CHAPTER 49

John De La Howe School

**SECTION 59‑49‑10.** Establishment of John De La Howe School.

 There is hereby established under the provisions of this chapter an institution to be known as the John De La Howe School.

HISTORY: 1962 Code Section 22‑501; 1952 Code Section 22‑501; 1942 Code Section 5480; 1932 Code Section 5676; Civ. C. ‘22 Section 2757; 1918 (30) 803; 1937 (40) 216.

CROSS REFERENCES

Exemption of certain agencies, homes and institutions from provisions governing child welfare agencies, see Section 63‑11‑20.

LIBRARY REFERENCES

Schools 11.

Westlaw Key Number Search: 345k11.

C.J.S. Schools and School Districts Sections 4, 6, 74, 76, 396 to 398.

**SECTION 59‑49‑20.** Trustees of School; appointment; term; vacancies.

 The business, property, and affairs of the school must be under the control of a board of trustees, consisting of nine members, appointed by the Governor, subject to confirmation by the Senate. The terms of the members of the board must be for terms of five years. Appointments to fill vacancies must be for the remainder of the terms in the same manner of original appointments.

HISTORY: 1962 Code Section 22‑502; 1952 Code Section 22‑502; 1942 Code Section 5482; 1932 Code Section 5678; Civ. C. ‘22 Section 2759; 1918 (30) 803; 1920 (31) 723; 1937 (40) 216; 1985 Act No. 35, Section 1.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑49‑30.** Removal of trustees; failure to attend meetings as resignation.

 The members of the board may at any time be removed by the Governor for good cause. The failure of any member of the board to attend at least one meeting thereof in any year, unless excused by formal vote of the board, may be construed by the Governor as the resignation of such nonattending member.

HISTORY: 1962 Code Section 22‑503; 1952 Code Section 22‑503; 1942 Code Section 5482; 1932 Code Section 5678; Civ. C. ‘22 Section 2759; 1918 (30) 803; 1920 (31) 723; 1937 (40) 216.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑49‑40.** Meetings of trustees.

 The said board shall meet quarterly and oftener as may be required, at least one meeting each year being held at the school.

HISTORY: 1962 Code Section 22‑504; 1952 Code Section 22‑504; 1942 Code Section 5482; 1932 Code Section 5678; Civ. C. ‘22 Section 2759; 1918 (30) 803; 1920 (31) 723; 1937 (40) 216.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑49‑60.** Compensation of trustees.

 All members of the board shall receive per diem and mileage as provided by law for members of state boards, committees, and commissions.

HISTORY: 1962 Code Section 22‑506; 1952 Code Section 22‑506; 1942 Code Section 5482; 1932 Code Section 5678; Civ. C. ‘22 Section 2759; 1918 (30) 803; 1920 (31) 723; 1937 (40) 216; 1985 Act No. 35, Section 3.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

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

**SECTION 59‑49‑70.** School declared a body corporate; powers.

 The John De La Howe School is hereby declared to be a body corporate and, as such, may sue and be sued and plead and be impleaded in its corporate name, may have and use a proper seal, which it may alter at its pleasure and may acquire by purchase, deed, devise, lease for a term of years, bequest or otherwise such property, real and personal, in fee simple without limitations as may be necessary or proper for carrying out the purposes of its organization as herein declared.

HISTORY: 1962 Code Section 22‑507; 1952 Code Section 22‑507; 1942 Code Section 5481; 1932 Code Section 5677; Civ. C. ‘22 Section 2758; 1918 (30) 803; 1937 (40) 216.

LIBRARY REFERENCES

Schools 11.

Westlaw Key Number Search: 345k11.

C.J.S. Schools and School Districts Sections 4, 6, 74, 76, 396 to 398.

**SECTION 59‑49‑80.** Superintendent; employees.

 The board shall elect a superintendent for said school at such salary and for such term as it may fix. The superintendent shall employ and discharge all employees of the school, subject to the approval of the board.

HISTORY: 1962 Code Section 22‑508; 1952 Code Section 22‑508; 1942 Code Section 5483; 1932 Code Section 5679; Civ. C. ‘22 Section 2760; 1918 (30) 803; 1937 (40) 216.

LIBRARY REFERENCES

Schools 63.

Westlaw Key Number Search: 345k63.

C.J.S. Schools and School Districts Sections 253, 264 to 265, 725.

Attorney General’s Opinions

While there is no provision in the law, nor in the will of John De La Howe, for the appointment of an interim superintendent the public interest requires that some official be designated to act instead of the superintendent during a period of his disability, thus an acting superintendent appointed by the board of trustees to perform the duties of the superintendent during the period of his disability would, at the very least, act in a de facto capacity and his acts and doings as such would be valid in all respects. 1965‑66 Op Atty Gen, No 2065, p 158.

**SECTION 59‑49‑90.** Oath of trustees; oath and bond of superintendent.

 All of the members of the board and the superintendent of the school shall, before entering upon the discharge of their duties, take an oath faithfully to perform any and all duties imposed upon them under this chapter. The superintendent shall execute a bond payable to the State in such sum as shall be required by the board, with sufficient security, which shall be filed in the office of the Secretary of State.

HISTORY: 1962 Code Section 22‑509; 1952 Code Section 22‑509; 1942 Code Section 5484; 1932 Code Section 5680; Civ. C. ‘22 Section 2761; 1918 (30) 803; 1937 (40) 216.

LIBRARY REFERENCES

Schools 63(1).

C.J.S. Schools and School Districts Sections 114, 116, 129, 173 to 175, 183 to 190, 194 to 195, 218, 244, 248, 259, 264 to 265, 725.

Westlaw Key Number Search: 345k63(1).

**SECTION 59‑49‑100.** Purpose of School.

 It is declared to be the purpose and policy of the State to maintain and develop the school property in accordance with the purposes of the will of Dr. John De La Howe as interpreted by the Supreme Court of South Carolina, Mars v. Gibert, 93 SC 455, which for historical reference reads: “First, the establishment and maintenance of an agricultural and mechanical school as an institution in Abbeville County, stimulating and improving the industrial life of the entire community; second, the training, free of charge, of twenty‑four boys and girls, not as college men and women, but in the beginning of school life; and, third, the like training of the children of the neighborhood not supported by the fund.” It is declared that the term “Abbeville County” shall be understood to mean that portion of South Carolina known as Abbeville County at the time the will of Dr. John De La Howe was dated, namely January 2, 1797. The property is now in McCormick County. It is further declared that, given the above historical perspective, the Board of Trustees of John De La Howe School shall instruct the Superintendent of the school to implement programs which shall meet the needs of children from all of South Carolina who for some urgent reason need to be separated from their home or community.

HISTORY: 1962 Code Section 22‑510; 1952 Code Section 22‑510; 1942 Code Section 5485; 1932 Code Section 5681; Civ. C. ‘22 Section 2762; 1918 (30) 803; 1937 (40) 216; 1985 Act No. 35, Section 4.

LIBRARY REFERENCES

Schools 11.

Westlaw Key Number Search: 345k11.

C.J.S. Schools and School Districts Sections 4, 6, 74, 76, 396 to 398.

Attorney General’s Opinions

Discussion of unearned comp time and payment of salary not due for certain staff members employed with the John de la Howe School. S.C. Op.Atty.Gen. (November 17, 2014) 2014 WL 6705713.

**SECTION 59‑49‑110.** Improved forestry and farm practices.

 The trustees of the John De La Howe School may carry out improved forestry and farm practices on the timber holdings and farmland of the school property and apply the revenues derived from them and any other revenue source on the property for the further improvement and development of the school forest and farmlands and for other school purposes.

HISTORY: 1962 Code Section 22‑510.1; 1953 (48) 439; 1985 Act No. 35, Section 5.

**SECTION 59‑49‑120.** Funds of estate of Dr. John De La Howe.

 All of the money in the hands of trustees of the estate of Dr. John De La Howe shall by them be delivered to the board of trustees created by this chapter when so requested to do by the board of trustees. All amounts received from said estate and its operation shall be appropriated for the support and development of the school, in the discretion of the board of trustees.

HISTORY: 1962 Code Section 22‑511; 1952 Code Section 22‑511; 1942 Code Section 5487; 1932 Code Section 5683; Civ. C. ‘22 Section 2764; 1918 (30) 803.

**SECTION 59‑49‑130.** Use of moneys received for property of School.

 The John De La Howe School may use all moneys received by it through condemnation or otherwise for land and other properties of the school used in connection with the development of what is known as the Clark’s Hill Project or for the development of any other similar project in the construction, erection and building of permanent improvements of and for the school and for the equipping of such improvements.

HISTORY: 1962 Code Section 22‑512; 1952 Code Section 22‑512; 1950 (46) 1878.

**SECTION 59‑49‑140.** Rules and regulations.

 In accordance with the purposes of the school as herein defined the board of trustees shall make such rules and regulations for its own government and for the management of the school as it may deem necessary, consistent with the laws of this State and with the terms of the will of Dr. John De La Howe.

HISTORY: 1962 Code Section 22‑513; 1952 Code Section 22‑513; 1942 Code Section 5486; 1932 Code Section 5682; Civ. C. ‘22 Section 2763; 1918 (30) 803; 1937 (40) 216; 1939 (41) 107.

LIBRARY REFERENCES

Schools 20.

Westlaw Key Number Search: 345k20.

C.J.S. Schools and School Districts Sections 7, 74, 76, 195.

**SECTION 59‑49‑150.** Expenses of students.

 Pupils at the school whose estates are sufficient or the relatives of the pupils liable in law for their support whose estates are sufficient shall pay for the maintenance of the pupils in whole or in part. Policies concerning the manner and method of determining financial ability and the collecting and retention of amounts required to be paid must be determined by the Board of Trustees, in accordance with state policy.

HISTORY: 1962 Code Section 22‑514; 1952 Code Section 22‑514; 1942 Code Section 5486; 1932 Code Section 5682; Civ. C. ‘22 Section 2763; 1918 (30) 803; 1937 (40) 216; 1939 (41) 107; 1985 Act No. 35, Section 6.

LIBRARY REFERENCES

Schools 159.

Westlaw Key Number Search: 345k159.

C.J.S. Schools and School Districts Sections 726 to 733.