CHAPTER 63

Pupils Generally

ARTICLE 1

General Provisions

**SECTION 59‑63‑20.** Age of attendance.

It is not lawful for any person who is less than five or more than twenty‑one years of age to attend any of the public schools of this State, including kindergarten, except that:

(1) Persons over twenty‑one years of age may attend night schools;

(2) When a pupil is in the graduating class and becomes twenty‑one years of age before graduation, he is permitted to complete the term if otherwise qualified to do so;

(3) Students may enter kindergarten in the public schools of this State if they will attain the age of five on or before September first of the applicable school year or have substantially initiated a public school kindergarten program in another state that has a different attendance age requirement from South Carolina;

(4) Students may not enter the first grade in the public schools of this State unless they will attain the age of six on or before September first of the applicable school year or have substantially initiated a first grade program in another state that has a different attendance age requirement from South Carolina or have attended a public school kindergarten program for one full school year;

(5) The restrictions in this section may be waived by the local board of school trustees in any proper case. However, that if the provisions of items (3) and (4) of this section are not complied with, the school district is not entitled to receive any state aid for any students who fail to meet these requirements;

(6) Four‑year‑olds may attend optional child development programs and all three‑year‑old, four‑year‑old, and five‑year‑old children with disabilities in accordance with their individual education program, may participate in any public education preschool program, including optional child development programs. Children with disabilities served in four‑year‑old optional child development programs may be counted for funding under both funding sources.

HISTORY: 1962 Code Section 21‑752; 1952 Code Section 21‑752; 1942 Code Section 5375; 1932 Code Section 5404; Civ. C. ‘22 Section 2646; Civ. C. ‘12 Section 1778; Civ. C. ‘02 Section 1229; 1896 (22) 170; 1917 (30) 51; 1935 (39) 427; 1945 (44) 188; 1978 Act No. 633, Section 4; 1984 Act No. 512, Part II, Section 9, Division II, Subdivision A, SubPart 3, Sections 2(B), 3; 1988 Act No. 407, Section 1; 1989 Act No. 189, Part II, Section 52B; 1990 Act No. 322, Section 7; 1993 Act No. 164, Part II, Section 29B; 1993 Act No. 86, Section 3.

CROSS REFERENCES

Provision making it the responsibility of parents or guardians to compel school attendance by pupils between certain ages, see Section 59‑65‑10.

Special education program for handicapped children between the ages designated in this section, see Section 59‑33‑10.

LIBRARY REFERENCES

Schools 152.

Westlaw Key Number Search: 345k152.

C.J.S. Schools and School Districts Sections 711, 717.

Attorney General’s Opinions

A school district which permits the enrollment of a pupil by waiving the requirements of Section 59‑63‑20(3), (4) as to minimum age shall not be entitled to receive any state aid for students who fail to meet such requirements; a school district board of trustees may, under applicable state law, impose tuition fees upon the parents of such children as a condition of the waiver of the age requirements. 1979 Op Atty Gen, No 79‑53, p 68.

**SECTION 59‑63‑30.** Qualifications for attendance.

Children within the ages prescribed by Section 59‑63‑20 shall be entitled to attend the public schools of any school district, without charge, only if qualified under the following provisions of this section:

(a) Such child resides with its parent or legal guardian;

(b) The parent or legal guardian, with whom the child resides, is a resident of such school district; or

(c) The child owns real estate in the district having an assessed value of three hundred dollars or more; and

(d) The child has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59‑19‑90; and

(e) The child has not been guilty of infraction of the rules of conduct promulgated by the trustees of such school district pursuant to Section 59‑19‑90.

HISTORY: 1962 Code Section 21‑752.1; 1964 (53) 2171.

CROSS REFERENCES

Vaccination of school pupils, see Section 44‑29‑180.

LIBRARY REFERENCES

Schools 153.

Westlaw Key Number Search: 345k153.

C.J.S. Schools and School Districts Sections 712, 718.

Attorney General’s Opinions

Where a child owns property within a school district which has an assessed value of three hundred dollars, if his parent or legal guardian is not also a resident within the school district, the parent or legal guardian is required to make payment pursuant to Section 59‑63‑45. S.C. Op.Atty.Gen. (April 25, 2017) 2017 WL 1955650.

In the absence of any local legislation to the contrary, the determination of which school within the district a student meeting the eligibility requirements for attending the public schools of that district would attend is properly addressed by the board of trustees of that school district. S.C. Op.Atty.Gen. (May 20, 2011) 2011 WL 2214063.

Provided the requirements of section 59‑63‑30 have been complied with, there is no requirement that a child obtain a release from the district of residence to transfer to the district of non‑residence. S.C. Op.Atty.Gen. (Sept. 7, 2010) 2010 WL 3896171.

The district of non‑residence into which a child is to be transferred cannot deny the child’s enrollment if the land requirement, scholastic achievement, good conduct, and payment of any required tuition are met. S.C. Op.Atty.Gen. (Sept. 7, 2010) 2010 WL 3896171.

A child would not have to pay any additional tuition beyond what would normally be required pursuant to section 59‑63‑45 by the receiving district if the child was transferred without owning the required real estate amount specified and the child had obtained a written release from the district of residence and had been accepted by the receiving district. S.C. Op.Atty.Gen. (Sept. 7, 2010) 2010 WL 3896171.

Property ownership within a district does not, itself, entitle a student to demand attendance at a particular school within that district. 1988 Op Atty Gen, No. 88‑48, p 145.

The term “legal guardian,” as used in this section [Code 1962 Section 21‑752.1], means either a testamentary guardian or a guardian by judicial appointment. 1971‑72 Op Atty Gen, No 3317, p 138.

Code 1962 section 21‑230 (10) authorizes boards of trustees of school districts to impose schedule of charges for public school attendance unless residential requirements of this section [Code 1962 Section 21‑752.1] are satisfied. 1969‑70 Op Atty Gen, No 2819, p 31.

Absent a rule of the school board, a child may attend a school in any geographical zone within the district. 1969‑70 Op Atty Gen, No 2825, p 39.

For a student to be a resident of a school district, it is usually sufficient if the student and his parent or guardian are actually residents in the district with apparently no present purpose of removal. 1969‑70 Op Atty Gen, No 2825, p 39.

Under this section [Code 1962 Section 21‑752.1], a pupil is exempt from tuition for public schooling if he lives with either of his parents or with his legal guardian. 1969‑70 Op Atty Gen, No 2947, p 205.

Notes of Decisions

Payment of tuition 2

Property ownership 1

1. Property ownership

A child who owns real estate in the school district having an assessed value of $300 or more is entitled to attend that district’s schools, just as a resident child. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 659

A school district may impose admissions requirements for its schools, including magnet schools; however, in considering eligible applicants, a school board may not distinguish between a child who qualifies to attend its schools as a resident and a child who qualifies to attend its schools as a property owner. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 661(1); Education 672

Student who did not reside in school district was permitted to attend magnet school in district after meeting eligibility requirements due to her ownership of property in the district with a tax‑assessed value of $300 or more; residency in the district was not required. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 659

2. Payment of tuition

The mere payment of tuition is not sufficient to deem a nonresident child eligible to enroll in a particular school in another district; instead, the payment of tuition is a secondary requirement that may be imposed after a nonresident child, who is statutorily eligible to attend the public schools of another school district, is granted admission to a particular school. Storm M.H. ex rel. McSwain v. Charleston County Bd. of Trustees (S.C. 2012) 400 S.C. 478, 735 S.E.2d 492. Education 661(1); Education 683

**SECTION 59‑63‑31.** Additional qualifications for attendance at public school or particular public school.

(A) Children within the ages prescribed in Section 59‑63‑20 also are entitled to attend the public schools of a school district, without charge, if:

(1) the child resides with one of the following who is a resident of the school district:

(a) a person who is not the child’s parent or legal guardian to whom the child’s custody has been awarded by a court of competent jurisdiction;

(b) a foster parent or in a residential community‑based care facility licensed by the Department of Social Services or operated by the Department of Social Services or the Department of Juvenile Justice; or

(c) the child resides with an adult resident of the school district as a result of the:

(i) death, serious illness, or incarceration of a parent or legal guardian;

(ii) relinquishment by a parent or legal guardian of the complete control of the child as evidenced by the failure to provide substantial financial support and parental guidance;

(iii) abuse or neglect by a parent or legal guardian;

(iv) physical or mental condition of a parent or legal guardian is such that he cannot provide adequate care and supervision of the child;

(v) parent’s or legal guardian’s homelessness, as that term is defined by Public Law 100‑77; or

(vi) parent’s or legal guardian’s military deployment or call to active duty more than seventy miles from his residence for a period greater than sixty days; provided, however, that if the child’s parent or legal guardian returns from such military deployment or active duty prior to the end of the school year, the child may finish that school year in the school he attends without charge even if the child resides in another school district for the remainder of the school year due to his parent or legal guardian returning home;

(2) the child is emancipated and resides in the school district;

(3) the child is homeless or is a child of a homeless individual, as defined in Public Law 100‑77, as amended; or

(4) the child resides in an emergency shelter located in the district.

In addition to the above requirements of this subsection, the child shall also satisfy the requirements of Section 59‑63‑30(d) and (e).

(B) A child between five and twenty‑one years of age is entitled to continue attending a particular public school or a successor school in the same school district without charge if:

(1) the child has been attending the school or a predecessor school in the same district prior to being taken into custody by the Department of Social Services or prior to being moved from one placement to another by the department;

(2) the Department of Social Services places the child outside the school district or school attendance zone in a foster home or residential community‑based facility licensed or operated by the department; and

(3) the Department of Social Services has determined that it is in the child’s best interests for the child to continue attending the school, and that transportation for the child to and from the school is reasonably available.

In addition to the requirements of this subsection, the child also shall satisfy the requirements of Section 59‑63‑30(d) and (e).

HISTORY: 1991 Act No. 163, Section 1; 1999 Act No. 104, Section 25; 2003 Act No. 92, Section 10, eff January 1, 2004; 2008 Act No. 323, Section 1, eff June 16, 2008.

Effect of Amendment

The 2003 amendment added subsection (A)(4) relating to children in emergency shelters.

The 2008 amendment added subparagraph (A)(1)(c)(iv) relating to a child in a school district as a result of a parent’s or legal guardian’s military deployment.

Federal Aspects

Public Law 100‑77 is codified as 42 U.S.C.A. Sections 11301 et seq.

LIBRARY REFERENCES

Schools 153.

Westlaw Key Number Search: 345k153.

C.J.S. Schools and School Districts Sections 712, 718.

Attorney General’s Opinions

Proviso 28.25 (1991 Act No. 171,Part I, Section 28.25 (page 1076)) is controlling over Section 59‑63‑31, as to its provisions for financial arrangements among school districts for costs of providing education for child under circumstances set forth under proviso. 1991 Op Atty Gen, No 91‑62, p 157.

**SECTION 59‑63‑32.** Requirements to enroll child in public school; affidavit; penalties for providing false information.

(A) The school district may require an adult seeking to enroll a child who resides with the adult pursuant to Section 59‑63‑31(1)(c) to accept responsibility for making educational decisions concerning the child. These educational decisions may include, but not be limited to, receiving notices of discipline pursuant to Sections 59‑63‑230 and 59‑63‑240, attending conferences with school staff, and granting permission for athletic activities, field trips, and other activities as required.

(B) The school district also must require an adult to complete and sign an affidavit:

(1) confirming the qualifications set out in Section 59‑63‑31(1)(c) establishing residency of the child in the school district;

(2) attesting that the child’s claim of residency in the district is not primarily related to attendance at a particular school within the district; and

(3) accepting responsibility for educational decisions for the child.

(C) Upon receipt of the affidavit provided for in subsection (B), the child must be admitted to an appropriate school pending the results of any further procedures for determining eligibility for attendance within the school district.

(D) If it is found that information contained in the affidavit provided for in subsection (B) is false, the child must be removed from the school after notice of an opportunity to appeal the removal pursuant to the appropriate district grievance policy.

(E) If it is found that a person wilfully and knowingly has provided false information in the affidavit provided for in subsection (B) to enroll a child in a school district for which the child is not eligible, the maker of the false affidavit is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed two hundred dollars or imprisoned for not more than thirty days and also must be required to pay to the school district an amount equal to the cost to the district of educating the child during the period of enrollment. Repayment does not include funds paid by the State.

(F) The affidavit which is required by school districts under this section must include, in large print, the penalty for providing false information on the affidavit.

HISTORY: 1991 Act No. 163, Section 2.

LIBRARY REFERENCES

Schools 153.

Westlaw Key Number Search: 345k153.

C.J.S. Schools and School Districts Sections 712, 718.

**SECTION 59‑63‑35.** Nonresident military enrollment in South Carolina high school diploma program.

Nonresident military personnel may enroll in a program designed to award a South Carolina high school diploma. However, neither the State nor local districts shall be required to bear the cost for any nonresident military personnel enrolled in these programs.

HISTORY: 2008 Act No. 323, Section 2, eff June 16, 2008.

Editor’s Note

2008 Act No. 323, Section 3 provides as follows:

“A member of the United States Armed Forces that, as of the effective date of this act, is stationed outside of this State or was stationed outside of this State for any time during the past twelve months to the extent that he would not be considered a resident of this State for the purposes of this title, but has graduated from a South Carolina high school, and has maintained significant contacts with the State during his service, including, but not limited to, continuously paying property taxes, is a resident or resides in this State, as the case may be, for purposes of this title. This section is repealed on July 1, 2009. This section does not apply for the purpose of eligibility for state scholarships and grants.”

**SECTION 59‑63‑40.** Discrimination on account of race, creed, color or national origin prohibited.

(1) No person shall be refused admission into or be excluded from any public school in the State on account of race, creed, color or national origin.

(2) Except with the express approval of a board having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district or attendance area, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, and further provided that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to such members or to make such selection to its pupils as is calculated to promote the religious principle for which it is established.

HISTORY: 1962 Code Section 21‑752.2; 1970 (56) 1963.

LIBRARY REFERENCES

Schools 151.

Westlaw Key Number Search: 345k151.

C.J.S. Civil Rights Section 127.

C.J.S. Schools and School Districts Section 710.

NOTES OF DECISIONS

In general 1

1. In general

Federal Court of Appeals applied overly stringent standard in determining whether to dissolve prior injunctive decree imposing desegregation plan for city’s public schools; finding by District Court that school district was being operated in compliance with commands of Fourteenth Amendment’s equal protection clause and that it was unlikely that school board would return to its former ways, would be finding that purposes of desegregation litigation had been fully achieved and would thus justify dissolution of desegregation decree without additional requirement for school board to show “grievous wrong” evoked by new and unforeseen conditions. Board of Educ. of Oklahoma City Public Schools, Independent School Dist. No. 89, Oklahoma County, Okl. v. Dowell, U.S.Okla.1991, 111 S.Ct. 630, 498 U.S. 237, 112 L.Ed.2d 715, on remand 778 F.Supp. 1144.

**SECTION 59‑63‑45.** Reimbursement for attending another school district

(A) Notwithstanding the provisions of this chapter, a nonresident child otherwise meeting the enrollment requirements of this chapter may attend a school in a school district which he is otherwise qualified to attend if the person responsible for educating the child pays an amount equal to the prior year’s local revenue per child raised by the millage levied for school district operations and debt service reduced by school taxes on real property owned by the child paid to the school district in which he is enrolled. The district may waive all or a portion of the payment required by this section.

(B) Students attending a school pursuant to this section must be counted in enrollment for purposes of determining state aid to the district.

(C) If the payment to the school district is not made within a reasonable time as determined by the district, the child must be removed from the school after notice is given.

(D) Any nonresident student enrolled in the schools of a district no later than September 9, 1996, shall not be required to meet the conditions of subsection (A) of this section as long as the student is continuously enrolled in the district and as long as the student meets the qualifications provided by law for attending the schools of the district.

HISTORY: 1996 Act No. 389, Section 1.

LIBRARY REFERENCES

Schools 159.

Westlaw Key Number Search: 345k159.

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

Attorney General’s Opinions

Where a child owns property within a school district which has an assessed value of three hundred dollars, if his parent or legal guardian is not also a resident within the school district, the parent or legal guardian is required to make payment pursuant to Section 59‑63‑45. S.C. Op.Atty.Gen. (April 25, 2017) 2017 WL 1955650.

A child would not have to pay any additional tuition beyond what would normally be required pursuant to section 59‑63‑45 by the receiving district if the child was transferred without owning the required real estate amount specified and the child had obtained a written release from the district of residence and had been accepted by the receiving district. S.C. Op.Atty.Gen. (Sept. 7, 2010) 2010 WL 3896171.

**SECTION 59‑63‑50.** Fingerprinting of pupils.

Each county shall provide to every school in the county the forms and ink pads necessary to record each pupil’s fingerprints in kindergarten and grades one through twelve. The State Law Enforcement Division and all local law enforcement agencies are instructed and authorized to assist local school authorities in the fingerprinting of school children in kindergarten and grades one through twelve when the parent of a child requests in writing that his child be fingerprinted for identification purposes for the protection of the child. The fingerprints must be given to the student’s parents or guardian. The implementation of this section is a local responsibility and it must be implemented as the local school board determines appropriate.

HISTORY: 1962 Code Section 21‑756; 1971 (57) 998; 1984 Act No. 512, Part II, Section 9, Division II, Subdivision A, SubPart 2, Section 3; 1985 Act No. 201, Part II, Section 9(J); 1986 Act No. 355, Section 1.

LIBRARY REFERENCES

Schools 169.

Westlaw Key Number Search: 345k169.

C.J.S. Schools and School Districts Sections 789 to 791.

Attorney General’s Opinions

Under provisions of Section 59‑63‑50, law enforcement officials are required to assist local school authorities in fingerprinting of school children but are not solely responsible for implementation of fingerprint law. 1985 Op Atty Gen, No. 85‑102, p 285.

School districts are not required to maintain records of fingerprints of school children when such prints have been properly delivered to student or student’s parent. 1985 Op Atty Gen, No. 85‑98, p 278.

**SECTION 59‑63‑55.** Report required of certain injuries.

A report of any head or spinal injury or broken limb suffered by a student enrolled in the public schools of this State shall be filed by the coach with the principal of the school. The report shall be made a part of the student’s school record.

HISTORY: 1980 Act No. 378, Section 1.

**SECTION 59‑63‑60.** School guards required to be safely attired.

No person charged with the responsibility of assisting school children to cross streets near schools shall engage in such activity unless he is attired with some type of garment or equipment that can be clearly seen by the driver of an approaching motor vehicle. The school district official of each school district who is responsible for supervising such personnel shall be responsible for seeing that such persons within his district are furnished with the articles required by this section.

HISTORY: 1962 Code Section 21‑756.5; 1974 (58) 2398.

LIBRARY REFERENCES

Schools 89.8(1).

Westlaw Key Number Search: 345k89.8(1).

C.J.S. Schools and School Districts Sections 474 to 475, 777.

Attorney General’s Opinions

Discussion of whether a County School District may use either Adult Uniformed Security Guards or State Constables to direct traffic on and around school property. S.C. Op.Atty.Gen. (Jan. 15, 2014) 2014 WL 1398597.

While a sheriff is not absolutely required by statute to furnish crossing guards or furnish supervision for school crossing guards, the safety of school crossings must be assured; law enforcement and schools should cooperate in assuring that the safety of school crossings is maintained. 1989 Op Atty Gen, No. 89‑93, p 253.

**SECTION 59‑63‑65.** Class size reduction; funding; facilities.

School districts which choose to reduce class size to fifteen to one in grades one through three shall be eligible for funding for the reduced pupil‑teacher ratios from funds provided by the General Assembly for this purpose. Funding for schools in districts designated as impaired or for schools rated as unsatisfactory on the accountability ratings will receive priority in the distribution of funds. Funding for the impaired district schools and schools ranked unsatisfactory will be allocated based on the average daily membership in grades one through three in those schools for implementing reduced class size of fifteen to one in those grades. Other school districts will receive funding allocated based on free and reduced lunch eligible students. Local match is required for the lower ratio funding based on the Education Finance Act formula. Boards of trustees of each school district may implement the lower pupil‑teacher ratios on a school by school, grade by grade, or class by class basis. District boards of trustees implementing the reduced ratios must establish policies to give priority to reduce the ratios in schools with the highest number of students eligible for the federal free and reduced lunch program, and these students must be given priority in implementing the reduced class size. Unobligated funds from state appropriations which become available to a district during a fiscal year shall be redistributed to fund additional teachers on a prorated basis.

Districts choosing to implement the reduced class size must track the students served in classes with a 15:1 ratio for three years so that the impact of smaller class size can be evaluated. The Department of Education, working with the Accountability Division, will develop a plan for evaluating the impact of this initiative and report to the Education Oversight Committee no later than December 1, 2001. School districts must document the use of these funds to reduce class size and the State Department of Education will conduct audits to confirm appropriate use of class size reduction funding.

As used in this section, “teacher” refers to an employee possessing a professional certificate issued by the State Department of Education whose full‑time responsibility is instruction of students. Pupil‑teacher ratio is based on average daily membership.

Portable or other temporary classroom space may be used to meet any facilities needs for reducing class size to fifteen to one, and notwithstanding the provisions of Section 59‑144‑30, funding derived from the Children’s Education Endowment Fund may be used to acquire such portable or temporary facilities.

HISTORY: 1998 Act No. 400, Section 12.

LIBRARY REFERENCES

Schools 19(1).

Westlaw Key Number Search: 345k19(1).

C.J.S. Schools and School Districts Sections 7, 13.

**SECTION 59‑63‑70.** High school student participation in independent organized sports teams.

During the season for any high school league sport except for football, a student, while a member of a school squad or team engaged in an interscholastic sport except for football, may become a member of or participate in an organized team that is independent of the school’s control as long as the participation does not interfere with the scheduled league games or practices of the school squad or team. A school or student shall not be declared ineligible for participation in an interscholastic high school league sport except for football because of participation of a student as a member of an organized team independent of the school’s control during the interscholastic sport’s season. Any student participating on both a school squad or team and an independent squad shall have on file with the school’s athletic director a statement signed by the parent or guardian indicating their child or children have permission to participate on both teams and signed by the independent coach acknowledging that the student’s participation shall not interfere with the scheduled league games or practices.

The provisions of this section do not permit a student to participate on a school football team and an organized football team independent of the school’s control.

HISTORY: 2002 Act No. 321, Section 2, eff upon approval (became law without the Governor’s signature on June 6, 2002).

LIBRARY REFERENCES

Schools 182.

Westlaw Key Number Search: 345k182.

C.J.S. Schools and School Districts Sections 817 to 818.

**SECTION 59‑63‑75.** Publication of guidelines regarding concussions; removal from play for concussion; immunity; definitions.

(A) The South Carolina Department of Health and Environmental Control, in consultation with the State Department of Education, shall post on its website nationally recognized guidelines and procedures regarding the identification and management of suspected concussions in student athletes. The Department of Health and Environmental Control also shall post on its website model policies that incorporate best practices guidelines for the identification, management, and return to play decisions for concussions reflective of current scientific and medical literature developed by resources from or members of sports medicine community organizations including, but not limited to, the Brain Injury Association of South Carolina, the South Carolina Medical Association, the South Carolina Athletic Trainer’s Association, the National Federation of High Schools, the Centers for Disease Control and Prevention, and the American Academy of Pediatrics. Guidelines developed pursuant to this section apply to South Carolina High School League‑sanctioned events.

(B) A local school district shall develop guidelines and procedures based on the model guidelines and procedures referenced in subsection (A).

(C) Each year prior to participation in athletics, each school district shall provide to all coaches, volunteers, student athletes, and their parents or legal guardian, an information sheet on concussions which informs of the nature and risk of concussion and brain injury, including the risks associated with continuing to play after a concussion or brain injury. The parent or legal guardian’s receipt of the information sheet must be documented in writing or by electronic means before the student athlete is permitted to participate in an athletic competition or practice.

(D)(1) If a coach, athletic trainer, official, or physician suspects that a student athlete, under the control of the coach, athletic trainer, official, or physician, has sustained a concussion or brain injury in a practice or in an athletic competition, the student athlete shall be removed from practice or competition at that time.

(2) A student athlete who has been removed from play may return to play if, as a result of evaluating the student athlete on site, the athletic trainer, physician, physician assistant pursuant to scope of practice guidelines, or nurse practitioner pursuant to a written protocol determines in his best professional judgment that the student athlete does not have any signs or symptoms of a concussion or brain injury.

(3) A student athlete who has been removed from play and evaluated and who is suspected of having a concussion or brain injury may not return to play until the student athlete has received written medical clearance by a physician.

(4) In addition to posting information regarding the recognition and management of concussions in student athletes, the Department of Health and Environmental Control, in consultation with health care provider organizations, shall post on its website continuing education opportunities in concussion evaluation and management available to providers making such medical determinations. Such information must be posted by the department upon receipt from a participating health care organization.

(5) The athletic trainer, physician, physician assistant, or nurse practitioner who evaluates the student athlete during practice or an athletic competition and authorizes the student athlete to return to play is not liable for civil damages resulting from an act or omission in rendering this decision, other than acts or omissions constituting gross negligence or wilful, wanton misconduct. This immunity applies to an athletic trainer, physician, physician assistant, or nurse practitioner serving as a volunteer.

(E) For purposes of this section:

(1) “Physician” is defined in the same manner as provided in Section 40‑47‑20(35).

(2) “Student athlete” includes cheerleaders.

HISTORY: 2013 Act No. 33, Section 1, eff June 7, 2013.

**SECTION 59‑63‑80.** Development of policies governing individual health care plans for students with special health care needs; definitions; written statements.

(A) As used in this section:

(1) “medication” is defined as medication prescribed by a health care provider contained in the original packaging with the appropriate pharmacy label or in a secure package containing a note from the prescribing physician or pharmacist that appropriately identifies the medicine;

(2) “monitoring device” is defined as implements prescribed by a health care provider for monitoring a chronic health condition; and

(3) “individual health care plan” (IHP) is defined as a plan of care designed specifically for an individual student to provide for meeting the health monitoring and care of the student during the school day or at school‑sponsored functions.

(B) Each school district shall adopt a policy requiring that students with special health care needs have individual health care plans. This policy must provide for the authorization of a student to self‑monitor and self‑administer medication as prescribed by the student’s health care provider unless there is sufficient evidence that unsupervised self‑monitoring or self‑medicating would seriously jeopardize the safety of the student or others. The policy must include, but is not limited to:

(1) a requirement that the student’s parent or legal guardian provide to the school:

(a) written authorization from the parent or legal guardian for the student to self‑monitor and self‑administer medication; and

(b) a written statement from the student’s health care practitioner who prescribed the medication verifying that the student has a medical condition and has been instructed and demonstrates competency in self‑monitoring or self‑administration of medications, or both.

(2) authorization for a student to possess on his person and administer medication while:

(a) in the classroom and in any area of the school or school grounds;

(b) at a school‑sponsored activity;

(c) in transit to or from school or school‑sponsored activities; or

(d) during before‑school or after‑school activities on school‑operated property.

(C) The statements required in subsection (B)(1) must be kept on file in the office of the school nurse or school administrator.

(D)(1) The State Department of Education shall develop guidelines for required components of a written student individual health care plan which must be developed with input from and with the approval of:

(a) the student’s health care practitioner who prescribed the medication;

(b) the parent or legal guardian;

(c) the student, if appropriate; and

(d) the school nurse or other designated school staff member.

(2) If a student qualifies for a Federal 504 medical accommodations plan, that process must meet the requirements for the state‑required individual health plan.

(3) The parent or guardian and the student, if appropriate, shall authorize the school to share the student’s individual health care plan with school staff who have a legitimate need for knowledge of the information.

(E) All medication authorized to be carried by the student must be maintained in a container appropriately labeled by the pharmacist who filled the prescription.

(F) A student’s permission to self‑monitor or self‑administer medication may be revoked if the student endangers himself or others through misuse of the monitoring device or medication.

(G) The permission for self‑monitoring or self‑administration of medication is effective for the school year in which it is granted and must be renewed each school year upon fulfilling the requirements of this section.

(H) A parent or guardian shall sign a statement acknowledging that:

(1) the school district and its employees and agents are not liable for an injury arising from a student’s self‑monitoring or self‑administration of medication;

(2) the parent or guardian shall indemnify and hold harmless the district and its employees and agents against a claim arising from a student’s self‑monitoring or self‑administration of medication.

HISTORY: 2005 Act No. 81, Section 1, eff May 26, 2005.

**SECTION 59‑63‑90.** Notice of available health‑related services and rights.

The State Department of Education shall develop a notice to be sent by each school district to all parents or legal guardians that notifies them of available services and rights pursuant to Section 504 of the Rehabilitation Act of 1973, the IDEA, and medical homebound regulations at the beginning of the school year.

HISTORY: 2005 Act No. 81, Section 1, eff May 26, 2005.

**SECTION 59‑63‑95.** Epinephrine auto‑injectors; obtaining, storing, dispensing, administering, and self‑administering; immunity from liability.

(A) As used in this section, and unless the specific context indicates otherwise:

(1) “Administer” means the direct application of an epinephrine auto‑injector into the body of a person.

(2) “Advanced practice registered nurse” means a registered nurse prepared for an advanced practice registered nursing role by virtue of the additional knowledge gained through an advanced formal education program in a specialty area pursuant to Chapter 33, Title 40.

(3) “Designated school personnel” means an employee, agent, or volunteer of a school designated by the governing authority of the school district or the governing authority of the private school who has completed the training required in accordance with the guidelines of the governing authority to provide for or administer an epinephrine auto‑injector to a student.

(4) “Epinephrine auto‑injector” means a device that automatically injects a premeasured dose of epinephrine into a person.

(5) “Governing authority of a school” means the board of trustees of a school district or the board of trustees of a private school.

(6) “Participating governing authorities” means governing authorities of school districts and governing authorities of private schools that authorize schools to maintain a supply of undesignated epinephrine auto‑injectors and to provide and administer epinephrine auto‑injectors to students and other people pursuant to subsections (B) and (C).

(7) “Physician” means a doctor of medicine licensed by the South Carolina Board of Medical Examiners pursuant to Article 1, Chapter 47, Title 40.

(8) “Physician assistant” means a health care professional licensed to assist with the practice of medicine with a physician supervisor pursuant to Article 7, Chapter 47, Title 40.

(9) “Provide” means to supply one or more epinephrine auto‑injectors to a student or other person.

(10) “School” means a public or private school.

(11) “Self‑administration” means a student or other person’s discretionary use of an epinephrine auto‑injector, whether provided by the student or the other person or by a school nurse or other designated school personnel pursuant to this section.

(B) Notwithstanding another provision of law, a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40‑33‑34, and a physician assistant licensed to prescribe medication pursuant to Sections 40‑47‑955 through 40‑47‑965 may prescribe epinephrine auto‑injectors maintained in the name of a school for use in accordance with subsection (D). Notwithstanding another provision of law, licensed pharmacists and physicians may dispense epinephrine auto‑injectors in accordance with a prescription issued pursuant to this subsection. Notwithstanding another provision of law, a school may maintain a stock supply of epinephrine auto‑injectors in accordance with a prescription issued pursuant to this subsection. For the purposes of administering and storing epinephrine auto‑injectors, schools are not subject to Chapter 43, Title 40 or Chapter 99 of the South Carolina Code of State Regulations.

(C) The governing authority of a school district or private school may authorize school nurses and other designated school personnel to:

(1) provide an epinephrine auto‑injector to a student to self‑administer the epinephrine auto‑injector in accordance with a prescription specific to the student that is on file with the school;

(2) administer an epinephrine auto‑injector to a student in accordance with a prescription specific to the student on file with the school;

(3) administer an epinephrine auto‑injector to a student or other individual on school premises whom the school nurse or other designated school personnel believes in good faith is experiencing anaphylaxis, in accordance with a standing protocol of a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40‑33‑34, or a physician assistant licensed to prescribe medication pursuant to Sections 40‑47‑955 through 40‑47‑965, regardless of whether the student or other individual has a prescription for an epinephrine auto‑injector.

(D) The governing authority of a school district or the governing authority of a private school may enter into arrangements with manufacturers of epinephrine auto‑injectors or third‑party suppliers of epinephrine auto‑injectors to obtain epinephrine auto‑injectors at fair‑market, free, or reduced prices.

(E) Participating governing authorities, in consultation with the State Department of Education and the Department of Health and Environmental Control, shall implement a plan for the management of students with life‑threatening allergies enrolled in the schools under their jurisdiction. The plan must include, but need not be limited to:

(1) education and training for school personnel on the management of students with life‑threatening allergies, including training related to the administration of an epinephrine auto‑injector, techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis, and the standards and procedures for the storage and administration of an epinephrine auto‑injector;

(2) procedures for responding to life‑threatening allergic reactions, including emergency follow‑up procedures; and

(3) a process for the development of individualized health care and allergy action plans for every student with a known life‑threatening allergy.

(F) Participating governing authorities shall make the plan developed pursuant to subsection (E) available on the websites of the school district and private school governing authorities and on the websites of schools; however, if a school does not have a website, make the plan publicly available through other practicable means as determined by participating governing authorities.

(G) This section applies only to participating governing authorities.

(H)(1) A school, school district, school district governing authority, private school governing authority, the Department of Health and Environmental Control, the State Department of Education, and employees, volunteers, and other agents of all of those entities including, but not limited to, a physician, advanced practice registered nurse, physician assistant, pharmacist, school nurse, and other designated school personnel, who undertake an act identified in item (2), are not liable for damages caused by injuries to a student or another person resulting from the administration or self‑administration of an epinephrine auto‑injector, regardless of whether:

(a) the student’s parent or guardian, or a physician, advanced practice registered nurse, or physician assistant, authorized the administration or self‑administration; or

(b) the other person to whom a school nurse or other designated school personnel provides or administers an epinephrine auto‑injector gave authorization for the administration.

(2) The immunity granted pursuant to item (1) applies to individuals and entities who:

(a) develop or implement, or participate in the development or implementation of, a plan, pursuant to subsection (E), including, but not limited to, providing training to school nurses and other designated school personnel;

(b) make publicly available a plan, pursuant to subsection (F);

(c) prescribe epinephrine auto‑injectors, pursuant to subsection (B);

(d) dispense epinephrine auto‑injectors, pursuant to subsection (B);

(e) provide epinephrine auto‑injectors to students or other people for self‑administration, pursuant to subsection (C); or

(f) administer epinephrine auto‑injectors to students or other people, pursuant to subsection (C).

(3) The immunity granted pursuant to this subsection:

(a) does not apply to acts or omissions constituting gross negligence or wilful, wanton, or reckless conduct; and

(b) is in addition to, and not in lieu of, immunity provided pursuant to Sections 15‑1‑310, 15‑78‑10, and any other provisions of law.

(4) The administration of an epinephrine auto‑injector pursuant to this section is not the practice of medicine or nursing.

HISTORY: 2013 Act No. 37, Section 2, eff June 7, 2013.

Editor’s Note

2013 Act No. 37, Section 1, provides as follows:

“SECTION 1. This act may be cited as the ‘Safe Access to Vital Epinephrine Act’.”

**SECTION 59‑63‑100.** Participation in interscholastic activities of public school district by home school, charter school, and Governor’s school students.

(A) As used in this section:

(1) “Charter school student” is a child enrolled in a charter school established pursuant to Chapter 40, Title 59.

(2) “Governor’s school student” is a child enrolled at a Governor’s school established pursuant to this title.

(3) “Home school student” is a child taught in accordance with Section 59‑65‑40, 59‑65‑45, or 59‑65‑47 and has been taught in accordance with one of these sections for a full academic year prior to participating in an interscholastic activity pursuant to this section.

(4) “Interscholastic activities” includes, but is not limited to, athletics, music, speech, and other extracurricular activities.

(B) Individual Governor’s school students and home school students may not be denied by a school district the opportunity to participate in interscholastic activities if the:

(1) student meets all school district eligibility requirements with the exception of the:

(a) school district’s school or class attendance requirements; and

(b) class and enrollment requirements of the associations administering the interscholastic activities;

(2) student’s teacher, in the case of a Governor’s school student, certifies by submitting an affidavit to the school district that the student fully complies with the law and any attendance, class, or enrollment requirements for a Governor’s school. In addition, a charter school student’s teacher, in the same manner required by this subsection for a Governor’s school student, also must certify by affidavit to the student’s school district that the student fully complies with the law and any attendance, class, or enrollment requirements for a charter school in order for the student to participate in interscholastic activities in the manner permitted by Chapter 40 of this title;

(3) student participating in interscholastic activities:

(a) resides within the attendance boundaries of the school for which the student participates; or

(b) in the case of a Governor’s school student, resides or attends a Governor’s school within the attendance boundaries of the school for which the student participates; and

(4) student notifies the superintendent of the school district in writing of his intent to participate in the interscholastic activity as a representative of the school before the beginning date of the season for the activity in which he wishes to participate.

(C) A public school student who has been unable to maintain academic eligibility is ineligible to participate in interscholastic activities as a charter school student, Governor’s school student, or home school student for the following semester. To establish eligibility for subsequent school years, the student’s teacher shall certify by submitting an affidavit to the school district that the student meets the relevant policies of the school at which the student wishes to participate.

(D) A Governor’s school student or home school student is required to fulfill the same responsibilities and standards of behavior and performance, including related practice requirements, of other students participating in the interscholastic activities of the team or squad and is required to meet the same standards for acceptance on the team or squad.

(E) A Governor’s school may not be denied by a school district the opportunity to have a team representing the school participate in interscholastic activities if the team meets the same eligibility requirements of other teams. An individual Governor’s school student may not participate in an interscholastic activity of a public school district if the school that the student is enrolled in has a team or squad participating in that interscholastic activity.

(F) A school district may not contract with a private entity that supervises interscholastic activities if the private entity prohibits the participation of charter school students, Governor’s school students, or home school students in interscholastic activities.

HISTORY: 2012 Act No. 203, Section 2, eff June 7, 2012.

Editor’s Note

2012 Act No. 203, Section 1, provides as follows:

“This act may be cited as the ‘Equal Access to Interscholastic Activities Act’.”

Attorney General’s Opinions

A student in a home school, Governor’s school, or charter school would be eligible to participate in an extracurricular activity at the school within his or her attendance boundary or at a school where he or she otherwise would be permitted to attend within the district pursuant to open enrollment or school choice. S.C. Op.Atty.Gen. (September 8, 2014) 2014 WL 4659413.

A court would likely find that a public school student does not automatically forfeit a year of eligibility with regards to interscholastic activities upon becoming home schooled under the Equal Access to Interscholastic Activities Act. S.C. Op.Atty.Gen. (April 24, 2013) 2013 WL 1931658.

A court would likely conclude that a Junior ROTC program is included within the mandate of the Equal Access to Interscholastic Activities Act. S.C. Op.Atty.Gen. (September 5, 2012) 2012 WL 4009949. S.C. Op.Atty.Gen. (September 5, 2012) 2012 WL 4009948.

A Governor’s school, home school and charter school student is, pursuant to the Equal Access to Interscholastic Activities Act, given equal access to participate in interscholastic athletic programs if otherwise eligible. S.C. Op.Atty.Gen. (September 5, 2012) 2012 WL 4009948.

ARTICLE 2

Safe School Climate Act

**SECTION 59‑63‑110.** Citation of article.

This article may be cited as the “Safe School Climate Act”.

HISTORY: 2006 Act No. 353, Section 2, eff June 12, 2006.

RESEARCH REFERENCES

Treatises and Practice Aids

59 Causes of Action 2d 307, Cause of Action Against School District for Injuries to Student Resulting from Bullying by Another Student.

**SECTION 59‑63‑120.** Definitions.

As used in this article:

(1) “Harassment, intimidation, or bullying” means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:

(a) harming a student physically or emotionally or damaging a student’s property, or placing a student in reasonable fear of personal harm or property damage; or

(b) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school.

(2) “School” means in a classroom, on school premises, on a school bus or other school‑related vehicle, at an official school bus stop, at a school‑sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.

HISTORY: 2006 Act No. 353, Section 2, eff June 12, 2006.

RESEARCH REFERENCES

Encyclopedias

134 Am. Jur. Proof of Facts 3d 115, Proof of Cyberstalking and Cyberbullying.

Treatises and Practice Aids

59 Causes of Action 2d 307, Cause of Action Against School District for Injuries to Student Resulting from Bullying by Another Student.

**SECTION 59‑63‑130.** Prohibited conduct; reports by witnesses.

(A) A person may not engage in:

(1) harassment, intimidation, or bullying; or

(2) reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(B) A school employee, student, or volunteer who witnesses, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official.

HISTORY: 2006 Act No. 353, Section 2, eff June 12, 2006.

RESEARCH REFERENCES

Treatises and Practice Aids

59 Causes of Action 2d 307, Cause of Action Against School District for Injuries to Student Resulting from Bullying by Another Student.

**SECTION 59‑63‑140.** Local school districts to adopt policies prohibiting harassment; required components; model policies by State Board of Education; bullying prevention programs.

(A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.

(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59‑63‑120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) procedures for prompt investigation of reports of serious violations and complaints;

(7) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(8) consequences and appropriate remedial action for persons found to have falsely accused another;

(9) a process for discussing the district’s harassment, intimidation, or bullying policy with students; and

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school‑sponsored functions.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.

(D) The local school board shall ensure that the school district’s policy developed pursuant to this article is included in the school district’s publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student’s handbook.

(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school’s employee training program. Training also should be provided to school volunteers who have significant contact with students.

(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

HISTORY: 2006 Act No. 353, Section 2, eff June 12, 2006.

RESEARCH REFERENCES

Treatises and Practice Aids

59 Causes of Action 2d 307, Cause of Action Against School District for Injuries to Student Resulting from Bullying by Another Student.

**SECTION 59‑63‑150.** Availability of civil or criminal redress; immunity of reporting school employee or volunteer.

(A) This article must not be interpreted to prevent a victim from seeking redress pursuant to another available civil or criminal law. This section does not create or alter tort liability.

(B) A school employee or volunteer who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the local school district’s policy, and who makes this report in compliance with the procedures in the district’s policy, is immune from a cause of action for damages arising from failure to remedy the reported incident.

HISTORY: 2006 Act No. 353, Section 2, eff June 12, 2006.

RESEARCH REFERENCES

Encyclopedias

134 Am. Jur. Proof of Facts 3d 115, Proof of Cyberstalking and Cyberbullying.

Treatises and Practice Aids

59 Causes of Action 2d 307, Cause of Action Against School District for Injuries to Student Resulting from Bullying by Another Student.

ARTICLE 3

Discipline

**SECTION 59‑63‑210.** Grounds for which trustees may expel, suspend, or transfer pupils; petition for readmission; expulsion, suspension, or transfer.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.

(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59‑150‑250(B).

HISTORY: 1962 Code Section 21‑771; 1973 (58) 407; 2001 Act No. 59, Section 8.

CROSS REFERENCES

Disciplinary powers of school bus drivers, see Section 59‑67‑240.

Powers and duties of school trustees, generally, see Section 59‑19‑90.

Procedures for expulsion for the remainder of the school year, see Section 59‑63‑240.

LIBRARY REFERENCES

Schools 177.

Westlaw Key Number Search: 345k177.

C.J.S. Schools and School Districts Sections 798 to 802.

Attorney General’s Opinions

Discussion of the authority of the Trustees of the Charleston County School District with respect to the various constituent school districts of Charleston County and issues relating to magnet schools, school bus transportation, and student discipline. S.C. Op.Atty.Gen. (April 12, 2016) 2016 WL 1711847.

Attorney General’s office respectfully declines to issue opinion as to whether Education for All Handicapped Children Act (20 USCA Sections 1401 et seq.) requires state plans to provide education to handicapped children expelled from school for reasons unrelated to handicaps; however, state law does not appear to prohibit State Board from requiring, by regulation, that education be provided for such students if education is undertaken in adult school, night school, or in setting other than school grounds; such would be matter of policy for Board, and Office makes no comment concerning policy considerations. 1990 Op Atty Gen No. 90‑64.

Permanent expulsion of a student for “incorrigible” behavior may be based on one serious offense which threatens the safety and order of the school, pupils and personnel; carrying a pistol or a knife or another lethal weapon, dealing drugs, or committing a sexual assault on school grounds are cause for permanent expulsion; an offending student must be afforded fair proceedings to determine if the misconduct occurred and the ultimate determination lies with the school board. 1989 Op Atty Gen, No. 89‑66, p 168.

NOTES OF DECISIONS

In general 1

1. In general

Students suspended for three days for vandalizing another school received all the process due in a temporary student suspension when they received notice, an explanation, and an opportunity to respond. Floyd v. Horry County School Dist. (S.C. 2002) 351 S.C. 233, 569 S.E.2d 343. Constitutional Law 4212(2); Education 754

**SECTION 59‑63‑217.** Barring enrollment of student; grounds; notice and hearing; duration of bar.

(A) In determining whether or not a student meets the standards of conduct and behavior promulgated by the board of trustees necessary for first time enrollment and attendance in a school in the district, the board shall consider nonschool records, the student’s disciplinary records in any school in which the student was previously enrolled as these records relate to the adjudication of delinquency in any jurisdiction, within or without this State, of violations or activities which constitute violent crimes under Section 16‑1‑60, adjudications for assault and battery of a high and aggravated nature, the unlawful use or possession of weapons, or the unlawful sale of drugs whether or not considered to be drug trafficking. Based on this consideration of the student’s record, the board may bar his enrollment in the schools of the district.

(B) If the board bars a student from enrolling pursuant to this section, notice must be provided to the student’s parent or legal guardian and the student is entitled to a hearing and all other procedural rights afforded under state law to a student subject to expulsion.

(C) The bar to enrollment allowed by this section applies for a maximum of one year. After the bar is lifted, a student may reapply for enrollment and the board shall order the student enrolled if he otherwise meets enrollment criteria.

HISTORY: 1992 Act No. 506, Section 1; 1993 Act No. 117, Section 2.

Editor’s Note

2010 Act No. 273, Section 7.C, provides:

“Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16‑3‑620, and, except for references in Section 16‑1‑60 and Section 17‑25‑45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.”

LIBRARY REFERENCES

Schools 154(1).

C.J.S. Schools and School Districts Sections 713 to 715.

C.J.S. Civil Rights Sections 127, 130.

Westlaw Key Number Search: 345k154(1).

**SECTION 59‑63‑220.** Suspension of pupils by administrator.

Any district board may confer upon any administrator the authority to suspend a pupil from a teacher’s class or from the school not in excess of ten days for any one offense and for not more than thirty days in any one school year but no such administrator may suspend a pupil from school during the last ten days of a year if the suspension will make the pupil ineligible to receive credit for the school year without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty‑four hours of the suspension.

HISTORY: 1962 Code Section 21‑772; 1973 (58) 407.

LIBRARY REFERENCES

Schools 177.

Westlaw Key Number Search: 345k177.

C.J.S. Schools and School Districts Sections 798 to 802.

Attorney General’s Opinions

The school district superintendent may be appointed to conduct disciplinary hearings as the Board’s designee pursuant to Sections 59‑63‑220 and 59‑63‑240. 1994 Op Atty Gen, No. 94‑51, p. 115.

**SECTION 59‑63‑230.** Notices of suspensions; conferences with parents or guardian.

When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and place when the administrator shall be available for a conference with the parents or guardian. The conference shall be set within three days of the date of the suspension. After the conference the parents or legal guardian may appeal the suspension to the board of trustees or to its authorized agent.

HISTORY: 1962 Code Section 21‑773; 1973 (58) 407.

CROSS REFERENCES

School district’s requiring adult, who seeks to enroll a child who resides with the adult, to accept responsibility for receiving notices of discipline pursuant to this section, see Section 59‑63‑32.

LIBRARY REFERENCES

Schools 177.

Westlaw Key Number Search: 345k177.

C.J.S. Schools and School Districts Sections 798 to 802.

NOTES OF DECISIONS

In general 1

1. In general

The Circuit Court did not have jurisdiction over an action by a student contesting his suspension from high school; a comparison of the statute pertaining to suspension with the statute dealing with that dealing with expulsions shows that the Legislature intended that suspended students not be entitled to a right to appeal beyond “the board of trustees or . . . its authorized agent”. Byrd v. Irmo High School (S.C. 1996) 321 S.C. 426, 468 S.E.2d 861, rehearing denied.

**SECTION 59‑63‑235.** Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59‑63‑240. The one‑year expulsion is subject to modification by the district superintendent of education on a case‑by‑case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

HISTORY: 1995 Act No. 39, Section 1.

LIBRARY REFERENCES

Schools 177.

Westlaw Key Number Search: 345k177.

C.J.S. Schools and School Districts Sections 798 to 802.

**SECTION 59‑63‑240.** Expulsion for remainder of year; hearings.

The board may expel for the remainder of the school year a pupil for any of the reasons listed in Section 59‑63‑210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. At the hearing the parents or legal guardian shall have the right to legal counsel and to all other regular legal rights including the right to question all witnesses. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

HISTORY: 1962 Code Section 21‑774; 1973 (58) 407.

CROSS REFERENCES

School district’s requiring adult, who seeks to enroll a child who resides with the adult, to accept responsibility for receiving notices of discipline pursuant to this section, see Section 59‑63‑32.

LIBRARY REFERENCES

Schools 177.

Westlaw Key Number Search: 345k177.

C.J.S. Schools and School Districts Sections 798 to 802.

Attorney General’s Opinions

Permanent expulsion of a student for “incorrigible” behavior may be based on one serious offense which threatens the safety and order of the school, pupils and personnel; carrying a pistol or a knife or another lethal weapon, dealing drugs, or committing a sexual assault on school grounds are cause for permanent expulsion; an offending student must be afforded fair proceedings to determine if the misconduct occurred and the ultimate determination lies with the school board. 1989 Op Atty Gen, No. 89‑66, p 168.

The school district superintendent may be appointed to conduct disciplinary hearings as the Board’s designee pursuant to Sections 59‑63‑220 and 59‑63‑240. 1994 Op Atty Gen, No. 94‑51, p. 115.

The state cannot constitutionally require that a student waive his or her due process right to an opportunity to be heard in the event of expulsion as to any disciplinary problems in the future in order to be given a second chance to avoid expulsion for an earlier matter. 1994 Op Atty Gen, No. 94‑66, p. 142.

NOTES OF DECISIONS

In general 1

Due process 1.5

Review 3

Sufficiency of evidence 2

1. In general

Students’ reinstatement to school pending an appeal of the school board’s expulsion order was effectively prohibited by statute, providing that a student who has been recommended for expulsion may be suspended from school and all school activities during the time of the expulsion procedures, and under these circumstances, a direct appeal would likely have been futile, and thus, students did not have to exhaust administrative remedies since it would be futile to do so. Stinney v. Sumter School Dist. 17 (S.C.App. 2009) 382 S.C. 352, 675 S.E.2d 760, rehearing denied, certiorari granted, reversed 391 S.C. 547, 707 S.E.2d 397. Education 758

Statute allowing school board’s decision to suspend or expel student to be appealed to a court did not apply in disciplinary proceeding once hearing officer rejected expulsion and imposed sanction of transfer to alternative school, and thus student’s right to appeal hearing officer’s decision ended with school board. Davis v. School Dist. of Greenville County (S.C. 2007) 374 S.C. 39, 647 S.E.2d 219. Education 758

The Circuit Court did not have jurisdiction over an action by a student contesting his suspension from high school; a comparison of the statute pertaining to suspension with the statute dealing with that dealing with expulsions shows that the Legislature intended that suspended students not be entitled to a right to appeal beyond “the board of trustees or . . . its authorized agent”. Byrd v. Irmo High School (S.C. 1996) 321 S.C. 426, 468 S.E.2d 861, rehearing denied.

1.5. Due process

High school students, who were expelled from school after fighting with other students, and their parents were afforded due process during expulsion process, pursuant to statute governing expulsion, as students and their parents were provided with notice, opportunity to be heard, right to be represented by counsel, and right to present evidence and question witnesses, and fact that students and their parents chose not to be represented by counsel during initial hearing, and fact that they did not present evidence or exercise their statutory right to question witnesses did not create a procedural due process violation. Stinney v. Sumter School Dist. 17 (S.C. 2011) 391 S.C. 547, 707 S.E.2d 397. Constitutional Law 4212(2); Education 752

2. Sufficiency of evidence

Judicial review of a school board’s decision regarding whether to expel a student is limited to ascertaining whether the board’s decision is supported by substantial evidence. Doe v. Richland County School Dist. Two (S.C.App. 2009) 382 S.C. 656, 677 S.E.2d 610. Education 758

3. Review

For purposes of judicial review to determine whether evidence supports a school board’s decision to expel a student, “substantial evidence” is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the board reached or must have reached in order to justify its action. Doe v. Richland County School Dist. Two (S.C.App. 2009) 382 S.C. 656, 677 S.E.2d 610. Education 758

Court of Appeals cannot substitute its judgment for that of the educational authorities when reviewing school board’s decision regarding whether to expel a student. Doe v. Richland County School Dist. Two (S.C.App. 2009) 382 S.C. 656, 677 S.E.2d 610. Education 758

**SECTION 59‑63‑250.** Transfer of pupils.

The board or a designated administrator may transfer a pupil to another school in lieu of suspension or expulsion but only after a conference or hearing with the parents or legal guardian. The parents or legal guardian may appeal a transfer made by an administrator to the board.

HISTORY: 1962 Code Section 21‑775; 1973 (58) 407.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

NOTES OF DECISIONS

In general 1

1. In general

Statute allowing school board’s decision to suspend or expel student to be appealed to a court did not apply in disciplinary proceeding once hearing officer rejected expulsion and imposed sanction of transfer to alternative school, and thus student’s right to appeal hearing officer’s decision ended with school board. Davis v. School Dist. of Greenville County (S.C. 2007) 374 S.C. 39, 647 S.E.2d 219. Education 758

Statute governing the transfer of a student to another school as a disciplinary sanction does not provide for appeal beyond the school board level and thus does allow for appeal of board’s decision to a court. Davis v. School Dist. of Greenville County (S.C. 2007) 374 S.C. 39, 647 S.E.2d 219. Education 758

**SECTION 59‑63‑260.** Corporal punishment.

The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.

HISTORY: 1962 Code Section 21‑776; 1973 (58) 407.

LIBRARY REFERENCES

Schools 176.

Westlaw Key Number Search: 345k176.

C.J.S. Schools and School Districts Section 797.

NOTES OF DECISIONS

In general 1

1. In general

Disciplinary paddling of students is not cruel and unusual punishment, and a hearing is not required before it is administered. Ingraham v. Wright, U.S.Fla.1977, 97 S.Ct. 1401, 430 U.S. 651, 51 L.Ed.2d 711.

**SECTION 59‑63‑270.** Regulation or prohibition of clubs or like activities.

Any district board of trustees may regulate, control, or prohibit clubs or other such activities on school property or during school hours.

HISTORY: 1962 Code Section 21‑777; 1973 (58) 407.

LIBRARY REFERENCES

Schools 72.

Westlaw Key Number Search: 345k72.

C.J.S. Schools and School Districts Sections 375, 387 to 389, 396.

Attorney General’s Opinions

Public school teachers have inherent authority to establish reasonable rules for their classes and extracurricular activities consistent with school regulations and the law. 1975‑76 Ops Atty Gen, No 4425, p 282.

**SECTION 59‑63‑275.** Student hazing prohibited; definitions.

(A) For purposes of this section:

(1) “Student” means a person enrolled in a public education institution.

(2) “Superior student” means a student who has attended a state university, college, or other public education institution longer than another student or who has an official position giving authority over another student.

(3) “Subordinate student” means a person who attends a public education institution who is not defined as a “superior student” in item (2).

(4) “Hazing” means the wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of a subordinate student of a tyrannical, abusive, shameful, insulting, or humiliating nature.

(B) Hazing at all public education institutions is prohibited. When an investigation has disclosed substantial evidence that a student has committed an act or acts of hazing, the student may be dismissed, expelled, suspended, or punished as the principal considers appropriate.

(C) The provisions of this section are in addition to the provisions of Article 6, Chapter 3 of Title 16.

HISTORY: 2002 Act No. 310, Section 5.

LIBRARY REFERENCES

Schools 173.

Westlaw Key Number Search: 345k173.

C.J.S. Schools and School Districts Section 796.

**SECTION 59‑63‑280.** “Paging device” defined; adoption of policies addressing student possession.

(A) For purposes of this section, “paging device” means a telecommunications, to include mobile telephones, device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.

(B) The board of trustees of each school district shall adopt a policy that addresses student possession of paging devices as defined in subsection (A). This policy must be included in the district’s written student conduct standards. If the policy includes confiscation of a paging device, as defined in subsection (A), it should also provide for the return of the device to the owner.

HISTORY: 1991 Act No. 24, Section 1; 2002 Act No. 230, Section 1.

LIBRARY REFERENCES

Schools 171.

Westlaw Key Number Search: 345k171.

C.J.S. Schools and School Districts Section 793.

ARTICLE 4

School Crime Report Act

**SECTION 59‑63‑310.** Short title.

This article may be cited as the “School Crime Report Act”.

HISTORY: 1990 Act No. 579, Section 4; 1996 Act No. 324, Section 1.

**SECTION 59‑63‑320.** Reporting form.

By December 31, 1990, the State Department of Education, after consultation with the State Law Enforcement Division, shall develop a standard school crime reporting form which must be used by all school districts in the State. The form must define what constitutes criminal activity required to be reported and must include, but is not limited to, the following:

(1) types and frequency of criminal incident;

(2) crimes against the person, including:

(a) description of crime;

(b) age and sex of offender and whether the offender is a student. If the offender is a student, whether he attended the school where the crime occurred or a different school, and whether he was under school suspension or expulsion at the time of the offense;

(c) age and sex of the victim and whether the victim is a student. If the victim is a student, whether he attended the school where the crime occurred or a different school. If the victim is not a student, whether he was employed at the school and, if so, in what capacity;

(d) where, at what time, and under what circumstances the incident occurred;

(e) the cost of the crime to the school and to the victim;

(f) what action was taken by the school administration;

(3) crimes against property, including:

(a) description of the crime;

(b) where, at what time, and under what circumstances the crime occurred;

(c) the cost of the crime to the school and to the victim;

(d) what action was taken by the school administration.

HISTORY: 1990 Act No. 579, Section 4; 1996 Act No. 324, Section 1.

**SECTION 59‑63‑330.** Quarterly and annual reports.

On forms prepared and supplied by the State Department of Education, each school district in the State shall report school‑related crime quarterly to the State Department of Education. The department shall compile the information received from the districts and annually, not later than January thirty‑first of the year following the districts’ final quarterly reports of the school year, make a report to the General Assembly on the findings. In addition, the State Department of Education shall, upon receipt, forward all information concerning school‑related crime to the Attorney General’s Office. This information shall be used by the Attorney General in the supervision of the prosecution of school crime.

HISTORY: 1990 Act No. 579, Section 4; 1996 Act No. 324, Section 1.

**SECTION 59‑63‑333.** School crime requirements to conform to federal “No Child Left Behind Act”.

The State Department of Education shall conform the requirements of Sections 59‑63‑310 through 59‑63‑340 on school crime so as to fulfill the provisions of the ‘No Child Left Behind Act of 2001’ (20 U.S.C. Section 7912) which includes reports on persistently dangerous schools and on the frequency, seriousness, and incidence of violence and drug‑related offenses resulting in suspensions and expulsions in elementary and secondary schools. A summary of the provisions of Article 4, Chapter 63 of Title 59 required to be included in the school’s student handbook each year must be revised to conform with the requirements of this section.

HISTORY: 2003 Act No. 89, Section 6, eff July 23, 2003.

Code Commissioner’s Note

At the direction of the Code Commissioner, “and Section 16‑3‑612” was deleted. Section 16‑3‑612 was repealed by 2010 Act No. 273, Section 7.

**SECTION 59‑63‑335.** Failure of school administrator to report criminal conduct; liability.

Failure of a school administrator to report criminal conduct as set forth in Section 59‑24‑60 or failure to report information concerning school‑related crime pursuant to Section 59‑63‑330 shall subject the administrator and the school district to liability for payment of a party’s attorney’s fees and the costs associated with an action to seek a writ of mandamus to compel the administrator and school district to comply with Section 59‑24‑60 or 59‑63‑330.

HISTORY: 1998 Act No. 435, Section 4.

LIBRARY REFERENCES

Schools 126.

Westlaw Key Number Search: 345k126.

C.J.S. Schools and School Districts Section 696.

Attorney General’s Opinions

A school district is required to report all suspected crimes to law enforcement as set forth in Section 59‑24‑60. S.C. Op.Atty.Gen. (June 28, 2010) 2010 WL 2678697.

**SECTION 59‑63‑340.** Promulgation of regulations.

The State Board of Education shall promulgate regulations necessary to enforce the provisions of this article.

HISTORY: 1990 Act No. 579, Section 4; 1996 Act No. 324, Section 1.

**SECTION 59‑63‑350.** Local law enforcement.

Local law enforcement officials are required to contact the Attorney General’s “school safety phone line” when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school‑sanctioned or school‑sponsored activity or any crime reported pursuant to Section 59‑24‑60.

HISTORY: 1996 Act No. 324, Section 1.

Editor’s Note

2010 Act No. 273, Section 7.C, provides:

“Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16‑3‑620, and, except for references in Section 16‑1‑60 and Section 17‑25‑45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.”

**SECTION 59‑63‑360.** Attorney General; representation of school districts.

The Attorney General shall monitor all reported school crimes. The Attorney General or his designee may represent the local school district when a criminal case is appealed to an appellate court of competent jurisdiction.

HISTORY: 1996 Act No. 324, Section 1; 1998 Act No. 435, Section 5.

**SECTION 59‑63‑370.** Student’s conviction or delinquency adjudication for certain offenses; notification of senior administrator at student’s school; placement of information in permanent school records.

Notwithstanding any other provision of law:

(1) When a student who is convicted of or adjudicated delinquent for assault and battery against school personnel, as defined in Section 16‑3‑612, assault and battery of a high and aggravated nature committed on school grounds or at a school‑sponsored event against any person affiliated with the school in an official capacity, a violent offense as defined in Section 16‑1‑60, an offense in which a weapon as defined in Section 59‑63‑370 was used, or for distribution or trafficking in unlawful drugs as defined in Article 3, Chapter 53 of Title 44 is assigned to the Department of Juvenile Justice, the Department of Corrections, or to the Department of Probation, Parole, and Pardon Services, that agency is required to provide immediate notice of the student’s conviction or adjudication to the senior administrator of the school in which the student is enrolled, intends to be enrolled, or was last enrolled. These agencies are authorized to request information concerning school enrollment from a student convicted of or adjudicated delinquent for an offense listed in this item.

(2) When a student convicted of or adjudicated delinquent for an offense listed in item (1) of this section is not sentenced to incarceration or probation, the presiding judge shall as part of his sentence order the clerk of the municipal, magistrate, or general sessions court to provide, within ten days, notification of the student’s sentence to the appropriate school district for inclusion in the student’s permanent record. If the student is under the jurisdiction of the family court and is not referred to the Department of Juvenile Justice, the prosecuting agency must provide notification within ten days to the appropriate school district.

(3) An administrator notified pursuant to this section is required to notify each teacher or instructor in whose class the student is enrolled of a student’s conviction of or adjudication for an offense listed in item (1) of this section. This notification must be made to the appropriate teachers or instructors every year the student is enrolled in school.

(4) If a student is convicted of or adjudicated delinquent for an offense listed in item (1) of this section, information concerning the conviction or adjudication and sentencing must be placed in the student’s permanent school record and must be forwarded with the student’s permanent school records if the student transfers to another school or school district.

A “weapon”, as used in this section, means a firearm, knife with a blade‑length of over two inches, dirk, razor, metal knuckles, slingshot, bludgeon, or any other deadly instrument used for the infliction of bodily harm or death.

HISTORY: 1997 Act No. 80, Section 5; 1998 Act No. 435, Section 6.

Code Commissioner’s Note

Section 16‑3‑612, referenced in item (1), was repealed by 2010 Act No. 273, Section 7.

Editor’s Note

2010 Act No. 273, Section 7.C, provides:

“Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16‑3‑620, and, except for references in Section 16‑1‑60 and Section 17‑25‑45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.”

LIBRARY REFERENCES

Schools 173.

Westlaw Key Number Search: 345k173.

C.J.S. Schools and School Districts Section 796.

Attorney General’s Opinions

York Technical College is not required to notify its instructors or teachers of certain crimes of which its students have been convicted or adjudicated or to place information concerning the conviction or adjudication in the student’s permanent school record pursuant to Section 59‑63‑370. S.C. Op.Atty.Gen. (Nov. 18, 2013) 2013 WL 6210748.

**SECTION 59‑63‑380.** School official reporting school‑related crimes; immunity.

A person affiliated with a school in an official capacity is granted immunity from criminal prosecution and civil liability when making a report of school‑related crime in good faith, to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school‑related crime.

HISTORY: 1997 Act No. 80, Section 6.

LIBRARY REFERENCES

Schools 63(3).

Westlaw Key Number Search: 345k63(3).

C.J.S. Schools and School Districts Sections 142, 172 to 173, 176, 191.

**SECTION 59‑63‑390.** Inclusion of school crime report act summary in student handbooks.

The senior administrator of each school is responsible for including an accurate summary of the provisions of this article and Section 16‑3‑612 in the school’s student handbook each year.

HISTORY: 1997 Act No. 80, Section 7.

Code Commissioner’s Note

Section 16‑3‑612, referenced in the text of this section was repealed by 2010 Act No. 273, Section 7.

ARTICLE 5

Enrollment and Transfer

**SECTION 59‑63‑410.** Enrollment of pupils.

The first two weeks of the opening of any public school in this State shall, for the purposes of this section, be known and designated as enrollment weeks. During these two weeks, all teachers in the free public schools of this State shall receive and enroll such pupils as they present themselves, if otherwise admissible under existing law.

HISTORY: 1962 Code Section 21‑841; 1952 Code Section 21‑841; 1942 Code Section 5347; 1932 Code Section 5373; 1929 (36) 69.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

**SECTION 59‑63‑420.** Effect of transfer on enrollment lists.

In the event that any enrolled pupil ceases to attend the school in which he has been enrolled and desires to attend another public school of this State, the teacher in the school wherein the pupil was last enrolled shall furnish the pupil, upon his application or upon the application of his parent or guardian, a certificate or card, showing the date of the enrollment of such pupil and all other information required by law to be obtained at the time of enrollment. When any pupil applies for admission in any of the public schools of this State subsequent to the two enrollment weeks of the school, he shall, if he has theretofore been enrolled during said year, present to the teacher or superintendent, such certificate or card, and before he shall be so enrolled, the school teacher shall ascertain whether or not he has theretofore been enrolled during that year, and, if it be found that he has, he shall not be included among the enrolled pupils of the school to which he has thus transferred for that year, but a separate list of such pupils shall be kept and maintained and reported on a separate sheet attached to the list of enrolled pupils.

HISTORY: 1962 Code Section 21‑842; 1952 Code Section 21‑842; 1942 Code Section 5347; 1932 Code Section 5373; 1929 (36) 69.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Schools and School Districts Sections 713 to 715.

C.J.S. Civil Rights Sections 127, 130.

**SECTION 59‑63‑425.** Transfer upon violation of restraining order; interscholastic activity eligibility.

A high school student who is the victim of physical abuse, harassment, or stalking by a classmate during school hours or otherwise resulting in a restraining order being granted against the classmate by a court of competent jurisdiction may transfer with the consent of the student’s school district to another high school within or out of the district within thirty school days of the restraining order being violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers.

HISTORY: 2008 Act No. 293, Section 1, eff June 11, 2008.

RESEARCH REFERENCES

Treatises and Practice Aids

59 Causes of Action 2d 307, Cause of Action Against School District for Injuries to Student Resulting from Bullying by Another Student.

**SECTION 59‑63‑430.** Board shall furnish copies of relevant statutes to teachers.

The State Board of Education shall have printed and furnish to the teachers in the free public schools of this State copies of Sections 59‑63‑410 and 59‑63‑420 and shall give such other publicity thereto as may be deemed expedient and advisable.

HISTORY: 1962 Code Section 21‑843; 1952 Code Section 21‑843; 1942 Code Section 5347; 1932 Code Section 5373; 1929 (36) 69.

**SECTION 59‑63‑440.** Violations of Sections 59‑63‑410 to 59‑63‑430.

Any person wilfully violating the provisions of Sections 59‑63‑410 to 59‑63‑430 shall be guilty of a misdemeanor and subject to a fine not exceeding twenty‑five dollars in the discretion of the court. The fines collected under this section shall be credited to the school fund of the county.

HISTORY: 1962 Code Section 21‑844; 1952 Code Section 21‑844; 1942 Code Section 5347; 1932 Code Section 5373; 1929 (36) 69.

**SECTION 59‑63‑450.** No child shall be counted in enrollment more than once.

A child must not be counted more than once in the school enrollment of a school district in any one school year. A pupil who enrolls in more than one school in any school year must be counted only in the enrollment of the first school which the pupil legally attends for at least thirty‑five days during the school year.

A school officer charged with the duty of enrollment who wilfully violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 21‑845; 1952 Code Section 21‑845; 1942 Code Section 5299; 1932 Code Section 5306; Civ. C. ‘22 Section 2564; Civ. C. ‘12 Section 1715; Civ. C. ‘02 Section 1185; 1896 (22) 150; 1950 (46) 2050; 1973 (58) 690; 1993 Act No. 184, Section 256.

LIBRARY REFERENCES

Schools 43.

Westlaw Key Number Search: 345k43.

C.J.S. Schools and School Districts Section 26.

**SECTION 59‑63‑460.** Annual reports.

The teacher or principal of every school shall keep and furnish annually to the trustees of the school district a list of all pupils that have attended the school during the preceding scholastic year, showing the names of the pupils, their respective places of residence and the number of days each pupil has attended. Such list shall be certified to the county board of education by the trustees on or before the first day of August in every year.

HISTORY: 1962 Code Section 21‑846; 1952 Code Section 21‑846; 1942 Code Section 5299; 1932 Code Section 5306; Civ. C. ‘22 Section 2564; Civ. C. ‘12 Section 1715; Civ. C. ‘02 Section 1185; 1896 (22) 150.

LIBRARY REFERENCES

Schools 43.

Westlaw Key Number Search: 345k43.

C.J.S. Schools and School Districts Section 26.

**SECTION 59‑63‑470.** Transfer of pupils when enrollment of such pupils threatens to disturb peace.

Whenever the principal, superintendent, or any other responsible school official in charge of a school in this State has reason to believe that the enrollment of certain pupils in a certain school may threaten to result in riot, civil commotion, or may in any way disturb the peace of the citizens of the community in which the school is located, such school official shall notify the sheriff or other law enforcement officer in the county. On being so notified, the sheriff or other law enforcement officer in the county may remove such pupils from such school and may transfer them, at the direction of the superintendent, to another school in which there appears to be less likelihood of disturbing the peace. Any law enforcement officer is authorized to enforce the provisions of this section.

HISTORY: 1962 Code Section 21‑846.1; 1956 (49) 1715.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

**SECTION 59‑63‑480.** Attendance at schools in adjacent county.

If school children in one county reside closer to schools in an adjacent county, they may attend such schools upon the school authorities of the county of their residence arranging with the school officials of the adjacent county for such admission and upon payment of appropriate charges as herein authorized. The board of trustees in the school district in which the pupils reside shall make written application through its county board of education to the board of trustees of the district in which the school is located for the admission of such children, giving full information as to ages, residence and school attainment, and the board of trustees in the school district, agreeing to accept such pupils, shall give a written statement of agreement. Upon receipt of such application the board of trustees of the school and its county board of education shall determine the monthly per pupil cost of all overhead expenses of the school, which will include all expenses of the school not paid by the State. Upon proper arrangement being made for the payment monthly of such overhead per pupil cost for each such child the same shall be admitted to the schools of the adjacent county.

HISTORY: 1962 Code Section 21‑847; 1952 Code Section 21‑847; 1942 Code Section 5348; 1932 Code Section 5374; Civ. C. ‘22 Section 2620; 1921 (32) 128; 1939 (41) 310; 1953 (48) 348; 1955 (49) 86.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

Attorney General’s Opinions

The fact that one owns property in more than one county does not give such taxpayer the automatic right to enroll his children in the schools of a county where he pays taxes but in which he does not reside; consent of board of trustees of school district in county of nonresidence necessary. 1965‑66 Op Atty Gen, No 2028, p 100.

NOTES OF DECISIONS

In general 1

1. In general

When children living in one county resided closer to a school in an adjoining county than to a school in the county of their residence, the board of trustees of the school district in which they resided had no discretion not to make an application to the adjoining school district for the children’s admission to that district under Section 59‑63‑480, which provides that if school children in one county reside closer to schools in an adjacent county they may attend such schools upon the school authorities of the county of their residence arranging with the school officials of the adjacent county for such admission, and the school district’s policy requiring the differential distance between the school in the adjacent county and the school in the county in which the child resides to be greater than 5 miles could not be given effect. Smith v. Wallace (S.C.App. 1988) 295 S.C. 448, 369 S.E.2d 657. Education 661(1)

**SECTION 59‑63‑485.** Transfer of students from Fairfield County School District to Chester County School District; provision for payment of funds; State Superintendent of Education to settle disputes.

(A) The General Assembly finds that numerous public school students reside in Fairfield County School District but are entitled to attend the schools of Chester County School District pursuant to Section 59‑63‑480. The General Assembly finds it necessary to provide by law for uniform arrangements between Fairfield County School District and Chester County School District pertaining to these students.

(B) A student who qualifies for transfer pursuant to Section 59‑63‑480 may be admitted, and remain enrolled, by Chester County School District upon proof of eligibility as Chester County School District finds acceptable. A roster of these students must be kept current by Chester County School District and sent to Fairfield County School District as and when updated.

(1) Each fiscal year, for each pupil authorized to transfer from Fairfield County School District to Chester County School District pursuant to Section 59‑63‑480 and actually enrolled in a public school of Chester County School District, the Fairfield County Treasurer, on behalf of and from funds of the Fairfield County School District, shall pay Chester County School District one hundred and three percent of Chester County School District’s prior year local revenue per pupil for school operating purposes as reported in Chester County School District’s annual audit for the immediately preceding fiscal year.

(2) As used in this section, “prior year local revenue per pupil for school operating purposes” includes any state reimbursement paid for property tax exemptions from Chester County School District ad valorem taxes including, but not limited to, all payments pursuant to Section 11‑11‑156.

(C) Upon invoice, the Fairfield County Treasurer, on behalf of and from the funds of the Fairfield County School District, shall pay Chester County School District the amount determined pursuant to subsection (B)(1) of this section. Payment to Chester County School District must be completed before the fifteenth day of February in each fiscal year. If the Fairfield County Treasurer fails to pay this invoice by the fifteenth day of February, the South Carolina Department of Education, upon application by Chester County School District, out of the funds otherwise meant for the next Education Finance Act disbursement to Fairfield County School District, shall pay the invoice on behalf of Fairfield County School District. Any undisputed amounts must be paid when due.

(D) Chester County School District may consider payments pursuant to this act to be anticipated ad valorem taxation for purposes of Subsection 7, Section 15, Article X of the South Carolina Constitution, relating to tax anticipation notes.

(E) The State Superintendent of Education shall settle any dispute between Chester County School District and Fairfield County School District arising from the implementation and administration of this act by the school districts and the State Department of Education.

(F) For the 2009‑2010 school and the fiscal year only, the Fairfield County Treasurer, on behalf of and from the funds of the Fairfield County School District, shall pay the Chester County School District an amount calculated pursuant to items (B)(1) and (2) of this section on account of the pupils enrolled in the Chester County School District from Fairfield County pursuant to Section 59‑63‑480 for the 2009‑2010 school year. This amount must be invoiced by the Chester County School District promptly upon the effective date of this section, and must be paid no later than June 30, 2010, or the delinquency provisions of subsection (C) apply to the payment.

HISTORY: 2010 Act No. 294, Sections 1, 2, eff June 8, 2010.

Code Commissioner’s Note

This section was codified at the direction of the Code Commissioner.

Notes of Decisions

Validity 1

1. Validity

Statutory provision that required county treasurer in first county to pay second county for cost of educating African‑American public school students who resided in first county but elected to attend schools in second county was not unconstitutional special legislation, absent any showing that the General Assembly lacked logical basis or sound reason for enacting the provision. Board of Trustees for Fairfield County School Dist. v. State (S.C. 2014) 409 S.C. 119, 761 S.E.2d 241. Education 683; Statutes 1647

**SECTION 59‑63‑490.** Transfer to adjoining school district.

When it shall so happen that any person is so situated as to be better accommodated at the school of an adjoining school district, whether special or otherwise, the board of trustees of the school district in which such person resides may, with the consent of the board of trustees of the school district in which such school is located, transfer such person for education to the school district in which such school is located, and the trustees of the school district in which the school is located shall receive such person into the school as though he resided within the district.

HISTORY: 1962 Code Section 21‑849; 1952 Code Section 21‑849; 1942 Code Section 5346; 1932 Code Section 5372; Civ. C. ‘22 Section 2619; Civ. C. ‘12 Section 1756; Civ. C. ‘02 Section 1214; 1896 (22) 165; 1912 (27) 619; 1919 (31) 63; 1921 (32) 128; 1928 (35) 1195; 1940 (41) 1734; 1941 (42) 206.

LIBRARY REFERENCES

Schools 13(14), 154(1).

Westlaw Key Number Searches: 345k13(14); 345k154(1).

C.J.S. Civil Rights Sections 127, 130, 132 to 133.

C.J.S. Schools and School Districts Sections 713 to 715.

Attorney General’s Opinions

Discussion of the authority of the Trustees of the Charleston County School District with respect to the various constituent school districts of Charleston County and issues relating to magnet schools, school bus transportation, and student discipline. S.C. Op.Atty.Gen. (April 12, 2016) 2016 WL 1711847.

A student may transfer from Lincoln Middle‑High School in District 1 to Wando High School in District 2 under Section 59‑59‑110 ‑ i.e., on the basis the student’s career cluster is offered at Wando but not at Lincoln ‑ if the transfer between the districts is authorized by the trustees of both constituent districts as provided in Section 59‑63‑490. S.C. Op.Atty.Gen. (November 5, 2012) 2012 WL 5705579.

The board of trustees of a constituent district in Charleston County can permit a student residing in that district to attend a middle school located in an adjoining constituent district, assuming that the board of trustees of the adjoining constituent district accept the transfer. If the board of trustees of either constituent district withholds consent, an appeal can be made to the Board of Trustees of Charleston County, which is empowered to review the decision to determine if consent was withheld unreasonably or capriciously. 1976‑77 Op Atty Gen, No 77‑272, p 210.

A county board of education does not have authority to initially direct transfer of pupils, it acts only as an appellate body to determine whether arbitrary and capricious refusal exists. 1964‑65 Op Atty Gen, No 1840, p 95.

NOTES OF DECISIONS

In general 1

1. In general

Where sole motive behind request to transfer between constituent school districts is racial integration, request may properly be denied, as there is no foundation to grant it. Where transfer request is premised upon valid reason and, also, desire to integrate racially, that part of request premised upon racial integration is accorded no weight and consideration shall be accorded only to valid reason. While desire to integrate is not sufficient reason to require transfer approval, it may not be reason to deny otherwise valid transfer request. It is left to District Court to clarify what is valid reason for interdistrict transfer, and definition should be precise. Policy of denying interdistrict transfer requests for purpose of integration, where district out of which student seeks to transfer is unitary, is not unconstitutional, whether or not it is commendable. U.S. v. Charleston County School Dist. (C.A.4 (S.C.) 1992) 960 F.2d 1227, on remand 856 F.Supp. 1060.

The following constitute valid, nondiscriminatory reasons for constituent district boards to allow student transfers between constituent districts: (a) to allow students to participate in vocational programs; (b) to allow special education students to attend schools which provide programs for their need; (c) to attend a countywide magnet program; (d) hardship reasons, as follows: (1) to attend school closer to where a parent works; (2) to accommodate a parent’s after‑school care needs; (3) to attend a school previously attended by the child; (4) to attend a school that offers courses not taught in the home district; (5) to allow the child to attend the same school for the entire school year; (6) health reasons; and (7) to attend school with a sibling who is in a special program, (e) for disciplinary and/or safety reasons; and (f) to attend a school in another district in which the child’s parent is a teacher. This list of reasons is not exhaustive. Where one or more of the above reasons exists, the constituent boards have the discretion to decide whether a requested transfer should or should not be granted. However, it would be illegal for a board to deny an otherwise valid request simply because the transfer might have the effect of desegregating either the transferee or transferor school. U.S. v. Charleston County School Dist., 1994, 856 F.Supp. 1060.

**SECTION 59‑63‑500.** Transfer without consent of school district of residence.

The trustees of any school district who knowingly permit the enrollment of pupils who have not been transferred with the consent of the trustees of the district wherein such pupils reside shall be guilty of a misdemeanor and, upon conviction, shall pay a fine not exceeding twenty‑five dollars or be imprisoned not more than thirty days.

HISTORY: 1962 Code Section 21‑850; 1952 Code Section 21‑850; 1942 Code Section 5346; 1932 Code Section 5372; Civ. C. ‘22 Section 2619; Civ. C. ‘12 Section 1756; Civ. C. ‘02 Section 1214; 1896 (22) 165; 1912 (27) 619; 1919 (31) 63; 1921 (32) 128; 1928 (35) 1195; 1940 (41) 1734; 1941 (42) 206.

LIBRARY REFERENCES

Schools 62.

Westlaw Key Number Search: 345k62.

C.J.S. Schools and School Districts Sections 77 to 80, 163 to 167.

Attorney General’s Opinions

A county board of education may review refusal of a board of school trustees to consent to a pupil’s transfer to a school of an adjoining district and may order the pupil’s transfer to the latter where the refusal to give its consent was arbitrarily rendered. 1970‑71 Op Atty Gen, No 3149, p 110.

NOTES OF DECISIONS

In general 1

1. In general

Where sole motive behind request to transfer between constituent school districts is racial integration, request may properly be denied, as there is no foundation to grant it. Where transfer request is premised upon valid reason and, also, desire to integrate racially, that part of request premised upon racial integration is accorded no weight and consideration shall be accorded only to valid reason. While desire to integrate is not sufficient reason to require transfer approval, it may not be reason to deny otherwise valid transfer request. It is left to District Court to clarify what is valid reason for interdistrict transfer, and definition should be precise. Policy of denying interdistrict transfer requests for purpose of integration, where district out of which student seeks to transfer is unitary, is not unconstitutional, whether or not it is commendable. U.S. v. Charleston County School Dist. (C.A.4 (S.C.) 1992) 960 F.2d 1227, on remand 856 F.Supp. 1060.

**SECTION 59‑63‑510.** County board of education authorized to order transfer.

When a transfer of pupils from one district to another is sought and the trustees of the latter district unreasonably or capriciously withhold their consent, the county board of education of the county in which the districts are located shall have the right, after hearing, to make the transfer, but only on condition that each pupil so transferred pay semiannually, in advance, if financially able to do so in the opinion of the board of trustees, as tuition, an amount not less than the per capita expenditure from the special tax for operating the school to which the pupil is to be transferred, together with all other charges paid by patrons of such district for any special course or courses.

HISTORY: 1962 Code Section 21‑851; 1952 Code Section 21‑851; 1942 Code Sections 5346, 5348; 1932 Code Sections 5372, 5374; Civ. C. ‘22 Sections 2619, 2620; Civ. C. ‘12 Section 1756; Civ. C. ‘02 Section 1214; 1896 (22) 165; 1912 (27) 619; 1919 (31) 63; 1921 (32) 128; 1928 (35) 1195; 1939 (41) 310; 1940 (41) 1734; 1941 (42) 206.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

Attorney General’s Opinions

Trustees of a school area in Jasper County cannot prevent the transfer by county board of education of pupil from school within the area to another within the county. 1967‑68 Op Atty Gen, No 2582, p 285.

A county board of education does not have authority to initially direct transfer of pupils, it acts only as an appellate body to determine whether arbitrary and capricious refusal exists. 1964‑65 Op Atty Gen, No 1840, p 95.

NOTES OF DECISIONS

In general 1

1. In general

Where sole motive behind request to transfer between constituent school districts is racial integration, request may properly be denied, as there is no foundation to grant it. Where transfer request is premised upon valid reason and, also, desire to integrate racially, that part of request premised upon racial integration is accorded no weight and consideration shall be accorded only to valid reason. While desire to integrate is not sufficient reason to require transfer approval, it may not be reason to deny otherwise valid transfer request. It is left to District Court to clarify what is valid reason for interdistrict transfer, and definition should be precise. Policy of denying interdistrict transfer requests for purpose of integration, where district out of which student seeks to transfer is unitary, is not unconstitutional, whether or not it is commendable. U.S. v. Charleston County School Dist. (C.A.4 (S.C.) 1992) 960 F.2d 1227, on remand 856 F.Supp. 1060.

**SECTION 59‑63‑520.** Consent required for transfer.

No child shall be transferred to an adjacent district without the prior written consent of such child’s parent or legal guardian, or, where such child has neither a parent nor legal guardian, the prior written consent of the State Board of Education. Provided, however, transfers of children to adjacent districts prior to June 22, 1973 shall be rescinded upon the written request as provided herein and any such child for whom a request for retransfer to his former district is made shall be returned to such former district.

HISTORY: 1962 Code Section 21‑852; 1973 (58) 651.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

**SECTION 59‑63‑530.** Credit on tuition for taxes paid.

Whenever under the provisions of law any school district or municipal corporation is authorized to levy a special tax for the support of public schools therein, any person not a resident of such school district or municipal corporation shall be entitled to a credit upon fees for the tuition of his children by the amount of such special tax paid by such person.

HISTORY: 1962 Code Section 21‑853; 1952 Code Section 21‑853; 1942 Code Section 5391; 1932 Code Section 5419; Civ. C. ‘22 Section 2682; Civ. C. ‘12 Section 1792; Civ. C. ‘02 Section 1238; 1896 (22) 150; 1897 (22) 514; 1955 (49) 86.

LIBRARY REFERENCES

Schools 159.

Westlaw Key Number Search: 345k159.

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

**SECTION 59‑63‑540.** Determination of pupil enrollment in primary or secondary schools for purpose of distributing state funds on per pupil basis.

Notwithstanding any other provision of law, in the distribution of state funds provided on a per pupil basis in the State Annual General Appropriation Act, no pupil shall be counted as enrolled, or as having been enrolled, in any primary or secondary school who has not attended such school at least thirty‑five days during the school year on which the allocation of such funds is based. A pupil shall be counted as enrolled only in the first school district, or operating unit, such pupil legally attended.

HISTORY: 1982 Act No. 435, Section 1.

LIBRARY REFERENCES

Schools 19(3).

Westlaw Key Number Search: 345k19(3).

C.J.S. Schools and School Districts Section 13.

**SECTION 59‑63‑550.** School attendance; boundary clarification.

(A) Upon the effective date of the amendments to Section 1‑1‑10 which are effective January 1, 2017, enacting the clarified North Carolina—South Carolina boundary, persons residing on property which is determined to be located in North Carolina as a result of the boundary clarification, may enroll their children residing with them in the South Carolina district in which that property was previously believed to be located or in the statewide public charter school district, without charge, as long as the family maintains residence on that same property. For the purpose of this section regarding the boundary clarification, the word “children” includes those children who are residing with their legal guardians whose property is determined to be located in North Carolina as a result of the boundary clarification.

(B) This section only applies to those persons residing on the property as of January 1, 2017, and their children who reside with them. Once those persons move from the property or no longer have children at home who are attending or will attend schools in the South Carolina K‑12 public education system, then this provision no longer applies to that property. A district may draw down South Carolina state and federal funding for students enrolled under this section.

(C) This section does not require a former South Carolina resident to continue enrollment of their children in school in South Carolina.

HISTORY: 2016 Act No. 270 (S.667), Section 21, eff January 1, 2017.

Attorney General’s Opinions

If, since January 1, 2017, a child’s parent or legal guardian has been residing on property which was believed to be in South Carolina and 2016 Act No. 270 clarified such property to be in North Carolina, such child may enroll in the South Carolina school district in which that property was previously believed to be located or in the statewide charter school district without charge, as long as the family maintains residence on that same property. S.C. Op.Atty.Gen. (April 25, 2017) 2017 WL 1955650.

ARTICLE 7

School Breakfast and School Lunch Programs

**SECTION 59‑63‑710.** School lunch division in State Department of Education.

To continue and expand the lunch program in the public schools of the State, in cooperation with the Food Distribution Administration of the United States Government, or any similar agency, there shall be a school lunch division in the State Department of Education, to be directed by a State supervisor, appointed by the State Board of Education. Such division shall also employ a steno‑clerk and a food consultant to plan meals and otherwise assist in the program and shall purchase all necessary and incidental office supplies. The salaries of the personnel herein provided for shall be fixed by the State Department of Education.

HISTORY: 1962 Code Section 21‑861; 1952 Code Section 21‑861; 1943 (43) 286.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

Attorney General’s Opinions

Schools operated by the Board of Juvenile Corrections must be allowed to participate in the school lunch program to the same extent as all other public schools. 1970‑71 Op Atty Gen, No 3105, p 51.

The State Department of Education may not use its facilities to assist United States Department of Agriculture in special food service program for children. 1967‑68 Op Atty Gen, No 2580, p 283.

**SECTION 59‑63‑720.** County school lunch supervisors.

School lunch supervisors shall be employed on a county basis, with one supervisor for each county of the State. In the larger counties of the State, where the number of school children and the area involved warrant, the State Department of Education may divide such counties into two districts and provide a supervisor for each district. In such cases the counties shall pay one half of the cost of the salaries and expenses of such additional supervisors.

HISTORY: 1962 Code Section 21‑862; 1952 Code Section 21‑862; 1943 (43) 286.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑730.** Employment and discharge of county school lunch supervisors.

County boards of education may employ or discharge county school lunch supervisors at any time and the person or persons employed by the county boards as such shall be paid for such services from any funds provided therefor.

HISTORY: 1962 Code Section 21‑863; 1952 Code Section 21‑863; 1951 (47) 710.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑740.** Duties of county school lunch supervisors.

School lunch supervisors shall be responsible for the supervision and promotion of school lunches in their respective counties and shall cooperate with government agencies furnishing food and produce and funds for the purchase of foods and shall see that these funds or foods are properly distributed among the schools and where they can be most effectively used. They shall cooperate with and carry out the general program as directed by the State Department of Education, to the end that hot lunches shall be furnished in all the public schools in the State in so far as possible.

HISTORY: 1962 Code Section 21‑864; 1952 Code Section 21‑864; 1943 (43) 286.

CROSS REFERENCES

Duty of a lunchroom supervisor to determine whether a pupil is unable to pay for lunch, see Section 59‑63‑780.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑750.** Compensation of school lunch supervisors; office space and equipment.

Each supervisor shall be paid a salary and three hundred dollars per year for all expenses. The counties shall also furnish necessary office space and equipment for properly administering the program.

HISTORY: 1962 Code Section 21‑865; 1952 Code Section 21‑865; 1943 (43) 286; 1951 (47) 506.

**SECTION 59‑63‑760.** State’s school lunch policy.

It is declared to be the policy of the State to receive and distribute such funds or food supplies as are available for the school lunch program or otherwise and to supervise and generally direct the program in the local schools.

HISTORY: 1962 Code Section 21‑866; 1952 Code Section 21‑866; 1943 (43) 286.

CROSS REFERENCES

Duty of a school superintendent and a lunchroom supervisor of a school to determine whether a pupil is unable to pay for lunch, see Section 59‑63‑780.

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

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑765.** School breakfast program.

If a school has at least a forty percent enrollment receiving free or reduced priced lunches, the school district may implement in that school a nutritional, well‑balanced school breakfast program if federal funds are available to cover the entire cost of the program and if no additional personnel are required to implement the program.

HISTORY: 1989 Act No. 189, Part II, Section 57.

CROSS REFERENCES

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

School districts required to implement breakfast programs in each school by school year 1993‑94 notwithstanding provisions of this section, see Section 59‑63‑790.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑770.** Funds provided by State Fiscal Accountability Authority in event Federal Government resumes distribution of commodities to schools.

Should the Federal Government at any time resume the distribution of commodities to schools, the State Fiscal Accountability Authority shall provide from the general funds of the State such an amount as may be necessary for the State to take advantage of such distribution.

HISTORY: 1962 Code Section 21‑867; 1952 Code Section 21‑867; 1943 (43) 286.

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), effective July 1, 2015.

**SECTION 59‑63‑780.** Inability to pay for school lunches; availability of federal funds.

For purposes of the school lunch program, the school Superintendent and the lunchroom supervisor of the school which a pupil attends shall determine when a pupil is unable to pay for lunch. A pupil’s inability to pay shall be determined according to income guidelines established by the appropriate authority. A determination as to the continuation of the school lunch program shall be based on the availability of federal funds.

HISTORY: 1982 Act No. 444, Section 1.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑790.** School districts to implement breakfast program in each school.

Notwithstanding the provisions of Section 59‑63‑765 of the 1976 Code, by school year 1993‑94 each school district shall implement in each school in the district a nutritional, well‑balanced school breakfast program.

HISTORY: 1992 Act No. 292, Section 1.

CROSS REFERENCES

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

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

**SECTION 59‑63‑800.** Waiver of school breakfast requirement.

The State Board of Education may grant a waiver of the requirements of Section 59‑63‑790 to a school which lacks facilities or equipment to offer a school breakfast program and in which the acquisition of such equipment or facilities would cause an extreme hardship. Waivers may also be granted if participation in the program is too small to allow the program to be cost‑effective or may create substantial scheduling difficulties. The waiver may be permanent or may be of a specified length of time as determined by the board. The State Board of Education shall promulgate those regulations necessary to implement the provisions of this act.

HISTORY: 1992 Act No. 292, Section 2.

LIBRARY REFERENCES

Agriculture 2.7.

Westlaw Key Number Search: 23k2.7.

C.J.S. Agriculture Section 24.

ARTICLE 9

Fire Drills

**SECTION 59‑63‑910.** Monthly fire drills required; penalty.

All teachers or superintendents in charge of the schools of the State which are supported in whole or in part by taxation shall conduct fire drills at least once each month. Any teacher or superintendent failing to observe the provisions of this section shall be fined not less than ten dollars nor more than twenty‑five dollars for each offense. Such fine shall be deducted from his salary and turned over to the county treasurer for ordinary county purposes.

HISTORY: 1962 Code Section 21‑871; 1952 Code Section 21‑871; 1942 Code Section 5465; 1932 Code Section 5471; 1927 (35) 168.

LIBRARY REFERENCES

Schools 147, 169.

Westlaw Key Number Searches: 345k147; 345k169.

C.J.S. Schools and School Districts Sections 241 to 242, 267, 351 to 355, 789 to 791.

**SECTION 59‑63‑920.** Certificate of compliance; collection of penalty.

The principal or supervising teacher of each school shall indicate on his monthly pay voucher whether he has complied with the requirements of Section 59‑63‑910, and should it appear that he has failed to do so the superintendent of education shall deduct from that teacher’s salary the minimum fine for the first offense and the maximum fine for each following offense.

HISTORY: 1962 Code Section 21‑872; 1952 Code Section 21‑872; 1942 Code Section 5465; 1932 Code Section 5471; 1927 (35) 168.

LIBRARY REFERENCES

Schools 144(4).

Westlaw Key Number Search: 345k144(4).

C.J.S. Schools and School Districts Sections 323 to 329.

**SECTION 59‑63‑930.** Printing and posting of relevant statutes.

The county superintendent of education of each county of this State shall have copies of Sections 59‑63‑910 and 59‑63‑920 printed in suitable form and have at least one placed in a conspicuous place in each of the public school buildings of his county.

HISTORY: 1962 Code Section 21‑873; 1952 Code Section 21‑873; 1942 Code Section 5465; 1932 Code Section 5471; 1927 (35) 168.

ARTICLE 11

Search of Persons and Effects on School Property

**SECTION 59‑63‑1110.** Consent to search person or his effects.

Any person entering the premises of any school in this State shall be deemed to have consented to a reasonable search of his person and effects.

HISTORY: 1994 Act No. 373, Section 1.

LIBRARY REFERENCES

Schools 169.5.

Westlaw Key Number Search: 345k169.5.

C.J.S. Schools and School Districts Section 792.

Attorney General’s Opinions

A search of student property should be conducted only if it is based on reasonable suspicion or reasonable grounds to believe that the search will uncover activity that is inimical to the safety and welfare of a student or other students or is activity which is adverse to the educational atmosphere of the school. S.C. Op.Atty.Gen. (May 9, 2011) 2011 WL 2214065.

**SECTION 59‑63‑1120.** Searches by school administrators or officials with or without probable cause.

Notwithstanding any other provision of law, school administrators and officials may conduct reasonable searches on school property of lockers, desks, vehicles, and personal belongings such as purses, bookbags, wallets, and satchels with or without probable cause.

HISTORY: 1994 Act No. 373, Section 2.

LIBRARY REFERENCES

Schools 169.5.

Westlaw Key Number Search: 345k169.5.

C.J.S. Schools and School Districts Section 792.

LAW REVIEW AND JOURNAL COMMENTARIES

The doctrine of deference: Shifting constitutional presumptions and the Supreme Court’s restatement of student rights after Board of Education v. Earls. 56 S.C. L. Rev. 1 ( Autumn 2004).

**SECTION 59‑63‑1130.** Searches by principals or their designees.

Notwithstanding any other provision of law, school principals or their designees may conduct reasonable searches of the person and property of visitors on school premises.

HISTORY: 1994 Act No. 373, Section 3.

LIBRARY REFERENCES

Schools 169.5.

Westlaw Key Number Search: 345k169.5.

C.J.S. Schools and School Districts Section 792.

LAW REVIEW AND JOURNAL COMMENTARIES

The doctrine of deference: Shifting constitutional presumptions and the Supreme Court’s restatement of student rights after Board of Education v. Earls. 56 S.C. L. Rev. 1 (Autumn 2004).

**SECTION 59‑63‑1140.** Strip searches prohibited.

No school administrator or official may conduct a strip search.

HISTORY: 1994 Act No. 373, Section 4.

LIBRARY REFERENCES

Schools 169.5.

Westlaw Key Number Search: 345k169.5.

C.J.S. Schools and School Districts Section 792.

**SECTION 59‑63‑1150.** Compliance with case law; training of school administrators.

Notwithstanding any other provision of this article, all searches conducted pursuant to this article must comply fully with the “reasonableness standard” set forth in New Jersey v. T.L.O., 469 U.S. 328 (1985). All school administrators must receive training in the “reasonableness standard” under existing case law and in district procedures established to be followed in conducting searches of persons entering the school premises and of the students attending the school.

HISTORY: 1994 Act No. 373, Section 5.

Editor’s Note

The full cite for the case identified in this section is: New Jersey v T.L.O. (1985) 462 US 325, 83 L Ed2d 720, 105 S Ct 733.

LIBRARY REFERENCES

Schools 169.5.

Westlaw Key Number Search: 345k169.5.

C.J.S. Schools and School Districts Section 792.

**SECTION 59‑63‑1160.** Posting of notice; costs of notice to be paid by State; effect of failure to post notice.

Notice must be conspicuously posted on school property informing the provisions of this article.

The notice must be posted at least at all regular entrances and any other access point to the school grounds.

The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

HISTORY: 1994 Act No. 373, Section 6.

ARTICLE 13

Alternative Schools

**SECTION 59‑63‑1300.** Alternative school programs established.

The General Assembly finds that a child who does not complete his education is greatly limited in obtaining employment, achieving his full potential, and becoming a productive member of society. It is, therefore, the intent of this article to encourage district school boards throughout the State to establish alternative school programs. These programs shall be designed to provide appropriate services to students who for behavioral or academic reasons are not benefiting from the regular school program or may be interfering with the learning of others. It is further the intent of this article that cooperative agreements may be developed among school districts in order to implement innovative exemplary programs.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

**SECTION 59‑63‑1310.** Alternative school programs; individual or cooperative programs; funding; sites.

School districts which choose to establish, maintain, and operate, either individually or as a cooperative agreement among districts, alternative school programs shall be eligible for funding provided by the General Assembly for this purpose. The program must be operated at a site separate from other schools unless operated at a time when those schools are not in session or in another building on campus which would provide complete separation from other students. However, an existing alternative school program located in a defined area within a building which provides complete separation from other students and which otherwise meets the criteria established herein may continue at this site if the location is approved by the Department of Education. Provided, that a school district or consortium may apply for a waiver to the site requirement for a new program if it demonstrates to the satisfaction of the State Department of Education that no separate site is available and the cost of temporary classroom space cannot be justified, then the alternative school program may be established in a defined area within a building which provides complete separation from other students if the location is approved by the Department of Education. This waiver may be granted for a period of two years. In order for the district or consortium to reapply for a waiver, they must outline efforts made to acquire a separate facility.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

**SECTION 59‑63‑1320.** Referral or placement of students in alternative school programs.

Eligible alternative school programs shall be provided for, but not limited to, students in grades 6‑12 as follows:

(1) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the attention and assistance beyond that of a traditional program as established by the academic history of the student, including the student’s academic plan as required in Section 59‑18‑500, and following other policies and procedures for documenting need established by the district board of trustees.

(2) Students referred for voluntary attendance at the alternative school program and meeting the district criteria to attend based upon a documented need for the program due to habitual exhibitions of disruptive behavior in violation of the student conduct policies and behavior codes approved by the school board of trustees.

Districts must establish clear guidelines and procedures for the referral of any student into an alternative school program and before a decision is made to assign a student to an alternative school program, a determination must be made that the written and distributed academic and disciplinary policies of the district have been followed.

(3) Students placed in an alternative school program by the district board of trustees as an option to suspension or expulsion or by the dispositive order of a family court judge, with the consent of the local board of trustees. However, before a student may be placed in an alternative school program, a determination must be made by the local board that the written and distributed disciplinary policy of the district has been followed. Districts must establish clear guidelines and procedures for the placement of any student into an alternative school program and at a minimum they shall prescribe due process procedures for placement actions.

When students are being considered for placement in an alternative school program, districts must consider the requirements of the Federal Individuals with Disabilities Education Act (IDEA).

If a student placed by the board of trustees in an alternative school program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, information concerning the student’s placement in an alternative school program. Upon review of the information, the district in which the student enrolls may continue an alternative education program placement or may allow the student to attend regular classes without completing the period of the placement.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 154(1).

Westlaw Key Number Search: 345k154(1).

C.J.S. Civil Rights Sections 127, 130.

C.J.S. Schools and School Districts Sections 713 to 715.

**SECTION 59‑63‑1330.** Discretion of school board.

Nothing in this article shall abrogate the authority of any public school district and its governing board to take such disciplinary action as it is otherwise empowered by law to take against any student for misconduct including, but not limited to, expulsion, and nothing in this chapter shall require that any student be assigned to such an alternative school. These decisions shall rest solely in the discretion of the district and school board, regardless of the offense, record of the child, or other information presented from any source.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 174.

Westlaw Key Number Search: 345k174.

C.J.S. Schools and School Districts Section 796.

**SECTION 59‑63‑1340.** Scheduling, administrative structure, curriculum and setting.

Within the requirements of Section 59‑1‑440, alternative school programs may differ from traditional education programs and schools in scheduling, administrative structure, curriculum, or setting and state requirements may be waived in these areas if such waiver assists the alternative school in meeting its purpose.

HISTORY: 1999 Act No. 107, 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 59‑63‑1350.** Eligibility for funding.

To be eligible for funding, a district or consortium must submit a plan for the program which includes:

(a) mission statement;

(b) the policy for the basis of enrollment in the school;

(c) location of the alternative school program; and

(d) description of how the school will focus on the educational and behavioral needs of the students. This description must include strategies for individual student instruction plans, evaluations at regular intervals of the student’s educational and behavioral progress, instructional methods in meeting academic achievement standards in the core academic areas, provisions for a low pupil‑teacher ratio, utilization of available technology, strict codes of student conduct, counseling, strategies to gain strong parental input and support, strategies to ensure students will adapt to a regular school setting upon departure from the alternative school program, and student time lines for meeting the academic and conduct standards set. The alternative program may be provided in conjunction with the adult education program, where appropriate. Goals, interim goals, and data collection for program evaluation must be a part of the program plan.

The instructional program should enable students to make the transition to a regular school program, earn a high school diploma or GED, or seek postsecondary education. Steps should be taken to ensure that credit earned by students participating in the alternative school program can be transferred to other public schools in the State; provided, nothing herein shall prohibit school districts and/or the South Carolina Department of Education from establishing and providing new and innovative programs as may be authorized otherwise under law to meet the unique needs of alternative school students who otherwise might drop out of school or never be able successfully to complete the requirements for a diploma.

HISTORY: 1999 Act No. 107, 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 59‑63‑1360.** Transportation.

A school district or consortium shall determine what, if any, transportation shall be provided to students attending an alternative school in accordance with written district guidelines.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 159.5(1).

Westlaw Key Number Search: 345k159.5(1).

**SECTION 59‑63‑1370.** Teachers at alternative school programs; staff development.

Each school district or consortium shall establish procedures for ensuring that teachers assigned to alternative school programs possess the pedagogical and content‑related skills necessary to meet the needs of the student population served by the school. Each school board also shall ensure that adequate staff development activities are available for alternative school program faculty and staff and ensure that the faculty and staff participate in these activities. The State Department of Education in consultation with other appropriate entities shall provide assistance to school districts in the development of staff development programs which include best practices. These programs shall be made available to all district teachers.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 128.

Westlaw Key Number Search: 345k128.

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

**SECTION 59‑63‑1380.** Funding for alternative school programs.

A school district shall allocate to an alternative school program the same per student expenditure to include federal, state, and local funds that would be allocated to the student’s school if the student were attending the student’s regularly assigned school. This shall include any appropriate special education funding.

Districts or consortia meeting the eligibility requirements for alternative school funding shall receive an annual base funding minimum of $30,000 or up to $200,000 depending on the student population of the district; however, districts forming consortia will have as their base funding an amount equal to the total of the individual district’s base funding, not to exceed $350,000. The State Department of Education, for the purposes of establishing base funding, shall group districts according to their average daily membership and assign the amount of base funding that districts in a grouping would receive for eligible programs. Unobligated funds from state appropriations for base funding which become available during a fiscal year may be redistributed on a per pupil basis to eligible programs in countywide districts receiving base funding of less than $100,000; however, this redistributed funding shall not become part of the base funding for the following year. Increases in fiscal year 2000‑2001 funding over the fiscal year 1999‑2000 recurring and nonrecurring funding shall be used to increase countywide districts’ base funding by fifty percent and this new amount shall constitute their base funding.

It is the intent of the General Assembly that, after meeting the funding requirements for base funding, eligible programs, beginning with school year 2000‑2001, shall also receive per pupil funding based on the average daily membership of the students served by the program at an Education Finance Act weighting of 1.49 and beginning with school year 2001‑2002 a weighting of 1.74. Per pupil funds for the alternative school program shall be distributed through the Education Finance Act formula provided for in Section 59‑20‑40. Beginning with school year 2002‑2003, every district or district consortium shall provide alternative school opportunities for their students in grades 6‑12, provided that state funding for alternative school programs is not reduced below the appropriation received in fiscal year 2001‑2002.

These funds shall be used for the establishment, maintenance, and operation of alternative schools programs. Funds also may be used to provide for staff development needs pursuant to Section 59‑63‑1370.

Districts or consortia developing plans for the establishment of an alternative school shall be eligible for a planning grant of no more than $5,000 if criteria established by the State Board of Education are met.

HISTORY: 1999 Act No. 107, Section 1.

LIBRARY REFERENCES

Schools 19(1).

Westlaw Key Number Search: 345k19(1).

C.J.S. Schools and School Districts Sections 7, 13.

**SECTION 59‑63‑1390.** Regulations; annual review.

The State Board of Education shall promulgate regulations for establishment, maintenance, and operation of alternative school programs to include clear procedures for annual review of the implementation and progress of the alternative school program and a three‑year cycle evaluation shall examine the success of this initiative. If an annual review or the evaluation finds a program is not making progress to carry out the alternative school plan or meeting the locally established measures of success, the Department of Education shall provide technical assistance and future funding may be terminated.

HISTORY: 1999 Act No. 107, Section 1.

**SECTION 59‑63‑1400.** Review; technical assistance.

The State Department of Education shall review alternative school plans for eligibility for funding and provide technical assistance for planning, establishing, and implementing an alternative school based on best practice. The department shall assist any district or consortia whose plan does not meet the eligibility criteria; however, no funding will be approved until the plan ensures implementation of appropriate services for students served by the alternative school.

HISTORY: 1999 Act No. 107, Section 1.