulsory school attendance act is applicable, the State Board of Education possesses authority to establish minimum standards to which private schools must adhere in order to gain Board approval. 1967‑68 Op Atty Gen, No 2585, p 291.

Selection of personnel in the State Department of Education is vested solely in State Superintendent of Education and the State Board of Education is not authorized to confirm or reject personnel selections in State Department of Education. 1965‑66 Op Atty Gen, No 2003, p 64.

The primary responsibility to organize and staff the Department of Education is vested in the State Superintendent of Education, subject to the authority of the State Board of Education to prescribe policies, rules and regulations for the government of the State school system. 1965‑66 Op Atty Gen, No 2210, p 355.

The amendment to this section [Code 1962 Section 21‑45] is a reaffirmation and reenactment of the powers and authority of the State Board of Education with respect to the selection of school textbooks, and its provisions do not have the effect of repealing or modifying Code 1962 Section 21‑476. 1963‑64 Op Atty Gen, No 1607, p 24.

NOTES OF DECISIONS

In general 1

1. In general

There is no indication in this section [Civil Code 1902 Section 1184] that the State Board of Education may not contract with publishers of school textbooks to maintain at the State capital a central wholesale depository, from which its agencies and the county depositories may be supplied at discount of not less than ten per cent. Duncan v Heyward (1906) 74 SC 561, 54 SE 760. Owens v Heyward (1907) 78 SC 227, 58 SE 1095.

For additional related cases, see State ex rel. Addy v State Board of Education (1917) 108 SC 312, 94 SE 110. State ex rel. Williams v Hiers (1898) 51 SC 388, 29 SE 89. Greenville College v County Board of Education (1906) 75 SC 93, 55 SE 132.

The State Board of Education has the broad power to adopt policies, rules and regulations for the state’s public schools, is charged with planning construction of school buildings, and has broad responsibilities with respect to transportation. Therefore, it is a proper defendant in a suit seeking injunctive relief from alleged segregation of schools. Stanley v. Darlington County School Dist., 1995, 879 F.Supp. 1341, reversed in part 84 F.3d 707.

Dismissal of a teacher by the Board of Education under authority granted by this section [Code 1942 Section 5282] was not a denial of due process upon the ground that the statute does not provide for judicial review, since Board action is nevertheless subject to judicial review by writ of certiorari. Shirer v. Anderson, 1950, 88 F.Supp. 858.

**SECTION 59‑5‑61.** Secondary occupational career and technology education courses for school district.

 The State Board of Education, through local school districts and area career and technology centers, shall establish, maintain, and operate secondary occupational vocational education courses for secondary school students in public schools in accordance with guidelines and standards established by the board and in accordance with federal laws pertaining to career and technology education. The board shall approve secondary occupational career and technology education courses.

HISTORY: 1986 Act No. 394, Section 2; 2005 Act No. 49, Section 4, eff May 3, 2005.

Effect of Amendment

The 2005 amendment substituted “career and technology” for “vocational” in three places.

LIBRARY REFERENCES

Schools 164.

Westlaw Key Number Search: 345k164.

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

**SECTION 59‑5‑63.** Duty free lunch periods for teachers.

 The State Board of Education shall promulgate regulations directing the principal of each elementary school having grades one through six to develop and implement a plan which shall equitably apportion lunchroom duty among the teachers so that each teacher has as many duty free lunch periods as may be reasonable in order to insure the safety and welfare of students and staff. The implementation of the plan shall not impose additional costs on the school districts. The regulations shall direct that the plan be in effect for the 1984‑85 school year.

HISTORY: 1984 Act No. 280, Section 1.

LIBRARY REFERENCES

Schools 147.

Westlaw Key Number Search: 345k147.

C.J.S. Schools and School Districts Sections 241 to 242, 267, 351 to 355.

**SECTION 59‑5‑65.** Powers and responsibilities of State Board of Education.

 The State Board of Education shall have the power and responsibility to:

 (1) Establish on or before August 15, 1985, regulations prescribing minimum standards of conduct and behavior that must be met by all pupils as a condition to the right of pupils to attend the public schools of the State. The rules shall take into account the necessity of proper conduct on the part of all pupils in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that the rules may result in suspension or expulsion of pupils, provided, however, that disciplinary procedures shall be in compliance with Public Law 94‑142.

 (2) Promulgate on or before August 15, 1985, regulations prescribing a uniform system of minimum enforcement by the various school districts of the rules of conduct and behavior.

 (3) Promulgate rules prescribing scholastic standards of achievement. 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. School districts may impose additional standards of conduct and may impose additional penalties for the violation of such standards of behavior, provided, however, that disciplinary procedures shall be in compliance with Public Law 94‑142;

 (4) Establish on or before July 1, 1985, regulations prescribing a uniform system of enforcement by the various school districts of the state compulsory attendance laws and regulations promulgated pursuant to Section 59‑65‑90.

 (5) Promulgate regulations to ensure that all secondary schools, with the exception of career and technology schools and secondary schools whose enrollment is entirely handicapped, offer a clearly defined college preparatory program as specified by the State Board of Education.

 (6) Promulgate regulations to ensure that each school district in its secondary school or career and technology center shall establish clearly defined career and technology programs designed to provide meaningful employment.

 (7) By January 1, 1986, establish criteria for promotion of students to the next higher grade.

 In grades 1, 2, 3, 6, and 8, a student’s performance on the Basic Skills Test of reading shall constitute twenty‑five percent of the assessment of his achievement in reading and his performance on the Basic Skills Test of mathematics shall constitute twenty‑five percent of the assessment of his achievement in mathematics. The State Board of Education shall specify other measures of student performance in each of these subjects which shall constitute the remaining seventy‑five percent of the student’s assessment.

 Any student who fails to meet the criteria established by the Board for promotion to the next higher grade must be retained in his current grade or assigned to a remedial program in the summer or in the next year. Students assigned to the remedial program must meet the minimum criteria established by the Board for his current grade at the conclusion of the remedial program to be promoted to the next higher grade. All handicapped students as defined by federal and state statutes and regulations are subject to the provisions of this section unless the student’s individual education plan (IEP) as required by Public Law 94‑142 defines alternative goals and promotion standards.

 Nothing in this subitem shall prohibit the governing bodies of the school districts of this State from establishing higher standards for the promotion of students.

 (8) Develop and implement regulations requiring all school districts to provide at least one‑half day early childhood development programs for four‑year‑old children who have predicted significant readiness deficiencies and whose parents voluntarily allow participation. The regulations must require intensive and special efforts to recruit children whose participation is difficult to obtain. The school districts may contract with appropriate groups and agencies to provide part or all of the programs. If 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. The State Department of Education shall collect and analyze longitudinal data to determine the effects of child development programs on the later achievement of children by tracking four‑year‑old child development program participants through kindergarten and the first three years of elementary school to examine their performance on appropriate performance measures.”

 (9) [Deleted]

 (10) Adopt guidelines whereby the secondary schools of this State shall emphasize teaching as a career opportunity.

 (11) Adopt policies and procedures for the local school districts to follow whereby:

 (a) Regular conferences between parents and teachers are encouraged.

 (b) Each school has active parent and teacher participation on the School Improvement Council and in parent‑teacher groups.

 (c) Parenting classes and seminars are made readily available in every school district.

 (12) Adopt policies and procedures to accomplish the following:

 (a) Have school personnel encourage advice and suggestions from the business community.

 (b) Have business organizations encourage their members to become involved in efforts to strengthen the public schools.

 (c) Encourage all schools and businesses to participate in adopt‑a‑school programs.

 (d) Encourage statewide businesses and their organizations to initiate a Public Education Foundation to fund exemplary and innovative projects which support improvement in the public schools.

 (13) Adopt policies and procedures to accomplish the following:

 (a) Expand school volunteer programs.

 (b) Encourage civic and professional organizations to participate in local adopt‑a‑school programs.

 (14) work with the leadership network established pursuant to Section 59‑6‑16.

 (15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools’ safety strengths and weaknesses. The checklist must include:

 (a) the existence of a comprehensive safety plan;

 (b) communication of discipline policies and procedures;

 (c) intraagency 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.

 (16) consult with the Department of Agricultural Education of Clemson University at all steps in the development of any state plan prepared to satisfy any federal requirement related to the Carl Perkins Vocational and Applied Technology and Education Act or any successor federal law, including, but not limited to, the allocation or distribution of funds under this federal act.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision A, SubPart 1, Section 3, SubPart 2, Section 1, SubPart 5, Section 1(A), Subdivision B, SubPart 2, Section 1(A), SubPart 3, Section 1, Subdivision C, SubPart 1, Section 1(C), Subdivision F, SubPart 1, Section 1, SubPart 2, Section 1, and SubPart 3, Section 1; 1985 Act No. 201, Part II, Sections 9(A), (B), (G), (O); 1987 Act No. 80 Section 1; 535, Section 1; 1989 Act No. 194, Sections 2 and 32; 1990 Act No. 579, Section 5; 1993 Act No. 135, Sections 6, 7; 1993 Act No. 164, Part II, Section 51A; 2005 Act No. 49, Section 5, eff May 3, 2005.

Effect of Amendment

The 2005 amendment in items (5) and (6) substituted “career and technology” for “vocational”.

CROSS REFERENCES

Clemson University, see Section 46‑7‑10 et seq.

Food service management company contracts, general school administration, see S.C. Code of Regulations R. 43‑169.

Implementation of student promotion policy by school districts, see Section 59‑19‑95.

Regulation governing student attendance, see S.C. Code of Regulations R. 43‑274.

Regulation governing academic assistance programs, grades 4‑12, see S.C. Code of Regulations R. 43‑268.

Regulation governing early childhood assistance programs, grades k‑3, see S.C. Code of Regulations R. 43‑267.

Regulation governing at‑risk students, see S.C. Code of Regulations R. 43‑274.1.

School Resource Officers, see S.C. Code of Regulations R. 43‑210.

State Board of Education to participate in promoting awareness of higher education options to eighth grade students and their parents, see Sections 59‑103‑180 et seq.

Federal Aspects

Public Law 94‑142, referred to in this Section, may be found in the Education of the Handicapped Act, see 20 U.S.C.A. Sections 1400 et seq.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑67.** Reduction of paper work; computerization; grants for improving teaching practices and procedures.

 (A) The State Department of Education shall provide for continuous training for district personnel to operate the computers provided and for continuous selection and evaluation of software.

 (B) The State Board of Education, acting through the State Department of Education, shall establish and administer a competitive grant program whereby teachers will be awarded grants for the purpose of improving teaching practices and procedures within the budgetary limitations authorized by the General Assembly. The respective local school districts shall act as the fiscal agent for the grants. For purposes of this section the term “teacher” includes teachers, librarians, guidance counselors, and media specialists.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, SubPart 4, Sections 2, 3; 1985 Act No. 201, Part II, Sections 9(C), (N).

**SECTION 59‑5‑68.** Uniform grading scale.

 The General Assembly finds that given the fact the State provides substantial financial academic assistance to students of the State based on cumulative grade point averages and districts currently use a variety of grading scales, it is in the best interest of the students of South Carolina for a uniform grading scale to be developed and adopted by the State Board of Education to be implemented in all public schools of the State. Therefore, the State Board of Education is directed to establish a task force comprised of superintendents, principals, teachers, and representatives of school boards and higher education no later than June 30, 1999. The task force shall make recommendations to the board including, but not limited to, the following: consistent numerical breaks for letter grades; consideration of standards to define an honors course; appropriate weighting of courses; and determination of courses and weightings to be used in the calculation of class rank. The task force shall report its findings to the State Board of Education no later than December 1, 1999. The State Board of Education shall then adopt and school districts of the State shall begin using the adopted grading scale no later than the 2000‑2001 school year.

HISTORY: 1999 Act No. 41, Section 1.

LIBRARY REFERENCES

Schools 164.

Westlaw Key Number Search: 345k164.

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

**SECTION 59‑5‑69.** Implementation of regulations concerning South Carolina Education Improvement Act.

 The State Board of Education and the Commission on Higher Education in performing the duties and responsibilities assigned to them in the South Carolina Education Improvement Act of 1984 are authorized to promulgate regulations necessary to implement these provisions.

HISTORY: 1984 Act No. 512, Part II, Division V, Section 1.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑70.** Hearings.

 (A) The board may, in its discretion, designate one or more of its members to conduct any hearing in connection with any responsibility of the board and to make a report on any such hearing to the board for its determination.

 (B) The board in its discretion may also designate a hearing officer for the purpose of hearing matters relating to the suspension or revocation of teacher certificates. The hearing officer shall then make a recommendation to the board for final action.

HISTORY: 1962 Code Section 21‑45.1; 1973 (58) 767; 2000 Act No. 351, Section 1.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑71.** Repealed by 2003 Act No. 89, Section 7, eff July 23, 2003.

Editor’s Note

Former Section 59‑5‑71 was entitled “Uniform beginning date for annual school term; task force to make recommendations” and was derived from 2002 Act No. 356, Section 1, Part I.C.

**SECTION 59‑5‑75.** Out‑of‑field permits and teaching.

 The State Board of Education shall review and make any necessary revisions to regulations to define the criteria for an out‑of‑field permit and for school districts to report out‑of‑field teaching for teachers who are not teaching one hundred percent of the time in their areas of certification or in a field in which the teachers have twelve or more academic hours from a regionally, state, or nationally accredited program, with special provisions made for phasing in middle level certification.

HISTORY: 2000 Act No. 393, Section 2.

LIBRARY REFERENCES

Schools 130.

Westlaw Key Number Search: 345k130.

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

**SECTION 59‑5‑85.** Teacher evaluation program standards and procedures.

 The State Board of Education and the Department of Education shall review and refine, as necessary, the professional performance dimensions in the state’s teacher evaluation program (ADEPT) established in Section 59‑26‑30(B) to ensure the dimensions are consistent with nationally recognized performance‑based accreditation standards and certification standards of the National Board for Professional Teaching Standards certification standards. National board certified teachers shall be included in this review. A report on the changes to the dimensions must be provided to the Education and Public Works Committee of the House of Representatives and the Education Committee of the Senate no later than September 1, 2001.The Department of Education shall implement a pilot program to develop procedures and obtain information for including student achievement as a component in the teacher evaluation program (ADEPT). No fewer than five school districts must participate in the development and pilot of the procedures. At least one district designated as impaired is to be included in the pilot if the district chooses. The development of the program is to begin no later than September 1, 2000. A report on the progress of the project and recommendations concerning its implementation is due to the Education Committee of the Senate and the Education and Public Works Committee of the House of Representatives by March 1, 2001.

 Further, the Department of Education shall develop guidelines for the teacher induction program, established in Section 59‑26‑20, which shall include sustained long‑term coaching and assistance. Information on best practices in teacher induction programs must be disseminated to school districts. By July 1, 2000, the State Department of Education shall adopt criteria for the selection and training of teachers who serve as mentors for new teachers as a part of the induction program.

HISTORY: 2000 Act No. 393, Section 4.

LIBRARY REFERENCES

Schools 128.

Westlaw Key Number Search: 345k128.

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

**SECTION 59‑5‑90.** Powers and duties of State Educational Finance Commission and State Schoolbook Commission devolved upon Board.

 All powers and duties provided by law for the State Educational Finance Commission and the State Schoolbook Commission are hereby devolved upon the State Board of Education.

HISTORY: 1962 Code Section 21‑48; 1970 (56) 2503.

CROSS REFERENCES

Defined program, grades 9‑12 and graduation requirements, see S.C. Code of Regulations R. 43‑234.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑95.** Panels created to review accreditation requirements; membership; duties.

 The State Board of Education and the Commission on Higher Education shall appoint a collegial panel of middle grade classroom teachers and teacher preparation faculty to review the National Council for Accreditation of Teacher Education (NCATE) accreditation requirements and recommend any additional training standards and needs for middle grade teacher preparation and professional development courses. The panel shall be a continuing body, shall include representatives of professional organizations, and shall:

 (1) review the state’s academic standards in the four core academic areas and current teaching courses;

 (2) determine the knowledge and skills needed by teachers at the middle grades level to teach these standards and assess student progress in learning the standards;

 (3) establish syllabi to guide the development of high quality teacher preparation courses; and

 (4) develop assessments to determine the strengths and weaknesses of the curriculum.

HISTORY: 2000 Act No. 393, Section 5.

**SECTION 59‑5‑100.** Powers and duties of State Educational Finance Commission devolved upon Board; general duties.

 The Board of Education, as successor to the State Educational Finance Commission, shall disburse such funds as are provided by the General Assembly and shall have such further powers as are committed to it by this Title. It shall promote the improvement of the school system and its physical facilities. It shall make plans for the construction of necessary public school buildings. It shall make surveys incident to the acquisition of sites for public schools. It shall seek the more efficient operation of the pupil transportation system. It shall effect desirable consolidations of school districts throughout the entire State. And it shall make provision for the acquisition of such further facilities as may be necessary to operate the public school system in an efficient manner.

HISTORY: 1962 Code Section 21‑56; 1952 Code Section 21‑56; 1951 (47) 546.

CROSS REFERENCES

Approval of certain building contracts, see Section 10‑1‑110.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

NOTES OF DECISIONS

In general 1

1. In general

The State Board of Education has the broad power to adopt policies, rules and regulations for the state’s public schools, is charged with planning construction of school buildings, and has broad responsibilities with respect to transportation. Therefore, it is a proper defendant in a suit seeking injunctive relief from alleged segregation of schools. Stanley v. Darlington County School Dist., 1995, 879 F.Supp. 1341, reversed in part 84 F.3d 707.

Stated in Thomas v. Hollis (S.C. 1958) 232 S.C. 330, 102 S.E.2d 110.

Establishment and consolidation of school districts. The authority vested in the Commission with reference to such matters as the establishment and consolidation of school districts is of an advisory and regulatory nature. Powers v. State Educational Finance Commission (S.C. 1952) 222 S.C. 433, 73 S.E.2d 456.

The Commission is not empowered by this section [Act 1951 (47) 546] to make a consolidation of school districts lying in different counties, where either county board of education refuses to agree thereto. Powers v. State Educational Finance Commission (S.C. 1952) 222 S.C. 433, 73 S.E.2d 456.

**SECTION 59‑5‑110.** Powers and duties of State Educational Finance Commission devolved upon Board; survey of school system.

 As soon as practicable the Board of Education, as successor to the State Educational Finance Commission, shall make a survey of the entire school system, which shall set forth the needs for new construction, new equipment, new transportation facilities and such other improvements as are necessary to enable all children of the State to have adequate and equal educational advantages.

HISTORY: 1962 Code Section 21‑57; 1952 Code Section 21‑57; 1951 (47) 546.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

NOTES OF DECISIONS

In general 1

1. In general

Stated in Thomas v. Hollis (S.C. 1958) 232 S.C. 330, 102 S.E.2d 110.

Quoted in Powers v. State Educational Finance Commission (S.C. 1952) 222 S.C. 433, 73 S.E.2d 456.

**SECTION 59‑5‑120.** Powers and duties of State Educational Finance Commission devolved upon Board; rules and regulations.

 The Board of Education, as successor to the State Educational Finance Commission, shall prescribe and promulgate, in the manner provided by law, reasonable rules and regulations to carry out the provisions of Sections 59‑5‑100 and 59‑5‑110, Chapter 21 of this Title, Article 3 of Chapter 67 of this Title and Articles 1 and 5 of Chapter 71 of this Title and such rules and regulations shall have the full force and effect of law.

HISTORY: 1962 Code Section 21‑58; 1952 Code Section 21‑58; 1951 (47) 546.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

NOTES OF DECISIONS

In general 1

1. In general

Quoted in Powers v. State Educational Finance Commission (S.C. 1952) 222 S.C. 433, 73 S.E.2d 456.

This section [Act 1951 (47) 546] does not constitute an unlawful delegation of legislative power. State ex rel. Roddey v. Byrnes (S.C. 1951) 219 S.C. 485, 66 S.E.2d 33.

**SECTION 59‑5‑130.** Members shall not contract with Board.

 It shall be unlawful for any member of the Board to make any contract or to be pecuniarily interested in any contract or otherwise make a profit from any contract with the State Board of Education. Any member violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned not less than three months nor more than twelve months, or both. He shall also forfeit the amount of such claim or of his interest in such claim. The violation of this section shall constitute sufficient cause for removal of the member from office.

HISTORY: 1962 Code Section 21‑49; 1973 (58) 767.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑135.** Governor’s Institute of Reading; functions; funding.

 (A) The General Assembly finds that:

 (1) reading is the most important academic skill and the basis for success in school and work;

 (2) test results indicate that a significant portion of South Carolina students score below the fiftieth percentile on nationally normed achievement tests; and

 (3) it is necessary and proper to establish a comprehensive long‑term commitment to improve reading as well as overall academic performance.

 (B) There is created within the State Department of Education the Governor’s Institute of Reading. The purpose of the institute is to create a collaborative effort to mobilize education, business, and community resources to ensure that all children learn to read independently and well by the end of the third grade. The purpose of the institute also is to mobilize efforts to improve the reading abilities of students in the middle grades and accelerate the learning of students reading below grade level. The Governor’s Institute of Reading is based upon a collaborative effort of education professionals and reading experts and designed to promote reading in every school district. To accomplish this mission, the institute shall:

 (1) review the best practices in the teaching of reading;

 (2) provide teachers with professional development and support for implementing best practices in the teaching of reading; and

 (3) award competitive grants to school districts for designing and providing a comprehensive approach to reading instruction based on best practices.

 The State Board of Education shall develop guidelines for administering and allocating funds for the Governor’s Institute of Reading. Grants must be awarded, beginning with fiscal year 1999‑2000, to districts for implementing programs designed to achieve exemplary reading. The department may carry forward any unexpended appropriations to be used for this same purpose from fiscal year to fiscal year.

HISTORY: 1999 Act No. 100, Part II, Section 46; 2000 Act No. 393, Section 7.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑5‑140.** South Carolina Opportunity School, John De La Howe School and South Carolina School for the Deaf and Blind required to meet State standards.

 Academic and career and technology training provided by the South Carolina Opportunity School, the John De La Howe School, and the South Carolina School for the Deaf and the Blind must meet standards prescribed by the State Board of Education based upon standards prescribed by the South Carolina Department of Education for the academic and career and technology programs of these schools. The board may prescribe additional requirements as necessary. The State Superintendent of Education shall administer the standards related to the high school and elementary school programs. Reports from the State Department of Education, evaluating the education program and indicating whether or not the program meets the standards as prescribed, must be made directly to the board of each institution at regularly scheduled meetings. State Department of Education supervisory personnel must be utilized for evaluating the programs and reporting to each board.

HISTORY: 1962 Code Section 21‑50; 1973 (58) 688; 2005 Act No. 49, Section 6, eff May 3, 2005.

Effect of Amendment

The 2005 amendment substituted “career and technology” for “vocational” in two places and made nonsubstantive language changes.

**SECTION 59‑5‑150.** Awards for civic contribution to public education.

 The State Board of Education shall initiate an award program to recognize business and industries, civic organizations, school improvement councils, and individuals contributing most significantly to public education.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision F, SubPart 3, Section 2.

**SECTION 59‑5‑160.** Graduation of children who are new to South Carolina.

 (A) In order to facilitate the on‑time graduation of children of families who have moved to South Carolina during the child’s twelfth grade year, the State Board of Education may:

 (1) waive specific courses required for graduation if those courses were not specifically required for graduation in the student’s most recent state of residence; however, the state board may not waive the number of courses required in ELA, math, and science. If a student does not have sufficient course credit to be issued a South Carolina diploma, the state board, to the extent possible, shall provide an alternative means of acquiring required coursework so that the student could receive a South Carolina high school diploma and graduation may occur on time; and

 (2) may accept exit exams, end‑of‑course exams, or alternative testing required for graduation from the sending state in lieu of South Carolina testing requirements for graduation provided that all portions of these exams necessary for graduation from the sending state have been satisfactorily met.

 (B) In the event the alternatives provided in subsection (A) cannot be accommodated after all alternatives have been considered, the State Board of Education shall work with other state boards and departments of education to help facilitate the receipt of a diploma from the sending state if the student meets the graduation requirements of that state.

 (C) The State Board of Education shall develop guidelines and subsequent regulations to comply with the provisions of this section.

HISTORY: 2010 Act No. 246, Section 2, eff July 1, 2010.

Editor’s Note

2010 Act 246, Section 5, provides as follows:

“This act takes effect July 1, 2010, contingent upon available funding and agreement by the Interstate Commission to SECTION 3 of this act.”

CROSS REFERENCES

Interstate Compact on Educational Opportunity for Military Children, see Section 59‑46‑10 et seq.