Legislative Oversight Committee
South Carolina House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811

2016 Annual Restructuring Report Extension Request Guidelines

PLEASE NOTE:

The information included in the agency's report will appear online for all legislators and the public to view.

Agency Name:	**Department of Education**
Date Request Submitted:	**January 8, 2016**

Background

Committee Standard Practices 4.2.2 - 4.2.4

Extensions for Annual Restructuring Reports

4.2.2 The Chairman may, for reasons he determines as good cause, provide an agency an extension and new deadline to submit its Annual Restructuring Report ("New Deadline"). The Chairman will not provide more than two extensions without unanimous consent from the full committee.

4.2.3 Before the Chairman will consider a request from an agency for an extension, the agency must fully complete a Committee Extension Request form, as approved by the Committee Chairman, and provide it to the Chairman for consideration.

4.2.4 Until the agency receives a response, it should continue to complete the report to the best of its ability as if it is due on the original deadline.

Submission Process

Note this Extension Request Form will be published online.

Agency	South Carolina Department of Education
Date of Submission	8-Jan-16

Instructions : Please complete this Extension Request Form. The completed form should be submitted electronically to the House Legislative Oversight Committee (HCommLegOv@schouse.gov) in both the original format (Excel) and saved as a PDF for online reporting. Please direct any questions about this process to Jennifer Dobson (jenniferdobson@schouse.gov) or Charles Appleby (charlesappleby@schouse.gov).

I. **Extension Request**

1	State the date the agency orginially received the report guidelines:	*1-Dec-15*
2	State the date the agency submitted this request for an extension:	*8-Jan-16*
3	State the orginial deadline for the report:	January 12, 2016, first day of session as provided by statute
4	State the number of additional days the agency is requesting:	*45*
5	State the new deadline if the additional days are granted:	*26-Feb-16*

II. **History of Extensions**

1	List the years in which the agency previously requested an extension, putting the years the extension was gratned in bold:	**2015**

III. **Good Cause**

1	Please state good cause as to why the Committee should grant the extension requested by the agency. Please limit the response to 1,000 words or less.	*The ARR has multiple requests for new information at a very detailed level that had not previously been reported and which require additional staff time, research, and programming. The first agency strategic plan under this administration was completed in September; however, because our agency universal review date is 12/2, detailed work plans are still being written, reviewed, revised, and aligned with those of others in the process chains. Ultimately those will become success criteria in the annual employee performance management system. These quarterly, detailed workplans are in progress and a new requirement for most agency staff. In addition, the changes in academic standards and assessments have impacted the agency's ability to provide performance measures, baseline data, and achievable targets. The new request for budgeting to the objective level is also problematic in that budgets were not loaded in that fashion. Although we have listed 35 state reports, the agency has a vast number of reporting requirements at the federal level and with the recent changes in ESEA through ESSA the agency is working to capture an accurate listing of reports with the new detail requested*

IV. **Verfication**

Submission Process

1	Please state the name of the agency head, or person designated and authorized by the agency head to do so, that has approved and reviewed the information provided in this Extension Request form.	*South Carolina Department of Education Representative Providing Verfication about this Extension Request: Emily Heatwole*
2	Does the agency head, or designated person by the agency head, affirm that the information contained in this form from the agency is complete and accurate to the extent of his or her knowledge.	*Yes*

V. Committee Response

Leave this section blank.

1	Date extension was granted:	8-Jan-16
2	Number of additional days granted:	45 days
3	New deadline for agency response:	26-Feb-16

Legal Standards

This is the first chart in the report because the legal standards which apply to the agency should serve as the basis for the agency's mission, vision and strategic p

Agency Responding	South Carolina Department of Education
Date of Submission	1/11/2016

Instructions : List all state and federal statutes, regulations and provisos that apply to the agency ("Laws") and a summary of the statutory requirement and/or authority granted in the particular Law listed. If the agency grouped Laws tog continue to do so this year. However, please be aware that when the agency goes under study, the House Legislative Oversight Committee will ask it to list each Law individually. The Committee makes this request so the agency can then a determine which current Laws may need to be modified or eliminated, as well as any new Laws possibly needed, to allow the agency to be more effective and efficient or to ensure the Law matches current practices and systems. Included b partial list of Laws which apply to the Department of Juvenile Justice. Please delete the example information before submitting this chart in final form. NOTE: Responses are not limited to the number of rows below that have borders arou are applicable.

Item #	Statute, Regulation, or Proviso Number	State or Federal	Summary of Statutory Requirement and/or Authority Granted
1	1.1	State	*School Districts*- (Transfer funds) - The SDE may transfer funds that are deducted and retained from a school district's transportation allocation to reimburse the SDE for the cost of unauthorized mileage. Those funds may be transferred into the SDE's school bus transportation operating acc
2	1.2	State	School Districts-(Participation in Medicaid Program)- All school districts shall participate, the fullest extent possible, in the Medicaid Program by seeking appropriate reimbursement for services and administration of health and social services.
3	1.3	State	(Website Posting) SDE must provide a link on their website to the information posted by the Revenue and Fiscal Affairs Office. This information must contain 135-day average daily membership (ADM) for each school district and per pupil state, federal and local revenues, excluding revenues bond issues, based on the most recent audited financial statement as reported annually pursuant to Section 59-17-100. Changes to EFA formula to include weight changes and add-on weights.
4	1.4	State	The SDE shall develop formulas to determine the state and required local funding as stipulated in the South Carolina Education Finance Act of 1977. Formulas must be approved by SBE and state fisca accountability authority. Salary schedule inflation factor for local districts.
5	1.5	State	School Districts - (Public School Employee Benefits*)* The General Assembly intends that the appropriation contained herein for "Public School Employee Benefits" shall not be utilized to provide employer contributions for any portion of a school district employee's salary that is federall State funds allocated for school district employer contributions must be allocated by the formula and must be used first by each district to cover the cost of fringe benefits for personnel required by the Defined Program, food service personnel, and other personnel required by law.
6	1.6	State	*School Districts* -(Authorization/Withhold Payments) The SDE is authorized to adjust a school district's Employer Contribution funds for retiree insurance allocation in the current FY accordingly to reflect actual payroll and payments to the Retirement System from the prior FY.
7	1.7	State	*GSSM* -(Carry Forward) Any unexpended balance of funds appropriated to or generated by the GSSM on June 30 of the prior FY may be carried forward in the current FY pursuant to the direction of the board of trustees of the school.
8	1.8	State	*School Districts* - (Authority to Withhold EFA Funds) The agreed upon acceptable local cost reimbursement or the additional amount equivalent to the statewide average of the local BSC multiplied by the appropriate pupil weighting set forth in Section 59-20-40, for instructional services provid out-of-district students, shall be paid within 60 days of billing. Should the district not pay within 60 days, the billing district can seek relief from the SDE. The SDE shall withhold EFA funding equal to the billing from the district refusing to pay and submit the funding (equal to the invoice) to the b school district. This also applies to John de la Howe School who also has the authority to seek reimbursement in any situation that the school district has participation in the placement of the student.
9	1.9	State	*School Districts* -(Authority to Reimburse) Students housed in local detention centers are to be included in the ADM count of students for that district and reimbursement by the SDE.
10	1.10	State	(Authorization) SDE is authorized to collect, expend, and carry forward revenues to offset the cost of providing services. SDE is authorized to collect revenue for deposit into the General Fund for testing material purchases and test rescoring fees. SDE is authorized to expend revenue collecte and damaged instructional materials and the sale of unusable instructional materials for the purpose of contracting for the purchase and maintenance of a statewide textbook inventory management system, provided that schools' newly-adopted instructional materials needs are met first.
11	1.11	State	School Districts - (Authorization) Each school district in this State, upon approval of the district's governing body, may maintain its own bank account for the purpose of making disbursement of school district funds as necessary to conduct school district business and each county trea hereby authorized to transfer such amount is needed.
12	1.12	State	*School Districts* -(Appropriation) The amount appropriated for School Lunch Program Aid shall be divided among the District and/or County Boards based upon the number of schools participating in the School Lunch Program during the prior school year.
13	1.13	State	*School Districts* (Restrictions for Funding Travel Expenses) School district allocations from General Funds, Lottery, and EIA funds shall not be used for travel outside of the continental United States. The International Baccalaureate Program shall be exempt from this restriction.
14	1.14	State	(Authorization to Expend Funds) SDE is authorized to expend federal and earmarked funds in the current FY for expenditures incurred in the prior year. SDE is authorized to use appropriated funds to pay for textbooks shipped in the 4th quarter of the prior FY.
15	1.15	State	(Delivery/Purchase of Fuel) SDE's School Bus Maintenance Shops shall be permitted, on a cost reimbursable-plus basis, to deliver transportation maintenance and services to vehicles owned or operated by public agencies in South Carolina.
16	1.16	State	*School Districts* -(Maintain Insurance) SDE shall maintain comprehensive and collision insurance or self-insure state-owned buses. In no event, shall the department charge local school districts for damages to the buses which are commonly covered by insurance.
17	1.17	State	*CHE* -(Share Data) Of the non-program funds appropriated to the SDE, it and the Commission on Higher Education shall share data about the teaching profession in SC.
18	1.18	State	*Multi-District Area Vocational Schools* -(Allocation) SDE shall allocate $500,000 on a K-12 per pupil basis.
19	1.19	State	*School District - (* Criminal Record Checks*)* - From funds provided in Part 1A, Section 1, X.B., local school districts shall request a criminal record history from the South Carolina Law Enforcement Division for past conviction of any crime before the initial employment of a school bus driver or s bus aide.
20	1.20	State	*Committee Chairs (House Ways and Means, Senate Finance)* - (Report) Bus procurement must meet the standards set by the School Bus Specifications Committee, however the department may use the specifications of another state when it is more economical and safe. Must report meth for choosing specifications to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.
21	1.21	State	*School Districts* -(Carry Forward Authorization) All funds (in programs X.B. and X.C.) appropriated for bus fuel, parts/supplies, maintenance, and bus purchases may be carried forward from the prior FY and expended in the current FY to support bus transportation services.
22	1.22	State	*Mitford area of Fairfield County to schools in the Great Falls area of Chester County* -(Responsibility of Costs) Transportation costs shall continue to be the responsibility of the SDE.
23	1.23	State	*John de la Howe* -(Appropriation) to expand residential programs to include court ordered status offenders. FY 15-16 = $346,473
24	1.24	State	GSAH and GSSM - (Leave Policy) - Authorizing GSAH and GSSM to promulgate administrative policy governing annual and sick leave relative to faculty and staff with the approval of their respective boards. This policy shall address their respective school calendars in order to comply instructional needs of students attending both special schools.
25	1.25	State	School Districts - (Use of Funds for School Facilities Management System) School districts may use capital improvement bond funds, lapsed funds, or any other unexpended appropriated funds or revenues to access the DOE's School Facilities Management System database.

Legal Standards

26	1.26	State	School Districts - (School Board Meeting Information on Website) Of the funds appropriated through the Department of Education for technology related expenses, school districts that have a web site shall place a notice of a regularly scheduled school board meeting twenty-four hou advance of such meeting. The notice shall include the date, time, and agenda for the board meeting. The school district shall place the minutes of the board meeting on their web site within ten days of the next scheduled board meeting.
27	1.27	State	*School Districts* -(Reduce Allocation) In the event an official General Fund revenue shortfall is declared by the BEA, the SDE may reduce any allocation in Section 1 specifically designated by proviso in accordance with the lower BEAs revenue estimate as directed by the Office of State Budge the additional EFA allocation to the South Carolina Public Charter School District (SCPCSD).
28	1.28	State	*Committee Chairs (House Ways and Means, Senate Finance, Senate Education, House Education and Public Works)* - (Certification/Electronic Copy). All school districts and special schools of this State may transfer and expend funds among appropriated State general funds, revenues, funds, lottery funds, to ensure the delivery of academic and arts instruction to students. Districts may not flex funds to support state MOE for IDEA, EEDA funds and Career and Technology Education Funds.
29	1.29	State	*School Districts* -(Authorization to Pay/Reimburse) From funds in Part IA, Section 1, X.B. Other Operating Expenses, the SDE may directly pay, or reimburse employees, for the cost of a medical examination as required in Part 391, Subpart E of the Federal Motor Carrier Safety Regulations, f employees that are required to operate a state vehicle transporting hazardous materials and that are required to undergo a national security background check because of the required Hazmat endorsement to their CDL.
30	1.30	State	School Districts - (Priority in Reductions in Funding) In compensating for any reduction in funding, local districts must give priority to preserving classroom teachers and operations. Funding reductions should first be applied to administrative and non-classroom expenses before classr expenses are affected.
31	1.31	State	*GSAH* -(Carry Forward) Any unexpended balance on June 30th of the prior FY of funds appropriated to or generated by the GSAH may be carried forward and expended in the current FY pursuant to the discretion of the Board of Trustees of the School.
32	1.32	State	*GSAH and GSSM* - (Authority and Purpose of Student Fees) GSAH and GSSM are authorized to charge, collect, expend, and carry forward student fees as approved by their respective Board of Directors. The purpose and amount of any such fees will be to maintain program quality in both academics and residential support. Both schools will conspicuously publish a fee schedule on their respective websites.
33	1.33	State	*Committee Chairs (Senate Finance, House Ways and Means)* -(Certification and Report) SDE provides certification that the school district used all fund flexibility provided by the General Assembly and that the furlough is necessary to avoid a year-end deficit and a reduction in force. The ce must include a detailed report of the specific action taken by the district to avoid a year-end deficit.
34	1.34	State	*Counties* - (Transfer Requirement) For those counties in which an entity other than the school district administers the school lunch supervisor and/or attendance supervisor programs, the school districts in that county shall transfer to the entity the amount available in the previous fiscal year for administration of the school lunch supervisor and/or attendance supervisor programs. Each district shall transfer a pro rata share of the total cost based upon the percentage of state EFA funds distributed to the districts within the county.
35	1.36	State	*GSAH, Charleston School of the Arts, and Greenville County Fine Arts Center*- (Non-Certified Discretion) Because of the unique nature of the SC GSAH, the Charleston School of the Arts, and the Greenville County Fine Arts Center, the schools are authorized to employ at its discretion non classroom teachers teaching in the literary, visual, and performing arts subject areas who are otherwise considered to be appropriately qualified in a ratio of up to one hundred percent of the entire teacher staff.
36	1.37	State	*School Districts* -(No Appropriation) State funds must not be appropriated to a school that discriminates against or participates with or is a member of an association with policies that discriminate or afford different treatment of students based on race or national origin.
37	1.38	State	*DHHS* -(Transfer Authorization) SDE is granted authority to transfer funds between budget lines and object codes to identify, reconcile, reimburse, and remit funds required for Medicaid cash match to the DHHS.
38	1.39	State	School Districts-(Required Information) For each high school student, school districts shall be required to print the student's individual cumulative grade point average for grades nine through twelve on the student's report card.
39	1.40	State	*School Districts* -(Fees/Withhold Funds) for lost and damaged textbooks for the prior school year are due no later than December 1st of the current school year when invoiced by the SDE. The SDE may withhold textbook funding from schools that have not paid their fees by the payment dea
40	1.41	State	*School Districts* -(Transfer/Carry Forward) All unexpended general funds appropriated to the SDE for EFA in the current FY shall be transferred to the Education Finance Act Reserve Fund.
41	1.42	State	*School Districts* -(Prohibited) The SDE and local school districts are prohibited from selling space for or the placement of advertisements on the outside or inside of state-owned school buses.
42	1.43	State	*School Districts* -(Facilitate Resolution/Withhold Funds) Each South Carolina resident of lawful school age residing in licensed residential treatment facilities (RTFs) for children and adolescents as defined under Section 44-7-130 of the 1976 Code, ("students") shall be entitled to receive educ services from the school district in which the RTF is located ("facility school district").
43	1.44	State	Special Schools- (Transfer Authorization) For the current fiscal year, the special schools are authorized to transfer funds among funding categories, including capital funds.
44	1.45	State	*School Districts* - (Course Suspension) For the current fiscal year, the requirement for high schools to provide a course in driver education is suspended; however, high schools may continue to offer driver education courses if they choose to do so.
45	1.46	State	*School Districts* -(Carry Forward) The SDE is authorized to carry forward and expend any General Fund balances for school bus transportation.
46	1.47	State	*School Districts* -(Written Notification/Reduce Funds) School districts must report the amount of funds spent on administrative costs, as defined by In$ite in the prior FY. It must be submitted with the annual audit.
47	1.49	State	GSAH and GSSM - (Legal Residency Requirement) Of the funds appropriated, the GSAH and GSSM are to ensure that a parent(s) or guardian(s) of a student attending either the Governor's School for the Arts and the Humanities or the Governor's School for Science and Mathemati prove that they are a legal resident of the state of SC at the time of application and must remain so throughout time of attendance. GSAH and GSSM may not admit students whose parent(s) or guardian(s) are not legal residents of SC.
48	1.50	State	*SC Council on Holocaust* -(Appropriation) Funds appropriated to the SDE for the SC Council on Holocaust shall not be used for any other purpose. In the event the SDE is required to implement a budget reduction, SC Council on Holocaust funds may not be reduced.
49	1.51	State	*Committee Chairs (Senate Finance, House Ways and Means)* - (Report) For the current FY, funds appropriated to the GSAH and the GSSM must be used to bring the schools up to full capacity, to the extent possible. Each school must report electronically by December 1 how the funds h utilized and how many additional students have been served.
50	1.52	State	*School Districts* -(Appropriation) Funds appropriated for Student Health and Fitness shall be allocated to school districts to increase the number of PE teachers to the extent possible and to provide licensed nurses for elementary public schools. 27% of the funds shall be allocated to the distric based on ADM of grades K-5 from the preceding year for PE teachers. The remaining funds will be made available through a grant program for school nurses and shall be distributed to the school districts on a per school basis. Schools that provide instruction in grades K-5 are eligible to app the school nurse grant program.
51	1.53	State	*Department of Revenue, School Districts, Counties- (*Index Value) For the current fiscal year and for the purposes of calculating the index of taxpaying ability, the Department of Revenue shall impute an index value for owner-occupied residential property qualifying for the special four percen assessment ratio by adding the second preceding taxable year total school district reimbursements for Tier 1, 2 and Tier 3 (A) and not to include the supplement distribution.
52	1.54	State	*School Districts* -(Supplement) A school district that does not recognize a State share of the EFA financial requirement shall be supplemented with an amount equal to 70% of the school district with the least State financial requirement.
53	1.55	State	*School Districts- (*Compliant Curriculum)-Each school district is required to ensure that all comprehensive health education, reproductive health education, and family life education conducted within the district, whether by school district employees or a private entity, must utilize curriculum that complies with the provisions contained in Chapter 32, Title 59.
54	1.56	State	*School Districts* -(Purchase/Lease) The SDE is permitted to purchase or lease school buses in order to continue replacement of the state's school bus fleet.
55	1.57	State	*Felton Lab* -(Appropriation) The Felton-Laboratory School at SC State University shall receive each year, 70% of the funds it would have received for that year under the EFA and under aid to school districts-fringe benefits.
56	1.58	State	*Lee County School District* -(Allocation) From the funds appropriated in program XB, Bus Shops, in the current FY, the SDE must fund the Lee County School District Bus Shop and the Kershaw County School District Bus Shop at the same level as they were funded in the previous FY.
57	1.59	State	*School Districts - (*Continuance of Open Enrollment Policy) For the current fiscal year, any school district with an open enrollment policy for all schools or certain schools which had previously accepted certain students residing outside of the district to an academic magnet school in the district continue to accept these students and their siblings for enrollment at the academic magnet school under the same terms and conditions these students were previously permitted to attend the school.
58	1.60	State	School Districts - (Safety Precautions) For the current fiscal year, districts must utilize funding flexibility provided herein to ensure that district approved safety precautions are in place at every school.
59	1.61	State	*School Districts* -(Agreement) A school district wishing to include school bus maintenance in a contract with a private vendor may enter into an agreement with the SDE whereby the SDE releases the school district to include school bus maintenance in the private vendor contract.
60	1.63	State	*School Districts* -(Revenue) School districts may sell commercial advertising space on the outside of inside of district owned activity buses. Revenue generated from the sale of commercial advertising space shall be retained by the school district.
61	1.64	State	*School Districts* -(Suspension of Consent) The requirements of Section 59-19-250 of the 1976 Code, as amended, which requires the consent of a governing board of a county in order for school trustees to sell or lease school property whenever they deem it expedient to do so are suspende current FY.
62	1.66	State	Full Day 4k- (Allocation and Data) Eligible students in districts with a poverty rating of 70% or greater will be able to participate in full day 4K at a rate of $4,210 per pupil. New providers may receiv to $1,000 per child for up to 6 children and not more than $10,000 for equipment. Private providers may be reimbursed $550 per eligible pupil for transportation. EOC will receive $300,000 to evalua the program. SDE to assign SUNS.
63	1.67	State	*School Districts* -(Allocation) Per pupil allocation based on students scoring not met on third grade assessment; portion allocated for transportation; $700,000 portion allocated to SDEfor community partnerships; SDE may use up to 20% for transportation
64	1.69	State	*School Districts* (Restriction on Financial Support of Interscholastic Entities) A public school district supported by state funds shall not use the funds or permit any school within the district to use any funds to join, affiliate with, pay dues or fees to, or in any way financially support any interschol athletic association, body, or entity unless the constitution, rules, or policies of the association, body, or entity contain certain requirements.

Legal Standards

65	1.72	State	*Chairman of the Senate Finance Committee, Chairman of the House Ways and Means Committee, Department of Education, and School Report Card Administrators* (Information Sharing) For the current fiscal year, school districts must permit both the Governor's School for the Arts and Humanities and the Governor's School for Science and Mathematics to collaborate with individual schools and their staff to share information with students and families about the educational opportunities offered at the respective Governor's Schools, through avenues including school visits, informational presentations, and posters.
66	1.74	State	*School Districts* - (Allocation; Establish Guidelines, Report) Funds appropriated for Reading Coaches must be allocated to school districts by the SDE as follows: (1) for each elementary school in which 20% or more of the students scored Not Met on the reading and research test in the mos year for which such data are available, the school district shall be eligible to receive the lesser of either up to $62,730 or the actual cost of salary and benefits for a full-time reading coach; and (2) for each elementary school in which fewer than 20% of the students scored Not Met on the readin research test during the same period, the school district shall be eligible to receive the lesser of either up to $31,365 or 50% of the actual cost of salary and benefits for a full-time reading coach. A school district must provide local support for state funds provided under this paragraph. School may use existing local funds currently used for reading assistance as the local support. Districts may not supplant except for districts that use local funds in the prior fiscal year to support reading.
67	1.75	State	*School Districts* (Passage of Funding) - For FY 15-16, charter schools sponsored by a local school district and located in a district receiving transition funds must receive transition funds from the local district in an amount equal to any reduction in funds received by the school due to the chan the EFA formula. If the amount of transition funds for the charter schools exceeds the school district's allotment of transition funds, transition funds will be reduced pro rata for all parties.
68	1.76	State	*School District* - (Allocation) Any school receiving state funds shall be required to allow a military dependent student who has transferred from their resident school district to another school district to participate in a sport that was not offered in the resident school district. Should a school fail to with this provision, the SDE shall withhold 1% of their total state allocation.
69	1.77	State	*State Board of Education* - (Required Plan of Action) For the current fiscal year, if a high school has a graduation rate below sixty percent, using appropriated funds a local school district board of trustees must provide a report detailing a plan to increase the graduation rate in accordance with provisions of the Education Accountability Act to the State Board of Education.
70	1.78	State	School Districts, Education Oversight Committee - (Creation and Purpose of Pilot Program) There is created the SC Community Block Grants for Education Pilot Program. The purpose of this matching grants program is to encourage and sustain partnerships between community and its local public school district or school for the implementation of innovative, state-of-the-art education initiatives and models to improve student learning.
71	1.80	State	SDE may carryforward funds appropriated for the Board and the Board may use the funds for educational projects.
72	1.81	State	SDE may retain funds from the sale of any bus shop (except Union) and boat and expend the funds for transportation purposes.
73	1.82	State	Districts receiving transition payments in the prior year are elgible to receive one half of the prior year payment in the current fiscal year provided the EFA reduction is NOT due to a decrease in ADM
74	1.84	State	FS may use up to $75,000 in CDEPP carry forward to purchase electornic devices. FS may purchase one device for up to 10 centers to use for assessment purposes. FS shall report on expenditures to t Chairman of Senate Finance and the Chairman of the House Ways and Means Committee.
75	1.85	State	SDE shall convene a stakeholder group to make recommendations on the statewide salary schedule to include extending the STEPs to 30 years, increaseing the base salary cell and local salary schedu
76	1.88	State	Teachers certified at the secondary level may teach in grades 7-12 in the are of certification. Districts shall report to SDE and CERRA on teachers and courses.
77	1.89	State	SDE shall create a list of instructional materials that have been approved by the State Board. Funds may not be flexed and may be used to reimburse districts for science kits. May include materials an devices. Carryforward authority.
78	1.91	State	SDE may transfer and unspent transition funds to the EFA
79	1.92	State	FS may retain $2,000,000 in unexpended CDEPP for ehancement of the 4K program. No later than August 1, 2015 First Steps must transfer $4,250,000 to SDE for full-day 4K, $2,000,000 to EOC for Community Block Grants. Any other funds remaining must be transferred to SDE for 4K.
80	1.93	State	SDE shall evaluate literacy intitiatives across all grades to include professional development and early literacy.
81	1.94	State	SDE may withhold $350,000 of the K-12 Technology Intitiative Funds to provide techinical assistance to districts.
82	1.95	State	FS study committee shall review administration of FS and report to the GA by January 1, 2016.
83	1.96	State	FS shall submit a report to the Chairman of Senate Finance, the Chairman of Ways and Means and the Governor on detailed steps to imporve the IDEA Part C delivery program and to address the OSE interventions.
84	1.97	State	Districts must publish the title and publisher of all health education materials. If a district is found to be non compliant the department may withold 1% of the SHFA funds.
85	1.98	State	Personally identifiable information of teachers and teacher candidates collected by the department shall be treated as a personnel record and not subject to public disclosure.
86	1.99	State	A local board of education may engage a hearing officer who is an attorney and is not a member or employee of the district and board to conduct a dismissal hearing. The board must uphold the desci of the hearing officer if there is just cause for dismissal and must issue a decision affiriming or withdrawing the suspension or dismissal within 30 days. May be appealed to the circuit court.
87	1A.1	State	*School Districts*- (Appropriation/Transfer Authorization) The amounts appropriated herein for aid to subdivisions or allocations to school districts shall not be transferred or reduced and must be expended in accordance with the intent of the appropriation.
88	1A.3	State	*School Districts* -(Carry Forward) Funds provided for the development of the African-American History curricula may be carried forward into the current fiscal year. For FY 2014-15 not less than 70% of the funds carried forwarded must be expended for the development of additional instructio materials by nonprofit organizations selected through a competitive bids process by the SDE.
89	1A.4	State	*School Districts* -(Oversee Evaluation) SDE is directed to oversee the evaluation of teachers at the School for the Deaf and the Blind, the John de la Howe School and DJJ under the ADEPT model.
90	1A.5	State	Non-School District Teacher Salary Allocations - (Eligibility of Teacher Salaries for Part 1A, Section 1, XII.F.2) Each state agency which does not contain a school district but has instructional personnel shall receive an allocation from the line item "Alloc. EIA- Teacher/Oth in Part A, Section 1, XII.F.2. for teachers salaries based on the following formula: Each state agency shall receive such funds as are necessary to adjust the pay of all instructional personnel to the appropriate salary provided by the salary schedules of the school district in which the agency is
91	1A.6	State	*Senate Finance Committee and House Ways and Means Committee*- (Report; Allocation-Carry Forward) Of the funds appropriated for the Work-Based Learning Program, $75,000 shall be used by the SDE to provide for regional professional development in contextual methodology technic integration of curriculum, and professional development in career guidance for teachers and guidance counselors and training mentors.
92	1A.7	State	House and Senate Education Committees, State Board of Education, and Education Oversight Committee - (Appropriation and Operation of Program) Of the funds appropriated in Part 1A, Section 1, XII.F.2. for the Teacher Recruitment Prograr SC Commission on Higher Education (CHE) shall distribute a total of 92% to the Center for Educator Recruitment, Retention, and Advancement (CERRA-SC) for a state teacher recruitment program, of which at least 78% must be used for the Teaching Fellows Program specifically to provid scholarships for future teachers, and of which 22% must be used for other aspects of the state teacher recruitment, including the Teacher Cadet Program and $166,302 which must be used for specific programs to recruit minority teachers; and shall distribute 8% to SC State University to be only for the operation of their established general education programs.
93	1A.8	State	State Agencies and Entities Referenced in Part 1A, Section 1, XII.F.2, SC Department of Education - (Appropriations Disbursements) Not withstanding the provisions of Sections 2-7-66 and 11-3-50, SC Code of Laws, it is the intent of the General A that funds appropriated in Part 1A, Section 1, XII.F.2. Other State Agencies and Entities shall be disbursed on a quarterly basis by the Department of Revenue directly to the state agencies and entities referenced except for the Teacher Loan Program, Centers of Excellence, the EOC and S Technology, which shall receive their full appropriation at the start of the fiscal year from available revenue.
94	1A.9	State	*School Districts* -(Disbursement of Funds, Carry Forward) Funds appropriated for Arts Curricula shall be used to support innovative practices in arts education curriculum. Funds must be distributed by competitive grant process. 33% shall be made availble for professional development.
95	1A.10	State	*School Districts* -(Disbursement of Funds) up to $275 - for all certified public school teachers, certified special school classroom teachers, certified media specialists, and certified guidance counselors who are employed by a school district or a charter school as of November 30th of the curren year may receive reimbursement to offset expenses incurred by them for teaching supplies/materials. Any classroom teacher may claim a refundable income tax credit of up to $275.
96	1A.11	State	*School Districts* -(Sponsor) SDE sponsors State Teacher of the Year Program. Of the funds provided herein for Teacher of the Year awards, each district Teacher of the Year shall receive an award of $1,000. In addition, the State Teacher of the Year shall receive an award of $25,000, and e the four Honor Roll Teachers of the Year will receive an award of $10,000. These awards shall not be subject to SC income taxes.
97	1A.12	State	*Education Oversight Committee* - (Revenue Collection, Retainage, and Expenditure) The EOC may collect, retain, and expend revenue from conference registration and fees; charges for materials supplied to local school districts or other entities not otherwise mandated to be provided by sta and other activities or functions sponsored by the committee including public awareness campaign activities. Any unexpended revenue from these sources may be carried forward into the current fiscal year and expended for the same purposes.
98	1A.13	State	*General Assembly and the EOC* -(Report) With the funds appropriated to DOE, DOE will assist schools with an absolute rating of below average or at-risk in designing and implementing technical assistance school renewal plans and in brokering for technical assistance personnel as neede stipulated in the plan. No more than 5% of the total amount appropriated for technical assistance services to schools with an absolute rating of below average or at-risk may be retained and expended by the department for implementation and delivery of technical assistance services. Using p report card data, DOE shall identify priority schools. Up to $6,000,000 of the total funds appropriated for technical assistance shall be used by DOE to work with those schools identified as priority schools.
99	1A.14	State	*School Districts* -(Allocation Reduction) In the event an official EIA revenue shortfall is declared by the BEA, the SDE may reduce any allocation in Section 1A specifically designated by proviso in accordance with the lower BEA's revenue estimate as directed by the Office of State Budget. No allocation for teacher salaries shall be reduced as a result of this proviso.

Legal Standards

100	1A.15	State	Committee Chairs (House Ways and Means, Senate Finance, Senate Education, House Education and Public Works) - (Certification/Electronic Copy). All school districts and special schools of this Sta may transfer and expend funds among appropriated State general funds, revenues, EIA funds, lottery funds, to ensure the delivery of academic and arts instruction to students. Districts may not flex f to support state MOE for IDEA, EEDA funds and Career and Technology Education Funds. 59-21-310 is suspended. Formative assessments in grades 1,2 & 9, foreign lang program assessment and phy ed assessment are all suspended. SDE must allocate savings out to district on WPU.
101	1A.16	State	*School Districts* -(Carry Forward) SDE is directed to carry forward prior year unobligated teacher salary supplement and related employer contribution funds into the current fiscal year to be used for the same purpose.
102	1A.17	State	*Governor, Chair of the Senate Finance Committee, Chair of the House Ways and Means Committee, Chair of the Senate Education Committee, and Chair of the House Education and Public Works Committee* -(Report and Carry Forward) SDE must report annually on the effectiveness of prevention programs funded by the Education and Economic Development Act and on the High Schools that Work Programs' progress and effectiveness in providing a better prepared workforce and student success in post-secondary education.
103	1A.18	State	*School Districts* -(Carry Forward) SDE is authorized to carry forward into the current fiscal year, prior year state assessment funds and expend them for the same purpose. Reimbursements shall resume in the current fiscal year for PSAT.
104	1A.19	State	(Report Card Printing) The percentage each school district expended on classroom instruction as defined by the SDE's In$ite classification for "Instruction" must be printed on the Annual School and District Report Card.
105	1A.20	State	*School Districts* -(Appropriation) The funds appropriated in Part IA, Section 1, XII.A.3 for instructional materials for core curriculum shall be expended consistent with the requirements of Section 59-31-600 of the 1976 Code requiring the development of higher order thinking skills and critical t which should be integrated throughout the core curriculum instructional materials. The evaluation criteria used to select instructional materials shall include a weight of up to 10% of the overall criteria to the development of higher order thinking skills and critical thinking.
106	1A.21	State	*School Districts* -(Approval of Technology Plans) SDE shall approve district technology plans that specifically address and incorporate certified staff technology competency standards. The SDE's professional development tracking, prescriptive and electronic portfolio system for certified staff i preferred method for demonstrating technology proficiency as this system is aligned to the International Society for Technology in Education (ISTE) teacher standards. Evidence that districts are meeting the requirement is a prerequisite to expenditure of a district's technology funds.
107	1A.22	State	EOC - (EAA Funds) To support implementation of the accountability program, the EOC may carry forward unexpended Education Accountability Act Funds authorized specifically for the administration of the EOC.
108	1A.23	State	*School Districts* -(Allocation) EIA funds allocated for the provision of four-year-old kindergarten shall be utilized for the provision of services to age-eligible children qualifying for free or reduced-price lunch or Medicaid and children with documented developmental delays or medically document disabilities.
109	1A.24	State	*School Districts* -(Appropriation) The SDE, schools, and districts shall ensure that resources are utilized to improve student achievement in reading/literacy. 50% of the appropriation shall be directed toward acquisition of reading proficiency. 50% of the funds shall be allocated to school distric based on the number of WPUs in each school district in proportion to the statewide WPUs using the 135-day count of the prior school year.
110	1A.25	State	*School Districts* -(Appropriation) EIA funds appropriated for students at academic risk of school failure, which include funds for Act 135 Academic Assistance, summer school, reduce class size, alternative schools, parent support and family literacy, must be allocated to school districts based poverty index of the district as documented on the most recent district report card, which measures student eligibility for the free or reduced price lunch program and Medicaid; and the number of students not in poverty or eligible for Medicaid but who fail to meet state standards on state stand based assessments in either reading or mathematics.
111	1A.26	State	*School Districts* - (Appropriation, Post on Website) Of the funds appropriated for professional development, up to $500,000 may be expended for gifted and talented teacher endorsement and certification activities. The balance of EIA funds appropriated for professional development must be allocated to districts based on the number of WPU's in each school district in proportion to the statewide weighted pupil units using the 135 day count of the prior school year. No more than 25% of the funds appropriated for professional development may be retained by the SDE for the administration and provision of other professional development services.
112	1A.27	State	*School Districts* -(Appropriation) Up to $4,600,000 shall be used for assessments to determine eligibility of students for gifted and talented programs and for the cost of Advanced Placement and International Baccalaureate exams.
113	1A.28	State	*House Ways and Means Committee, House Education Public Works Committee, Senate Finance Committee and Senate Education Committee* -(Summary Report) Each school district must collect information from both the student and the school including why the student has enrolled in A Education and whether or not the student is pursuing a GED or Diploma. The school district must then provide a quarterly report to the SDE and must include the unique student identifier. The SDE will provide summary information to the legislature.
114	1A.29	State	*Clemson University* -(Appropriation/Transfer) Funds appropriated in Part IA, Section XII.F.2 for Clemson Agriculture Education Teachers must be transferred to Clemson University PSA to fund summer employment of agriculture teachers and to cover state-mandated salary increases on that of the agriculture teachers' salaries.
115	1A.30	State	*National Board Certified Teachers* -(Disbursement of Supplement) Public school classroom teachers or classroom teachers employed at the special schools who are certified by the SBE and who complete the application process on or after July 1, 2010 shall be paid a $5,000 salary supplem the year of achieving certification.
116	1A.31	State	Eligible students in districts with a poverty index of 70% or greater. The EOC shall conduct an annual evaluation of the program.
117	1A.32	State	*School Districts* -(Appropriation) Funds appropriated in Part IA, Section 1, XII.A.1 Aid to Districts shall be dispersed to school districts based on the number of WPUs.
118	1A.33	State	*Francis Marion University Center of Excellence* -(Allocation) $350,000 to expand statewide training for individuals who teach children of poverty.
119	1A.34	State	*General Assembly and Governor* -(Appropriation, Transfer, Estimate of the IDEA MOE Requirement) Prior to the dispersal of Aid to Districts-in Section XII.A.1 funding, the SDE shall direct funds to school districts and special schools for support of programs/services for students with disabilitie meet the MOE for IDEA. Funds provided for the MOE for IDEA may not be transferred to any other purpose.
120	1A.35	State	*Private sector statewide trade association or educational foundation providing nationally certified programs in career and technology education* -(Appropriation, Develop Goals) $800,000 as direct grants. SDE must award a minimum of one grant of at least $150,000 in at least four of spec career clusters. The Office of Career and Technology Education of the SDE will develop goals with each career cluster on the number of new schools using the industry-based curriculum and partnered with that career cluster organization.
121	1A.36	State	*EOC* -(Report) Agencies and other entities receiving funds appropriated in Part IA, Section 1, XII.F.2. will continue to report annually to the EOC.
122	1A.37	State	*ETV* - (Funding Requirements) Of the funds appropriated in Part 1A, Section 1, XII.F.2. SC ETV must provide training and technical support on the educational resources available to teachers and school districts.
123	1A.38	State	*School Districts* -(Appropriation) Funds appropriated for Career and Technology Education may be utilized to purchase textbooks, instructional materials and other consumables used in classroom instruction.
124	1A.39	State	*School Districts* -(Appropriation) The statewide minimum teacher salary schedule used in FY 2012-2013 will continue to be used in FY 15-16. Funds appropriated in Part IA, Section 1, XII.C.2. for Teacher Salaries must be used to increase salaries of those teachers eligible pursuant to Sectio 50 (b), to include classroom teachers, librarians, guidance counselors, psychologists, social workers, occupational and physical therapists, school nurses, orientation/mobility instructors, and audiologists.
125	1A.40	State	(Data Collection)) With the funds appropriated to the SDE for PowerSchool and data collection, the SDE will begin in the current fiscal year to collect data from schools and school districts on the number of students who had previously dropped out of school and who reenrolled in a public s adult education to pursue a high school diploma.
126	1A.41	State	*School Districts* -(Appropriation, Carry Forward) SDE, school districts, the DJJ and special schools of the state may continue implementation of the ADEPT program. Unexpended funds appropriated for this purpose may be carried forward from the prior fiscal year into the current fiscal year a expended for the same purposes.
127	1A.44	State	*School Districts* -(Appropriation) SDE shall institute a plan reviewing the strengths and weaknesses of students on national assessments such as the SAT, ACT, WorkKeys, GED, Advanced Placement exams, and International Baccalaureate exams. The SDE shall use reports that analyze st strengths and weaknesses to provide guidance to local school districts.
128	1A.45	State	*National Board Certified (NBC) Teachers*- (Appropriation/Salary Supplement/Transfer) Public school classroom teachers or classroom teachers employed at the special schools who are certified by the SBE and who complete the NBC application process on or after July 1, 2010 shall be pa $7,500 salary supplement beginning July 1st in the year following the year of achieving certification, beginning with 2009 applicants.
129	1A.46	State	*University of South Carolina College of Education* (Center for Educational Partnerships Funding Initiatives) The funds provided to the Center for Educational Partnerships at the College of Education at the University of South Carolina will be used to create a consortium of educational initiativ services to schools and communities.
130	1A.47	State	(Inclusion) - All EIA-funded entities that provide professional development and science programming to teachers and students should be included in the state's science, technology, engineering and mathematics education strategic plan.
131	1A.49	State	General Assembly (Funds Appropriated and Carried Forward) Of the funds appropriated and carried forward from the prior fiscal year, the Education Oversight Committee is directed to participate in public-private partnerships to promote innovative ways to transform the assessment o education in South Carolina that support increased student achievement in reading and college and career readiness.
132	1A.50	State	*Chair of House Ways and Means Committee, Chair of House Education and Public Works Committee, Chair of Senate Finance Committee and the Chair of Senate Education Committee* -(Report) of any districts that failed to submit an updated school safety plan.
133	1A.53	State	*School Districts* -(Carry Forward) Funds provided for the Education and Economic Development Act may be carried forward into the current fiscal year to be expended for the same purposes by the SDE, school districts, and special schools.
134	1A.54	State	*School Districts* - (Appropriation) Funds appropriated from the EEDA for Regional Education Centers must not be less than $108,500.

Legal Standards

135	1A.55	State	*Teach for America SC* - (Report) School Districts that partner with Teacher For America SC are required to provide to Teach for America information on the prior year's academic achievement of student who were directly taught by Teach For America corps members.
136	1A.56	State	Chairman of the Senate Finance Committee, Chairman of House Ways and Means Committee, and Education Oversight Committee (Funding and Reporting) Of the funds appropriated in Section 1A, XII.F, Partnerships, Education Ov Committee (A85), $350,000 must be transferred in quarterly installments form the EOC to the SC Autism Society for the Autism Parent-School Partnership program.
137	1A.58	State	(Evaluations and Monitoring) The Center for Educator Recruitment, Retention and Advancement (CERRA) must complete periodic evaluations of the institutions currently hosting a Teacher Fellows (TF) program and ensure that the TF programs at the current host institutions continue to me requirements for a TF program as set by the CERRA Board of Directors.
138	1A.59	State	Surplus - EOC - $900,000; Allendale County School District - $150,000; Modernize Vocational Equipment - $1,501,307; Assessment/Testing - $7,300,000; Digital Music Materials (Quaver) - $625,000. Excess must be used for Instructional Materials
139	1A.60	State	*House Way and Means Committee, House Education and Public Works Committee, the Senate Finance Committee and the Senate Education Committee* - (Reports/Summary) The district must require each charter school to submit a student attendance report for the 5th, 45th, 90th and 1 days. Reporting requirements shall include both ADM and WPU membership and for virtual schools why the students are enrolled/withdrew.
140	1A.61	State	*SC Public Charter School District Funding-* (Appropriations) Funds must be allocated in the following manner to students at charter schools within the SC Public Charter School District or at any approved institution of higher education sponsoring a public charter school. Pupils enrolled in vir charter schools sponsored by the South Carolina Public Charter School District or institutions of higher education shall receive $1,900 per weighted pupil and pupils enrolled in brick and mortar charter schools sponsored by the South Carolina Public Charter School District or institutions of hig education shall receive $3,600 per weighted pupil.
141	1A.62	State	(Funding Requirements) Of the funds appropriated to the Education Oversight Committee for Partnerships for Innovation, $500,000 must be allocated to support up to 3 low-achieving schools in designing and planning for implementation innovative, research-based strategies focused on rec and retaining highly effective teachers and on increasing time-on-task through the amount of time, the quality of instruction and the engagement of students.
142	1A.63	State	*SC Public Charter School District-* (Carry Forward) - The South Carolina Public Charter School District must use up to $3,000,000 in prior year carry forward funds to hold its schools harmless from any reduction in funds as a result of changes to the EFA weightings in the current fiscal year.
143	1A.64	State	(Allocation) Of the funds appropriated to the Education Oversight Committee for Partnerships for Innovation, at least $400,000 shall be allocated to the TransformSC public-private project.
144	1A.65	State	Palmetto Priority School Designation - Of the funds appropriated for EAA-Technical Assistance, up to $2,200,000 must be expended to provide $200,000 to each school that was designated by the SD Palmetto Priority School in the prior year, but did not receive an allocation of EIA technical assistance funds in the prior fiscal year.
145	1A.66	State	*Chair of House Ways and Means Committee, Chair of House Education and Public Works Committee, Chair of Senate Finance Committee, Chair of Senate Education Committee and Education Oversight Committee* -(Report) SDE and First Steps to Readiness must acquire unique stude identifiers or SUNS numbers for each student enrolled in the CDEPP program no later than the 45th day and must provide a report to Legislative Committees by November 1. The SDE and the Office of First Steps to School Readiness must provide any information required by the Education Oversight Committee for the annual CDEPP report no later than November 30.
146	1A.71	State	$4,000,000 of the funds approporiated in Section XII.3 for Professional Development must be allocated to the districts on the 135 ADM for technology professional development. Districts must report these actitivites byJune 15.
147	1A.72	State	SDE is authorized to use up to $4,500,000 of available carry forward to purchase electronic devices and digital content. SDE may select up to 6 districts to participate which must develop a plan that r be presented to the local board on a form created by SDE. Plans must be submitted no later than July 25th to SBE and notice must be given no later than August 15th. SDE must provide a report outlin implementation no later than December 15th to Chairman of Senate Education, Senate Finance, House Education House Ways and Means.
148	1A.73	State	CERRA shall develop a teacher recruitment and retention program to assist underserved districts (turnover rate 12% or more) recruit and retain teachers. The incentives will be developed in consult with EOC and SDE and shall include at a minimum salary suppliments, education subsidies, professional development and mentorship.
149	1A.74	State	SDE shall direct $500,000 from Reading (1A.XII.A.3) to Project Read
150	1A.75	State	*School Districts* - (Allocation; Establish Guidelines, Report) Funds appropriated for Reading Coaches must be allocated to school districts by the SDE as follows: (1) for each elementary school in which 20% or more of the students scored Not Met on the reading and research test in the mos year for which such data are available, the school district shall be eligible to receive the lesser of either up to $62,730 or the actual cost of salary and benefits for a full-time reading coach; and (2) for each elementary school in which fewer than 20% of the students scored Not Met on the readin research test during the same period, the school district shall be eligible to receive the lesser of either up to $31,365 or 50% of the actual cost of salary and benefits for a full-time reading coach. A school district must provide local support for state funds provided under this paragraph. School may use existing local funds currently used for reading assistance as the local support. Districts may not supplant except for districts that use local funds in the prior fiscal year to support reading.
151	1A.76	State	SDE shall create a list of instructional materials that have been approved by the State Board. Funds may not be flexed and may be used to reimburse districts for science kits. May include materials an devices. Carryforward authority.
152	1A.77	State	SDE may utilize up to $800,000 from full day 4K funding to identify three formative assessments that will analyze the early literacy skills of publically funded students. Districts and private providers administer one of the assessments by the 45th day through a $15 allocation per student.$2,000,000 of the funds appropriated for half day 4K shall be used to administer the Developmental Reading Assessment 2nd Edition PLUS to assess the early language and literacy skills of students entering kindergarten and must be administered once during the first and last 45 days of school. Results must inform interventions and SDE must report results of both using Unique Student Identifiers to EOC.
153	1A.78	State	CERRA with SDE and CHE shall conduct a study to determine the number of teachers available and the number needed in school years 2017-2027. Data must include specific projections on number needed and subject area to include critical need areas.
154	1A.79	State	SDE, in consultation with the EOC, shall procure assessments for grades 3-8 that will meet state and federal accountability requirements. An assessment for grade 11 that meets the requirements of A 155 of 2014 shall also be procured
155	1A.80	State	By August 1 First Steps shall transfer $4,250,000 of CDEPP carryforward to SDE for full day 4K and if there are any funds remaining they shall be transferred to SDE
156	SECTION 3	State	
157	3.1	State	SDE shall report by October 1 on the adopted procedures to monitor expenditures of lottery funds that are allocated to districts and other receipients and department guidelines shall be reported to t EBO. Additionally SDE shall report to EBO, Chariman of Senate Finance and the Chairman of the Ways and Means Committee on the amount disbursed to each entity in the prior fiscal yar.
158	3.6	State	*School Districts* -(Appropriation) For FY 2015-16 certified net lottery proceeds and investment earnings and any other proceeds identified by this provision are appropriated as follows: SDE - K-12 Technology Intitiative : $18,870,793 Funds appropriated to the Department of Education for the K-12 Technology Initiative shall
159	SECTION 7	State	
160	7.6	State	EOC, SDE, SIG shall prescribe the reporting measures to be followed by the school and shall report to the Governor, Senate Finance and Ways and Means on recommendations for improving services t students.
161	SECTION 91	State	
162	91.24	State	*House Education and Public Works Committee, House Ways and Means Committee, Senate Education Committee and Senate Finance Committee* -(Report) Of the funds appropriated in XII.E.2. for Technology the K-12 Technology Initiative partnership shall provide a report, describing the efforts to facilitate the cost effective provision of connectivity and internet bandwidth to schools. The report must detail information on the expenditure of the K-12 Technology funds by each district as well as a list of the districts requesting flexibility in the use of those funds. The report shall be submitted no later than June 1, 2016.
163	91.27	State	The Senate shall compose a committee that will review and study the effects of Act 388 on the various classes of property. The study committee will provide a report with findings and recommendati the GA by Juen 30, 2016.

Legal Standards

164	91.29	State	Departments upon Legislative request shall immediately provide requested information to to the President Pro Tempore of the Senate and the Speaker of the House in any form they shall require any information requested in relation to their respective affairs or activities.
165	SECTION 93	State	
166	93.36	State	General Services must distribute the proceeds fro mthe sale of the Union county Bus Shop equally to the Union County School District and Union County.
167	SECTION 98	State	
168	98.14	State	State Treasurer is directed to to transfer all funds from the Governor's Teaching School Loan Program to Save the Children for the statewide partnership with local public schools to serve children ag 12 in areas of peristent rural poverty. Services are to support pre k and k readiness and increase the reading proficiency of all. Measured success of the partnerships must be reported to the GA.
169	SECTION 102	State	
170	102.4	State	SDE shall supply RFA with client level data as determined by the MOA for use in the SC Health and Human Services Data Warehouse. No state agency shall duplicate any responsibilities of this provisi
171	SECTION 117	State	
172	117.1	State	*State Treasurer* -(Revenue, Collections, and Income Remittance). *Comptroller General and B&CB* -(Report) All general state revenues derived from taxation, licenses, fees, or from any other source whatsoever, and all SDE revenues or collections, including income from taxes, licenses, fees of commodities and services, and income derived from any other SDE or institutional source of activity, must be remitted to the State Treasurer at least once each week, when practical, and must be credited, unless otherwise directed by law, to the General Fund of the State.
173	117.9	State	*Division of Budget and Analyses and Comptroller General* -(Notification of Appropriation Transfers) SDE is authorized to transfer appropriations within programs and within the agency. No such transfer may exceed 20% of the program budget.
174	117.13	State	*State Human Affairs Commission* -(Affirmative Action Plan) The SDE shall submit to the State Human Affairs Commission employment and filled vacancy data by race and sex by October 31, of each year.
175	117.14	State	*B&CB* -(FTE Position Authorization) SDE must have established on the B&CB records all positions authorized in the Act. After that date, the Board shall delete any non-established positions from the official record of authorized full-time equivalent positions.
176	117.15	State	*State Employees* -(Payment of Salaries) Salaries paid to officers/employees of the State, including its several boards, commissions, and institutions shall be in full for all services rendered, and no perquisites of office or of employment shall be allowed in addition thereto, but such perquisites, commodities, services or other benefits shall be charged for at the prevailing local value and without the purpose or effect of increasing the compensation of said officer/employee. The charge for these items may be payroll deducted at the discretion of the Comptroller General or the CFO at e agency maintaining its own payroll system. All salaries paid by the SDE shall be in accord with a uniform classification and compensation plan, approved by the B&CB, applicable to all personnel of the State Government whose compensation is not specifically fixed in this act. Such plan shall i employees regardless of the source of funds from which payment for personal service is drawn. Salaries of the heads of all agencies of the State Government shall be specifically fixed in this act and no salary shall be paid any agency head whose salary is not so fixed. As long as there is no i appropriated funds, state agencies and institutions shall be allowed to spend public funds and/or other funds for designated employee award programs which shall have written criteria approved by the agency governing board or commission.
177	117.18	State	(Travel/Business Expenses) Agency heads and deputy commissioners/directors designated by agency heads may receive reimbursements for business expenses incurred while performing their official duties, provided that receipts are presented when seeking reimbursement and justification submitted to document the time, place, and purpose of the expense as well as the names of the individuals involved. The B&CB shall promulgate regulations governing these expenses.
178	117.19	State	(Per Diem) The per diem allowance of all boards, commissions and committees shall be at the rate of $35 per day. No full-time officer or employee of the State shall draw any per diem allowance for service on such boards, commissions or committees.
179	117.20	State	(State Employee Travel Expenses) SDE employees while traveling on business, upon presentation of a paid receipt, be allowed reimbursement for actual expenses incurred for lodging, not to exceed the current maximum lodging rates, excluding taxes, established by the U.S. General Servic Administration (USGSA). The lodging reimbursement for employees of a school district must also conform to these rates when that employee's travel reimbursement is paid by state funds that are transferred to the school district.
180	117.23	State	(Carry Forward Authorization) SDE is authorized to carry forward unspent general fund appropriations from the prior fiscal year into the current fiscal year, up to a maximum of 10% of its original general fund appropriations less any appropriation reductions for the current fiscal year.
181	117.26	State	*Comptroller General, Senate Finance Committee, the House Ways and Means Committee, and the Statehouse Press Room* - (Travel Report) The report must show at a minimum the top 10% of employees for whom travel expenses and registration fees were paid within each agency, not t 25 employees per agency. SDE should include position titles for each of the top 25 travelers for each agency. Expenditures must include state, federal and other sources of funds.
182	117.27	State	*School Districts* -(Appropriation, Carry Forward) From the funds appropriated/authorized for the K-12 technology initiative, the SDE, in consultation with the Budget and Control Board's Division of State Information Technology, the State Library, the Educational Television Commission, and a representative from the EOC, shall administer the K-12 technology initiative funds.
183	117.29	State	*Governor, Senate Finance Committee, House Ways and Means Committee, Public* - (Accountability Report) Annual accountability reports for the prior fiscal year, as required in Section 1-1-810, must be accessible for the purpose of a zero-base budget analysis and in order to ensure that t Agency Head Salary Commission has the accountability reports for use in a timely manner. Accountability Report guidelines shall require agencies to identify key program area descriptions and expenditures and link these to key financial and performance results measures.
184	117.30	State	(Collection Authorization and Carry Forward)) In lieu of any other provision of law, any state agency may collect a service charge as provided in Section 34-11-70 to cover the costs associated with the processing and collection of dishonored instruments or electronic payments where any an not paid by the drawee due to insufficient funds on deposit with the bank or the person upon which it was drawn when presented, or the instrument has an incorrect or insufficient signature on it. Such funds shall be retained and expended by the agency in accordance with this purpose and a unused amount shall carry forward to the following fiscal year.
185	117.32	State	*Budget and Control Board* -(Report) State agencies may implement, in consultation with the Human Resources Division of the Budget and Control Board, a program to realign resources to include provisions for a separation incentive payment for employees which may include the employer p health and dental benefits not to exceed one year. Employees participating in such program shall not be eligible to participate in the Teacher and Employee Retention Incentive (TERI) program.
186	117.33	State	(Identification of Alternatives) -As part of its plan for an alternative school, a school district receiving funds from the Department of Education for an alternative school shall identify available alternatives to commitment for children whose truancy is approaching the level of being referred to family Each school district's plan under this proviso shall include possible assignment to alternative school for a non-attending child before petitioning the court.
187	117.34	State	*Chair of the Senate Finance and House of Representatives Ways and Means Committees and the Inspector General* -(Report)Each state agency shall provide to the Chairmen of the Senate Finance and House of Representatives Ways and Means Committees and the Inspector General a detailing the amount of its outstanding debt and all methods it has used to collect that debt. This report is due by the last day of February for the previous calendar year. For purposes of this provision, outstanding debt means a sum remaining due and owed to a state agency by a non-govern entity for more than sixty (60) calendar days.
188	117.45	State	State agencies shall not impose additional parking fees or increases in fees for state employees in the current fiscal year.
189	117.46	State	(Authorization, Carry Forward) The GSAH, GSSM, Wil Lou Gray Opportunity School, and John de la Howe School are authorized to charge, collect, expend and carry forward fees charged for facility and equipment rental and registration.
190	117.47	State	(Authorization, Carry Forward) Any insurance reimbursement to an agency may be used to offset expenses related to the claim. These funds may be retained, expended, and carried forward.
191	117.48	State	*B&CB-Human Resources Division* -(Organizational Chart) Furnish to the Human Resources Division a current personnel organizational chart, or upon the request of the Division and notification of any change to the agency's organizational structure which impacts an employee's grievance rig within 30 days of such change. The organizational chart shall be in a form prescribed by the Human Resources Division showing all authorized positions, class title, class code, position number and indications as to whether such positions are filled or vacant. The organizational chart shall cle identify those employees who are exempt from the State Employee Grievance Procedure Act.
192	117.49	State	Agencies shall work with DOA and EBO when restructuring as directed by the General Assembly and changes shall be completed no later than December 31st.
193	117.50	State	Agencies continue to actively pursue cost savings measures through collaborative efforts and may combine administrative functions.
194	117.55	State	Agencies are permitted to spend state, federal and other funds to provide selected employees lump sum bonuses, not to exceed $300 per year based on DOA guidelines. Bonuses shall not be part of th employees base salary and may not be provided to employees earning $100,000 or more.
195	117.58	State	*State Auditor's Office* -(Financial Statements Submission) Agencies and other reporting entities required to submit annual audited financial statements for inclusion in the State's Comprehensive Annual Financial Report must comply with the submission dates stipulated in the State Auditor's O audit contract.
196	117.59	State	*State Agency*- (Rebate) In addition to the Purchase Card Rebate deposited in the general fund, any incentive rebate premium received by an agency from the Purchase Card Program may be retained and used by the agency to support its operations.
197	117.65	State	*SC Bar Association* -(Dues Authorization) Agencies and offices of the State of SC that employ attorneys are authorized to use other appropriated funds, including General Fund carry forward funds, to pay the costs of mandatory dues owed to the South Carolina Bar Association.
198	117.69	State	Agency heads may institute a voluntary furlough of not more than 90 days per year for employees and must ensure that the same state benefits remain in place and must cover employee portion of contribution if it would cause an interruption in service.
199	117.71	State	Any RIF must comply with TitleVII of the Civil Rights Act of 1964 or any other applicable state and federal antidiscrimination laws.
200	117.72	State	Agency implementing RIF - Agency head must furlough five days. This will not apply if RIF is based solely on RIF implemented as a result of federal budget cuts or reorganization.
201	117.74	State	*Committee Chairs (Senate Finance, and House Ways and Means)* -(Report) An annual report on the expenditures for Institution for Mental Disease Transition Plan (IMD) by each state child placing agency *(* SDE, DJJ, the Department of Disabilities and Special Needs, the Department of Me Health, the Department of Social Services, and the Governor's Office of Executive Policy and Programs-Continuum of Care). The Department of Health and Human Services shall review the numbers of out of home placements by type and by agency each year and make recommendations t General Assembly.
202	117.75	State	Committee *Chairs (of the Senate Finance Committee and Chair of the House Ways and Means Committee, Public*- (Report) Each state agency must provide and release to the public via the agency's website, a report of all aggregate amounts of fines and fees that were charged and c by that state agency in the prior fiscal year.

Legal Standards

203	117.76	State	In the event that an agency's general funds appropriated are less than in the prior fiscal year or EBO institutes an across the board mid year cut and the agency implements a mandatory furlough the agency shall consider TERI, post-TERI and contract employees before other employees.
204	117.77	State	In the event that an agency's general funds appropriated are less than in the prior fiscal year or EBO institutes an across the board mid year cut and the agency implements a reduction in force the ag shall consider TERI, post-TERI and contract employees before other employees.
205	117.78	State	*State Employees-* (Personnel Cost Savings) During the current FY, whenever classified FTEs become vacant because of employee retirements, it is the intent of the General Assembly that state agencies should realize personnel costs savings of at least 25% in the aggregate when managing vacancies.
206	117.81	State	No state agency or political subdivision of the state may reduce the compensation, including dismissal, suspension or demotion solely because the employee gave sworn testimony alleging wrong doi a standing committee, subcommittee or study committee of the Senate or House. This proviso shall apply regardless of when the wrong doing occurred.
207	117.82	State	State agencies must operate in a manner to avoid a year end deficit - shall be monitored by the EBO
208	117.83	State	An employee using a state vehicle to commute to and from home and work shall reimburse at the federal rate unless exempted.
209	117.85	State	(Link to State Procurement Card Statements) All agencies shall be responsible for providing on its website a link of that agency, department, or institution's monthly state procurement card statements or monthly reports containing all or substantially all the same information contained in the m state procurement card statements.
210	117.86	State	(Generation of Revenue by Regulation) For the current FY, if a state agency proposes a regulation that levies or increases a fee, fine, or that otherwise generates revenues, the title to the Joint Resolution which proposes the regulation must indicate that a fee, fine, or revenue source is being proposed.
211	117.88	State	(Civil Conspiracy Defense Cost) For any claim that has not reached a judgment, if a state or local government employee or former state or local government employee is personally sued for civil conspiracy based in part upon a personnel or employment action or decision regarding an employ court must, prior to trial, make a final determination whether the action or decision giving rise to the suit was made by the government employee within the scope of their official duty.
212	117.89	State	(Recovery Audits) The B&CB shall contract with one or more firms to conduct recovery audits of payments made by all state agencies to vendors for goods/services. The audits must be designed to detect, document, and recover overpayments and erroneous payments to the vendors and to recommend improved financial and operational practices and procedures. A state agency shall pay, from recovered monies received, the recovery audit firm responsible for obtaining for the agency a reimbursement or payment from a vendor a negotiated fee not to exceed 20% of the funds recovered by that firm.
213	117.93	State	The General Assembly encourages state agencies, in the event agencies are assessed a base reduction, to endeavor to realize savings through: (1) payroll management, including, but not limited to, furloughs, reductions in employee compensation, and instituting a hiring freeze; (2) eliminate administrative overhead cost that does not directly impact the agency's mission; and as a final option (3 reductions to programmatic funding.
214	117.99	State	Board shall ensure compliance with IDEA Part C and the recommendations in the 2011 audit. Each agency is responsible for reporting compliance with IDEA Part C.
215	117.100	State	*Office of State Auditor-* (Single Audit Schedule of Federal Expenditures) To ensure timely completion of the of the Statewide Single Audit, state agencies which do not receive a separate audit of federal expenditures, must submit to the Office of the State Auditor a schedule of federal progran expenditures no later than August 15 of each year.
216	117.102	State	Governmental entities are prohibited from assessing South Carolina Development Impact Fees on the construction of new elementary, middle, or secondary schools. If a governmental entity violates prohibition it shall have its Aid to Subdivisions Allocation reduced by the amount of the impact fee.
217	117.110	State	Data Breach Disclosure Requirements - A State agency owning/licensing computerized data or data that includes personal identifying information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of State whose personal identifying information was, or is reasonably believed to have been, acquired by an unauthorized person.
218	117.115	State	Qualifying organization applying for grants must provide documentation that includes description of program and curriculum, training, evidence based curriculum. *FYI for office - not an SDE pro
219	117.118	State	*B&C Board's Division of Technology* (Submission of Plan) By October 1, 2014, all state agencies must submit an information technology plan and an information security plan for Fiscal Year 2014-15 to the Budget and Control Board's Division of Technology.
220	117.120	State	For Fiscal Year 2015-16, the South Carolina Occupational Information System, its authority, responsibilities, FTE's and funding shall be transferred from the Department of Employment and Workfor the Department of Education. The Department of Administration and the Office of the Comptroller General shall facilitate and coordinate this transfer.
221	117.127	State	In the current fiscal year, the State Board for Technical and Comprehensive Education, the Department of Commerce, the Department of Education, and the Department of Employment and Workforc shall survey the workforce development needs of the State to develop a comprehensive workforce development coordination initiative where the technical colleges, school districts, and career center shall work together to increase pathways to coursework, equipment, and facilities as well as utilizing the EEDA, Dual Credit courses, Adult Education programs and Career and Technology courses an programs, to include the enhancing of existing, or creation of new, subsidized training programs in all regions of South Carolina that will confer the necessary skills and training to prepare students fo careers in high-demand fields and critical need positions in businesses and industries experiencing difficulty recruiting and retaining qualified applicants. The survey must include, but is not necessa limited to, a review and analysis of available labor market information from the Department of Employment and Workforce. This report must be completed no later than September 15, 2015. The St Board for Technical and Comprehensive Education, the Department of Commerce, the Department of Education, and the Department of Employment and Workforce are directed to use the report in c to develop a statewide Pathways program in alignment with the Education and Economic Development Act to facilitate a seamless transition from education to employment in industries with critical workforce shortages. This plan shall include, at minimum, an analysis of program accountability measures and key performance indicators.
222	117.132	State	No state funds shall be expended to assist in the United States Refugee Resettlement Program unless the county council of the county where the resettlement is to occur approves the relocation
223	SECTION 118	State	
224	118	State	*Office of Comptroller General -* (Year-End Closeout Documents) The appropriations provided in Part IA of this act as ordinary expenses of the State Government shall lapse on July 31, 2016. State agencies are required to submit all current FY input documents and all electronic workflow for accounts payable transactions to the Office of Comptroller General by July 14, 2016.
225	118	State	*B&CB -* (Document Submission) provide the Board all documents related to the title and acquisition of the real properties that are occupied or used by the agency or titled in the name of the agency.
226	118.7	State	All agencies are prohibited from using General Fund appropriations to compensate employees who engage in lobbying on behalf of the state agency. Ethics will require agencies to report lobbying activities and show they are not funded with General Funds. Contracts using GF are prohibited.
227	118.14	State	Funds are considered available after September 1, 2015. H63 - Department of Education (a) Secure Vendor for Teacher Evaluation System $3,000,000 (b) Instructional Materials $ 14,508,278
228	South Carolina Code of Laws Title 59 - Education	State	
229	SECTION 59-1-10	State	Short title. Chapters 1 to 45 and 53 to 73 of this title shall be known and may be cited as "The South Carolina School Code."

Legal Standards

230	SECTION 59-1-20	State	Purpose of South Carolina School Code. The purpose of the South Carolina School Code is to provide for a State system of public education and for the establishment, organization, operation, and sup of such State system.
231	SECTION 59-1-30	State	Construction. If any section or part of the South Carolina School Code is found to be ambiguous or otherwise subject to more than one interpretation, such section or part shall be liberally construed extent that the general purpose of the entire Code and of public education may be advanced.
232	SECTION 59-1-40	State	Scope of State system of public education. The State system of public education shall consist of such school systems, schools, institutions, agencies, services, and types of instruction as may be provid and authorized by law, or by rules and regulations of the State Board of Education within limits prescribed by law.
233	SECTION 59-1-110	State	"Private school" defined. "Private school" means a school established by an agency other than the State or its subdivisions which is primarily supported by other than public funds, and the operation whose program rests with other than publicly elected or appointed officials.
234	SECTION 59-1-120	State	"Public school" defined. "Public school" means a school operated by publicly elected or appointed school officials in which the program and activities are under the control of these officials and whic supported by public funds.
235	SECTION 59-1-130	State	"Teacher" defined. "Teacher" means any person who is employed either full time or part time by any school district either to teach or to supervise teaching.
236	SECTION 59-1-140	State	"Teacher aide" defined. "Teacher aide" means a noncertificated person employed by a school district whose assignment consists of and is limited to assisting a certificated teacher.
237	SECTION 59-1-150	State	"Kindergarten," "elementary school," "middle school," "secondary school," "junior high school," and "high school" defined. For the purposes of this chapter: (1) "Kindergarten" means any school which provides either education, instruction, or supervision below the first grade to children who will attain the age of five on or before the first day of Novemb the school year when they begin school. (2) "Elementary school" means any public school which contains grades no lower than kindergarten and no higher than the eighth. (3) "Middle school" means any public school which contains grades no lower than the fifth and no higher than the eighth. (4) "Secondary school" means either a junior high school or a high school. (5) "Junior high school" shall be considered synonymous with the term "high school." (6) "High school" means any public school which contains grades no lower than the seventh and no higher than the twelfth.
238	SECTION 59-1-160	State	"School district" defined. "School district" means any area or territory comprising a legal entity, whose sole purpose is that of providing free school education, whose boundary lines are a matter of p record, and the area of which constitutes a complete tax unit.
239	SECTION 59-1-170	State	"State Board" defined. "State Board" means State Board of Education.
240	SECTION 59-1-180	State	"State Educational Finance Commission" defined. "State Educational Finance Commission" means the State Board of Education.
241	SECTION 59-1-190	State	"State Department" defined. "State Department" means State Department of Education.
242	SECTION 59-1-200	State	"Scholastic year" defined. The scholastic year shall begin on the first day of July of each year and end on the thirtieth day of June following.
243	SECTION 59-1-310	State	Superintendents of education may administer oaths and probate certain papers. The State Superintendent of Education and the county superintendent of education of the various counties of the Stat may administer an oath or affirmation to any person and probate any and all papers which may pertain to or be connected with the duties of their respective offices.
244	SECTION 59-1-320	State	Display of United States and State flags. The State Board of Education shall make such rules and regulations, not inconsistent with the National Flag Code, for the display of the flag of the United State America and for the display of the flag of the State at public schools. The person at the head of any public school in the State shall display the flag of the United States and the flag of the State at such ti and at such places under such restrictions and rules as may be adopted by the State Board of Education.
245	SECTION 59-1-360	State	Audiovisual properties may be loaned. The State Department of Education is authorized to lend film, filmstrips, recordings or other audiovisual properties to nonpublic institutions of higher learning to other educational institutions and schools that are eleemosynary in nature.
246	SECTION 59-1-449	State	State Department of Education to report state and local funding requirements to local entities. The State Department of Education shall report no later than May first in each year to all local governm entities having the authority to levy school taxes the amount required in the applicable school districts to provide the state required minimum effort and an analysis of all local effort requirements fo applicable districts, including the figures used in the computation of: (1) local salary supplements; (2) Education Finance Act foundation program; and (3) per pupil maintenance of effort.

Legal Standards

247	SECTION 59-1-450	State	Parent education programs. The State Board of Education, through the Department of Education and in consultation with the Education Oversight Committee, shall promulgate regulations for establ parenting/family literacy programs to support parents in their role as the principal teachers of their preschool children. The programs must provide parent education to parents and guardians who h children ages birth through five years and who choose to participate in the programs and must include intensive and special efforts to recruit parents or guardians whose children are at risk for scho failure. The program or programs also should include developmental screening for children and offer parents of children from birth through five years opportunities to improve their education if the parents do not possess a high school diploma or equivalent certificate. The State Board of Education, through the Department of Education and after consultation with the Education Oversight Committee, shall promulgate regulations to implement parenting/family lite programs in all school districts or consortia of school districts. Priority must be given to serving those parents whose children are considered at risk for school failure according to criteria establishe the State Board of Education. From funds appropriated for the programs, an adequate number of those parenting programs funded under the Target 2000 Act shall receive priority in funding for fisca years 1993 94 and 1994 95 and must be funded at no less than the level received in fiscal year 1992 93 contingent upon their agreeing to provide technical assistance to other districts and schools planning and implementing parenting/family literacy programs in concert with the Department of Education's technical assistance process required in this chapter. Only those projects whose evalua show them to be most effective may be selected based on criteria developed by the State Department of Education in consultation with the Education Oversight Committee. Beginning in fiscal year 1995 96 for districts with Target 2000 Act parenting programs and in fiscal year 1993 94 for all other school districts and district consortia, funding must be allocated to dist and consortia serving more than two thousand pupils on a base amount of not less than forty thousand dollars with any additional appropriation to be distributed based on the number of free and re price lunch eligible students in grades one through three in a district or consortium relative to the total free and reduced price lunch eligible students in grades one through three in the State. The programs developed in each district and consortium may draw upon lessons learned from parenting programs funded under this section. The State Board of Education, through the Department of Education, in developing the regulations for this program shall consult with representatives of the Department of Health and Environmenta Control, Department of Social Services, the South Carolina State Library, and Health and Human Services Finance Commission, and with adult education and early childhood specialists. In developing regulations, the State Board and State Department of Education shall consider the guidelines developed for the Target 2000 Act parenting programs and any available evaluation data. By December, 1993, the chairman of the Human Services Coordinating Council shall convene a committee consisting of supervisors of programs dealing with early childhood and parenting from the Department of Education, Department of Health and Environmental Control, the Department of Social Services, the South Carolina State Library, and the Health and Human Services Finance Commiss at least one representative from each of these agencies who administer these programs at the county and district level; and adult education and early childhood specialists. The Executive Director of Finance Commission shall chair this committee. By July 1, 1994, this committee shall report to the Education Oversight Committee and the Joint Committee on Children ways to better coordinate programs for parenting and literacy and recommend changes to each agency's state regulations or provisions of law which would better promote coordination of programs. The Department of Health Environmental Control, the Department of Social Services, and the Health and Human Services Finance Commission shall direct their employees at the county and district levels to cooperate with sch district officials in establishing parenting/family literacy programs.
248	SECTION 59 -1-452	State	Public school employee cost savings program. (A) The Public School Employee Cost Savings Program is established for the purpose of making cash awards to individual school district employees for saving ideas which are proven to be workable. The program must be administered by the State Department of Education with the advice and assistance of a special committee to screen suggested ide and recommend those with potential merit to be implemented and evaluated. The committee must be composed of: (1) one member who is serving on a public school board, appointed by the State Board of Education upon the recommendation of the South Carolina School Boards Association; (2) one member who is serving as a public school superintendent, or district financial administrator, appointed by the State Board of Education upon the recommendation of the South Carolina Association of School Administrators; (3) one member who is serving as a public school principal, career and technology center director, or school administrator, appointed by the State Board of Education; (4) one public school teacher with a minimum of fifteen years service, appointed by the State Board of Education upon the recommendation of the South Carolina Education Association; (5) one public school teacher with a minimum of fifteen years service, appointed by the State Board of Education upon the recommendation of the Palmetto State Teachers Association; (6) two members appointed by the State Superintendent of Education; and (7) five private sector business persons, who hold no public office, one appointed by the Governor, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman House Ways and Means Committee, one appointed by the Chairman of the House Education and Public Works Committee, and one appointed by the Chairman of the Senate Education Committee. (B) Committee members shall serve three year terms except that of those initially appointed, four shall serve initial terms of one year, four shall serve initial terms of two years, and four shall serve i terms of three years, these initial terms to be determined by lot at the first meeting of the committee. A member of the committee may not serve on the Education Improvement Act Education Oversig Committee, the Business Education Partnership for Excellence in Education, or the Business Education Subcommittee while serving on the committee created under this section. A committee membe shall attend at least eighty percent of the meetings of the committee in each fiscal year or be replaced. A vacancy must be filled in the manner of original appointment. (C) The State Board shall promulgate regulations and establish procedures to administer the program. The regulations must limit individual cash awards to twenty five percent of the cost savings for fiscal year or five thousand dollars, whichever is less. An employee may not receive an award for an idea that could have been implemented by the employee through his normal job duties. An employ the State Department of Education may participate in the program. (D) The State Department of Education shall provide administrative support for the program. The State Board of Education shall waive or modify its regulations when appropriate and necessary to achieve cost savings. (E) The General Assembly shall provide funds to initiate and support the program. Two years after initial implementation of the program, the program must be self supporting. It is the intent of the General Assembly that the funds appropriated for this program must be used then for assessing the impact of the programs developed under Target 2000.

Legal Standards

249	SECTION 59-1-454	State	Parental involvement program; parent/teacher conferences. (A) The State Department of Education shall develop a parental involvement program for use in elementary and secondary schools with grades four through eight. The purpose of the program is to improve parental participation in their child's school progress, ensure a smooth transition between the various levels of schooling and ph of education, increase communication between the school, parent, and child, provide greater accountability between the parent, school, and child, and lessen the possibility on all levels that parents a only provided opportunity to react to problems involving their child after such problems occur. (B) The parental involvement program should include such activities as regular visitation by parents to their child's school, involving parents, teachers, and administrators in school training sessions such issues as communication between the school, parent, and child, student discipline, importance of homework, the taking and understanding of standardized testing and test scores, and general literacy. (C) Teachers shall maintain a record signed by the parent and teacher of parent conferences annually that identify the date, time, and response of parent/teacher conferences.
250	SECTION 59-1-470	State	Distribution of funds for deferred compensation. Funds appropriated by the General Assembly for a deferred compensation employer matching contribution must be distributed by the State Department of Education to school districts for the purpo providing an employer matching contribution for eligible school district employees making contributions to deferred compensation plans offered by the South Carolina Deferred Compensation Commission or, after December 31, 2013, the South Carolina Public Employee Benefit Authority, or other approved and qualified plans of other providers. These funds must be distributed in a manne consistent with the provisions of Section 8 23 110. The employer matching contribution by the school district may not exceed three hundred dollars for each eligible employee a year.
251	SECTION 59-1-475	State	Continuing education on domestic violence; adoption as part of curriculum by school districts. (A) The Department of Education and the South Carolina Coalition Against Domestic Violence and Sexu Assault, with the review and approval of Department of Social Services, shall develop guidelines and materials for continuing education concerning domestic and family violence including, but not lin to: (1) the nature, extent, and causes of domestic and family violence; (2) issues of domestic and family violence concerning children; (3) prevention of the use of violence by children; (4) sensitivity to gender bias and cultural, racial, and sexual issues; (5) the lethality of domestic and family violence; (6) legal issues relating to domestic violence and child custody. (B) Each school district shall adopt a curriculum for continuing education on domestic and family violence for teachers and appropriate staff based on the guidelines and materials developed by the department pursuant to subsection (A) which must be submitted to the department for approval. No expense shall be incurred by the school districts to administer the implementation of this curricu
252	SECTION 59-1-490	State	Data use and governance policy. (A) The provisions of this section must be known and may be cited as the "South Carolina Department of Education Data Use and Governance Policy". (B) The policy of the State Department of Education with respect to use and governance of student data is to ensure that all data collected, managed, stored, transmitted, used, reported, and destroye the department is done so in a way to preserve and protect individual and collective privacy rights and ensure confidentiality and security of collected data. In developing this policy, the State strives (1) maintain compliance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, at a minimum; and (2) be mindful that the appropriate use of data is essential to accelerating student learning, program and financial effectiveness and efficiency, and policy development. (C) The State Department of Education shall not collect individual student data directly from students or families, except as required to meet its obligations under the Individuals with Disabilities Education Act. Each student is assigned a unique student identifier upon enrollment into the student management system to ensure compliance with the privacy rights of the student and his parents guardians. No personally identifiable individual student data may be shared in federally required reporting. (D) All data elements collected and transferred from the South Carolina State Department of Education to the United States Department of Education must be based on the reporting requirements contained in EDFacts as provided by the United States Department of Education, or other federal laws and regulations, and only may include aggregated data with no personally identifiable data. (E) Data collected by the State Department of Education must be maintained within a secure infrastructure environment. Access to this data must be limited to preidentified staff who are granted clearance related to their job responsibilities of federal reporting, state financial management, program assessment, and policy development. Training in data security and student privacy laws must provided to these specific individuals on a regular basis in order to maintain their data use clearance along with a signed Data Use Policy assurance of confidentiality and privacy. (F) The State Department of Education shall maintain a managed external data request procedure managed through a Data Governance Committee. Each external data request is measured against a predetermined set of qualifiers that includes, but must not be limited to, applicability to the goals of the State Board of Education, data availability, report format ability, cost of report development, a adherence to FERPA requirements. (G) Each school district in this State shall adopt, maintain, and comply with a locally adopted student records governance and use policy. These policies and their implementation shall be monitored State Department of Education in a manner prescribed by the department through policy.
253	SECTION 59-1-510	State	Guidelines and regulations for recruitment and hiring staff in professional areas. Effective with the 1984 85 school year, the Department of Education shall establish guidelines and regulations to ens that school districts recruit and hire staff in professional areas including, but not limited to, the employment of teachers, the employment of administrators, teachers' aides, and other personnel need implement the provisions of the South Carolina Education Improvement Act of 1984 on the basis of qualifications and merit. The Department shall further monitor the implementation of the South Carolina Education Improvement Act of 1984 to ensure that minority educators and minority school districts receive equal and fair treatment under each program and each section of the South Caro Education Improvement Act of 1984.
254	SECTION 59-1-520	State	Intervention by State Department of Education for non compliance. Failure by any school district to develop affirmative action plans or otherwise adhere to the provisions of the South Carolina Educ Improvement Act of 1984 is cause for intervention by the State Department of Education to take the corrective steps as may be necessary.

Legal Standards

255	SECTION 59-1-525	State	Grant program to enhance teaching of grade specific standards and increase K 5 performance in core academic areas; criteria. The State Department of Education shall implement a schoolwide grant program to enhance the teaching of the grade specific standards adopted by the State Board of Education and to increase the academic performance of students in grades K 5 in the core academic are reading, mathematics, social studies, and science. The grant shall include an evaluation component to measure the success of increasing student performance and the teaching of the standards. Of the reading, mathematics, social studies, and science appropriation for this purpose from lottery proceeds each year, $500,000 must be used for teacher in service training and professional development related to Project Read. The awarding of grants shall be based upon their ability to promote the goals of providing every student with the competencies to: (1) read, view, and listen to complex information in the English language; (2) write and speak effectively in the English language; (3) solve problems by applying mathematics; (4) conduct research and communicate findings; (5) understand and apply scientific concepts; (6) obtain a working knowledge of world, United States, and South Carolina history, government, economics, and geography; and (7) use information to make decisions. Additionally, grants shall be awarded based upon the likelihood that receiving such grants shall strengthen the above referenced skills and increase the academic performance of students in the core academic areas. In the awarding of grants every effort should be made to ensure that all geographic areas of the State are represented. First priority shall be given to acceptable grants from schools ra as below average or unsatisfactory and grants designed to increase academic performance of historically underachieving students. Grant applications received by the State Department of Education shall be reviewed by a panel of individuals with knowledge and expertise of the subject area and of programs that have proven to b successful within the State or throughout the nation.
256	SECTION 59-3-10	State	Election, bond and compensation of State Superintendent of Education. The State Superintendent of Education shall be elected at each general election in the same manner as other State officers and enter upon the duties of his office at the time prescribed by law. Before entering upon the duties of his office he shall give bond for the use of the State in the penal sum of five thousand dollars, with g and sufficient sureties, to be approved by the Governor, conditioned for the faithful and impartial performance of the duties of his office, and he shall also, at the time of giving bond, take and subscrib oath prescribed in Section 26 of Article III of the Constitution of the State, which shall be endorsed upon the back of the bond. The bond shall be filed with the Secretary of State, and by him recorded when so recorded, shall be filed with the State Treasurer. The Superintendent of Education shall receive as compensation for his services such sum as the General Assembly shall by law provide, paya monthly out of the State Treasury, and his traveling expenses, not exceeding three hundred dollars, shall be paid out of the State Treasury upon duly itemized accounts rendered by him.
257	SECTION 59-3-20	State	Vacancy in office. In case a vacancy occurs in the office of State Superintendent of Education, from any cause, such vacancy shall be filled by the Governor, by and with the advice and consent of the Se and the person so appointed shall qualify within fifteen days from the date of such appointment or else the office shall be deemed vacant. If the vacancy occur during the recess of the Senate, the Gove shall fill the same by appointment until the Senate can act thereon.
258	SECTION 59-3-30	State	General duties. The State Superintendent of Education shall: (1) Serve as secretary and administrative officer to the State Board of Education. (2) Have general supervision over and management of all public school funds provided by the State and Federal Governments. (3) Organize, staff and administer a State Department of Education which shall include such division and departments as are necessary to render the maximum service to public education in the Stat (4) Keep the public informed as to the problems and needs of the public schools by constant contact with all school administrators and teachers, by his personal appearances at public gatherings an information furnished to the various news media of the State. (5) Have printed and distributed such bulletins, manuals, and circulars as he may deem necessary for the professional improvement of teachers and for the cultivation of public sentiment for public education, and have printed all forms necessary and proper for the administration of the State Department of Education. (6) Administer, through the State Department of Education, all policies and procedures adopted by the State Board of Education. (7) Assume such other responsibilities and perform such other duties as may be prescribed by law or as may be assigned by the State Board of Education.
259	SECTION 59-3-40	State	Delivery of property to successor. The State Superintendent of Education shall deliver to his successor, within ten days after the expiration of his term of office, all books, papers, documents and othe property belonging to his office.
260	SECTIONS 59-3-50 to 59-3-70	State	Repealed by 2004 Act No. 195, Section 2, eff January 1, 2005.
261	SECTION 59-3-80	State	Cooperation with Federal Government in program for children of working mothers. The State Department of Education shall have the power to cooperate with the Federal Government, its agencies o instrumentalities, in the administration of an educational program for the care of pre school children, ages two to six, and children of school age who are without home care during the day before and school hours due to employment of their mothers. The State Department of Education shall receive and expend all funds made available to the Department by the Federal Government for administrat supervision and coordination of state and local programs to meet such needs.
262	SECTION 59-3-90	State	In service training programs for teachers. The State Department of Education shall provide recommendations and assist districts in conducting in service training programs for teachers based on the findings and research it derives from the study of effective schools and classrooms and from district plans developed in accordance with Section 59 139 10. All of the school districts of this State mus implemented an on going, long range professional development training program in support of effective schools and classrooms and as indicated by district plans no later than the 1994 95 school yea

Legal Standards

263	SECTION 59-3-100	State	Allocation of Qualified School Construction Bonds authorized by American Recovery Act of 2009 among school districts. (A)(1) Issuance authority for Qualified School Construction Bonds (QSCB) obligations allotted to the State pursuant to the provisions of 26 U.S.C. Section 54F(d)(1) and any issuance authority allocated pursuant to 26 U.S.C. Section 54F(d)(2) to school districts of the State ar used by them shall be allocated by the State Superintendent of Education to one or more of the school districts, or county boards of education on behalf of one or more school districts of the State. In regard, the State Superintendent of Education shall allocate sixty percent of the state's QSCB issuance authority to or on behalf of school districts having the lowest capital financing resources, measu terms of assessed value per pupil, not to exceed twenty million dollars per school district and forty percent of the state's QSCB issuance authority to or on behalf of school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations be awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. School districts allocated issuance authority under 26 U.S.C. Section 54F(d)(2)(E)(i) are not eligible for allocation of issuance authority under this paragraph (A). When two or more school districts are proposing a joint construction rehabilitation of a qualified project priority level for the project must be based on the priority level of the joint partner having the lowest assessed value per pupil. (2) The State may not issue a QSCB obligation. For purposes of Article X, Section 15, of the South Carolina Constitution, a QSCB obligation shall be considered general obligation debt. A school distric not use the proceeds of a QSCB obligation for the purposes stated in Section 14003(b) of the American Recovery and Reinvestment Act of 2009. (B) The State Superintendent of Education is authorized to establish for each allocation of issuance authority a schedule for issuance of QSCB obligations, giving due regard for the time required to in and hold bond referendums, and may reallocate issuance authority or any portion of issuance authority to another school district or county board of education if the schedule is not kept. (C) Issuance authority allocated pursuant to this section but not utilized may be reallocated by the State Superintendent of Education in accordance with this section. (D) Assessed value for purposes of this section means the assessed value of all taxable property, excluding property subject to a fee in lieu of tax. Each per pupil measurement is based upon the one hundred thirty five day count for the most recently completed fiscal year.
264	SECTION 59-5-10	State	Composition and organization of State Board of Education. The State Board of Education shall be composed of one member from each judicial circuit. The members shall serve terms of four years an until their successors are elected and qualify, except of those first elected, the members from the fifth, tenth and fourteenth circuits shall serve terms of one year; the members from the first, sixth, eig and twelfth circuits shall serve terms of two years and the members from the fourth, seventh, ninth and eleventh circuits shall serve terms of three years. The terms of all members shall commence o January first following their election. The legislative delegations representing the counties of each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to b designated in such call for the purpose of electing a member of the Board to represent such circuit. A majority present, either in person or by written proxy, of the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of t county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegat shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secreta the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State who shall forthwith issue to such person, after he has taken t usual oath of office, a certificate of election as a member of the State Board of Education. The Governor shall thereupon issue a commission to such person and pending such issuance the certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office. Any vacancy shall be filled in the same manner as the original appointment for the unexpired portion of the term. Representation of a given judicial circuit on the State Board of Education shall be rotated among the counties of the circuit, except by unanimous consent of all members of the county legislative delegations from the circuit. No member shall succeed himself in office except by unanimous consent of the members of the county legislative delegations from the circuit. Members of the legislative delegation of any county entitled to a member of the Board shall nominate persons for the office, one of whom shall be elected to the Board. The Board shall select its chairman and other officers to serve for such terms as the Board may designate. Provided, the Superintendent of Education shall serve as secretary and administrative office the Board. The Board shall adopt its own rules and procedures. The chairman and other officers shall have such powers and duties as may be determined by the Board not inconsistent with the law. At the initial meeting of the legislative delegations representing the counties of each circuit, it shall be determined by lot the sequence in which each county shall be entitled to nominate persons for t offi
265	SECTION 59-5-20	State	Persons eligible for membership; oath. Any person shall be eligible for membership on the Board who is a registered elector of this State, and each member of the Board shall take the oath prescribe the Constitution of South Carolina before entering upon the duties of his office.
266	SECTION 59-5-30	State	Compensation of members. The members of the Board shall receive as compensation a per diem and mileage as is provided for members of the General Assembly.
267	SECTION 59-5-40	State	Meetings of Board; quorum; seal. The Board shall meet on the call of its chairman or upon the request of a majority of its members at the office of the State Superintendent of Education or at such oth place as may be designated in the call. A majority of the Board shall constitute a quorum for transacting business. The official seal of the State Superintendent of Education shall be used for the authentication of the acts of the Board.
268	SECTION 59-5-50	State	Records, papers and effects of Board; minutes of proceedings. The secretary shall be custodian of the records, papers and effects of the Board and shall keep the minutes of its proceedings. Such reco papers and minutes shall be kept in the office of the State Superintendent of Education and shall be open to inspection by the public.

Legal Standards

269	SECTION 59-5-60	State	General powers of Board. The State Board of Education shall have the power to: (1) Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools. (2) Annually approve budget requests for the institutions, agencies, and service under the control of the Board as prepared by the State Superintendent of Education prior to being submitted to the Governor and to the General Assembly. (3) Adopt minimum standards for any phase of education as are considered necessary to aid in providing adequate educational opportunities and facilities. (4) Prescribe and enforce rules for the examination and certification of teachers. (5) Grant State teachers' certificates and revoke them for immoral or unprofessional conduct, or evident unfitness for teaching. (6) Prescribe and enforce courses of study for the free public schools. (7) Prescribe and enforce the use of textbooks and other instructional materials for the various subjects taught or used in conjunction within the free public schools of the State, both high schools ar elementary schools in accordance with the courses of study as prepared and promulgated by the Board. (8) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Board. (9) Cooperate fully with the State Superintendent at all times to the end that the State system of public education may constantly be improved. (10) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law or as it may find necessary to aid in carrying out the purpose a objectives of the Constitution of the State.
270	SECTION 59-5-61	State	Secondary occupational career and technology education courses for school district. The State Board of Education, through local school districts and area career and technology centers, shall establis maintain, and operate secondary occupational vocational education courses for secondary school students in public schools in accordance with guidelines and standards established by the board and accordance with federal laws pertaining to career and technology education. The board shall approve secondary occupational career and technology education courses.
271	SECTION 59-5-63	State	Duty free lunch periods for teachers. The State Board of Education shall promulgate regulations directing the principal of each elementary school having grades one through six to develop and imple a plan which shall equitably apportion lunchroom duty among the teachers so that each teacher has as many duty free lunch periods as may be reasonable in order to insure the safety and welfare of students and staff. The implementation of the plan shall not impose additional costs on the school districts. The regulations shall direct that the plan be in effect for the 1984 85 school year.
272	SECTION 59-5-65	State	Powers and responsibilities of State Board of Education. The State Board of Education shall have the power and responsibility to: (1) Establish on or before August 15, 1985, regulations prescribing minimum standards of conduct and behavior that must be met by all pupils as a condition to the right of pupils to attend the publ schools of the State. The rules shall take into account the necessity of proper conduct on the part of all pupils in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that the rules may result in suspension or expulsion of pupils, provided, however, that disciplinary procedures shall be in compliance with Public Law 94 142. (2) Promulgate on or before August 15, 1985, regulations prescribing a uniform system of minimum enforcement by the various school districts of the rules of conduct and behavior. (3) Promulgate rules prescribing scholastic standards of achievement. The rules shall take into account the necessity for scholastic progress in order that the welfare of the greatest possible number pupils shall be promoted. School districts may impose additional standards of conduct and may impose additional penalties for the violation of such standards of behavior, provided, however, that disciplinary procedures shall be in compliance with Public Law 94 142; (4) Establish on or before July 1, 1985, regulations prescribing a uniform system of enforcement by the various school districts of the state compulsory attendance laws and regulations promulgated pursuant to Section 59 65 90. (5) Promulgate regulations to ensure that all secondary schools, with the exception of career and technology schools and secondary schools whose enrollment is entirely handicapped, offer a clearly defined college preparatory program as specified by the State Board of Education. (6) Promulgate regulations to ensure that each school district in its secondary school or career and technology center shall establish clearly defined career and technology programs designed to prov meaningful employment. (7) By January 1, 1986, establish criteria for promotion of students to the next higher grade. In grades 1, 2, 3, 6, and 8, a student's performance on the Basic Skills Test of reading shall constitute twenty five percent of the assessment of his achievement in reading and his performance on the Skills Test of mathematics shall constitute twenty five percent of the assessment of his achievement in mathematics. The State Board of Education shall specify other measures of student performanc each of these subjects which shall constitute the remaining seventy five percent of the student's assessment. Any student who fails to meet the criteria established by the Board for promotion to the next higher grade must be retained in his current grade or assigned to a remedial program in the summer or next year. Students assigned to the remedial program must meet the minimum criteria established by the Board for his current grade at the conclusion of the remedial program to be promoted to the higher grade. All handicapped students as defined by federal and state statutes and regulations are subject to the provisions of this section unless the student's individual education plan (IEP) as requ by Public Law 94 142 defines alternative goals and promotion standards. Nothing in this subitem shall prohibit the governing bodies of the school districts of this State from establishing higher standards for the promotion of students. (8) Develop and implement regulations requiring all school districts to provide at least one half day early childhood development programs for four year old children who have predicted significant readiness deficiencies and whose parents voluntarily allow participation. The regulations must require intensive and special efforts to recruit children whose participation is difficult to obtain. The s districts may contract with appropriate groups and agencies to provide part or all of the programs. If a local advisory committee exists in a community to coordinate early childhood education and development, school districts shall consult with the committee in planning and developing services. The State Department of Education shall collect and analyze longitudinal data to determine the eff of child development programs on the later achievement of children by tracking four year old child development program participants through kindergarten and the first three years of elementary sc
273	SECTION 59-5-67	State	Reduction of paper work; computerization; grants for improving teaching practices and procedures. (A) The State Department of Education shall provide for continuous training for district personn operate the computers provided and for continuous selection and evaluation of software. (B) The State Board of Education, acting through the State Department of Education, shall establish and administer a competitive grant program whereby teachers will be awarded grants for the pur of improving teaching practices and procedures within the budgetary limitations authorized by the General Assembly. The respective local school districts shall act as the fiscal agent for the grants. F purposes of this section the term "teacher" includes teachers, librarians, guidance counselors, and media specialists.

Legal Standards

274	SECTION 59-5-68	State	Uniform grading scale. The General Assembly finds that given the fact the State provides substantial financial academic assistance to students of the State based on cumulative grade point averages a districts currently use a variety of grading scales, it is in the best interest of the students of South Carolina for a uniform grading scale to be developed and adopted by the State Board of Education to implemented in all public schools of the State. Therefore, the State Board of Education is directed to establish a task force comprised of superintendents, principals, teachers, and representatives of sc boards and higher education no later than June 30, 1999. The task force shall make recommendations to the board including, but not limited to, the following: consistent numerical breaks for letter gr consideration of standards to define an honors course; appropriate weighting of courses; and determination of courses and weightings to be used in the calculation of class rank. The task force shall r its findings to the State Board of Education no later than December 1, 1999. The State Board of Education shall then adopt and school districts of the State shall begin using the adopted grading scale later than the 2000 2001 school year.
275	SECTION 59-5-69	State	Implementation of regulations concerning South Carolina Education Improvement Act. The State Board of Education and the Commission on Higher Education in performing the duties and responsibilities assigned to them in the South Carolina Education Improvement Act of 1984 are authorized to promulgate regulations necessary to implement these provisions.
276	SECTION 59-5-70	State	Hearings. (A) The board may, in its discretion, designate one or more of its members to conduct any hearing in connection with any responsibility of the board and to make a report on any such hear the board for its determination. (B) The board in its discretion may also designate a hearing officer for the purpose of hearing matters relating to the suspension or revocation of teacher certificates. The hearing officer shall then ma recommendation to the board for final action.
277	SECTION 59-5-71	State	Repealed by 2003 Act No. 89, Section 7, eff July 23, 2003.
278	SECTION 59-5-75	State	Out of field permits and teaching. The State Board of Education shall review and make any necessary revisions to regulations to define the criteria for an out of field permit and for school districts to report out of field teaching for teachers who are not teaching one hundred percent of the time in their areas of certification or in a field in which the teachers have twelve or more academic hours fro regionally, state, or nationally accredited program, with special provisions made for phasing in middle level certification.
279	SECTION 59-5-85	State	Teacher evaluation program standards and procedures. The State Board of Education and the Department of Education shall review and refine, as necessary, the professional performance dimension the state's teacher evaluation program (ADEPT) established in Section 59 26 30(B) to ensure the dimensions are consistent with nationally recognized performance based accreditation standards an certification standards of the National Board for Professional Teaching Standards certification standards. National board certified teachers shall be included in this review. A report on the changes to dimensions must be provided to the Education and Public Works Committee of the House of Representatives and the Education Committee of the Senate no later than September 1, 2001.The Departm of Education shall implement a pilot program to develop procedures and obtain information for including student achievement as a component in the teacher evaluation program (ADEPT). No fewer five school districts must participate in the development and pilot of the procedures. At least one district designated as impaired is to be included in the pilot if the district chooses. The development program is to begin no later than September 1, 2000. A report on the progress of the project and recommendations concerning its implementation is due to the Education Committee of the Senate an Education and Public Works Committee of the House of Representatives by March 1, 2001. Further, the Department of Education shall develop guidelines for the teacher induction program, established in Section 59 26 20, which shall include sustained long term coaching and assistance. Information on best practices in teacher induction programs must be disseminated to school districts. By July 1, 2000, the State Department of Education shall adopt criteria for the selection and trai of teachers who serve as mentors for new teachers as a part of the induction program.
280	SECTION 59-5-90	State	Powers and duties of State Educational Finance Commission and State Schoolbook Commission devolved upon Board. All powers and duties provided by law for the State Educational Finance Comm and the State Schoolbook Commission are hereby devolved upon the State Board of Education.
281	SECTION 59-5-95	State	Panels created to review accreditation requirements; membership; duties. The State Board of Education and the Commission on Higher Education shall appoint a collegial panel of middle grade class teachers and teacher preparation faculty to review the National Council for Accreditation of Teacher Education (NCATE) accreditation requirements and recommend any additional training standard needs for middle grade teacher preparation and professional development courses. The panel shall be a continuing body, shall include representatives of professional organizations, and shall: (1) review the state's academic standards in the four core academic areas and current teaching courses; (2) determine the knowledge and skills needed by teachers at the middle grades level to teach these standards and assess student progress in learning the standards; (3) establish syllabi to guide the development of high quality teacher preparation courses; and (4) develop assessments to determine the strengths and weaknesses of the curriculum.
282	SECTION 59-5-100	State	Powers and duties of State Educational Finance Commission devolved upon Board; general duties. The Board of Education, as successor to the State Educational Finance Commission, shall disburse s funds as are provided by the General Assembly and shall have such further powers as are committed to it by this Title. It shall promote the improvement of the school system and its physical facilities shall make plans for the construction of necessary public school buildings. It shall make surveys incident to the acquisition of sites for public schools. It shall seek the more efficient operation of the p transportation system. It shall effect desirable consolidations of school districts throughout the entire State. And it shall make provision for the acquisition of such further facilities as may be necessa operate the public school system in an efficient manner.
283	SECTION 59-5-110	State	Powers and duties of State Educational Finance Commission devolved upon Board; survey of school system. As soon as practicable the Board of Education, as successor to the State Educational Finar Commission, shall make a survey of the entire school system, which shall set forth the needs for new construction, new equipment, new transportation facilities and such other improvements as are necessary to enable all children of the State to have adequate and equal educational advantages.
284	SECTION 59-5-120	State	Powers and duties of State Educational Finance Commission devolved upon Board; rules and regulations. The Board of Education, as successor to the State Educational Finance Commission, shall prescribe and promulgate, in the manner provided by law, reasonable rules and regulations to carry out the provisions of Sections 59 5 100 and 59 5 110, Chapter 21 of this Title, Article 3 of Chapter this Title and Articles 1 and 5 of Chapter 71 of this Title and such rules and regulations shall have the full force and effect of law.

Legal Standards

285	SECTION 59-5-130	State	Members shall not contract with Board. It shall be unlawful for any member of the Board to make any contract or to be pecuniarily interested in any contract or otherwise make a profit from any con with the State Board of Education. Any member violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars nor mor than five hundred dollars or be imprisoned not less than three months nor more than twelve months, or both. He shall also forfeit the amount of such claim or of his interest in such claim. The violatio this section shall constitute sufficient cause for removal of the member from office.
286	SECTION 59-5-135	State	Governor's Institute of Reading; functions; funding. (A) The General Assembly finds that: (1) reading is the most important academic skill and the basis for success in school and work; (2) test results indicate that a significant portion of South Carolina students score below the fiftieth percentile on nationally normed achievement tests; and (3) it is necessary and proper to establish a comprehensive long term commitment to improve reading as well as overall academic performance. (B) There is created within the State Department of Education the Governor's Institute of Reading. The purpose of the institute is to create a collaborative effort to mobilize education, business, and community resources to ensure that all children learn to read independently and well by the end of the third grade. The purpose of the institute also is to mobilize efforts to improve the reading abilit students in the middle grades and accelerate the learning of students reading below grade level. The Governor's Institute of Reading is based upon a collaborative effort of education professionals an reading experts and designed to promote reading in every school district. To accomplish this mission, the institute shall: (1) review the best practices in the teaching of reading; (2) provide teachers with professional development and support for implementing best practices in the teaching of reading; and (3) award competitive grants to school districts for designing and providing a comprehensive approach to reading instruction based on best practices. The State Board of Education shall develop guidelines for administering and allocating funds for the Governor's Institute of Reading. Grants must be awarded, beginning with fiscal year 1999 2000, t districts for implementing programs designed to achieve exemplary reading. The department may carry forward any unexpended appropriations to be used for this same purpose from fiscal year to year.
287	SECTION 59-5-140	State	South Carolina Opportunity School, John De La Howe School and South Carolina School for the Deaf and Blind required to meet State standards. Academic and career and technology training provide the South Carolina Opportunity School, the John De La Howe School, and the South Carolina School for the Deaf and the Blind must meet standards prescribed by the State Board of Education based u standards prescribed by the South Carolina Department of Education for the academic and career and technology programs of these schools. The board may prescribe additional requirements as necessary. The State Superintendent of Education shall administer the standards related to the high school and elementary school programs. Reports from the State Department of Education, evaluat the education program and indicating whether or not the program meets the standards as prescribed, must be made directly to the board of each institution at regularly scheduled meetings. State Department of Education supervisory personnel must be utilized for evaluating the programs and reporting to each board.
288	SECTION 59-5-150	State	Awards for civic contribution to public education. The State Board of Education shall initiate an award program to recognize business and industries, civic organizations, school improvement counci and individuals contributing most significantly to public education.
289	SECTION 59-5-160	State	Graduation of children who are new to South Carolina. (A) In order to facilitate the on time graduation of children of families who have moved to South Carolina during the child's twelfth grade year, State Board of Education may: (1) waive specific courses required for graduation if those courses were not specifically required for graduation in the student's most recent state of residence; however, the state board may not wai the number of courses required in ELA, math, and science. If a student does not have sufficient course credit to be issued a South Carolina diploma, the state board, to the extent possible, shall provid alternative means of acquiring required coursework so that the student could receive a South Carolina high school diploma and graduation may occur on time; and (2) may accept exit exams, end of course exams, or alternative testing required for graduation from the sending state in lieu of South Carolina testing requirements for graduation provided that all portions of these exams necessary for graduation from the sending state have been satisfactorily met. (B) In the event the alternatives provided in subsection (A) cannot be accommodated after all alternatives have been considered, the State Board of Education shall work with other state boards and departments of education to help facilitate the receipt of a diploma from the sending state if the student meets the graduation requirements of that state. (C) The State Board of Education shall develop guidelines and subsequent regulations to comply with the provisions of this section.

Legal Standards

290	SECTION 59-6-10	State	Appointment of committee. (A) In order to assist in, recommend, and supervise implementation of programs and expenditure of funds for the Education Accountability Act and the Education Improvement Act of 1984, the Education Oversight Committee is to serve as the oversight committee for these acts. The Education Oversight Committee shall: (1) review and monitor the implementation and evaluation of the Education Accountability Act and Education Improvement Act programs and funding; (2) make programmatic and funding recommendations to the General Assembly; (3) report annually to the General Assembly, State Board of Education, and the public on the progress of the programs; (4) recommend Education Accountability Act and EIA program changes to state agencies and other entities as it considers necessary. Each state agency and entity responsible for implementing the Education Accountability Act and the Education Improvement Act funded programs shall submit to the Education Oversight Committe programs and expenditure reports and budget requests as needed and in a manner prescribed by the Education Oversight Committee. The committee consists of the following persons: (1) Speaker of the House of Representatives or his designee; (2) President Pro Tempore of the Senate or his designee; (3) Chairman of the Education and Public Works Committee of the House of Representatives or his designee; (4) Chairman of the Education Committee of the Senate or his designee; (5) Governor or his designee; (6) Chairman of the Ways and Means Committee of the House of Representatives or his designee; (7) Chairman of the Finance Committee of the Senate or his designee; (8) State Superintendent of Education or the superintendent's designee who shall be an ex officio nonvoting member; (9) five members representing business and industry who must have experience in business, management, or policy to be appointed as follows: one by the Governor, one by the President Pro Tempo the Senate, one by the Speaker of the House, one by the Chairman of the Senate Education Committee, and one by the Chairman of the House Education and Public Works Committee; and (10) five members representing public education teachers and principals to be appointed as follows: one by the Governor, one by the President Pro Tempore of the Senate, one by the Speaker of the House, one by the Chairman of the Senate Education Committee, and one by the Chairman of the House Education and Public Works Committee. Initial appointment must be made by July 31, 1998, at which time the Governor or his designee shall call the first meeting. At the initial meeting, a chairman elected from the members representing t business and industry appointees and a vice chairman representing the education members shall be elected by a majority vote of the committee. The members appointed pursuant to items (1) throug may serve notwithstanding the provisions of Section 8 13 770. Their terms of office on the committee must be coterminous with their terms of office as Governor, Superintendent of Education, or members of the General Assembly. (B) The terms of office of the members of the Education Oversight Committee, except for the legislative members, Governor, and State Superintendent of Education, are four years and until their successors are appointed and qualify except of those first appointed the terms must be staggered as follows: (1) initial terms of two years shall be served by the two members of the business and industry community appointed by the chairmen of the Education Committees;
291	SECTION 59-6-15	State	Business Education Partnership for Excellence in Education; Business Education Subcommittee. (A) There is created the Business Education Partnership for Excellence in Education and a permanen standing subcommittee of the partnership for the purpose of reviewing the implementation of the South Carolina Education Improvement Act of 1984 and recommending other major education initiatives. The Business Education Partnership for Excellence in Education consists of the following persons: (1) Thirty two prominent civic and business leaders of which fourteen are appointed by the Governor; six appointed by the State Superintendent of Education; three appointed by the Speaker of the House of Representatives; three appointed by the President of the Senate; three appointed by the Chairman of the Education and Public Works Committee of the House of Representatives; and three appointed by the Chairman of the Education Committee of the Senate; (2) Twenty educators of which eight are appointed by the State Superintendent of Education; four appointed by the Governor; two appointed by the Speaker of the House of Representatives; two appointed by the President of the Senate; two appointed by the Chairman of the Education and Public Works Committee of the House of Representatives; and two appointed by the Chairman of the Education Committee of the Senate; (3) Lieutenant Governor or his designee; (4) Chairman of the Committee on Children or his designee; (5) Chairman of the Education Oversight Committee or his designee; (6) The Governor and State Superintendent of Education shall serve as ex officio members. The term of office of the members of the Business Education Partnership must be four years except that of those first appointed an equal number must serve terms of two, three, and four years respectively as determined by lot. Except in those cases where the term of a member of the Business Education Subcommittee has not expired, no member of the Business Education Partnership may more than two consecutive terms. The number of appointments provided for in items (1) and (2) above must be reduced proportionately by the membership requirements of subsection (B). The chairman of the Business Education Partnership for Excellence in Education must be elected by the members of the partnership and must be chosen from among the thirty two business and civi leaders serving on the partnership. The Business Education Partnership must meet at the call of the chairman but not less than quarterly. The Governor must preside at all regular and special meetin the partnership in which he is in attendance; at those meetings at which the Governor is not in attendance the State Superintendent of Education must preside, and in the absence of the Superintende the chairman of the partnership must preside. The partnership in conjunction with the State Department of Education may cause to be held statewide public forums for the purpose of fostering open discussions regarding the impact of the Educa Improvement Act on the state's education system and education reform in general. (B) The Business Education Partnership must establish a permanent standing subcommittee called the Business Education Subcommittee. The subcommittee must be composed of sixteen members Business Education Partnership elected by the Business Education Partnership. The composition of the subcommittee must be: (1) ten civic and business leaders; and (2) six educators. The eighteen members serving on the Joint Business Education Subcommittee must remain on the Business Education Subcommittee as reconstituted on the effective date of this section. The term o

Legal Standards

292	SECTION 59-6-16	State	Leadership network. The State Board of Education in consultation with the Business Education Subcommittee shall appoint a leadership network of representatives from the private sector. The lead network shall assist the State Board of Education business education partnership program by: (1) promoting business education partnerships, (2) evaluating business education partnerships, (3) disseminating the benefits of business education partnerships, and (4) formulating recommendations on goals and activities for the business education partnership program. The leadership network meet at least quarterly and make regular reports to the Business Education Subcommittee, State Board of Education, and Education Oversight Committee.
293	SECTION 59-6-17	State	School attendance as requirement for licensing for operation of motor vehicle. The Business Education Subcommittee in consultation with the Education Oversight Committee shall study requiring s attendance as a condition of licensing for the privilege of the operation of a motor vehicle and shall provide a report to the General Assembly by January 1, 1990.
294	SECTION 59-6-20	State	Public Accountability Division. The State Board of Education and State Superintendent of Education must establish within the State Department of Education a special unit at the division level called Public Accountability Division. This special unit must be eliminated on July 1, 1991. The unit head shall hold a position comparable to a deputy superintendent and must be under the direct supervisi and shall report to the State Superintendent of Education. The deputy superintendent must provide all reports to the Governor, Education Oversight Committee, Business Education Partnership for Excellence in Education, Business Education Subcommittee State Board of Education, and respond to any inquiries for information. The Business Education Subcommittee shall serve as a screening committee for the selection of the unit head. The screening committee shall recommend for consideration three applicants. Final sel of the unit head must be made by the State Superintendent of Education after consulting with the Governor. All other positions must be filled following current state personnel and State Department Education employment procedures. The new unit is responsible for planning, monitoring, and reviewing programs developed under the Education Improvement Act and shall provide information, recommendations, and an annual assessment of the Education Improvement Act to the Governor, Education Oversight Committee, and Business Education Subcommittee. The operating procedures for the new unit are the same as the operating procedures for the three established divisions in the State Department of Education. The Business Education Subcommittee review and approve all products produced by the new unit and make recommendations to the State Board of Education for final approval.
295	SECTION 59-6-30	State	Reports by State Board of Education; Business Education Subcommittee to report to Business Education Partnership; recommendations by Partnership; Business Education staff to serve Business Education Partnership. The State Board of Education shall provide an assessment of the South Carolina Education Improvement Act of 1984 for consideration by the Business Education Subcommitt and the General Assembly. A special assessment shall be provided on March 1, 1985. Commencing in 1985, an annual assessment must be provided by December first of each year and an appropriate amount of funding must be provided for this purpose. The Business Education Subcommittee shall provide a report on the assessment to the Business Education Partnership, and the partnership sha submit its recommendations to the General Assembly prior to February first. The staff of the Business Education Subcommittee shall serve as the primary staff to the Business Education Partnership may solicit the assistance of the staffs of the House Education and Public Works Committee, the Senate Education Committee, the Education Oversight Committee, the Public Accountability Division, the Governor's Office.
296	SECTION 59-6-100	State	Accountability Division established within Education Oversight Committee; selection of executive director. Within the Education Oversight Committee, an Accountability Division must be establishe report on the monitoring, development, and implementation of the performance based accountability system and reviewing and evaluating all aspects of the Education Accountability Act and the Education Improvement Act. The Education Oversight Committee will employ, by a majority vote, for a contract term of three years an executive director for the Accountability Division. The director must be chosen solely on gro of fitness to perform the duties assigned to him and must possess at least the following qualifications: a demonstrated knowledge of public education, experience in program evaluation, and experien a responsible managerial capacity. No member of the General Assembly nor anyone who will have been a member for one year previously will be contracted to serve as director. The director will hav authority to employ, with the approval of the subcommittee, professional and support staff as necessary to carry out the duties of the division, which shall be separate from the administrative staff of Education Oversight Committee.
297	SECTION 59-6-110	State	Duties of Accountability Division. The division must examine the public education system to ensure that the system and its components and the EIA programs are functioning for the enhancement of student learning. The division will recommend the repeal or modification of statutes, policies, and rules that deter school improvement. The division must provide annually its findings and recommendations in a report to the Education Oversight Committee no later than February first. The division is to conduct in depth studies on implementation, efficiency, and the effectiveness of academic improvement efforts and: (1) monitor and evaluate the implementation of the state standards and assessment; (2) oversee the development, establishment, implementation, and maintenance of the accountability system; (3) monitor and evaluate the functioning of the public education system and its components, programs, policies, and practices and report annually its findings and recommendations in a report to th commission no later than February first of each year; and (4) perform other studies and reviews as required by law. The responsibilities of the division do not include fiscal audit functions or funding recommendations except as they relate to accountability. It is not a function of this division to draft legislation and neither the director nor any other employee of the division shall urge or oppose any legislation. In the performance of its duties and responsibilities, the division and staff members are subject to the statutory provisions and penalties regarding confidentiality of records as they apply to students, schools, school districts, the Department of Education, and the Board of Education.
298	SECTION 59-6-120	State	Collaboration between Accountability Division and other agencies. The State Department of Education, the State Board of Education, and the school districts and schools shall work collaboratively w the Division of Accountability to provide information needed to carry out the responsibilities and duties of its office. The Division of Accountability may call on the expertise of the state institutions o higher learning and any other public agencies for carrying out its functions and may coordinate and consult with existing agency and legislative staff.

Legal Standards

299	SECTION 59-10-10	State	Standards established; status reports to parents; decrease in student to physical education teacher ratio. (A) The goal of this article is to provide every elementary student with the equivalent of thirt minutes of physical activity daily. Beginning in the 2006 07 school year, students in kindergarten through fifth grade must be provided a minimum of one hundred fifty minutes a week of physical education and physical activity. In 2006 07, a minimum of sixty minutes a week must be provided in physical education, and as Section 59 10 20 is phased in, the minimum time for physical educatio must be increased to ninety minutes a week. The certified physical education teacher to student ratio is designed to provide students in kindergarten through fifth grade with scheduled physical edu either every day or on alternate days throughout the school year and must be based on the South Carolina Physical Education Curriculum Standards. The student to teacher ratio in a physical educati class may not exceed the average student to teacher ratio of 28 to 1. An individual student's fitness status must be reported to his parent or guardian during a student's fifth grade, eighth grade, and h school physical education courses. The physical activity must be planned and coordinated by the Physical Education Activity Director pursuant to Section 59 10 30. (B) A student may be exempted from these physical education and activity requirements required by subsection (A) by seeking a waiver as outlined in Section 59 29 80(B). (C) During each year of implementation of the reduced student to physical education teacher ratio, each district shall report to the State Department of Education by June fifteenth, the number of mi of physical education instruction and the minutes of additional physical activity students receive daily with a total for the week. The report must be listed by elementary school and by individual clas grade level. The State Department of Education shall provide a summary of this information to the General Assembly by December first of each year of implementation. (D) The implementation of decreased student to teacher ratio and increased instruction in physical education pursuant to Section 59 10 20 is not intended to replace or reduce time dedicated to instruction in the arts taught by certified arts specialists.
300	SECTION 59-10-20	State	Student to certified physical education teacher ratios. (A) Beginning with the 2006 07 school year, the student to certified physical education teacher ratio in the elementary schools of the State must 700 to 1. (B) Beginning with the 2007 08 school year, the student to certified physical education teacher ratio in the elementary schools of the State must be 600 to 1. (C) Beginning with the 2008 09 school year, the student to certified physical education teacher ratio in the elementary schools of the State must be 500 to 1.
301	SECTION 59-10-30	State	Designation of Physical Education Activity directors. (A) Each elementary school shall designate a physical education teacher to serve as its Physical Education Activity Director. The Physical Educati Activity Director shall plan and coordinate opportunities for additional physical activity for students that exceed the designated weekly student physical education instruction times that may include not be limited to, before, during, and after school dance instruction, fitness trail programs, intramural programs, bicycling programs, walking programs, recess, and activities designed to promote phy activity opportunities in the classroom. (B) In schools having dance education specialists, instruction based on the South Carolina Dance Curriculum Standards and the dance components of the South Carolina Physical Education Standard be used to satisfy one fourth of the required physical education minutes. (C) Noncertified or adult volunteers may assist in implementing or supervising these structured physical activities if approved by the district superintendent. If volunteers are used, appropriate liabi insurance must be provided. The director annually shall submit to the principal a report outlining the additional physical activities for students.
302	SECTION 59-10-40	State	Professional development. Appropriate professional development must be provided to teachers and volunteers on the importance of physical activity for young children and the relationship of activ and good nutrition to academic performance and healthy lifestyles.
303	SECTION 59-10-50	State	Administration of South Carolina Physical Education Assessments; scoring effectiveness. (A) Each public school in this State shall administer the South Carolina Physical Education Assessment. Assessment of students in second grade, fifth grade, eighth grade, and high school must be used to assess the effectiveness of the school's physical education program and its adherence to the South Carolina Physical Education Curriculum Standards. The State Department of Education shall develop a procedure for calculating a district and school physical education program effectiveness score. district and school physical education effectiveness score must be reported to the education community through the district and school report card. (B) The physical education teachers in a school that receives an unsatisfactory program effectiveness score pursuant to subsection (A), will be provided professional development activities designed assist the school in improving its programs' effectiveness.
304	SECTION 59-10-60	State	Age appropriate equipment. Each district shall make every effort to ensure that the schools in its district have age appropriate equipment and facilities to implement the physical education curriculu standards.
305	SECTION 59-10-210	State	Funding for licensed nurses for elementary schools. Beginning with the 2007 08 school year, the General Assembly, annually in the General Appropriations Act, shall appropriate funds to the Departr of Education to provide licensed nurses for elementary public schools. The State Department of Education shall make these funds available through a grant program and shall distribute the funds to t local school districts on a per school basis.
306	SECTION 59-10-220	State	Adoption of universal precautions for bloodborne disease exposure; notice By January 1, 2012, each school district shall adopt the Centers for Disease Control and Prevention (CDC) recommendations on universal precautions for bloodborne disease exposure and shall communicate written notice of these procedures to each school within the district. The notice must provide information regarding education and training in the areas of infection control, universal precautions, and disinfection and sterilization techniques.
307	SECTION 59-10-310	State	Establishment of elementary school food service meals and competitive foods requirements. In an effort to promote optimal healthy eating patterns, the State Board of Education by policy shall estal requirements for elementary school food service meals and competitive foods based upon the recommendations outlined in the State Department of Education Task Force on Student Nutrition and Physical Activity Report, National School Lunch Act, and the most recent applicable Dietary Guidelines for Americans.

Legal Standards

308	SECTION 59-10-320	State	Coordinated school health models; implementation; evaluation of effectiveness. (A) The State Department of Education shall make available to each school district a coordinated school health model designed to address health issues of children. The program must provide for coordinating the following eight components: safe and healthy environment, physical education, health education, staff wellness, health services, guidance and health, nutrition services, and parent and community involvement. The Department of Education shall notify each school district of the availability of professio development opportunities and provide technical assistance for implementing the coordinated school health model. (B) The Department of Education shall develop or adopt an assessment program to evaluate district and school health education programs. At a minimum, the assessment must be designed to deterr program effectiveness and adherence to South Carolina Health and Safety Education Curriculum Standards. The State Department of Education shall begin piloting health education assessments in th 2006 07 school year with implementation in the 2008 09 school year.
309	SECTION 59-10-330	State	Coordinated School Health Advisory Council (CSHAC); development of health wellness plan; health and nutrition policies. (A) Each school district shall establish and maintain a Coordinated School H Advisory Council (CSHAC) to assess, plan, implement, and monitor district and school health policies and programs, including the development of a district wellness policy to begin implementation in 2006 07 school year. The council must be composed of members of the community, school representatives, students, parents, district food service employees, and school board members. (B) Each district, in collaboration with the CSHAC, shall develop a school health improvement plan that addresses strategies for improving student nutrition, health, and physical activity and includes district's wellness policy. The district health improvement plan goals and progress toward those goals must be included in the district's strategic plan required pursuant to Section 59 20 60. (C) Each school board of trustees shall establish health and nutrition policies for its elementary schools designed to limit vending sales and sales of foods and beverages of minimal nutritional value a time during the school day except in the case of medical emergency and special occasions celebrated during school hours. However, this policy does not restrict the food that a parent or guardian may provide for his child's consumption at school. A school district board of trustees may adopt a more restrictive policy.
310	SECTION 59-10-340	State	Snacks in vending machines. Each district's Coordinated School Health Advisory Council established pursuant to Section 59 10 330 shall determine which snacks may be sold in vending machines in elementary schools.
311	SECTION 59-10-350	State	Length of lunch period; factors. Each elementary school shall provide students a minimum of twenty minutes to eat lunch once they have received their food. In determining the total length of the lun period, time to and from the cafeteria, time to go through the line, and time to bus trays at the end of lunch must be considered.
312	SECTION 59-10-360	State	K 5 health curriculum; nutrition component. Health curriculum for students in kindergarten through fifth grade must include a weekly nutrition component.
313	SECTION 59-10-370	State	Funding for implementation of chapter. Each phase of implementation of this chapter is contingent upon the appropriation of adequate funding as documented by the fiscal impact statement provide the Office of State Budget of the State Budget and Control Board. There is no mandatory financial obligation to school districts if state funding is not appropriated for each phase of implementation as provided for in the fiscal impact statement of the Office of the State Budget of the State Budget and Control Board.
314	SECTION 59-10-380	State	Food or beverage items sold as fundraiser. Nothing in this article may be construed to prohibit or limit the sale or distribution of any food or beverage item through fundraisers by students, teachers groups when the items are intended for sale off the school campus.
315	SECTION 59 16 10	State	Legislative findings. (A) The General Assembly finds that: (1) through the use of technology, South Carolina can create educational opportunities for the students of this State that may not exist without such technology; and (2) using technology to deliver instruction can provide effective alternatives for credit recovery, meeting graduation requirements, resolving scheduling conflicts, delivering curriculum content whe there is a shortage of certified personnel, providing a more flexible and individualized instructional pace, and offering low incidence courses. (B) It is the purpose of the General Assembly, in this chapter to establish the South Carolina Virtual School Program to ensure consistent high quality education for the students of South Carolina util technology delivered courses.
316	SECTION 59-16-15	State	Virtual education program; eligibility to enroll; grades; exams; computer equipment and internet access. (A) The State Board of Education is authorized to establish a virtual education program to pr South Carolina students access to distance, online, or virtual learning courses offered for an initial unit of credit. Additionally, the virtual education program shall offer access to credit recovery progr for students who have been identified by a school district as not having received credit for a course previously taken or for students who have been identified by a school district as not likely to recei credit for a course in which the student is currently enrolled. Students may enroll in courses for credit recovery based on policies established by the State Board of Education. The virtual education program shall not award a South Carolina High School diploma. (B) A public, private, or homeschool student residing in South Carolina who is twenty one years of age or younger must be eligible to enroll in the virtual education program. A private school or hom school student enrolled in the virtual education program must not be entitled to any rights, privileges, courses, activities, or services available to a public school student other than receiving an appropriate unit of credit for a completed course. (C) Local school districts shall accurately transcribe a student's final numeric grade to the student's permanent record and transcript. Home school students and private school students shall receive certified grade report indicating date, course, and final numeric grade from the virtual education program or an entity approved by the State Board of Education. (D) Students enrolled in an online course for a unit of credit must be administered final exams and appropriate state assessments in a proctored environment. (E) It is not the responsibility of the school, district, or state to provide home computer equipment and Internet access for enrollment in courses provided by the virtual education program. However nothing in this section shall prohibit a school or district from providing home computer equipment or Internet access to students enrolled in the virtual education program.

Legal Standards

317	SECTION 59-16-20	State	Housing and management of program; standards for courses; instructor certification and training. (A) The South Carolina Virtual School Program shall be housed in and managed by the State Depart of Education. The department may contract for distance learning courses, develop courses, or approve courses submitted by entities. (B) Each course offered for a unit of credit shall be reviewed for correlation with the state adopted academic standards prior to being offered. (C) All distance, online, or virtual learning courses offered for a unit of credit must be aligned with the state adopted academic standards, include appropriate course materials, and be approved by th State Department of Education. (D) Instructors must hold a valid teaching certificate in each content area being taught or receive approval from the State Department of Education to teach the course. (E) All virtual schoolteachers must receive appropriate preservice and in service training pertaining to the organization, classroom management, technical aspects, monitoring of student assessment other pertinent training from the State Department of Education.
318	SECTION 59-16-30	State	Definitions As used in this chapter: (1) "Distance learning" means the acquisition of knowledge and skills through mediated information and instruction, encompassing all technologies and other forms of learning at a distance. Distanc learning includes online and virtual courses. (2) "Online learning" means learning delivered by web based or internet based technologies. (3) "Proctored" means directly monitored by an adult authorized by the South Carolina Virtual School Program. (4) "Virtual classroom" means the online learning space where students and instructors interact. (5) "School year" means the one hundred eighty days of student instruction required pursuant to Section 59 1 420 and student instruction received as part of a summer school program. (6) "Credit recovery" means self paced, semester long courses that target learning in areas of greatest weakness, allowing nontraditional or at risk students to rapidly complete courses, recover credi and progress to graduation.
319	SECTION 59-16-40	State	Guidelines and regulations. The State Board of Education shall develop guidelines and promulgate regulations to include, but may not be limited to, the following: (1) procedures and criteria to be used for the selection of online courses to be offered for a unit of credit; (2) qualifications and registration requirements of students who may enroll in online courses to include provisions outlining the enrollment of students that have been expelled from school; (3) procedures for private and homeschool students to enroll in courses offered; (4) teacher qualifications and the student to teacher ratio for online courses; (5) appropriateness and provisions for charging tuition and fees; (6) procedures for establishing uniform evaluation of student progress and awarding of the final grade; (7) process for maintaining student records and reporting and recording grades on the student's transcript; (8) procedures and requirements for employment, supervision, and evaluation of teachers; (9) procedures and requirements for supervision, monitoring, assessment, and evaluation of enrolled students; and (10) student expectations.
320	SECTION 59-16-50	State	Adult education program pilot; recommendations to General Assembly. Through the use of an online pilot program, the State Department of Education shall examine the feasibility of providing servi the South Carolina Virtual School Program to students enrolled in adult education programs and shall make recommendations to the General Assembly no later than January 1, 2008.
321	SECTION 59-16-60	State	Annual report; contents. Annually, the State Board of Education shall provide the General Assembly a report that shall include, but not be limited to, the following information: (1) list of courses offe through the virtual school; (2) number of local school districts and number of the district students participating in the virtual school; (3) private schools and number of the private school students participating in the virtual school; (4) number of homeschool students participating in the virtual school; (5) success rates for students by courses enrolled in the virtual school; (6) number of students who dropped a course and reasons for dropping; (7) expenditures made for the virtual school; and (8) number of students unable to enroll because of space limitation.
322	SECTION 59-16-70	State	Review of student records by Education Oversight Committee. At the end of each semester, the State Department of Education shall provide student records, including course grades and performanc state assessments, to the Education Oversight Committee. The Education Oversight Committee shall monitor the impact of credits earned in the virtual school, on the school and district ratings, with particular attention to performance on end of course examinations and graduation rates.
323	SECTION 59-16-80	State	Implementation contingency. The implementation of the provisions contained in this chapter are contingent upon the appropriation of funds by the General Assembly.
324	SECTION 59-18-100	State	Performance based accountability system for public education established; "accountability" defined. The General Assembly finds that South Carolinians have a commitment to public education and a conviction that high expectations for all students are vital components for improving academic achievement. It is the purpose of the General Assembly in this chapter to establish a performance base accountability system for public education which focuses on improving teaching and learning so that students are equipped with a strong academic foundation. Accountability, as defined by this chap means acceptance of the responsibility for improving student performance and taking actions to improve classroom practice and school performance by the Governor, the General Assembly, the Stat Department of Education, colleges and universities, local school boards, administrators, teachers, parents, students, and the community.

Legal Standards

325	SECTION 59-18-110	State	Objectives. The system is to: (1) use academic achievement standards to push schools and students toward higher performance by aligning the state assessment to those standards and linking policies and criteria for performan standards, accreditation, reporting, school rewards, and targeted assistance; (2) provide an annual report card with a performance indicator system that is logical, reasonable, fair, challenging, and technically defensible, which furnishes clear and specific information about sc and district academic performance and other performance to parents and the public; (3) require all districts to establish local accountability systems to stimulate quality teaching and learning practices and target assistance to low performing schools; (4) provide resources to strengthen the process of teaching and learning in the classroom to improve student performance and reduce gaps in performance; (5) support professional development as integral to improvement and to the actual work of teachers and school staff; and (6) expand the ability to evaluate the system and to conduct in depth studies on implementation, efficiency, and the effectiveness of academic improvement efforts.
326	SECTION 59-18-120	State	Definitions. As used in this chapter: (1) "Oversight Committee" means the Education Oversight Committee established in Section 59 6 10. (2) "Standards based assessment" means an assessment where an individual's performance is compared to specific performance standards and not to the performance of other students. (3) "Disaggregated data" means data broken out for specific groups within the total student population, such as by race, gender, level of poverty, limited English proficiency status, disability status, o other groups as required by federal statutes or regulations. (4) "Longitudinally matched student data" means examining the performance of a single student or a group of students by considering their test scores over time. (5) "Academic achievement standards" means statements of expectations for student learning. (6) "Department" means the State Department of Education. (7) "Absolute performance" means the rating a school will receive based on the percentage of students meeting standard on the state's standards based assessment. (8) "Growth" means the rating a school will receive based on longitudinally matched student data comparing current performance to the previous year's for the purpose of determining student acad growth. (9) "Objective and reliable statewide assessment" means assessments that yield consistent results and that measure the cognitive knowledge and skills specified in the state approved academic stand and do not include questions relative to personal opinions, feelings, or attitudes and are not biased with regard to race, gender, or socioeconomic status. The assessments must include a writing assessment and multiple choice questions designed to reflect a range of cognitive abilities beyond the knowledge level. Constructed response questions may be included as a component of the writin assessment. (10) "Division of Accountability" means the special unit within the oversight committee established in Section 59 6 100. (11) "Formative assessment" means assessments used within the school year to analyze general strengths and weaknesses in learning and instruction, to understand the performance of students individually and across achievement categories, to adapt instruction to meet students' needs, and to consider placement and planning for the next grade level. Data and performance from the formati assessments must not be used in the calculation of school or district ratings.
327	SECTION 59-18-300	State	Adoption of educational standards in core academic areas. The State Board of Education is directed to adopt grade specific performance oriented educational standards in the core academic areas of mathematics, English/language arts, social studies (history government, economics, and geography), and science for kindergarten through twelfth grade and for grades nine through twelve adopt specific academic standards for high school credit courses in mathematics, English/language arts, social studies, and science. The standards are to promote the goals of providing every student with the competencies to: (1) read, view, and listen to complex information in the English language; (2) write and speak effectively in the English language; (3) solve problems by applying mathematics; (4) conduct research and communicate findings; (5) understand and apply scientific concepts; (6) obtain a working knowledge of world, United States, and South Carolina history, government, economics, and geography; and (7) use information to make decisions. The standards must be reflective of the highest level of academic skills with the rigor necessary to improve the curriculum and instruction in South Carolina's schools so that students are encouraged learn at unprecedented levels and must be reflective of the highest level of academic skills at each grade level.

Legal Standards

328	SECTION 59-18-310	State	Development or adoption of statewide assessment program to promote student learning and measure student performance. (A) Notwithstanding any other provision of law, the State Board of Educa through the Department of Education, is required to develop or adopt a statewide assessment program to promote student learning and to measure student performance on state standards and: (1) identify areas in which students, schools, or school districts need additional support; (2) indicate the academic achievement for schools, districts, and the State; (3) satisfy federal reporting requirements; and (4) provide professional development to educators. Assessments required to be developed or adopted pursuant to the provisions of this section or chapter must be objective and reliable. (B)(1) The statewide assessment program must include the subjects of English/language arts, mathematics, science, and social studies in grades three through eight, as delineated in Section 59 18 32 to be first administered in 2009, and end of course tests for gateway courses awarded units of credit in English/language arts, mathematics, science, and social studies. Student performance targets m be established following the 2009 administration. The assessment program must be used for school and school district accountability purposes beginning with the 2008 2009 school year. The public of the annual school and school district report card may be delayed for the 2008 2009 school year until no later than February 15, 2010. A student's score on an end of year assessment may not be the criterion for placing the student on academic probation, retaining the student in his current grade, or requiring the student to attend summer school. Beginning with the graduating class of 2010, stu are required to pass a high school credit course in science and a course in United States history in which end of course examinations are administered to receive the state high school diploma. Beginn with the graduating class of 2015, students are no longer required to meet the exit examination requirements set forth in this section and State Regulation to earn a South Carolina high school diplom (2) A person who is no longer enrolled in a public school and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit exam requirements pursuant to this section and State Regulation may petition the local school board to determine the student's eligibility to receive a high school diploma pursuant to this chapter. The local school boar transmit diploma requests to the South Carolina Department of Education in accordance with department procedures. Petitions under this section must be submitted to the local school district by December 31, 2015. Students receiving diplomas in accordance with this section shall not be counted as graduates in the graduation rate calculations for affected schools and districts, either retroact or in current or future calculations. On or before January 31, 2017, the South Carolina Department of Education shall report to the State Board of Education and the General Assembly the number of diplomas granted, by school district, under the provision. The State Board of Education shall remove any conflicting requirement and promulgate conforming changes in its applicable regulations. Th department shall advertise the provisions of this item in at least one daily newspaper of general circulation in the area of each school district within forty five days after this enactment. At a minimum notice must consist of two columns measuring at least ten inches in length and measuring at least four and one half inches in combined width, and include: (a) a headline printed in at least a twenty four point font that is boldfaced; (b) an explanation of who qualifies for the petitioning option; (c) an explanation of the petition process; (d) a contact name and phone number; and (e) the deadline for submitting a petition. (C) To facilitate the reporting of strand level information and the reporting of student scores prior to the beginning of the next school year, beginning with the 2009 administration, multiple choice it
329	SECTION 59-18-320	State	Review of field test; general administration of test; accommodations for students with disabilities; adoption of new standards. (A) After the first statewide field test of the assessment program in eac the four academic areas, and after the field tests of the end of course assessments of high school credit courses, the Education Oversight Committee, established in Section 59 6 10, will review the stat assessment program and the course assessments for alignment with the state standards, level of difficulty and validity, and for the ability to differentiate levels of achievement, and will make recommendations for needed changes, if any. The review will be provided to the State Board of Education, the State Department of Education, the Governor, the Senate Education Committee, and the House Education and Public Works Committee as soon as feasible after the field tests. The Department of Education will then report to the Education Oversight Committee no later than one month af receiving the reports on the changes made to the assessments to comply with the recommendations. (B) After review and approval by the Education Oversight Committee, the standards based assessment of mathematics, English/language arts, social studies, and science will be administered to all pu school students in grades three through eight, to include those students as required by the federal Individuals with Disabilities Education Improvement Act and by Title 1 of the Elementary and Secon Education Act. To reduce the number of days of testing, to the extent possible, field test items must be embedded with the annual assessments. In accordance with the requirements of the federal No Left Behind Act, science assessments must be administered annually to all students in one elementary and one middle school grade. The State Department of Education shall develop a sampling plan administer science and social studies assessments to all other elementary and middle school students. The plan shall provide for all students and both content areas to be assessed annually; however individual students, except in census testing grades, are not required to take both tests. In the sampling plan, approximately half of the assessments must be administered in science and the other hal social studies in each class. To ensure that school districts maintain the high standard of accountability established in the Education Accountability Act, performance level results reported on school a district report cards must meet consistently high levels in all four core content areas. The core areas must remain consistent with the following percentage weightings established and approved by th Education Oversight Committee: in grades three through five, thirty percent each for English/language arts and math, and twenty percent each for science and social studies; and in grades six throug eight, twenty five percent each for English/language arts and math, and twenty five percent each for science and social studies. For students with documented disabilities, the assessments developed the Department of Education shall include the appropriate modifications and accommodations with necessary supplemental devices as outlined in a student's Individualized Education Program and stated in the Administrative Guidelines and Procedures for Testing Students with Documented Disabilities. (C) After review and approval by the Education Oversight Committee, the end of course assessments of high school credit courses will be administered to all public school students as they complete course. (D) Any new standards and assessments required to be developed and adopted by the State Board of Education, through the Department of Education for use as an accountability measure, must be developed and adopted upon the advice and consent of the Education Oversight Committee.

Legal Standards

330	SECTION 59-18-325	State	College and career readiness assessment; summative assessment. (A) All students entering the eleventh grade for the first time in school year 2014 2015 and subsequent years must be administered college and career readiness assessment as required by the federal Individuals with Disabilities Education Improvement Act and by Title 1 of the Elementary and Secondary Education Act and that is a provider secured by the department. In addition, all students entering the eleventh grade for the first time in school year 2014 2015 and subsequent years must be administered a WorkKeys assess The results of the assessments must be provided to each student, their respective schools, and to the State to: (1) assist students, parents, teachers, and guidance counselors in developing individual graduation plans and in selecting courses aligned with each student's future ambitions; (2) promote South Carolina's Work Ready Communities initiative; and (3) meet federal and state accountability requirements. (B) Students subsequently may use the results of these assessments to apply to college or to enter careers. The results must be added as part of each student's permanent record and maintained at th department for at least ten years. The purpose of the results is to provide instructional information to assist students, parents, and teachers to plan for each student's course selection. This course sel might include remediation courses, dual enrollment courses, advanced placement courses, internships, or other options during the remaining semesters in high school. (C)(1) To maintain a comprehensive and cohesive assessment system that signals a student's preparedness for the next educational level and ultimately culminates in a clear indication of a student's preparedness for postsecondary success in a college or career and to satisfy federal and state accountability purposes, the Executive Director of the State Budget and Control Board, with the advice ar consent of the special assessment panel, shall direct the procurement of a summative assessment system for the 2014 2015 school year, and subsequent years as provided in item (3). The procureme must be completed before September 30, 2014. The summative assessment must be administered to all students in grades three through eight, and if funds are available, administered to students in grades nine and ten. The summative assessment must assess students in English/language arts and mathematics, including those students as required by the federal Individuals with Disabilities Edu Act and by Title I of the Elementary and Secondary Education Act. For purposes of this subsection, "English/language arts" includes English, reading, and writing skills as required by existing state standards. The assessment must be a rigorous, achievement assessment that measures student mastery of the state standards, that provides timely reporting of results to educators, parents, and stuc and that measures each student's progress toward college and career readiness. Therefore, the assessment or assessments must meet all of the following minimum requirements: (a) compares performance of students in South Carolina to other students' performance on comparable standards in other states with the ability to link the scales of the South Carolina assessment t scales from other assessments measuring those comparable standards; (b) be a vertically scaled, benchmarked, standards based system of summative assessments; (c) measures a student's preparedness for the next level of their educational matriculation and individual student performance against the state standards in English/language arts, reading, writing mathematics and student growth; (d) documents student progress toward national college and career readiness benchmarks derived from empirical research and state standards; (e) establishes at least four student achievement levels; (f) includes various test questions including, but not limited to, multiple choice, constructed response, and selected response, that require students to demonstrate their understanding of the conter (g) be administered to students in a paper based format in 2014 2015, in either a paper based form or computer based format in 2015 2016, and to all students in a computer based format by schoo 2016 2017; and
331	SECTION 59-18-330	State	Coordination and annual administration of National Assessment of Education Progress (NAEP). The State Department of Education is directed to coordinate the annual administration of the Nationa Assessment of Education Progress (NAEP) to obtain an indication of student and school performance relative to national performance levels. A school randomly selected by NAEP must comply with t administration of the assessment to obtain an indication of state performance relative to national performance levels.
332	SECTION 59-18-340	State	PSAT or PLAN tests of tenth grade students; availability; use of results. High schools shall offer state funded PSAT or PLAN tests to each tenth grade student in order to assess and identify curricular that need to be strengthened and reenforced. Schools and districts shall use these assessments as diagnostic tools to provide academic assistance to students whose scores reflect the need for such assistance. Schools and districts shall use these assessments to provide guidance and direction for parents and students as they plan for postsecondary experiences.
333	SECTION 59-18-350	State	Cyclical review of state standards and assessments; analysis of assessment results. (A) The State Board of Education, in consultation with the Education Oversight Committee, shall provide for a cycli review by academic area of the state standards and assessments to ensure that the standards and assessments are maintaining high expectations for learning and teaching. At a minimum, each acade area should be reviewed and updated every seven years. After each academic area is reviewed, a report on the recommended revisions must be presented to the Education Oversight Committee and State Board of Education for consideration. The previous content standards shall remain in effect until the recommended revisions are adopted pursuant to Section 59 18 355. As a part of the review, task force of parents, business and industry persons, community leaders, and educators, to include special education teachers, shall examine the standards and assessment system to determine rigor relevancy. (B) For the purpose of developing new college and career readiness English/language arts and mathematics state content standards, a cyclical review must be performed pursuant to subsection (A) English/language arts and mathematics state content standards not developed by the South Carolina Department of Education. The review must begin on or before January 1, 2015, and the new colle and career readiness state content standards must be implemented for the 2015 2016 school year. (C) The State Department of Education annually shall convene a team of curriculum experts to analyze the results of the assessments, including performance item by item. This analysis must yield a p for disseminating additional information about the assessment results and instruction and the information must be disseminated to districts not later than January fifteenth of the subsequent year.

Legal Standards

334	SECTION 59-18-355	State	Content standards revisions, approval by Education Oversight Committee and General Assembly required. (A)(1) A revision to a state content standard recommended pursuant to Section 59 18 350(well as a new standard or a change in a current standard that the State Board of Education otherwise considers for approval as an accountability measure, may not be adopted and implemented with the: (a) advice and consent of the Education Oversight Committee; and (b) approval by a Joint Resolution of the General Assembly. (2) General Assembly approval required by item (1)(b) does not apply to a revision recommended pursuant to Section 59 18 350(A), other approval of a new standard, and other changes to an old standard if the revision, new standard, or changed standard is developed by the State Department of Education. (B) A revision to an assessment recommended pursuant to Section 59 18 350(A), as well as a new assessment or a change in a current assessment that the State Board of Education otherwise consid for approval as an accountability measure, may not be adopted and implemented without the advice and consent of the Education Oversight Committee. (C) Upon initiating a change to an existing standard, including a cyclical review, the Education Oversight Committee and the Department of Education shall provide notice of their plans and intent to General Assembly and the Governor. (D) Nothing in this section may be interpreted to prevent the Department of Education, Board of Education, and Education Oversight Committee from considering best practices in education standar and assessments while developing its own standards and assessments.
335	SECTION 59-18-360	State	Dissemination of assessment results. Beginning with the 2010 assessment administration, the Department of Education is directed to provide assessment results annually on individual students and schools by August first, in a manner and format that is easily understood by parents and the public. In addition, the school assessment results must be presented in a format easily understood by the faculty and in a manner that is useful for curriculum review and instructional improvement. The department is to provide longitudinally matched student data from the standards based assessments include information on the performance of subgroups of students within the school. The department must work with the Division of Accountability in developing the formats of the assessment result Schools and districts are responsible for disseminating this information to parents.
336	SECTION 59-18-370	State	Renumbered as Section 59 18 360 by 2008 Act No. 282, Section 1, eff June 5, 2008.
337	SECTION 59-18-500	State	Omitted by 2008 Act No. 282, Section 1, eff June 5, 2008.
338	SECTION 59-18-700	State	Alignment of criteria for instructional materials with educational standards. The criteria governing the adoption of instructional materials must be revised by the State Board of Education to require the content of such materials reflect the substance and level of performance outlined in the grade specific educational standards adopted by the state board.
339	SECTION 59-18-710	State	Recommendations regarding state's accreditation system. The State Department of Education shall provide recommendations regarding the state's accreditation system to the State Board of Educati The recommendations must be derived from input received from broad based stakeholder groups. In developing the criteria for the accreditation system, the State Board of Education shall consider including the function of school improvement councils and other school decision making groups and their participation in the school planning process.
340	SECTION 59-18-900	State	Development of comprehensive annual report cards; academic performance ratings; promulgation of regulations. (A) The Education Oversight Committee, working with the State Board of Education directed to establish a comprehensive annual report card, its format, and an executive summary of the report card to report on the performance for the individual primary, elementary, middle, high schools, and school districts of the State. The comprehensive report card must be in a reader friendly format, using graphics whenever possible, published on the state, district, and school website, an upon request, printed by the school districts. The school's ratings on academic performance must be emphasized and an explanation of their significance for the school and the district also must be reported. The annual report card must serve at least five purposes: (1) inform parents and the public about the school's performance; (2) assist in addressing the strengths and weaknesses within a particular school; (3) recognize schools with high performance; (4) evaluate and focus resources on schools with low performance; and (5) meet federal report card requirements. (B) The Education Oversight Committee, working with the State Board of Education and a broad based group of stakeholders, including, but not limited to, parents, business and industry persons, community leaders, and educators, shall determine the criteria for and establish five academic performance ratings of excellent, good, average, below average, and school/district at risk. Schools and districts shall receive a rating for absolute and growth performance. Only the scores of students enrolled in the school at the time of the forty five day enrollment count shall be used to determine the absolute and growth ratings. Graduation rates must be used as an additional accountability measure for high schools and school districts. The Oversight Committee, working with the State Board of Education, shall establish three student performance indicators which will be those considered to be useful for assessing a school's overall performance and appropriate for the grade levels within th school. The student performance levels are: Not Met, Met, and Exemplary. "Not Met" means that the student did not meet the grade level standard. "Met" means the student met the grade level standard. "Exemplary" means the student demonstrated exemplary performance in meeting the grade level standard. For purposes of reporting as required by federal statute, "proficiency" shall include studen performing at Met or Exemplary. (C) In setting the criteria for the academic performance ratings and the performance indicators, the Education Oversight Committee shall report the performance by subgroups of students in the sch and schools similar in student characteristics. Criteria must use established guidelines for statistical analysis and build on current data reporting practices. (D) The comprehensive report card must include a comprehensive set of performance indicators with information on comparisons, trends, needs, and performance over time which is helpful to pare and the public in evaluating the school. Special efforts are to be made to ensure that the information contained in the report card is provided in an easily understood manner and a reader friendly for This information should also provide a context for the performance of the school. Where appropriate, the data should yield disaggregated results to schools and districts in planning for improvement report card should include information in such areas as programs and curriculum, school leadership, community and parent support, faculty qualifications, evaluations of the school by parents, teach and students. In addition, the report card must contain other criteria including, but not limited to, information on promotion and retention ratios, disciplinary climate, dropout ratios, dropout reduct data, student and teacher ratios, and attendance data. (E) After reviewing the school's performance on statewide assessments, the principal, in conjunction with the School Improvement Council established in Section 59 20 60, must write an annual nar

Legal Standards

341	SECTION 59-18-910	State	Cyclical review of accountability system; stakeholders. Beginning in 2013, the Education Oversight Committee, working with the State Board of Education and a broad based group of stakeholders, selected by the Education Oversight Committee, shall conduct a comprehensive cyclical review of the accountability system at least every five years and shall provide the General Assembly with a rep on the findings and recommended actions to improve the accountability system and to accelerate improvements in student and school performance. The stakeholders must include the State Superintendent of Education and the Governor, or the Governor's designee. The other stakeholders include, but are not limited to, parents, business and industry persons, community leaders, and educators.
342	SECTION 59-18-920	State	Report card requirements for charter, alternative, and career and technology schools. A charter school established pursuant to Chapter 40, Title 59 shall report the data requested by the Department Education necessary to generate a report card. The Department of Education shall utilize this data to issue a report card with performance ratings to parents and the public containing the ratings and explaining its significance and providing other information similar to that required of other schools in this section. The performance of students attending charter schools sponsored by the South Car Public Charter School District must be included in the overall performance ratings of the South Carolina Public Charter School District. The performance of students attending a charter school author by a local school district must be reflected on a separate line on the school district's report card and must not be included in the overall performance ratings of the local school district, unless there is mutual agreement to include the scores in the local school district ratings. An alternative school is included in the requirements of this chapter; however, the purpose of an alternative school must be into consideration in determining its performance rating. The Education Oversight Committee, working with the State Board of Education and the School to Work Advisory Council, shall develop a re card for career and technology schools.
343	SECTION 59-18-930	State	Executive summary of report cards; date for issuance; advertising results. (A) The State Department of Education must issue the executive summary of the report card annually to all schools and dist of the State no later than November first. The executive summary shall be printed in black and white, be no more than two pages, use graphical displays whenever possible, and contain National Assessment of Educational Progress (NAEP) scores as well as national scores. The report card summary must be made available to all parents of the school and the school district. (B) The school, in conjunction with the district board, also must inform the community of the school's report card by advertising the results in at least one South Carolina daily newspaper of general circulation in the area. This notice must be published within forty five days of receipt of the report cards issued by the State Department of Education and must be a minimum of two columns by ten i (four and one half by ten inches) with at least a twenty four point bold headline. (C) If an audited newspaper of general circulation in a school district's geographic area has previously published the entire school report card results as a news item, the requirement of subsection (I may be waived.
344	SECTION 59-18-950	State	Criteria for school district and high school ratings. Notwithstanding another provision of law to the contrary, the Education Oversight Committee may base ratings for school districts and high schoo criteria that include graduation rates and other criteria identified by technical experts and appropriate groups of educators and workforce advocates.
345	SECTION 59-18-1100	State	Palmetto Gold and Silver Awards Program established; criteria. The State Board of Education, working with the division and the Department of Education, must establish the Palmetto Gold and Silve Awards Program to recognize and reward schools for academic achievement and for closing the achievement gap. Awards will be established for schools attaining high levels of absolute performance schools attaining high rates of growth, and for schools making substantial progress in closing the achievement gap between disaggregated groups. The award program must base improved performa on longitudinally matched student data and may include such additional criteria as: (1) student attendance; (2) teacher attendance; (3) graduation rates; and (4) other factors promoting or maintaining high levels of achievement and performance. Schools shall be rewarded according to specific criteria established by the division. In defining eligibility for reward for high levels of performance, student performance should exceed expected levels of improvement. The State Board of Education shall promulgate regulations to ensure districts of the State these funds to improve or maintain exceptional performance according to their school's plans established in Section 59 139 10. Funds may be utilized for professional development support. Special schools for the academically talented are not eligible to receive an award pursuant to the provisions of this section unless they have demonstrated improvement and high absolute achieveme three years immediately preceding.
346	SECTION 59-18-1110	State	Grant of flexibility of receiving exemption from regulations; criteria; continuation of and removal from flexibility status. (A) Notwithstanding any other provision of law, a school is given the flexibilit receiving exemptions from those regulations and statutory provisions governing the defined program provided that, during a three year period, the following criteria are satisfied: (1) the school has twice been a recipient of a Palmetto Gold or Silver Award, pursuant to Section 59 18 1100; (2) the school has met annual improvement standards for subgroups of students in reading and mathematics; and (3) the school has exhibited no recurring accreditation deficiencies. (B) Schools receiving flexibility status are released from those regulations and statutory provisions referred to above including, but not limited to, regulations and statutory provisions on class sched class structure, and staffing. (C) To continue to receive flexibility pursuant to this section, a school must annually exhibit school improvement at or above the state average as computed in the school recognition program pursua Section 59 18 1100 and must meet the gains required for subgroups of students in reading and mathematics. A school which does not requalify for flexibility status due to extenuating circumstances apply to the State Board of Education for an extension of this status for one year. (D) In the event that a school is removed from flexibility status, the school is not subject to regulations and statutory provisions exempted under this section until the beginning of the school year following notification of the change in status by the State Department of Education. Subsequent monitoring by the State Department of Education in a school that is removed from flexibility status sh include a review of program records exempted under this section for the period that the school has received flexibility status or for the school year during which the school was notified of its remova flexibility status.

Legal Standards

347	SECTION 59-18-1120	State	Grant of flexibility of exemption from regulations and statutes to school designated as school/district at risk; extension to other schools. (A) Notwithstanding any other provision of law, a school designated as school/district at risk while in such status is given the flexibility of receiving exemptions from those regulations and statutory provisions governing the defined program or other State of Education regulations, dealing with the core academic areas as outlined in Section 59 18 120, provided that the review team recommends such flexibility to the State Board of Education. (B) Other schools may receive flexibility when their school renewal plan explains why such exemptions are expected to improve the academic performance of the students and the plan meets the app by the State Board of Education. To continue to receive flexibility pursuant to this section, a school must annually exhibit overall school improvement as outlined in its revised plan and must meet the gains set for subgroups of students in content areas included in the accountability assessments. A school which does not requalify for flexibility status due to extenuating circumstances may apply to State Board of Education for an extension of this status for one year according to the provisions of Section 59 18 1110(D).
348	SECTION 59-18-1130	State	Use of funds appropriated for professional development. (A) Notwithstanding another provision of law to the contrary, funds appropriated for professional development must be used for certificated instructional and instructional leadership personnel in grades kindergarten through twelve in the academic areas for which State Board of Education standard documents have been approved to bett link instruction and lesson plans to the standards and to statewide adopted readiness assessment tests, to develop classroom assessments consistent with the standards and testing measures, and to analyze assessment results for needed modification in instructional strategies. No more than five percent of funds appropriated for professional development may be retained by the State Departmen Education for administration of the program; however, a district may choose to purchase professional development services provided by the State Department of Education with the funds allocated t districts for professional development. Funds also may be expended for certificated instructional and instructional leadership personnel in grades six through twelve to achieve competency in teachi reading to students who score below proficient on the reading component of assessment tests. (B) Two hundred fifty thousand dollars of the funds allocated to professional development must be provided to the State Department of Education to implement successfully the South Carolina Read Assessment by creating a validation process for teachers to ensure reliable administration of the assessment, providing professional development on effective utilization, and establishing the relation between the readiness measure and third grade standards based assessments. Multi day work sessions must be provided around the State during the summer, fall, and winter using staff developmen and teacher workdays. Two of the remaining professional development days must be set aside for the specific purpose of preparing and opening schools. District instructional leaders, regional servic centers, consortia, development personnel, university faculty, contracted providers, and the resources of the Educational Television Network may be used to implement the professional development initiative. Teachers participating in the program shall receive credit toward recertification according to State Board of Education guidelines. Funds provided for professional development on standar may be carried forward into the current fiscal year to be expended for the same purpose. No less than twenty five percent of the funds allocated for professional development may be expended on the teaching of reading, which includes teaching reading across content areas in grades three through eight.
349	SECTION 59-18-1300	State	District accountability system; development and review. The State Board of Education, based on recommendations of the division, must develop regulations requiring that each district board of trus must establish and annually review a performance based accountability system, or modify its existing accountability system, to reinforce the state accountability system. Parents, teachers, and princi must be involved in the development, annual review, and revisions of the accountability system established by the district. The board of trustees shall ensure that a district accountability plan be developed, reviewed, and revised annually. In order to stimulate constant improvement in the process of teaching and learning in each school and to target additional local assistance for a school whe students' performance is low or shows little improvement, the district accountability system must build on the district and school activities and plans required in Section 59 139 10. In keeping with t emphasis on school accountability, principals should be actively involved in the selection, discipline, and dismissal of personnel in their particular school. The date the school improvement reports m provided to parents is changed to February first. The Department of Education shall offer technical support to any district requesting assistance in the development of an accountability plan. Furthermore, the department must conduct a review of accountability plans as part of the peer review process required in Section 59 139 10(H) to ensure strategies are contained in the plans that shall maximize student learning.
350	SECTION 59-18-1310	State	Consolidation of strategic plans and improvement reports; submission dates. The strategic plans and improvement reports required of the public schools and districts in Sections 59 18 1300, 59 18 and 59 20 60 are consolidated and reported as follows: district and school five year plans and annual updates and district programmatic reports, and school reports developed in conjunction with the school improvement council to parents and constituents to include recommendations of Education Accountability Act external review teams as approved by the State Board of Education and the step being taken to address the recommendations, and the advertisement of this report are due on a date established by the Department of Education, but no later than April thirtieth annually; schools reviewed by external review teams shall prepare a report to the parents and constituents of the school, to be developed in conjunction with the School Improvement Council, and this report must be provided and advertised no later than April thirtieth annually. The school report card narrative in Section 59 18 900 continues on its prescribed date.

Legal Standards

351	SECTION 59-18-1500	State	Schools rated below average or school/district at risk; renewal plan and compensation packages; notice to parents and publication in newspaper; department support; regional workshops. (A) When school receives a rating of below average or school/district at risk, the following actions must be undertaken by the school, the district, and the board of trustees: (1) The faculty of the school with the leadership of the principal must review its renewal plan and revise it with the assistance of the school improvement council established in Section 59 20 60. The revised plan should look at every aspect of schooling, and must outline activities that, when implemented, can reasonably be expected to improve student performance and increase the rate of studen progress. The plan must include actions consistent with each of the alternative researched based technical assistance criteria as approved by the Education Oversight Committee and the State Depart of Education and consistent with the external review team report. The plan should provide a clear, coherent plan for professional development, which has been designed by the faculty, that is ongoing related, and keyed to improving teaching and learning. A school renewal plan must address professional development activities that are directly related to instruction in the core subject areas and ma include the use of funds appropriated for technical assistance to provide compensation incentives in the form of salary supplements to classroom teachers who are certified by the State Board of Education. The purpose of the compensation packages is to improve student achievement and to improve the recruitment and retention of teachers with advanced degrees in schools designated as b average or school/district at risk. If the school renewal plan is approved, the school shall be permitted to use technical assistance funds to provide the salary supplements. A time line for implementat the activities and the goals to be achieved must be included. (2) Once the revised plan is developed, the district superintendent and the local board of trustees shall review the school's strategic plan to determine if the plan focuses on strategies to increase stu academic performance. Once the district board has approved the plan, it must delineate the strategies and support the district will give the plan. (3) After the approval of the revised plan, the principals' and teachers' professional growth plans, as required by Section 59 26 40 and Section 59 24 40, should be reviewed and amended to reflect th professional development needs identified in the revised plan and must establish individual improvement criteria on the performance dimensions for the next evaluation. (4) The school, in conjunction with the district board, must inform the parents of children attending the school of the ratings received and must outline the steps in the revised plan to improve performance, including the support which the board of trustees has agreed to give the plan. This information must go to the parents no later than February first. This information also must be advert in at least one South Carolina daily newspaper of general circulation in the area. This notice must be published within ninety days of receipt of the report cards issued by the State Department of Edu and must be a minimum of two columns by ten inches (four and one half by ten inches) with at least a twenty four point bold headline. The notice must include the following information: name of sch district, name of superintendent, district office telephone number, name of school, name of principal, telephone number of school, school's absolute performance rating and growth performance ratin student academic performance, and strategies which must be taken by the district and school to improve student performance. (5) Upon a review of the revised plan to ensure it contains sufficiently high standards and expectations for improvement, the Department of Education is to delineate the activities, support, services, technical assistance it will make available to support the school's plan and sustain improvement over time. Schools meeting the criteria established pursuant to Section 59 18 1550 will be eligible for grant programs created by that section. (B) The Department of Education shall provide regional workshops to assist schools in formulating school renewal plans based on best practices that positively improve student achievement. The chairman of the local board of education or a board member designee, the superintendent or district instructional leader, and the principal of any school receiving technical assistance funds must att least one of the workshops in order to receive any state aid for technical assistance.
352	SECTION 59-18-1510	State	Implementation of external review team process; activities and recommendations. (A) When a school receives a rating of school/district at risk or upon the request of a school rated below average, a external review team process must be implemented by the Department of Education to examine school and district educational programs, actions, and activities. The Education Oversight Committee consultation with the State Department of Education, shall develop the criteria for the identification of persons to serve as members of an external review team which shall include representatives fr selected school districts, respected retired educators, State Department of Education staff, higher education representatives, parents from the district, and business representatives. (B) The activities of the external review team may include: (1) examining all facets of school operations, focusing on strengths and weaknesses, determining the extent to which the instructional program is aligned with the content standards, and recommendations which draw upon strategies from those who have been successful in raising academic achievement in schools with similar student characteristics; (2) consulting with parents, community members, and members of the School Improvement Council to gather additional information on the strengths and weaknesses of the school; (3) identifying personnel changes, if any, that are needed at the school and/or district level and discuss such findings with the board; (4) working with school staff, central offices, and local boards of trustees in the design of the school's plan, implementation strategies, and professional development training that can reasonably be expected to improve student performance and increase the rate of student progress in that school; (5) identifying needed support from the district, the State Department of Education, and other sources for targeted long term technical assistance; (6) reporting its recommendations, no later than three months after the school receives the designation of school/district at risk to the school, the district board of trustees, and the State Board of Education; and (7) reporting annually to the local board of trustees and state board over the next four years, or as deemed necessary by the state board, on the district's and school's progress in implementing the p and recommendations and in improving student performance. (C) Within thirty days, the Department of Education must notify the principal, the superintendent, and the district board of trustees of the recommendations approved by the State Board of Educatio After the approval of the recommendations, the department shall delineate the activities, support, services, and technical assistance it will provide to the school. With the approval of the state board, assistance will continue for at least three years, or as determined to be needed by the review committee to sustain improvement.
353	SECTION 59-18-1520	State	Declaration of emergency; hearing; courses of action. If the recommendations approved by the state board, the district's plan, or the school's revised plan are not satisfactorily implemented by the sc rated school/district at risk and its school district according to the time line developed by the State Board of Education or if student academic performance has not met expected progress, the princip district superintendent, and members of the board of trustees must appear before the State Board of Education to outline the reasons why a state of emergency should not be declared in the school. T state superintendent, after consulting with the external review committee and with the approval of the State Board of Education, shall be granted the authority to take any of the following actions: (1) furnish continuing advice and technical assistance in implementing the recommendations of the State Board of Education; (2) declare a state of emergency in the school and replace the school's principal; or (3) declare a state of emergency in the school and assume management of the school.

Legal Standards

354	SECTION 59-18-1530	State	Teacher and principal specialists; recruitment, eligibility, duties, and incentives. (A) Teacher specialists on site may be assigned to an elementary, middle, or high school designated as below average school/district at risk. Teacher specialists may be placed across grade levels and across subject areas when placement meets program criteria based on external review team recommendations, need, number of teachers receiving support, certification, and experience of the specialist. The Department of Education, in consultation with the Division of Accountability, shall develop a program for the identification, selection, and training of teachers with a history of exemplary student academic achievement to serve as teacher specialists on site. Retired educators may be considered for specialists (B) In order to sustain improvement and help implement the review team's recommendations, the specialists will teach and work with the school faculty on a regular basis throughout the school yea up to three years, or as recommended by the review team and approved by the state board. Teacher specialists are limited to three years of service at one school unless the specialist submits applicat for an extension, the application is accepted by the State Department of Education, and placement is made. Upon acceptance and placement, the specialist can receive the salary and supplement for tw additional years but is no longer attached to the home district or guaranteed placement in the home district upon leaving the teacher specialist program. Teacher specialists must teach a minimum o three hours per day on average in team teaching or teaching classes. Teacher specialists shall not be assigned administrative duties or other responsibilities outside the scope of this section. The specialists will assist the school in gaining knowledge of best practices and well validated alternatives, demonstrate effective teaching, act as coach for improving classroom practices, give support an training to identify needed changes in classroom instructional strategies based upon analyses of assessment data, and support teachers in acquiring new skills. School districts are asked to cooperate releasing employees for full time or part time employment as a teacher specialist. (C) To encourage and recruit teachers for assignment to below average and school/district at risk schools, those assigned to such schools will receive their salary and a supplement equal to fifty perc the current southeastern average teacher salary as projected by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office. The salary and supplement is to be paid by the State for th years. Teacher specialists may be employed, pursuant to subsection (B), as a component of the technical assistance strategy. (D) In order to attract a pool of qualified applicants to work in low performing schools, the Education Oversight Committee, in consultation with the South Carolina Department of Education, shall de criteria for the identification, selection, and training of principals with a history of exemplary student academic achievement. Retired educators may be considered for a principal specialist position. A principal specialist may be hired for a school designated as school/district at risk, if the district board of trustees chooses to replace the principal of that school. The principal specialist will assist the school in gaining knowledge of best practices and well validated alternatives in carrying out the recommendations of the review team. The specialist will demonstrate effective leadership for improvi classroom practices, assist in the analyses of assessment data, work with individual members of the faculty emphasizing needed changes in classroom instructional strategies based upon analyses of assessment data, and support teachers in acquiring new skills designed to increase academic performance. School districts are asked to cooperate in releasing employees for full time or part time employment as a principal specialist. (E) In order to attract a pool of qualified principals to work in low performing schools, the principal specialists hired in such schools will receive their salary and a supplement equal to 1.25 times the supplement amount calculated for teachers. Principal specialists may be employed as a component of the technical assistance strategy for two years. A principal specialist may be continued for a thir if requested by the local school board, recommended by the external review team, and approved by the State Board of Education. If employed for the third year, technical assistance funds may only be for payment of the principal specialist salary supplement. (F) The supplements are to be considered part of the regular salary base for which retirement contributions are deductible by the South Carolina Retirement System pursuant to Section 9 1 1020. Principal and teacher specialists on site who are assigned to below average and school/district at risk schools shall be allowed to return to employment with their home district at the end of the cont
355	SECTION 59-18-1540	State	Mentoring program for principals. Each principal continued in employment in schools designated as below average or school/district at risk must participate in a formal mentoring program with a principal. The Department of Education, working with the Education Oversight Committee, shall design the mentoring program. A principal mentor may be employed as a component of the technical assistance strategy.
356	SECTION 59-18-1550	State	Grant programs for schools designated as below average and for schools designated as unsatisfactory; funding. (A) The State Board of Education, working with the Accountability Division and the Department of Education, must establish grant programs for schools designated as below average and for schools designated as unsatisfactory. A school designated as below average will qualify for a to undertake needed retraining of school faculty and administration once the revised plan is determined by the State Department of Education to meet the criteria on high standards and effective activities. In order to implement the school district and school renewal plan, a school must be eligible to receive the technical assistance funding over the next three years in order to implement fully systemic reform and to provide opportunity for building local education capacity. Should student performance not improve, any revisions to the plan must meet high standards prior to renewal of th grant. The revised plan must be reviewed by the district board of trustees and the State Department of Education to determine what other actions, if any, need to be taken. Technical assistance funds previously received must be expended based on the revised plan. If deficient use is determined, those deficiencies must be identified, noted, and corrective action taken before additional funding will given. (B) A public school assistance fund must be established as a separate fund within the state general fund for the purpose of providing financial support to assist poorly performing schools. The fund m consist of grants, gifts, and donations from any public or private source or monies that may be appropriated by the General Assembly for this purpose. Income from the fund shall be retained in the fu All funds may be carried forward from fiscal year to fiscal year. The State Treasurer shall invest the monies in this fund in the same manner as other funds under his control are invested. The State Bo Education, in consultation with the commission, shall administer and authorize any disbursements from the fund. The State Board of Education shall promulgate regulations to implement the provisi of this section.

Legal Standards

357	SECTION 59-18-1560	State	School district rated below average; appointment of external review committee; duties; recommendations; composition. (A) When a district receives a rating of below average, the state superintende with the approval of the State Board of Education, shall appoint an external review committee to study educational programs in that district and identify factors affecting the performance of the distr The review committee must: (1) examine all facets of school and district operations, focusing on strengths and weaknesses, determining the extent to which the instructional program is aligned with the content standards and s make recommendations which draw upon strategies from those who have been successful in raising academic achievement in schools with similar student characteristics; (2) consult with parents and community members to gather additional information on the strengths and weaknesses of the district; (3) identify personnel changes, if any, that are needed at the school and/or district level and discuss such findings with the board; (4) work with school staff, central offices, and local boards of trustees in the design of the district's plan, implementation strategies, and professional development training that can reasonably be expected to improve student performance and increase the rate of student progress in the district; (5) identify needed support from the State Department of Education and other sources for targeted long term technical assistance; (6) report its recommendations, no later than three months after the district receives the designation of school/district at risk, to the superintendent, the district board of trustees, and the State Boa Education; and (7) report annually over the next four years to the local board of trustees and state board, or as deemed necessary by the state board, on the district's and school's progress in implementing the plan recommendations and in improving student performance. (B) Within thirty days, the Department of Education must notify the superintendent and the district board of trustees of the recommendations approved by the State Board of Education. Upon the approval of the recommendations, the Department of Education must delineate the activities, support, services, and technical assistance it will provide to support the recommendations and sustain improvement over time. The external review committee must report annually to the local board of trustees and the state board over the next four years, or as deemed necessary by the state board, or district's progress in implementing the recommendations and improving student performance. (C) The review committee shall be composed of State Department of Education staff, representatives from selected school districts, higher education, and business.
358	SECTION 59-18-1570	State	Designation of state of emergency in school district designated as school/district at risk; remedial actions. (A) If recommendations approved by the State Board of Education are not satisfactorily implemented by the school district according to the time line developed by the State Board of Education, or if student performance has not made the expected progress and the school district is desig as school/district at risk, the district superintendent and members of the board of trustees shall appear before the State Board of Education to outline the reasons why a state of emergency must not declared in the district. (B) The state superintendent, with the approval of the State Board of Education, is granted authority to: (1) furnish continuing advice and technical assistance in implementing the recommendations of the State Board of Education to include establishing and conducting a training program for the distri board of trustees and the district superintendent to focus on roles and actions in support of increases in student achievement; (2) mediate personnel matters between the district board and district superintendent when the State Board of Education is informed by majority vote of the board or the superintendent that the dis board is considering dismissal of the superintendent, and the parties agree to mediation; (3) recommend to the Governor that the office of superintendent be declared vacant. If the Governor declares the office vacant, the state superintendent may furnish an interim replacement until the vacancy is filled by the district board of trustees. District boards of trustees negotiating contracts for the superintendency shall include a provision that the contract is void should the Governor decla that office of superintendency vacant pursuant to this section. This contract provision does not apply to existing contracts but to new contracts or renewal of contracts; and (4) declare a state of emergency in the school district and assume management of the school district. (C) The district board of trustees may appoint at least two nonvoting members to the board from a pool nominated by the Education Oversight Committee and the State Department of Education. Th appointed members shall have demonstrated high levels of knowledge, commitment, and public service, must be recruited and trained for service as appointed board members by the Education Over Committee and the State Department of Education, and shall represent the interests of the State Board of Education on the district board. Compensation for the nonvoting members must be paid by t State Board of Education in an amount equal to the compensation paid to the voting members of the district board.
359	SECTION 59-18-1580	State	Continuing review of instructional and organizational practices and delivery of technical assistance by Department of Education. To assist schools and school districts as they work to improve classr practice and student performance, the Department of Education must increase the delivery of quality technical assistance services and the assessment of instructional programs. The department may to reshape some of its organization and key functions to make them more consistent with the assistance required by schools and districts in developing and implementing local accountability system meeting state standards. The Department of Education must: (1) establish an ongoing state mechanism to promote successful programs found in South Carolina schools for implementation in schools with similar needs and students, to review evidence on instructional and organizational practices considered to be effective, and to alert schools and classroom teachers to these options and the sources of training and names of implementing schools; (2) provide information and technical assistance in understanding state policies, how they fit together, and the best practice in implementing them; and (3) establish a process for monitoring information provided for accountability and for assessing improvement efforts and implementation of state laws and policies which focuses on meeting the int and purpose of those laws and policies.
360	SECTION 59-18-1590	State	Reallocation of technical assistance funding. Notwithstanding any other provision of law, and in order to provide assistance at the beginning of the school year, schools may qualify for technical assis based on the criteria established by the Education Oversight Committee for school ratings and on the most recently available end of year assessment scores. In order to best meet the needs of low performing schools, the funding provided for technical assistance under the Education Accountability Act may be reallocated among the programs and purposes specified in this section. The State Department of Education shall establish criteria for reviewing and assisting schools rated school/district at risk or below average. Funds must be expended on strategies and activities expressly outli in the school plan. The activities may include, but are not limited to, teacher specialist, principal specialist, curriculum specialist, principal leader, principal mentor, professional development, compensation incentives, homework centers, formative assessments, or comprehensive school reform efforts. The State Department of Education shall provide information on the technical assistanc strategies and their impact to the State Board of Education, the Education Oversight Committee, the Senate Education Committee, the Senate Finance Committee, the House of Representatives Educat and Public Works Committee, and the House of Representatives Ways and Means Committee annually.
361	SECTION 59-18-1595	State	Renumbered as Section 59 18 1590 by 2008 Act No. 282, Section 1, eff June 5, 2008.

Legal Standards

362	SECTION 59-18-1600	State	Parent orientation classes. (A) A school that has received a school/district at risk absolute academic performance rating on its most recent report card shall offer an orientation class for parents. The orientation class must focus on the following topics: (1) the value of education; (2) academic assistance programs that are available at the school and in the community; (3) student discipline; (4) school policies; (5) explanation of information that will be presented on the school's report card issued in November; and (6) other pertinent issues. (B) The school shall offer the orientation class each year the school receives a school/district at risk absolute academic performance rating on the school report card and shall provide parents with w notification of the date and time of the meeting. Schools are encouraged to offer the orientation class at a time in which the majority of parents would be able to attend. Additionally, schools are encouraged to provide orientation classes in community settings or workplaces so that the needs of parents with transportation difficulties or scheduling conflicts can be met. (C) A parent or guardian of each student who is registered to attend the school shall attend the orientation class each year it is offered.
363	SECTION 59-18-1700	State	Public information campaign; development and approval; funding. (A) An on going public information campaign must be established to apprise the public of the status of the public schools and the importance of high standards for academic performance for the public school students of South Carolina. A special committee must be appointed by the chairman of the Education Oversight Commit include two committee members representing business and two representing education and others representing business, industry, and education. The committee shall plan and oversee the develop of a campaign, including public service announcements for the media and other such avenues as deemed appropriate for informing the public. (B) A separate fund within the state general fund will be established to accept grants, gifts, and donations from any public or private source or monies that may be appropriated by the General Assem for the public information campaign. Members of the Oversight Committee representing business will solicit donations for this fund. Income from the fund must be retained in the fund. All funds may carried forward from fiscal year to fiscal year. The State Treasurer shall invest the monies in this fund in the same manner as other funds under his control are invested. The Oversight Committee sha administer and authorize any disbursements from the fund. Private individuals and groups shall be encouraged to contribute to this endeavor.
364	SECTION 59-18-1910	State	Homework centers. Schools receiving below average or school/district at risk designations may use technical assistance funds allocated pursuant to Section 59 18 1590 to provide homework center go beyond the regular school hours where students can come and receive assistance in understanding and completing their school work. Technical assistance funds provided for these centers may be for salaries for certified teachers and for transportation costs.
365	SECTION 59-18-1920	State	Modified school year or school day schedule; grant program established; application; implementation plan. (A) The State Board of Education, through the Department of Education, shall establish a g program to encourage school districts to pilot test or implement a modified school year or school day schedule. The purpose of the grant is to assist with the additional costs incurred during the intersessions for salaries, transportation, and operations, or for additional costs incurred by lengthening the school day. For a district to qualify for a grant, all the schools within a specific feeder zone elementary to middle to high school attendance area, must be pilot testing or implementing the modified year or day schedule. (B) To obtain a grant, a district shall submit an application to the state board in a format specified by the Department of Education. The application shall include a plan for implementing a modified y day that provides the following: more time for student learning, learning opportunities that typically are not available in the regular student day, targeted assistance for students whose academic performance is significantly below promotion standards, more efficient use of facilities and other resources, and evaluations of the impact of the modified schedule. Local district boards of trustees sl require students whose performance in a core subject area, as defined in Section 59 18 300, is the equivalent of a "D" average or below to attend the intersessions or stay for the lengthened day and r special assistance in the subject area. Funding for the program is as provided by the General Assembly in the annual appropriations act. Each grant award for program pilot testing or implementation not exceed a three year period.
366	SECTION 59-18-1930	State	Review of state and local professional development; recommendations for improvement. The Education Oversight Committee shall provide for a comprehensive review of state and local professiona development to include principal leadership development and teacher staff development. The review must provide an analysis of training to include what professional development is offered, how it offered, the support given to implement skills acquired from professional development, and how the professional development enhances the academic goals outlined in district and school strategic p The Oversight Committee shall recommend better ways to provide and meet the needs for professional development, to include the use of the existing five contract days for in service. Needed revisio shall be made to state regulations to promote use of state dollars for training which meets national standards for staff development. Upon receipt of the recommendations from the comprehensive review of state and local professional development, the State Department of Education shall develop an accountability system to ensu that identified professional development standards are effectively implemented. As part of this system the department shall provide information on the identified standards to all principals and othe professional development leaders. Training for all school districts in how to design comprehensive professional development programs that are consistent with the standards also shall be a part of th implementation. A variety of staff development options that address effective teaching and assessment of state academic standards and workforce preparation skills shall be included in the informati provided to principals and other professional development leaders to ensure high levels of student achievement.
367	SECTION 59-20-10	State	Short title. This chapter shall be known and may be cited as the "South Carolina Education Finance Act of 1977".

Legal Standards

368	SECTION 59-20-20	State	Definitions. As used in this chapter: (1) "Foundation program" means the program proposed to establish substantially equitable current operation funding levels for programs for South Carolina's public school students, regardless of t geographic location, after the students are transported to school and housed in school plants. (2) "Educational programs or elements of programs not included in the foundation program" means: (a) "Transportation", which shall mean transportation to and from public schools for the students of South Carolina's public schools provided by state, local or federal funds, or a combination theree (b) "Capital outlay", which shall mean those funds used for the construction, improving, equipping, renovating or major repairing of school buildings or other school facilities, or the cost of acquisiti land whereon to construct or establish such school facilities in accordance with the definition provided in Section 59 21 310. (c) "Pilot programs", which shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the foundatio program. (d) "Adult education", which shall mean public education dealing primarily with students above eighteen years of age not enrolled as full time public school students and not classified as students o technical schools, colleges or universities of the State. (e) "Text books", which shall mean books distributed under that system of rental and free text books now operated by the Department of Education. (f) "Food service programs", which shall mean those programs dealing directly with the nutritional welfare of the student, such as the school lunch and school breakfast programs. (g) "Employee benefits", which shall mean those benefits received by employees of the state public school systems and paid at least in part by the State, such as retirement, social security and health insurance. (3) "Index of taxpaying ability" means an index of a local district's relative fiscal capacity in relation to that of all other districts of the State based on the full market value of all taxable property of the district assessed on the basis of property classification assessment ratios set forth in Article 3, Chapter 43 of Title 12 for the second completed taxable year preceding the fiscal year in which the inde used and these assessments must be the audited assessments by school district contained in the annual report submitted yearly to the Comptroller General's office. The county auditor shall provide f year end audited assessments of real and personal property to the Property Division of the Department of Revenue for each of the school districts of the county for the second completed taxable year preceding the fiscal year in which the index is used not later than October first of each year. The index must be used to calculate each district's share of the revenue to be raised locally for the foundat program. The index must include an imputed value for the property tax base implicitly generating impact aid revenue. The property tax base must be imputed at two thirds the average ratio of all tru value assessed property value statewide to prior year local revenue statewide in the foundation program, the resulting product multiplied times the average impact aid receipts during the prior three years. If impact aid receipts during the federal fiscal year are less than the average receipts for the prior three years, then state aid to the impact aid districts must be adjusted in the final payment for state fiscal year. If the State Department of Education determines from fiscal simulations that the school finance system does not meet requirements of Section 5(D) of P. L. 81 874, the Department of Revenue shall exclude an imputed value of impact aid receipts from the index of taxpaying ability. The index must be determined annually by the Department of Revenue from sales ratio data based on the most recent studies made which correspond with the base year assessments used to compu current index pursuant to Section 12 43 250 for assessed property within a school district. The base year is the second completed taxable year preceding the fiscal year in which the index is used. The Department of Revenue shall provide a preliminary index by December first of each year end and a final index by February first of each year to the State Department of Education and to the auditor o
369	SECTION 59-20-23	State	Index of taxpaying ability calculation. When an appeal of the assessed value of property assessed pursuant to Section 12 43 220(a) extends for more than two years and the amount in dispute is more thirty percent of the total of assessed value of property in the school district in which the property under appeal is located, the index of taxpaying ability for the school district must be calculated usin value asserted by the taxpayer in the appeal. If the final settlement of the appeal provides for an assessed value greater than the value asserted in the taxpayer's appeal, the local school district, within twelve months, must remit to the general fu the State any additional funds received from the State Department of Education due to the utilization of the value of the facility asserted in the taxpayer's appeal. Any funds remitted to the general fund of the State pursuant to this section are considered current fiscal year funds appropriated under the Education Finance Act and must be included in the next distribution of such funds to school districts.
370	SECTION 59-20-25	State	Index of taxpaying ability as applied to area in which a tax increment financing plan is in effect. For the purposes of computing the 'index of taxpaying ability' pursuant to item (3) of Section 3 of Act 1 1977 (South Carolina Education Finance Act) for any area in which tax increment financing plan is in effect the value to be used shall be the original assessed value plus any portion of the captured assessed value which is distributed among taxing authorities pursuant to Section 31 8 120.
371	SECTION 59-20-30	State	Declaration of legislative purpose. It is the purpose of the General Assembly in this chapter: (1) To guarantee to each student in the public schools of South Carolina the availability of at least minimum educational programs and services appropriate to his needs, and which are substantially to those available to other students with similar needs and reasonably comparable from a program standpoint to those students of all other classifications, notwithstanding geographic differences an varying local economic factors. (2) To encourage school district initiative in seeking more effective and efficient means of achieving the goals of the various programs. (3) To establish a procedure for the distribution of a specified portion of the state education funds so as to ensure that the funds are provided on the basis of need to the extent set forth by this chapt order to guarantee a minimum level of funding for each weighted pupil unit in the State. (4) To make it possible for each school district to provide the defined minimum program within approximately five years from July 2, 1978, and to do so with an equal local tax effort. (5) To establish a reasonable balance between the portion of the funds to be paid by the State and the portion of the funds to be paid by the districts collectively in support of the foundation program the initial stage of this program the proportionate state share of the funds for this program shall be approximately seventy percent statewide and the remainder of the program shall be financed from revenue sources. (6) To require each local school district to contribute its fair share to the required local effort, which is to be in direct proportion to its relative taxpaying ability. (7) To ensure that tax dollars spent in public schools are utilized effectively and to ensure that adequate programs serve all children of the State.

Legal Standards

372	SECTION 59-20-40	State	Determination of annual allocations. The annual allocation to each school district for the operation of the foundation program as it relates to the school district shall be determined as follows: (1) Computation of the basic amount to be included for current operation in the foundation program: (a) Each school district shall maintain a program membership of each school by compiling the student membership of each classification. The cumulative one hundred thirty five day average daily membership of each school district by program classification will determine its monetary entitlement. The district's average daily membership (ADM) will be computed, currently maintained, and reported in accordance with the regulations of the State Board of Education. Funds for the state's portion of the per pupil cost of the foundation program shall be disbursed monthly to the various sch districts. End of year adjustments in state funds shall be made based on the one hundred thirty five day student average daily membership in each classification. (b) The base student cost shall be established annually by the General Assembly. The base student cost shall be established in such a manner that five years after July 2, 1978, the funding level shall approximate the cost of the defined minimum program as set forth by the State Board of Education. Each year the Office of Research and Statistics of the Revenue and Fiscal Affairs Office shall submit to the Legislature an estimate of the projected rate of inflation for the fiscal year to be budgeted, an base student cost shall be adjusted to incorporate the inflated cost of providing the Defined Minimum Program. (c) Weightings, used to provide for relative cost differences, between programs for different students are established in order that funds may be equitably distributed on the basis of pupil needs. The criteria for qualifications for each special classification must be established by the State Board of Education according to definitions established in this article and in accordance with Sections 59 21 5 59 35 10, 59 53 1860, and 59 53 1900. Cost factors enumerated in this section must be used to fund programs approved by the State Board of Education. Pupil data received by the Department of Education is subject to audit by the department. Cost factors or weightings are as follows: Pupil Classification Weightings (1) Kindergarten pupils 1.30 (2) Primary pupils (grades 1 through 3) 1.24 (3) Elementary pupils (grades 4 through 8) base students 1.00 (4) High school pupils (grades 9 through 12) 1.25 Special Programs for Exceptional Students Weightings (5) Handicapped 1.74 a. Educable mentally handicapped pupils
373	SECTION 59-20-41	State	Inclusion of children admitted to residential institutions of the Department of Mental Health. Notwithstanding any other provision of law: All school districts providing educational services to children admitted or committed to residential institutions of the Department of Mental Health are authorized to count children admitted or committed to residential institutions of the Department of Mental Health from the first day of residency in such institutions, provided, that the first day is within the particular district's school year. T inclusion of these children is for the purpose of participation in the districts' educational programs for handicapped children supported under the Education Finance Act of South Carolina.

Legal Standards

374	SECTION 59-20-50	State	Certain requirements shall be met; salary schedules. (1) Notwithstanding the computations prescribed in Section 59 20 40, the level of state contributions to each district shall not be reduced to a pe pupil level of foundation program funds below that per pupil level of state funding of programs for the fiscal years prior to implementation of this chapter which will be incorporated in the foundatio program. Provided, no district shall receive annually an increase in state funds less than the full rate of the inflationary adjustment in the base student cost specified in Section 59 20 40(1)(b). This increase sh computed annually over and above the amount actually received from the State for the foundation program in the prior fiscal year. Provided, further, after the fiscal year 1982 83 no district shall receive annually an increase in state funds less than four fifths of the inflationary adjustment in the base student cost specified in Secti 20 40(1)(b). This increase shall be computed annually over and above the amount actually received from the State for the foundation program in the prior fiscal year. Beginning July 1, 1994, no additional school district shall receive hold harmless funds under this subsection due to decreases in student numbers or upward adjustments in the index of taxpaying ab (2) Notwithstanding any provisions of this chapter, any local school district may increase the local effort above the foundation program funding level as deemed necessary to meet the aspirations of people of the district. (3) Eighty five percent of the funds appropriated through state and local effort for each weighted classification shall be spent in direct and indirect aid in the specific area of the program planned to s those children who generated the funds. Districts expending less than the required eighty five percent of the appropriated amount shall be subject to a penalty the following fiscal year in the amount to the difference between the amount spent and the required eighty five percent figure. However, this requirement shall not apply to the funds generated by children in the pupil classification "Speech Handicapped Pupils". (4)(a) Each school district shall pay each certified teacher or administrator an annual salary at least equal to the salary stated in the statewide minimum salary schedule for the person's experience a class. No teacher or administrator employed in the same position, over the same time period, shall receive less total salary, including any normal incremental increase, than that teacher or administra received for the fiscal year before the implementation of this article. (b) The state minimum salary schedule must be based on the state minimum salary schedule index in effect as of July 1, 1984. In Fiscal Year 1985, the 1.000 figure in the index is $14,172. (This figur based on a 10.27% increase pursuant to the South Carolina Education Improvement Act of 1984.) Beginning with Fiscal Year 1986, the 1.000 figure in the index must be adjusted on a schedule to stay the southeastern average as projected by the Office of Research and Statistic of the Revenue and Fiscal Affairs Office and provided to the Budget and Control Board and General Assembly during their deliberations on the annual appropriations bill. The southeastern average teacher salary is the average of the average teachers' salaries of the southeastern states. In projecting the southeastern aver the office shall include in the South Carolina base teacher salary all local teacher supplements and all incentive pay. Under this schedule, school districts are required to maintain local salary supplem per teacher no less than their prior fiscal level. In Fiscal Year 1986 and thereafter teacher pay raises through adjustments in the state's minimum salary schedule may be provided only to teachers wh demonstrate minimum knowledge proficiency by meeting one of the following criteria: (1) holding a valid professional certificate; (2) having a score of 425 or greater on the Commons Examination of the National Teachers Examinations; (3) meeting the minimum qualifying score on the appropriate area teaching examination; or (4) meeting the minimum standards on the basic skills examinations as prescribed by the State Board of Education provided in Section 59 26 20.
375	SECTION 59-20-55	State	Proficiency requirements as to employment as teacher. Beginning July 1, 1986, and thereafter, employment may be provided only to teachers who demonstrate minimum knowledge proficiency by meeting one of the criteria outlined in Section 59 20 50(4)(b). The criteria do not have to be met by teachers having twenty five years or more of teaching service as of the effective date of the South Carolina Education Improvement Act of 1984 in order for them to be employed.
376	SECTION 59-20-60	State	Spending priority; audits; evaluations and reports; statewide testing programs; Innovation Initiative; improvement councils; Education Finance Review Committee. (1) School districts shall give firs spending priority of funds allocated under this chapter to full implementation of the defined minimum program. (2) The State Board of Education shall audit the programmatic and fiscal aspects of this chapter, including the degree to which a school meets all prescribed standards of the defined minimum progra and shall report the results in the Annual Report of the State Superintendent of Education. Schools which have been classified as 'dropped' by the defined minimum program accreditation procedures not eligible for funding in the following fiscal year until an acceptable plan to eliminate the deficiencies is submitted and approved by the State Board of Education. (3) Each school district board of trustees shall cause the district and each school in the district to develop comprehensive five year plans with annual updates to outline the District and School Improvement Plans. Districts which have not begun a strategic planning cycle must do so and develop a plan no later than the 1994 95 school year. Districts which have undertaken such a planning process may continue in their planning cycle as long as the process meets the intent of this section and the long range plans developed or under development can be amended to encompass the requirements of this section. For school year 1993 94, districts may submit either the improvement plan consistent with State Department guidelines or their five year comprehensive plan. The State Board of Education shall recommend a format for the plans which will be flexible and adaptable to local planning needs while encompassing certain state mandates, including the early childhood and academic assistance initiative plans pursuant to Section 59 139 10. All district and school plans must be reviewed and approved by the board of trustees. The District Plan should integ the needs, goals, objectives, strategies, and evaluation methods outlined in the School Plans. Measures of effectiveness must include outcome and process indicators of improvement and must provid regarding what difference the strategies have made. Staff professional development must be a priority in the development and implementation of the plans and must be based on an assessment of ne Long and short range goals, objectives, strategies, and time lines need to be included. (4) Each plan shall provide for an Innovation Initiative, designed to encourage innovative and comprehensive approaches based on strategies identified in the research literature to be effective. The Innovation Initiative must be utilized by school districts to implement innovative approaches designed to improve student learning and accelerate the performance of all students. Funds may be expe on strategies in one or more of the following four categories: (a) new approaches to what and how students learn by changing schooling in ways that provide a creative, flexible, and challenging education for all students, especially for those at risk. Performanc based outcomes which support a pedagogy of thinking and active approaches for learning must be supported; (b) applying different teaching methods permitting professional educators at every level to focus on educational success for all students and on critical thinking skills and providing the necessary su for educational successes are encouraged; (c) redefining how schools operate resulting in the decentralization of authority to the school site and allowing those closest to the students the flexibility to design the most appropriate education location and practice; (d) creating appropriate relationships between schools and other social service agencies by improving relationships between the school and community agencies (health, social, mental health), pare and the business community, and by establishing procedures that cooperatively focus the resources of the greater community upon barriers to success in school, particularly in the areas of early chil and parenting programs, after school programs, and adolescent services. Funds for the Innovation Initiative must be allocated to districts based upon a fifty percent average daily membership and fifty percent pursuant to the Education Finance Act formula. At least sevent percent of the funds must be allocated on a per school basis for school based innovation in accord with the District School Improvement Plan. Up to thirty percent may be spent for district wide proje

Legal Standards

377	SECTION 59-20-65	State	Furnishing by State Board of Education of services and training activities to support school improvement councils. The State Board of Education, acting through the existing School Council Assistanc Project at the University of South Carolina, shall provide services and training activities to support school improvement councils and their efforts in preparing an annual school improvement report a required in this section.
378	SECTION 59-20-70	State	Exemption from statutory provisions relating to fiscal accountability of state agencies, departments and institutions. Notwithstanding any other provisions of law, any school district which complies the provisions of Section 59 20 60 is exempted from the provisions of Article 15 of Chapter 1 of Title 1 relating to the fiscal accountability of state agencies, departments and institutions.
379	SECTION 59-20-80	State	School budgets shall be made public; itemization of salaries. Notwithstanding any other provision of law, each school board of trustees in this State shall annually make available to the general public budget for that year, which budget shall include an itemized list of the average salaries paid to the superintendents, supervisors, administrators, principals, consultants, counselors and teachers empl by the district. No state aid shall be given to any school district whose board of trustees fails to comply with the provisions of this chapter.
380	SECTION 59-21-150	State	Reimbursement of district principals, teachers, and instructional supervisors for cost of college courses in field of specialization. Beginning in fiscal year 1985 86, all school district and state agency s employees required by the State Board of Education to hold State Board of Education certification are eligible for tuition reimbursement at a rate consistent with that charged at public colleges and universities every two years for successful completion of a three hour credit course in their field of specialization at a South Carolina public or private college, so long as they work in that field in a So Carolina public school or state agency school for the succeeding year. The reimbursement must be provided by the State from funds appropriated to the State Department of Education.
381	SECTION 59-21-440	State	Monthly reporting on approved expenditures and compliance with tax reduction requirement. The State Department of Education shall provide a monthly report to the State Board of Education, the Education Oversight Committee, The Committee on Financing Excellence, and the Education Business Partnership on approved expenditures and compliance with the tax reduction requirement.
382	SECTION 59-21-520	State	Supervision and expansion of special education program by State Department of Education. The special education program shall be under the supervision of the State Department of Education. The S Superintendent of Education shall expand the services of the State Department of Education to include through the Division of Instruction a more extensive program of special education for physicall educable mentally handicapped children in the various school districts of the State.
383	SECTION 59-21-530	State	State Superintendent authorized to employ additional personnel; salaries. The State Superintendent of Education may employ on the staff of the State Department of Education additional personnel, such be necessary, of suitable professional qualifications, whose duties shall be, under the direction of the State Superintendent of Education, to help develop and supervise the special education prog authorized in this article. The State Superintendent of Education is authorized to pay the salary of such additional personnel from the appropriation to the State Department of Education for the hard hearing and speech program.
384	SECTION 59-21-540	State	Special educational services for which State aid allowed. The State Superintendent of Education shall reimburse school districts of the State for providing special educational services when in compli with the provisions of this article and the rules and regulations of the State Board of Education, from the regular appropriations and for teachers' salaries, in such manner as is provided by law. Such S aid shall be allowed as follows: (1) For special educational services for the educable mentally handicapped, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of ten enrolled in a self contained class, or (b) a teacher in educable mentally handicapped employed to serve a minimum caseload of twenty six educable mentally handicapped pupils for other instruction in a regular class. (2) For special education services for the trainable mentally handicapped, State aid shall be allowed for a teacher employed with a minimum average daily attendance of eight. (3) For special education for pupils with speech defects, State aid shall be allowed to school districts for speech clinicians (a) on the basis of one clinician per seventy five speech handicapped childre with this special aid being allowed notwithstanding the fact that such children may be counted for regular State aid in regular classes, or (b) on the basis of one clinician per one thousand five hundre students where severe speech problems are present requiring more intensified therapy. (4) For special education for emotionally handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of eight enrolled in a self contained cl or (b) a teacher in emotionally handicapped employed to serve a minimum caseload of twenty six emotionally handicapped pupils enrolled for other instruction in a regular class. (5) For special education for hearing handicapped children, State aid shall be allowed (a) for a teacher with a minimum average daily attendance of six enrolled in a self contained class, or (b) a teach hearing handicapped employed to serve a minimum caseload of twelve hearing handicapped pupils enrolled for other instruction in a regular class. (6) For special education for visually handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of six enrolled in a self contained class, or teacher in visually handicapped employed to serve a minimum caseload of twelve visually handicapped pupils enrolled for other instruction in a regular class. (7) For special education for orthopedically handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of eight enrolled in a self contained class, or (b) a teacher in orthopedically handicapped employed to serve a minimum caseload of sixteen orthopedically handicapped pupils enrolled for other instruction in a regular class. (8) For special education for learning disabilities children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of ten enrolled in a self contained class, or (teacher in learning disabilities employed to serve a minimum caseload of twenty six learning disabilities children enrolled for other instruction in a regular class. (9) For teachers serving more than one type of handicapped pupil, State aid shall be allowed on the basis of the enrollment required for the handicapping condition affecting the majority of pupils se by the specialist. (10) The proportionate part of a teacher's salary will be allowed when such a teacher has less than the required minimum average daily attendance and enrollment. (11) If in any district there are handicapped children not able even with the help of transportation to be assembled in a school, instruction may be provided in a child's home, or in hospitals or sanito Children so instructed may be counted under the provisions of this article. If the child is permanently disabled, the cost of classroom to home video or audio service shall be allowed at the rate of six hundred dollars per year. The State Board of Education shall determine the number of hours of home instruction acceptable in lieu of regular school attendance.

Legal Standards

385	SECTION 59-21-550	State	Qualifications of teachers. No person shall be employed as a teacher in the special education program in the State unless such person holds a valid teacher's certificate issued by the State Department Education and, in addition, possesses such special qualifications as the State Board of Education may require, or holds a comparable certificate in special education as may be developed by the State B of Education.
386	SECTION 59-21-560	State	Annual surveys and determination of eligibility for special education services by local school authorities. (1) County superintendents of education, with the cooperation of school boards and other sc officials in the various counties of the State and with the special assistance of the county attendance teachers, shall make an annual survey to determine the number of physically and mentally handica children in the respective counties and school districts and shall report results of such survey to the State Superintendent of Education in such manner as the State Superintendent of Education may require. (2) It is the responsibility of the local school authorities, with the assistance of the State Department of Education, to determine by tests and special examination what pupils are eligible for special education services. No handicapped child shall be considered eligible for special education services except upon a certified diagnosis of a defect by competent and appropriate professional authoritie acceptable to the State Department of Education.
387	SECTION 59-21-570	State	Districts may operate programs singly or jointly; eligibility of district for State aid. A school district may operate a special education program for children eligible for such services under the provisio this article and rules and regulations of the State Board of Education, either as a district or jointly with other districts. When proper facilities have been provided and when application has been made to and approved by the State Department of Education, the district will become eligible for State aid as provided in th article.
388	SECTION 59-21-580	State	Rules, regulations and policies, of State Board of Education. The State Board of Education is directed to establish rules, regulations and policies: (1) For screening, classifying and determining, by use of standardization tests and such psychological and medical services as may be necessary, by qualified personnel, the eligibility of pupils to rec the benefits under the provisions of this article; (2) For determining certification requirements and special qualifications of teachers; (3) For outlining the manner and procedure by which applications for aid and plans for operation may be made and approved; and (4) For other matters not specified herein when necessary to carry out the provisions of this article.
389	SECTION 59-21-590	State	Confidentiality of data on handicapped children. Names of handicapped children served under this article shall be submitted to the State Department of Education only according to the policies and procedures prescribed by the United States Secretary of Health, Education and Welfare established to protect the confidentiality of data on handicapped children receiving education or related servic public expense.
390	SECTION 59-21-600	State	Distribution of funds for educational services to mentally handicapped pupils. Notwithstanding the provisions of Section 59 21 540, and in order to insure adequate educational services for trainable mentally handicapped pupils and profoundly mentally handicapped pupils in South Carolina school districts, the State Board of Education, upon the recommendation of the Education Oversight Committee, through the State Department of Education shall develop a Regulation for distribution of funds appropriated by the General Assembly for this purpose.
391	SECTION 59-21-710	State	State aid authorized for employment of school psychologist. The State Superintendent of Education is hereby authorized and directed to pay State aid to any county or school district in South Carolin employing a school psychologist under conditions as set forth in this article.
392	SECTION 59-21-720	State	Psychologists shall have certificates. All school psychologists employed by the counties or school districts shall have a valid certificate issued by the State Board of Education according to regulations established by the Board.
393	SECTION 59-21-730	State	Payment of State aid; amount. State aid for school psychologists shall be paid from the appropriation for State aid for teachers salaries. The amount of State aid for each psychologist employed shall b determined by the application of the same laws, rules and regulations as pertain to the existing State scale for paying teachers' salaries.
394	SECTION 59-21-740	State	Eligibility for State aid; amount of State aid for which school may otherwise qualify not affected. Any county or school district shall be eligible for State aid for a school psychologist employed for eac thousand pupils enrolled; provided, that each county shall be eligible for State aid for at least one school psychologist. Provided, further, that any district or county may combine with any other schoo district or county in order to meet the minimum enrollment requirement and for the purpose of securing the services of a school psychologist. When school districts or counties are acting jointly in t respect, State aid shall be paid to the operating units in proportion to the enrollment in these units; provided, further, payments of State aid under the provisions of this article shall have no bearing o amount of State aid for which a school may otherwise qualify regardless of the fact that pupils with whom the psychologist works may already have been counted for other purposes of State aid.
395	SECTION 59-21-750	State	Psychologist employed by State Department of Education. The State Superintendent of Education shall employ a school psychologist in the State Department of Education in order to properly superv the work of school psychologists employed by the counties and school districts and also to be available to help counties and school districts unable to employ a school psychologist.
396	SECTION 59-21-760	State	Rules and regulations. The State Board of Education may promulgate such rules and regulations as may be necessary to carry out the provisions of this article.

Legal Standards

397	SECTION 59-21-1010	State	Disposition and allocation of revenues; special vote required to amend or repeal this section. (A) The revenue derived from Sections 12 36 2620(1) and 12 36 2630(1) must be remitted to the State Treasurer to be credited to the state public school building fund for the purposes provided for in Article 3 of Chapter 21 of Title 59 and any sum above that amount must be placed to the credit of the general fund of the State and must be used for school purposes only. (B) The revenue derived from Sections 12 36 2620(2), 12 36 2630(2), and 12 36 2640(2) must be deposited by the State Treasurer in the South Carolina Education Improvement Act of 1984 Fund as fund separate and distinct from the general fund of the State. All unappropriated money in this fund and earning on investments from this fund must remain part of the separate fund and must not be deposited in the general fund except as provided for in this section. Money from this fund may be spent only for elementary and secondary school purposes. Any change in the management or use of t fund for other than elementary and secondary education is permitted only by a two thirds vote provided in this section. (C)(1) Upon implementation of the provisions of this section by law, the law may not be amended or repealed except by special vote provided in this section. (2) For purposes of this subsection, a special vote means an affirmative two thirds vote of the total membership of the Senate and an affirmative two thirds vote of the total membership of the House Representatives. All monies appropriated from the Education Improvement Act of 1984 Fund which are disbursed by the State Department of Education must be appropriated in one division of the section in the ann general appropriations act making appropriations for the State Department of Education.
398	SECTION 59-21-1020	State	Department of Education to monitor and audit disbursements; reversion of unexpended appropriations. The State Department of Education shall carefully monitor and audit the disbursement of mo from the South Carolina Education Improvement Act Fund. Any line item appropriation not fully expended for any program under the South Carolina Education Improvement Act of 1984 reverts to t fund.
399	SECTION 59-21-1040	State	Compensation and employer contributions; funding. The compensation and employer contributions of any new personnel employed for the purpose of implementing specific provisions of the South Carolina Education Improvement Act of 1984 must be paid from funds appropriated for that purpose by the General Assembly from funds derived from increased revenue provided for in the Educati Improvement Act of 1984 Fund. This may not be construed to preclude any school district from providing additional compensation and employee contributions for the purpose of implementing spec provisions of the South Carolina Education Improvement Act of 1984. School district employees are not entitled to receive any across the board pay increases or employer contributions provided for state employees in the annual general appropriation act unless otherwise authorized by the General Assembly in that act.
400	SECTION 59-21-1210	State	Campus incentive program established; funding. The State Board of Education, in consultation with the Education Oversight Committee, shall develop and implement a campus incentive program to reward faculty members who demonstrate superior performance and productivity. Funds for the campus incentive program must be provided by the General Assembly in the annual general appropriations act.
401	SECTION 59-21-1220	State	Guidelines for development of program; campus incentive advisory committee; distribution of funds; regulations. The campus incentive program must be developed based on the following guideline (1) exceptional improvement in or the maintenance of superior student performance, with consideration given to rewarding schools which demonstrate exceptional improvement or maintenance o superior performance by all the groups of students at various levels of performance; (2) the school must have met or surpassed the goals and strategies outlined in its school improvement report; (3) no faculty member may receive funds under the incentive program unless all the established eligibility criteria are met; (4) faculty, for the purposes of this program, includes principals, assistant principals, vocational education directors, special education teachers, kindergarten teachers, classroom teachers, librarian/media specialists, guidance counselors, psychologists, school nurses, aides, and others as determined by the advisory committee; (5) consideration must be given to using part of each campus incentive reward for faculty use for school improvement for such activities as research, planning meetings, curriculum development, w faculty are paid for their time and effort, and for allowing faculty to consider such uses of the faculty incentive reward; (6) no later than August 1, 1991, a campus incentive advisory committee must be appointed to advise on the development and implementation of the program. The advisory committee must be appointed, after receiving nominations, as set forth in this item, and consists of six at large members, three appointed by the Governor and three appointed by the State Superintendent of Education, a the following members appointed by the State Board of Education: one school board member; two elementary teachers; two middle or junior high school teachers; two secondary school teachers; one elementary school principal; one middle or junior high school principal; one secondary school principal; one district superintendent; one guidance counselor; one assistant principal; and one teacher's aide. The State Board of Education shall request: (a) each statewide professional teacher organization to nominate at least two qualified continuing contract teachers for each teacher position on the committee; (b) a statewide organization representing administrators (principals and superintendents) to nominate at least two qualified candidates for the administrator positions on the committee; (c) a statewide organization to nominate at least two qualified candidates for the guidance counselor position on the committee; (d) a statewide organization representing school boards to nominate at least two qualified candidates for the school board position on the committee.
402	SECTIONS 59-23-10 to 59-23-190	State	Repealed by 2003 Act No. 87, Section 2, eff July 16, 2003.

Legal Standards

403	SECTION 59-23-210	State	Construction, improvement, and renovation of public schools; compliance with the South Carolina School Facilities Planning and Construction Guide; committee members; submission of plans. (A) A construction, improvement, and renovation of public school buildings and property on or after the effective date of this section shall comply with the latest applicable standards and specifications set in the South Carolina School Facilities Planning and Construction Guide as published by the South Carolina Department of Education. This guide must be reviewed and updated on an annual basis by a committee appointed by the South Carolina Department of Education. The committee shall consist of a minimum of two architects a one engineer who are all registered in South Carolina and experienced in K 12 design, one K 12 school administrator, one representative of the K 12 construction industry, the State Fire Marshal or hi designee, a representative of the Traffic Engineering Division of the South Carolina Department of Transportation, and two representatives of the South Carolina Department of Education. In addition Chairman of the House of Representatives Education and Public Works Committee or his designee and the Chairman of the Senate Education Committee or his designee shall also serve as members o committee, ex officio. (B) All construction, improvement, and renovation of public school buildings and property on or after the effective date of this section must have plans and specifications submitted to the State Superintendent of Education or the superintendent's designee. Approval of the plans and specifications by the State Superintendent of Education or the superintendent's designee must be received b public bidding before the construction can begin. Plans and specifications must be coordinated with county officials such as traffic engineers and zoning administrators.
404	SECTION 59-23-220	State	Inspections; certificate of approval. All construction, improvements, and renovation of public school buildings and property must be inspected by the State Superintendent of Education or the superintendent's designee for compliance with the applicable codes and standards. A certificate of approval must be obtained from the State Superintendent of Education or the superintendent's designee before a building may be occupied.
405	SECTION 59-23-230	State	Waiver from applicable school building regulations; property owner permitted to lease building to school board for use as public school. (A) Notwithstanding any other provision of law, the State Superintendent of Education is authorized to grant a waiver from applicable school building regulations relating to building square foot requirements for construction of a new public school building for the conversion of an existing commercial building into a public school facility. As part of the waiver request, districts must supply documentation of the suitability of the property and justification the waiver request. (B) The authority granted the State Superintendent of Education under this section is superior to and supersedes provisions of applicable state school building regulations and the authority of a loca building official or entity to disapprove the variances granted by the waiver. A provision of fire and life safety standards or specifications must not be waived. (C) The property owner of a building considered appropriate for conversion to a public school by the State Superintendent of Education may lease its building to a local school board of trustees to be as a public school within the district.
406	SECTION 59-23-240	State	Inspection of public schools required after waiver of school building regulations granted. All construction, improvements, and renovation of public school buildings and property for which waivers h been granted pursuant to Section 59 23 230 must be inspected by the State Superintendent of Education or the superintendent's designee before occupancy for compliance with the applicable waive standards.
407	SECTION 59-23-250	State	Minimum lot requirements prohibited; acquisitions or additions on existing properties. (A) Notwithstanding another provision of law, a requirement that public schools be constructed on a lot or pa of certain minimum size is prohibited. (B) School districts must receive approval from the South Carolina Department of Education prior to property acquisition or additions on existing properties.
408	SECTION 59-24-10	State	Assessment of leadership and management capabilities before appointment as principal. Beginning with the school year 1999 2000, before permanent appointment as a principal for an elementary school, secondary school, or career and technology center, a person must be assessed for instructional leadership and management capabilities by the Leadership Academy of the South Carolina Department of Education. A district may appoint a person on an interim basis until the assessment is completed. A report of this assessment must be forwarded to the district superintendent and boa trustees. The provisions of this section do not apply to a person currently employed as principal on the effective date of this section or to a person hired as principal before the beginning of school yea 1999 2000.
409	SECTION 59-24-40	State	Development and adoption of statewide performance standards for principals; annual evaluation of principals; training program for principals receiving unsatisfactory rating. For the purposes of assisting, developing, and evaluating principals, the State Board of Education, through the State Department of Education, shall adopt criteria and statewide performance standards which shall serve foundation for all processes used for assisting, developing, and evaluating principals employed in the school districts of this State. The State Department of Education shall select or cause to be develo and the State Board of Education shall promulgate regulations for the evaluation of the performance of all principals based on those criteria and standards. School districts shall use the standards and procedures adopted by the State Board of Education for the purpose of evaluating all principals at least once every three years. The State Department of Education shall ensure that the criteria and standards are valid and reliable and are appropriately administered. Evaluation results must be provided in writing and a professional development plan established based on the principal's strength weaknesses and taking into consideration the school's strategic plan for improvement for the purpose of improving the principal's performance. Any principal whose performance on an evaluation is unsatisfactory must be evaluated again within one year. Nothing in this section limits or prohibits school districts from setting additional and more stringent standards for the evaluation of principal satisfactory rating on the evaluation is one of several criteria for overall performance evaluation and is not sufficient for reemployment as a principal by a school district. The State Department of Education shall review the implementation of the principal evaluation in the school districts for the purpose of providing technical assistance and ensuring the evaluations a appropriately administered. The provisions of this section must be implemented according to the following schedule: 1997 98 school year: Identification of criteria and standards; 1998 99 school year: Development and testing of criteria, standards, and procedures in selected districts; 1999 2000 school year: Statewide implementation.

Legal Standards

410	SECTION 59-24-50	State	Continuous professional development programs. By January 1, 1999, the South Carolina Department of Education's Leadership Academy shall develop, in cooperation with school districts, district consortia, and state supported institutions of higher education, continuous professional development programs which meet national standards for professional development and focus on the improvement of teaching and learning. By July 1, 1999, programs funded with state funds must meet these standards and must provide training, modeling, and coaching on effective instructional leadership as it pertains to instructional leadership and school based improvement, including instruction on the importance of school improvement councils and ways administrators may make scho improvement councils an active force in school improvement. The training must be developed and conducted in collaboration with the School Council Assistance Project.
411	SECTION 59-24-60	State	Requirement of school officials to contact law enforcement authorities when criminal conduct occurs. In addition to other provisions required by law or by regulation of the State Board of Education school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponso activity which may result or results in injury or serious threat of injury to the person or to another person or his property as defined in local board policy.
412	SECTION 59-24-65	State	Principals' Executive Institute (PEI); program design task force; purpose; governing regulations; focus. The State Department of Education shall establish a Principals' Executive Institute (PEI) with t funds appropriated for that purpose. (1) A task force appointed by the State Superintendent of Education shall begin on or before July 1, 1999, to design this program so that the first class of participants shall begin during school year 19 2000. The task force shall include, but is not limited to, representatives from the State Department of Education, business leaders, university faculty, district superintendents, school principals, South Carolina Teachers of the Year, representatives from professional organizations, members of the Education Oversight Committee, and appropriate legislative staff. (2) The purpose of the PEI is to provide professional development to South Carolinas principals in management and school leadership skills. (3) By January 1, 2000, the State Board of Education shall establish regulations governing the operation of the PEI. (4) The focus of the first year of the Principals' Executive Institute shall be to serve the twenty seven principals from impaired schools and other experienced principals as identified by the South Car Leadership Academy of the Department of Education and as approved by the local public school districts which employ such principals. (5) The creation of the Principals' Executive Institute shall not duplicate the State Department of Educations Leadership Academy programs but shall provide intensive, in depth training in business principles and concepts as they relate to school management and the training and developmental programs for principals mandated under the 1998 Education Accountability Act.
413	SECTION 59-24-80	State	Formal induction program for first year principals. Beginning with school year 1999 2000, each school district, or consortium of school districts, shall provide school principals serving for the first ti the head building administrators with a formalized induction program in cooperation with the State Department of Education. The State Board of Education must develop regulations for the progran based on the criteria and statewide performance standards which are a part of the process for assisting, developing, and evaluating principals employed in the school districts. The program must incl an emphasis on the elements of instructional leadership skills, implementation of effective schools research, and analysis of test scores for curricular improvement.
414	SECTION 59-24-100	State	Establishment and funding of school principal incentive program. The State Board of Education acting with the assistance of the Education Oversight Committee shall cause to be developed and implemented a school principal incentive program to reward school principals who demonstrate superior performance and productivity. Funds for school principal incentive programs must be prov by the General Assembly in the annual general appropriation act.
415	SECTION 59-24-110	State	Guidelines for development of program; promulgation of regulations; distribution of funds to school districts on per principal basis. The school principal incentive program must be developed based the following guidelines: (1) The State Board of Education shall identify incentive criteria in school year 1984 85. The State Board shall cause no more than three programs to be developed or selected in nine school districts school year 1985 86. Pilot testing of no more than these three programs must occur in nine school districts, designated by the State Board upon the recommendation of the Education Oversight Committee, in school year 1986 87 and by regulation implemented statewide beginning with school year 1987 88. (2) No school principals shall receive funds under the incentive program unless the individual meets or exceeds all eligibility standards set out in the district's program. (3) Prior to the 1987 88 school year, the State Board, with the assistance of an advisory committee it appoints, and acting through the State Department of Education, shall establish by regulation an incentive program for rewarding and retaining principals who demonstrate superior performance and productivity. (4) The incentive program shall include: (a) evaluation for instructional leadership performance as it related to improved student learning and development; (b) evaluation by a team which includes school administrators, teachers, and peers; (c) evidence of self improvement through advanced training; (d) meaningful participation of school principals in the development of the plan; and (e) worl with student teachers whenever possible. (5) Funds for the school principal incentive program must be distributed to the school districts of the State on a per principal basis. Principal incentive rewards may not exceed five thousand dollars principal. The State Board of Education shall promulgate regulations that ensure that the districts of the state utilize the funds in an appropriate manner and establish a procedure for redistributing funds from districts that do not require all of their allocations.
416	SECTION 59-24-120	State	Apprenticeship for principal. The State Board of Education shall establish guidelines for selected school districts of this State to implement programs whereby persons who demonstrate outstanding potential as principals in the opinion of the district may be given the opportunity to serve an apprenticeship as a principal in the selected districts.
417	SECTION 59-24-130	State	Principal, defined. For purposes of funds appropriated in the annual general appropriations act and program eligibility for the School Principal Incentive Program and the School Administrator Evalu Program, the term "principal" also includes the administrative head of a career and technology center.
418	SECTION 59-25-110	State	System for examination and certification of teachers. The State Board of Education, by rules and regulations, shall formulate and administer a system for the examination and certification of teachers

Legal Standards

419	SECTION 59-25-115	State	Notice to enrollee in teacher education program regarding effect of prior criminal record; criminal records check and fingergprinting requirements. (A) A person enrolled in a teacher education prog in South Carolina must be advised by the college or university that his prior criminal record could prevent certification as a teacher in this State in accordance with State Board of Education guideline (B) Before beginning full time clinical teaching experience in this State, a teacher education candidate shall undergo a state criminal records check by the South Carolina Law Enforcement Division a national criminal records check supported by fingerprints by the Federal Bureau of Investigation. The cost associated with the FBI background checks are those of the applicant. Information reporte relative to prior arrests or convictions will be reviewed by the State Department of Education, and the State Board of Education when warranted, according to board guidelines. A teacher education candidate with prior arrests or convictions of a serious nature that could affect his fitness to teach in the public schools of South Carolina may be denied the opportunity to complete the clinical teach experience and qualify for initial teacher certification. An individual who is denied this opportunity as a result of prior arrests or convictions, after one year, may request reconsideration under guide established by the State Board of Education. (C) A graduate of a teacher education program applying for initial teacher certification must have completed the FBI fingerprint process within eighteen months of formally applying for initial teache certification or the fingerprint process must be repeated.
420	SECTION 59-25-120	State	Examination on United States Constitution and loyalty thereto. All persons applying for certificates authorizing them to become teachers in the public schools of this State shall, in addition to other requirements and before receiving such certificate, be required to pass a satisfactory examination upon the provisions and principles of the Constitution of the United States and shall also satisfy the examining power of their loyalty thereto.
421	SECTION 59-25-130	State	Record of teachers' certificates. A full record of all teachers' certificates shall be kept in the State Department of Education showing the name, age, sex, color and date of certificate of each person and other information as may be desired.
422	SECTION 59-25-140	State	Fee for duplicate certificate; use of resulting fund. The board of examiners for teachers may charge a fee of fifty cents for every duplicate certificate. The proceeds from such fees shall be deposited w the State Treasurer to be used by the board of examiners to cover the expense and labor of issuing duplicate certificates promptly and to pay the traveling expenses of the director of the board of examiners while in the discharge of his official duties. All disbursements of such fees shall be made only on vouchers approved by the State Superintendent of Education. An itemized statement of suc expenditures shall be kept and published in the annual report of the State Superintendent of Education.
423	SECTION 59-25-150	State	Revocation or suspension of certificate. The State Board of Education may, for just cause, either revoke or suspend the certificate of any person. HISTORY: 1962 Code Section 21 375; 1974 (58) 1928. SECTION 59 25 160. Revocation or suspension of certificate; "just cause" defined. "Just cause" may consist of any one or more of the following: (1) Incompetence; (2) Wilful neglect of duty; (3) Wilful violation of the rules and regulations of the State Board of Education; (4) Unprofessional conduct; (5) Drunkenness; (6) Cruelty; (7) Crime against the law of this State or the United States; (8) Immorality; (9) Any conduct involving moral turpitude; (10) Dishonesty; (11) Evident unfitness for position for which employed; or (12) Sale or possession of narcotics.
424	SECTION 59-25-170	State	Revocation or suspension of certificate; notice to teacher and opportunity for hearing. No person's certificate may be either revoked or suspended unless written notice specifying the cause for eithe revocation or suspension has been given to the person by the State Board of Education and a hearing has been afforded such person.
425	SECTION 59-25-180	State	Revocation or suspension of certificate; notice to district board of trustees. Whenever the State Board of Education either revokes or suspends a certificate of any person it shall immediately notify t chairman of the district board of trustees that employs such person of the revocation or suspension.
426	SECTION 59-25-190	State	Revocation or suspension of certificate; effect; payment of salary. The revocation or suspension of the certificate of any person shall terminate the employment of such person until such time as a dec is reached concerning the charge against such person; however, such person shall be paid until the final disposition of the case by the State Board of Education.
427	SECTION 59-25-200	State	Within fifteen days after receipt of notice of revocation or suspension, such person may serve upon the chairman of the State Board of Education or the State Superintendent of Education a written re for either a public or private hearing before the board. The hearing shall be held by the board not less than ten days nor more than twenty days after the request is served, and a notice of the time and of the hearing shall be given the person not less than four days prior to the date of the hearing. At the hearing, which shall be as summary and as simple as reasonably may be, the parties may appear person and by counsel, if desired, and may present any testimony, under oath, or other evidence as may be pertinent. Within fifteen days following the hearing, the board shall determine whether the existed just cause for the notice of revocation or suspension and shall render its written order accordingly either affirming, withdrawing, or modifying the notice of revocation or suspension.

Legal Standards

428	SECTION 59-25-210	State	Revocation or suspension of certificate; power of board to issue subpoenas, administer oaths and examine witnesses. The State Board of Education, for the purposes of this article, shall have the pow subpoena witnesses, to administer oaths, and to examine witnesses and such parts of any books and records as relate to the issue or issues involved.
429	SECTION 59-25-220	State	Revocation or suspension of certificate; depositions. Any party to such proceedings may cause to be taken the deposition of witnesses within or without the State and either by commission or de ber esse. Such depositions shall be taken in accordance with and subject to the same provisions, conditions, and restrictions as apply to the taking of like depositions in civil actions at law in the court of common pleas, and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification thereof and matters of practic relating thereto shall apply.
430	SECTION 59-25-230	State	Revocation or suspension of certificate; service of notices. Notices to be given by a party shall be served upon the opposite party prior to the filing thereof. All notices shall be served in person or by registered mail.
431	SECTION 59-25-240	State	Revocation or suspension of certificate; service of subpoenas; witness fees. The county sheriffs and their respective deputies shall serve all subpoenas of the State Board of Education and shall receiv same fees as are now provided by law for like service. Each witness who appears in obedience to such subpoena shall receive for attendance the fees and mileage of witnesses in civil cases in the cour the county in which the hearing is held.
432	SECTION 59-25-250	State	Revocation or suspension of certificate; powers and duties of court of common pleas; warrant for production of witnesses. (A) Upon application by the State Board of Education, the court of common shall enforce by proper proceedings the attendance and testimony of witnesses and the production of books, papers, and records. The unexcused failure or refusal to attend and give testimony or pro books, papers, and records as may have been required in any subpoena issued by the State Board of Education is a misdemeanor. A person who engages in this conduct, upon conviction, must be fine the discretion of the court or imprisoned not more than three years, or both. (B) The State Board of Education may issue to the sheriff of the county in which a hearing is held a warrant requiring him to produce at the hearing a witness who has ignored or failed to comply wit subpoena issued by the State Board of Education and properly served upon the witness. The warrant authorizes the sheriff to arrest and produce at the hearing the witness, and it is his duty to do so. failure of a witness to appear in response to a subpoena may be excused on the same grounds as provided by law for the attendance of witnesses in the courts of this State.
433	SECTION 59-25-260	State	Revocation or suspension of certificate; appeals. The findings of fact by the State Board of Education are final and conclusive. A person aggrieved by the order of the State Board of Education, within t days, may appeal to the Administrative Law Court as provided in Sections 1 23 380(B) and 1 23 600(D), to review errors of law only, by filing with the Administrative Law Court and the State Board o Education notice of appeal. The State Board of Education shall file a certified copy of the record with the Administrative Law Court in accordance with its rules of procedure. An appeal from the order the Administrative Law Court must be taken in the manner provided by the South Carolina Appellate Court Rules.
434	SECTION 59-25-270	State	Revocation or suspension of certificate; reinstatement. If either the State Board of Education, the court of common pleas, the court of appeals, or the Supreme Court of South Carolina reverses the ord revocation or suspension, the person whose certificate had been either revoked or suspended by the state board shall be fully reinstated and shall receive all salary lost as a result of such revocation o suspension of his certificate; provided, however, that where the State Board of Education, within the time prescribed by law, appeals from an order of the court of common pleas reversing an order o revocation or suspension rendered by the State Board of Education, the person whose certificate had either been revoked or suspended by the state board shall not be entitled to be reinstated and to receive all salary lost as a result of his certificate's revocation or suspension by the state board unless and until the Supreme Court or court of appeals affirms the order of the court of common pleas.
435	SECTION 59-25 280	State	Crimes warranting revocation, refusal to issue or nonrenewal of certificate. (A) The State Board of Education permanently shall revoke, refuse to issue, or renew a certificate without a hearing, if the holder of or applicant for the certificate pleads guilty, pleads nolo contendere, or is found guilty of the following crimes, whether or not a sentence is imposed and regardless of where the matter was (1) a violent crime as defined in Section 16 1 60; (2) certain offenses related to obscenity, material harmful to minors, child exploitation, and child prostitution, including Sections 16 15 305, 16 15 335, 16 15 345, 16 15 355, 16 15 365, 16 15 385, 1 387, 16 15 395, 16 15 405, 16 15 410, 16 15 415, and 16 15 425; or (3) a criminal offense similar in nature to the crimes listed in items (1) and (2) committed in other jurisdictions or pursuant to federal law. (B) A school district may not employ an educator in any capacity whose South Carolina certificate is revoked pursuant to subsection (A).
436	SECTION 59-25-310	State	Authority to hire individuals with passport certificate issued by the American Board for the Certification of Teacher Excellence (ABCTE). In addition to individuals certified for employment as school teachers pursuant to Article 3 of this chapter, a school district may hire individuals who have received a passport certificate issued by the American Board for the Certification of Teacher Excellence (ABCTE) and who meet the requirements of this article in the content areas of biology, chemistry, English, mathematics, physics, or science. Additional areas of certification may be approved by the S Board of Education upon review of the longitudinal information required in Section 59 25 350.
437	SECTION 59-25-320	State	State and national criminal records check. A person who has received a passport certificate issued by the ABCTE must not be hired by a school district in South Carolina without submitting to the Sta Department of Education, Office of Educator Certification at the time of application a Federal Bureau of Investigation fingerprint card and without having undergone a criminal records check by the S Carolina Law Enforcement Division and a national criminal records check supported by fingerprints and conducted by the Federal Bureau of Investigation pursuant to Section 59 25 115(B) complete within the previous eighteen months.
438	SECTION 59-25-350	State	Reports. The State Department of Education shall submit annually by March thirty first to the State Board of Education and the General Assembly the total number of individuals employed in South Carolina with a passport certificate issued by ABCTE by district and nonprivileged information collected on these individuals through the ADEPT reporting system.

Legal Standards

439	SECTION 59-25-360	State	Rights of persons hired pursuant to article. A person who has completed all requirements of this article and has been hired by a school district has the same responsibilities and rights as other teache hired by the district.
440	SECTION 59-25-410	State	Notification of employment for ensuing year; notification of assignment. On or before April fifteenth of each year, the boards of trustees of the several school districts shall decide and notify, in writin teachers, as defined in Section 59 1 130, in their employ concerning their employment for the ensuing year. If the board, or the person designated by it, fails to notify a teacher who has been employe school district for a majority of the current school year of his status for the ensuing year, the teacher shall be deemed to be reemployed for the ensuing year and the board shall issue a contract to suc teacher as though the board had reemployed such teacher in the usual manner. Notices of intent not to renew an employment contract shall be given in writing no later than April fifteenth of each yea On or before August fifteenth the superintendent, principal, where applicable, or supervisor shall notify the teacher of his tentative assignment for the ensuing school year. This section shall not apply to any teacher whose contract of employment or dismissal is under appeal under Section 59 25 450. For purposes of this article, "teacher" means all employees possessing a professional certificate issued by the State Department of Education, except those employees working pursuant to multi year contracts.
441	SECTION 59-25-415	State	Priority for certified personnel as to rehiring within two years; mailing of notice of intent to rehire. Certified personnel who have taught in a school district for at least one year and who are dismisse economic reasons have priority for being rehired to fill any vacancy for which they are qualified which occurs within two years from the date of their dismissal. A school district has complied with th requirements of this section by mailing a notice of intent to rehire to the teacher's last known address.
442	SECTION 59-25-420	State	Teacher required to notify board of acceptance; opportunity for hearing if not reemployed. Any teacher who is reemployed by written notification pursuant to Section 59 25 410 shall by April twenty first notify the board of trustees in writing of his acceptance of the contract. Failure on the part of the teacher to notify the board of acceptance within the specified time limit shall be conclusive evide of the teacher's rejection of the contract. Any teacher, receiving a notice that he will not be reemployed for the ensuing year, shall have the same notice and opportunity for a hearing provided in subsequent sections for teachers dismissed f cause during the school year.
443	SECTION 59-25-430	State	Dismissal of teachers; grounds; opportunity for hearing; suspension pending resolution of charges. Any teacher may be dismissed at any time who shall fail, or who may be incompetent, to give instruction in accordance with the directions of the superintendent, or who shall otherwise manifest an evident unfitness for teaching; provided, however, that notice and an opportunity shall be affo for a hearing prior to any dismissal. Evident unfitness for teaching is manifested by conduct such as, but not limited to, the following: persistent neglect of duty, willful violation of rules and regulatio district board of trustees, drunkenness, conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics. Notwithstanding the provisions of Section 59 25 450, when any teacher is charged with a violation of the law of this State or the United States which upon conviction may lead to, or be cited as a reas for, dismissal, such teacher may be suspended pending resolution of the charges and receive his usual compensation during the suspension period, such compensation not to exceed the term of his teaching contract. If the teacher is convicted, including pleading guilty or nolo contendere to the charges, he may then be subject to dismissal proceedings. If no conviction results, his suspension shal terminated.
444	SECTION 59-25-440	State	Written notice to teacher of possible dismissal; school administrator required to make reasonable effort to assist teacher in corrective measures; reasonable time for improvement required. Whenev superior, principal, where applicable, or supervisor charged with the supervision of a teacher finds it necessary to admonish a teacher for a reason that he believes may lead to, or be cited as a reason dismissal or cause the teacher not to be reemployed he shall: (1) bring the matter in writing to the attention of the teacher involved and make a reasonable effort to assist the teacher to correct whate appears to be the cause of potential dismissal or failure to be reemployed and, (2) except as provided in Section 59 25 450, allow reasonable time for improvement.
445	SECTION 59-25-450	State	Suspension of teachers; reinstatement. Whenever a superintendent has reason to believe that cause exists for the dismissal of a teacher and when he is of the opinion that the immediate suspension teacher is necessary to protect the well being of the children of the district or is necessary to remove substantial and material disruptive influences in the educational process, in the best interest of th children in the district, the superintendent may suspend the teacher without notice or without a hearing. The superintendent shall notify the teacher in writing of the suspension. Such written notice include the cause for suspension and the fact that a hearing before the board is available to the teacher upon request provided such request is made in writing within fifteen days as prescribed by Sec 59 25 470. The salary of a suspended teacher shall cease as of the date the board sustains the suspension. If sufficient grounds for suspension are not subsequently found, the teacher shall be reinstated without of compensation.
446	SECTION 59-25-460	State	Notice of dismissal; conduct of hearing. No teacher shall be dismissed unless written notice specifying the cause of dismissal is first given the teacher by the District Board of Trustees and an opportu for a hearing has been afforded the teacher. Such written notice shall include the fact that a hearing before the board is available to the teacher upon request provided, such request is made in writing within fifteen days as prescribed by Section 59 25 470. Any such hearing shall be public unless the teacher requests in writing that it be private. The District Board of Trustees may issue subpoenas requiring the attendance of witnesses at any hearing and, at the request of the teacher against whom a charge is made, shall issue such subpoenas, but it may limit the number of witnesses to be subpoenaed in behalf of the teacher to not more than ten. All testimony at any hearing shall be taken under oath. Any member of the board may administer oaths to witnesses. The board shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all of the testimony. If the board's decision is favorable to the teacher, the board pay the cost of the reporter's attendance and services at the hearing. If the decision is unfavorable to the teacher, one half of the cost of the reporter's attendance and services shall be borne by the tea Either party desiring a transcript of the hearing shall pay for the costs thereof.

Legal Standards

447	SECTION 59-25-470	State	Request for hearing; time and place of hearing; rights of teacher; determination by board. Within fifteen days after receipt of notice of suspension or dismissal, a teacher may serve upon the chairma the board or the superintendent a written request for a hearing before the board. If the teacher fails to make such a request, or after a hearing as herein provided for, the District Board of Trustees sh take such action and shall enter such order as it deems lawful and appropriate. The hearing shall be held by the board not less than ten nor more than fifteen days after the request is served, and a no the time and place of the hearing shall be given the teacher not less than five days prior to the date of the hearing. The teacher has the privilege of being present at the hearing with counsel and of cro examining witnesses and may offer evidence and witnesses and present any and all defenses to the charges. The board shall order the appearance of any witness requested by the teacher. The complainants shall initiate the introduction of evidence in substantiation of the charges. Within ten days following the hearing, the board shall determine whether the evidence showed good and just for the notice of suspension or dismissal and shall render its decision accordingly, either affirming or withdrawing the notice of suspension or dismissal.
448	SECTION 59-25-480	State	Appeals; costs and damages. The decision of the district board of trustees shall be final, unless within thirty days thereafter an appeal is made to the court of common pleas of any county in which the major portion of such district lies. Notice of the appeal and the grounds thereof shall be filed with the district board of trustees. The district board shall, within thirty days thereafter, file a certified copy of the transcript record with th clerk of such court. Any appeal from the order of the circuit court shall be taken in the manner provided by the South Carolina Appellate Court Rules. If the decision of the board is reversed on appeal, motion of either party the trial court shall order reinstatement and shall determine the amount for which the board shall be liable for actual damages and court costs. In no event shall any liability ext beyond two years from the effective date of dismissal. Amounts earned or amounts earnable with reasonable diligence by the person wrongfully suspended shall be deducted from any back pay.
449	SECTION 59-25-490	State	Depositions. Any party to such proceedings may cause to be taken the depositions of witnesses within or without the State and either by commission or de bene esse. Such depositions shall be taken accordance with and subject to the same provisions, conditions and restrictions as apply to the taking of like depositions in civil actions at law in the court of common pleas; and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification thereof and matters of practice relating thereto shall apply.
450	SECTION 59-25-500	State	Service of subpoenas; witness fees. The county sheriffs and their respective deputies shall serve all subpoenas of the district board and shall receive the same fees as are now provided by law for like service. Each witness who appears in obedience to such subpoenas shall receive for attendance the fees and mileage of witnesses in civil cases in courts of the county in which the hearing is held.
451	SECTION 59-25-510	State	Service of notices. All notices to be given under this article by the district board shall be given to both parties and the notices herein required to be given by a party shall be served upon the opposite prior to the filing thereof. All such notices may be served by registered mail.
452	SECTION 59-25-520	State	Powers and duties of court of common pleas; warrant for production of witnesses. The court of common pleas shall, on application of the district board, enforce by proper proceedings the attendanc testimony of witnesses and the production and examination of books, papers and records and shall have the power to punish as for contempt of court, by a fine or imprisonment or both, the unexcus failure or refusal to attend and give testimony or produce books, papers and records as may have been required in any subpoena issued by the district board. The district board may issue to the sheri the county in which any hearing is held a warrant requiring him to produce at the hearing any witness who shall have ignored or failed to comply with any subpoena issued by the district board and served upon such witness. Such a warrant shall authorize the sheriff to arrest and produce at the hearing such witness, and it shall be his duty to do so; but the failure of a witness so to appear in resp to any such subpoena may be excused on the same grounds as provided by law in the courts of this State as to the attendance of witnesses and jurors.
453	SECTION 59-25-530	State	Unprofessional conduct; breach of contract. Any teacher who fails to comply with the provisions of his contract without the written consent of the school board shall be deemed guilty of unprofessio conduct. A breach of contract resulting from the execution of an employment contract with another board within the State without the consent of the board first employing the teacher makes void an subsequent contract with any other school district in South Carolina for the same employment period. Upon the formal complaint of the school board, substantiated by conclusive evidence, the State shall suspend or revoke the teacher's certificate, for a period not to exceed one calendar year. State education agencies in other states with reciprocal certification agreements shall be notified of the revocation of the certificate.
454	SECTION 59-25-710	State	Teacher discriminated against in fixing salary may file complaint. Any school teacher who may feel that he has been discriminated against on any ground or for any cause whatsoever by a board of trustees in fixing the salary of such teacher, in the exercise of the wide discretion conferred upon trustees by law in the fixing of teachers' salaries, may file a complaint for the purpose of having such discrimination abated and in so doing shall follow the procedure hereinafter set out.
455	SECTION 59-25-720	State	Complaint filed with county board. Such teacher may at any time, during the period for which he has been employed, file with the county board of education of the county in which the school is locat complaint in writing which shall set forth briefly the manner and method by which the alleged discrimination is claimed to have occurred. Any number of teachers that are employed by the same sch district may join in the filing of a complaint.
456	SECTION 59-25-730	State	Hearing on complaint. Upon the filing of such complaint, the county board of education shall fix a date for the hearing thereof and at least ten days prior to the date fixed shall notify the complainant the board of trustees of the school district in which the teacher is employed of the time and place of such hearing. It shall set forth in such notice the grounds of such alleged discrimination.

Legal Standards

457	SECTION 59-25-740	State	Process and procedure shall be summary and simple. The process and procedure under this article shall be as summary and simple as reasonably may be. The county board of education shall have th power, for the purpose of this article, to subpoena witnesses, to administer oaths and to examine such parts of any books and records as relate to the questions involved. Any party to such proceeding may cause to be taken the depositions of witnesses within or without the State and either by commission or de bene esse. Such depositions shall be taken in accordance with and subject to the same provisions, conditions and restrictions as apply to the taking of like depositions in civil actions at law in the court of common pleas, and the same rules with respect to the giving of notice to the oppo party, the taking and transcribing of testimony, the transmission and certification thereof and matters of practice relating thereto shall apply.
458	SECTION 59-25-750	State	Service of subpoenas; witness fees. The county sheriffs and their respective deputies shall serve all subpoenas of the county board and shall receive the same fees as are now provided by law for like service. Each witness who appears in obedience to such subpoena shall receive for attendance the fees and mileage of witnesses in civil cases in courts of the county in which the hearing is held.
459	SECTION 59-25-760	State	Service of notices. All notices to be given under this article by either the county board or the State Board shall be given to both parties and the notices herein required to be given by a party shall be s upon the opposite party prior to the filing thereof. All of such notices may be served by registered mail.
460	SECTION 59-25-770	State	Powers and duties of court of common pleas; warrant for production of witnesses. The court of common pleas shall, on application of the county board, enforce by proper proceedings the attendance testimony of witnesses and the production and examination of books, papers and records and shall have the power to punish as for contempt of court, by a fine or imprisonment or both, the unexcus failure or refusal to attend and give testimony or produce books, papers and records as may have been required in any subpoena issued by the county board. The county board may issue to the sheri the county in which any hearing is held a warrant requiring him to produce at the hearing any witness who shall have ignored or failed to comply with any subpoena issued by the county board and served upon such witness. Such warrant shall authorize the sheriff to arrest and produce at the hearing such witness, and it shall be his duty so to do. But the failure of a witness so to appear in respo any such subpoena may be excused on the same grounds as provided by law in the courts of this State as to the attendance of witnesses and jurors.
461	SECTION 59-25-780	State	Hearing; decision. The hearing before the county board shall be open to the public and shall be stenographically reported, and the county board may contract for the reporting of such hearing. The co board shall hear the parties at issue and their attorneys, if any, and shall determine the matter in a summary manner setting forth its findings and conclusions in writing. If it shall find that such teach shall have been discriminated against, it shall require the board of trustees to discontinue such discrimination. The county board shall give notice by registered mail to both parties of its decision.
462	SECTION 59-25-790	State	Basis of decision. The county board, in passing upon such matters, is hereby vested with full discretion to the same extent as if the duty of fixing salaries of teachers had been originally imposed upon county board and shall have the right to take into consideration changed conditions arising since the issuance of the certificates held by the teachers involved and other facts that will be helpful in rendering a just decision.
463	SECTION 59-25-800	State	Reclassification of all teachers in district. The county board may, in determining whether or not a discrimination exists, recommend that the State Board of Education require all teachers in the distri be examined and recertified under the procedure then in force for the certification of teachers as to their qualifications and may thereupon require the trustees of such district to classify such teache accordance with such recertification for the purpose of fixing their salaries, to the end that the salaries of such teachers shall be based upon the value of the services rendered, it being found as a fact each grade of teachers' certificates now outstanding is held by teachers of greatly varying efficiency, abilities and accomplishments. Should no appeal be taken from a decision of the county board ma such recommendation, the State Board of Education shall carry out such recommendation.
464	SECTION 59-25-810	State	Appeal to State Board of Education. Within thirty days after the receipt of any such notice of such decision of the county board, any party thereto shall have the right to appeal to the State Board of Education by filing a notice of appeal, stating the grounds thereof, with the county board of education. Upon such appeal being filed, the county board, within thirty days thereafter, shall file a full and complete certified transcript of the proceedings had before it with the State Board of Education. Upon receipt of such appeal, the State Board of Education shall fix a time and place for the hearing the and give notice, by registered mail, to the parties involved. Such appeal shall be heard upon the transcript of the proceedings from the county board and such other investigation and additional testim as the State Board may elect to take, all of which, if taken, shall be reported and made a part of the record. The State Board of Education shall review all questions of law and fact and, in determining th matter, exercise its discretion as an original duty imposed upon it. All powers and remedies herein conferred on county boards as to subpoenaing witnesses, enforcing attendance, taking and product evidence and other procedural matters are hereby conferred upon the State Board.
465	SECTION 59-25-820	State	Reclassification on order of State Board of Education. The State Board of Education, upon its own initiative, in the accomplishment of justice in the matter, may require all teachers in the district fron which the appeal came to be examined and recertified under the procedure then in force for the certification of teachers as to their qualifications and shall thereupon require the trustees of such dist classify such teachers in accordance with such recertification for the purpose of fixing their salaries, to the end that the salaries of such teachers shall be based upon the value of services rendered.
466	SECTION 59-25-830	State	Finality of findings of fact by State Board of Education; appeal on errors of law. The findings of fact by the State Board of Education are final and conclusive as to all parties, but any party, within thirt days, may appeal to the Administrative Law Court as provided in Section 1 23 380(B) and Section 1 23 600(D), to review error of law only, by filing with the State Board of Education and the Administrative Law Court notice of the appeal and of the grounds for the appeal. The state board shall file a certified copy of the record with the Administrative Law Court in accordance with its rules procedure. A party may have judicial review of the decision of the administrative law judge as provided by law.
467	SECTION 59-25-840	State	Filing of unappealed decision; enforcement. Any decision of either the county board or the State Board which shall become final by reason of no appeal being taken therefrom as herein provided shal filed in the office of the clerk of court of the county in which the complaint arose within ten days after such decision becomes final by the board rendering the decision. Any party thereto shall have th right to apply to the circuit court of such county for the enforcement of such decision and the court shall enforce such decision in the same manner as judgments of such court are enforced.

Legal Standards

468	SECTION 59-25-850	State	Compensation received prior to filing of complaint not affected. Nothing contained herein shall give any teacher any right to claim compensation in addition to that received for the period prior to th filing of the complaint with the county board as provided in Section 59 25 720.
469	SECTION 59-25-860	State	Costs; fees of clerks of boards. Costs shall be taxed in the proceedings authorized hereunder by the respective boards in accordance with the procedure and limitations applicable to taxing costs in a action at law in the court of common pleas. The clerk of each board shall be allowed the same fees as clerks of court of the county in which the proceedings arose, and any other fees or costs allowed b in the court of common pleas in actions at law, and which are taxable as costs, shall apply in the proceedings before the boards and be taxable as costs. The costs so taxed of both parties shall be paid b State Board of Education.
470	SECTION 59-26-10	State	Intent; guidelines for implementation. It is the intent of this chapter to provide for a fair, cohesive, and comprehensive system for the training, certification, initial employment, evaluation, and contin professional development of public educators in this State. The following guidelines, which further constitute the intent of this chapter must be adhered to by all state and local officials, agencies, and boards in interpreting and implementing the provisions of this chapter so that the system provided for herein shall: (a) upgrade the standards for educators in this State in a fair, professional, and reasonable manner; (b) assure that prospective teachers have basic reading, mathematics, and writing skills; (c) improve the educator training programs and the evaluation procedures for those programs; (d) assure that prospective teachers know and understand their teaching areas and are given assistance toward the achievement of their potential; (e) assure that school districts implement a comprehensive system for assisting, developing, and evaluating teachers employed at all contract levels.
471	SECTION 59-26-20	State	Duties of State Board of Education and Commission on Higher Education. The State Board of Education, through the State Department of Education, and the Commission on Higher Education shall: (a) develop and implement a plan for the continuous evaluation and upgrading of standards for program approval of undergraduate and graduate education training programs of colleges and univer in this State; (b) adopt policies and procedures which result in visiting teams with a balanced composition of teachers, administrators, and higher education faculties; (c) establish program approval procedures which shall assure that all members of visiting teams which review and approve undergraduate and graduate education programs have attended training programs in program approval procedures within two years prior to service on such teams; (d) render advice and aid to departments and colleges of education concerning their curricula, program approval standards, and results on the examinations provided for in this chapter; (e) adopt program approval standards so that all colleges and universities in this State that offer undergraduate degrees in education shall require that students successfully complete the basic skills examination that is developed in compliance with this chapter before final admittance into the undergraduate teacher education program. These program approval standards shall include, but not be limited to, the following: (1) A student initially may take the basic skills examination during his first or second year in college. (2) Students may be allowed to take the examination no more than four times. (3) If a student has not passed the examination, he may not be conditionally admitted to a teacher education program after December 1, 1996. After December 1, 1996, any person who has failed to achieve a passing score on all sections of the examination after two attempts may retake for a third time any test section not passed in the manner allowed by this section. The person shall first comp remedial or developmental course from a post secondary institution in the subject area of any test section not passed and provide satisfactory evidence of completion of this required remedial or developmental course to the State Superintendent of Education. A third administration of the examination then may be given to this person. If the person fails to pass the examination after the third attempt, after a period of three years, he may take the examination or any sections not passed for a fourth time under the same terms and conditions provided by this section of persons desiring to ta examination for a third time. Provided, that in addition to the above approval standards, beginning in 1984 85, additional and upgraded approval standards must be developed, in consultation with the Commission on Higher Education, and promulgated by the State Board of Education for these teacher education programs. (f) administer the basic skills examination provided for in this section three times a year; (g) report the results of the examination to the colleges, universities, and student in such form that he will be provided specific information about his strengths and weaknesses and given consultatio assist in improving his performance; (h) adopt program approval standards so that all colleges and universities in this State that offer undergraduate degrees in education shall require that students pursuing courses leading to teacher certification successfully complete one semester of student teaching and other field experiences and teacher development techniques directly related to practical classroom situations; (i) adopt program approval standards whereby each student teacher must be evaluated and assisted by a representative or representatives of the college or university in which the student teacher is enrolled. Evaluation and assistance processes shall be locally developed or selected by colleges or universities in accordance with State Board of Education regulations. Processes shall evaluate and as student teachers based on the criteria for teaching effectiveness developed in accordance with this chapter. All college and university representatives who are involved in the evaluation and assistanc

Legal Standards

472	SECTION 59-26-30	State	Cognitive assessments for teachers and teacher certification; examinations; regulations. (A) In the area of cognitive assessments for teachers and teacher certification, the State Board of Education, a through the State Department of Education, shall: (1) adopt a basic skills examination in reading, writing, and mathematics that is suitable for determining whether students may be admitted fully into an undergraduate teacher education program. examination must be designed so that results are reported in a form that shall provide colleges, universities, and students with specific information about his strengths and weaknesses. Procedures, t questions, and information from existing examinations must be validated in accordance with current legal requirements. The passing score on the examination shall be set at a level that reflects the d of competency in the basic skills that, in the judgment of the State Board of Education, a prospective school teacher reasonably is expected to achieve; (2) adopt nationally recognized teaching examinations that measure the cognitive teaching area competencies desired for initial job assignments in typical elementary and secondary schools in this The examinations shall contain a minimum amount of common or general knowledge questions. They shall be designed so that results are reported in a form that provide a student with specific information about the student's strengths and weaknesses. Procedures, test questions, and information from existing examinations and lists of validated teacher competencies are used to the maxim extent in the development of the examinations. An examination that is completely developed by an organization other than the special project may be considered for use as a whole only if the State Be of Education concludes that the development and maintenance of a specific area test is impractical or would necessitate exorbitant expenses. The examinations must be validated. The teaching examinations must be developed or selected only for those areas in which State Board of Education approved area examinations are not available; (3) use nationally recognized specific teaching area examinations approved by the State Board of Education for certification purposes. The qualifying scores on the area examinations shall be set at t same level at which they are now set. The State Board of Education shall examine these levels to determine if adjustments are required. Periodic examinations shall be made to assure the validity of qualifying scores. The qualifying scores may be adjusted if new legal requirements or validity studies indicate the adjustments are necessary. In an area in which an area teaching examination approv the State Board of Education is not available, the state board shall use the teaching examinations developed in accordance with this section for certification purposes as soon as those examinations ar prepared, validated, and ready for use; (4) report the results of the teaching examinations to the student in written form that provides specific information about the student's strengths and weaknesses. Every effort must be made to repo results of the area examinations and common examinations in written form that provides specific information about the student's strengths and weaknesses; (5) report to each teacher training institution in the State the performance of the institution's graduates on the teaching examinations. The report to the institution must be in a form that assists the institution in further identifying strengths and weaknesses in its teacher training programs; (6) provide for the security and integrity of the tests that are administered under the certification program as currently provided by the State Department of Education; (7) award a teaching certificate to a person who successfully completes the scholastic requirements for teaching at an approved college or university and the examination he is required to take for certification purposes; (8) award a conditional teaching certificate to a person eligible to hold a teaching certificate who does not qualify for full certification under item (7) above provided the person has earned a bachelo degree from an accredited college or university with a major in a certification area for which the board has determined there exists a critical shortage of teachers, and the person has passed the appropriate teaching examination. The board may renew a conditional teaching certificate annually for a maximum of three years, if the holder of the certificate shows satisfactory progress toward completion of a teacher certification program prescribed by the board. In part, satisfactory progress is the progress that the holder of a conditional certificate should complete the requirements for fu
473	SECTION 59-26-40	State	Induction, annual and continuing contracts; evaluations; termination of employment for annual contract teacher; hearing. (A) A person who receives a teaching certificate as provided in Section 59 2 may be employed by a school district under a nonrenewable induction contract. School districts shall comply with procedures and requirements promulgated by the State Board of Education relating aid, supervision, and evaluation of persons teaching under an induction contract. Teachers working under an induction contract must be paid at least the beginning salary on the state minimum salar schedule. (B) Each school district shall provide teachers employed under induction contracts with a formalized induction program developed or adopted in accordance with State Board of Education regulatio (C) At the end of each year of the three year induction period, the district may employ the teacher under another induction contract, an annual contract, or may terminate his employment. If employ is terminated, the teacher may seek employment in another school district at the induction contract level. At the end of the three year induction contract period, a teacher shall become eligible for employment at the annual contract level. At the discretion of the local school district in which the induction teacher was employed, the district may employ the teacher under an annual contract or th district may terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the annual contract level. A person must not be employed as an induction teacher for more than three years. This subsection does not preclude his employment under an emergency certificate in extraordinary circumstances if the employment is approved by the Board of Education. During the induction contract period, the employment dismissal provisions of Article 3, Chapter 19 and Article 5, Chapter 25 of this title do not apply. (D) Annual contract teachers must be evaluated or assisted with procedures developed or adopted by the local school district in accordance with State Board of Education regulations. Teachers emp under an annual contract also must complete an individualized professional growth plan established by the school or district. Professional growth plans must be supportive of district strategic plans school renewal plans. Teachers must not be employed under an annual contract for more than four years, in accordance with State Board of Education regulations. (E) During the first annual contract year, at the discretion of the school district in which the teacher is employed, the annual contract teacher either must complete the formal evaluation process or b provided diagnostic assistance. During subsequent annual contract years, teachers must be evaluated or assisted in accordance with State Board of Education regulations. Teachers are eligible to rec diagnostic assistance during only one annual contract year. (F) Once an annual contract teacher has successfully completed the formal evaluation process, met the criteria set by the local board of trustees, and satisfied requirements established by the State B of Education for the professional teaching certificate, the teacher becomes eligible for employment at the continuing contract level. At the discretion of the school district in which the teacher is empl the district may employ the teacher under a continuing contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district. At discretion of the next hiring district, the teacher may be employed at the annual or continuing contract level. An annual contract teacher who has completed successfully the evaluation process and m criteria set by the local board of trustees, but who has not yet satisfied all requirements established by the State Board of Education for the professional teaching certificate, is eligible for employment under a subsequent annual contract, with evaluation being either formal or informal, at the discretion of the local school district. At the discretion of the school district in which the teacher is employ the district may employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual contract level. If at the end of an annual contract year a teacher did not complete successfully the formal evaluation process or if it is the opinion of the school district that the teacher's perform was not sufficiently high based on criteria established by the local board of trustees, the teacher is eligible for employment under a subsequent annual contract. Formal evaluation or assistance must provided consistent with State Board of Education regulations. At the discretion of the school district, the district may employ the teacher under a subsequent annual contract or terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the annual contract level.

Legal Standards

474	SECTION 59-26-50	State	Creation and membership of Educator Improvement Task Force; duties and powers. (a) There is created as an agency of state government the South Carolina Educator Improvement Task Force com of thirteen members. The State Superintendent of Education with the advice and consent of the State Board of Education shall appoint six members, one of whom may be himself, one of whom must b public school teacher and one of whom must be a public school administrator. The Governor shall appoint seven members, one from each congressional district and not less than two of whom must b employed at state institutions of higher education and not less than one of whom is a member of a local school board. A vacancy must be filled in the manner of the original appointment. The member shall receive per diem, mileage, and subsistence as provided by law for members of state boards, committees, and commissions to be paid from funds appropriated for the operation of the State Department of Education. Every consideration must be given to insure appropriate racial balance in appointments. (b) The Task Force shall organize by electing such other officers as it deems necessary. Bylaws may be adopted by a majority vote as deemed necessary. (c) The powers and duties of the Task Force shall be as follows: (1) Employ as director of the special project a person who has specific skills and experience to carry out the requirements of this chapter. (2) Exercise supervision over the special project to insure that the intent of this chapter is carried out. (3) Seek input from the public and other state agencies concerning the implementation of this chapter. (4) Confer periodically with the State Board of Education and submit a final report to the Board concerning the implementation of this chapter. The report shall include a plan for the implementation the responsibilities assigned to the Task Force by this chapter. The Board shall approve or disapprove the implementation plan within forty five days. If the Board disapproves the plan, it shall submi reasons for disapproval to the Chairman of the Task Force within fifteen days, and the Task Force shall, after consideration of the reasons for the disapproval, submit a revised implementation plan o original plan with justification therefor to the State Board of Education within thirty days. If the Board then disapproves the original or revised plan, the Chairman of the Task Force and the Chairman the Board shall within thirty days call a joint meeting and a majority vote of the Board and Task Force shall determine the plan to be implemented. (5) Report to the Governor, the State Board of Education, the Chairman of the Senate Education Committee and the Chairman of the House Education and Public Works Committee by March 1, 1980, annually thereafter, on the status of the implementation of this chapter. The annual report shall include any recommendations for legislative or executive action to facilitate achieving the intent of thi chapter. (6) Provide advice to the Board of Education and Commission on Higher Education concerning actions that may be needed to upgrade teacher training programs or otherwise facilitate progress tow achieving the intent of this chapter. Such advice shall include a determination of the minimum financial support per provisional and annual contract teacher that should be provided to local school districts by the General Assembly to compensate the districts for the additional duties imposed upon them by the provisions of this chapter. (d) The Task Force shall terminate July 1, 1982, and may be extended only by a vote of two thirds of the members of the House present and voting and two thirds of the members of the Senate preser voting. If any of the implementation dates set forth in this chapter are extended by the General Assembly, the termination date of the Task Force may be extended for the same length of time by a maj vote of the members of the House and a majority vote of the members of the Senate.
475	SECTION 59-26-60	State	Educational Improvement Task Force; appropriation. The General Assembly shall appropriate the necessary funds for operation of the Educator Improvement Task Force.
476	SECTION 59-26-70	State	Adjustments in instructional time permitted; foreign language requirements for diploma. The State Board of Education, through the State Department of Education, in order to offer students more instructional time in a particular basic skill, may allow adjustments in the amount of instructional time required in each of the subjects in the State's defined minimum program. No commission or ag of the State shall require any public high school in this State to require foreign language as a prerequisite to receiving a regular high school diploma.
477	SECTION 59-26-85	State	NBPTS recertification; development of application fee loan program. (A)(1) Teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) before July 1, 2010, shall e recertification cycle for their South Carolina certificate consistent with the recertification cycle for National Board certification and NBPTS certified teachers moving to this State are exempted from i certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with National Board certification. Teachers receiving national certification fr the NBPTS before July 1, 2010, shall receive an increase in pay for the initial ten year National Board certification and no more than one ten year renewal of National Board certification. The pay incre shall be determined annually in the appropriations act. The established amount shall be added to the annual pay of the nationally certified teacher. (2) Teachers who apply on or after July 1, 2010, for certification by the NBPTS shall enter a recertification cycle for their South Carolina certificate and consistent with the initial ten year cycle for Na Board certification, and teachers moving to this State who apply for National Board certification on or after July 1, 2010, and subsequently achieve National Board certification are exempted from init certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with the initial ten year cycle. Teachers receiving national certification from NBPTS on or after July 1, 2010, only shall receive an increase in pay for the initial ten years of the certification. The pay increase shall be determined annually in the appropriations act. The establishe amount shall be added to the annual pay of the nationally certified teacher. (B) The Center for Teacher Recruitment shall develop guidelines and administer the programs whereby teachers applying to the National Board for Professional Teaching Standards for certification before July 1, 2010, may receive a loan equal to the amount of the application fee. One half of the loan principal amount and interest shall be forgiven when the required portfolio is submitted to the National Board. Teachers attaining certification within three years of receiving the loan will have the full loan principal amount and interest forgiven. This subsection does not apply to any applicatio submitted on or after July 1, 2010.
478	SECTION 59-26-90	State	Teacher of the year honorarium programs. The State Department of Education shall establish a program for the State Teacher of the Year to include an honorarium of no less than twenty five thousa dollars. In addition, the program is to recognize the four honor roll teachers of the year with awards of no less than ten thousand dollars each and award local district teachers of the year with honora no less than one thousand dollars each.
479	SECTION 59-26-100	State	Incentives for teachers serving as mentors. The State Board of Education, acting through the Department of Education, shall establish a program whereby schools and school districts may be awarde funds to develop various types of incentives for those teachers who are trained and serve as mentors to new teachers as a part of the induction program established in Section 59 26 20. Among the incentives that may qualify are additional pay, release time, and additional assistance in the classroom. To qualify for these funds, the school or school district must meet the criteria established by th state board.

Legal Standards

480	SECTION 59-26-110	State	Youth suicide prevention teacher training. (A) Beginning with the 2013 2014 school year, the Department of Education shall require two hours of training in youth suicide awareness and prevention requirement for the renewal of credentials of individuals employed in a middle school or high school as defined in Section 59 1 150. The required training shall count toward the one hundred twenty renewal credits specified in Department of Education regulations for renewal of credentials. (B)(1) The department shall develop guidelines suitable for training and materials that may be used by schools and districts; however districts may approve materials to be used in providing trainin employees. (2) The training required in this section may be accomplished through self review of suicide prevention materials that meet guidelines developed by the Department of Education. (C) No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this section or resulting from any training, or la training, required by this section unless the loss or damage was caused by wilful or wanton misconduct. The training, or lack of training, required by the provisions of this section must not be constru impose any specific duty of care.
481	SECTION 59-27-10	State	Interstate Agreement on Qualification of Educational Personnel adopted; terms of Agreement. The Interstate Agreement on Qualification of Educational Personnel is hereby adopted by the State of S Carolina and entered into with all jurisdictions legally joining therein, in the form substantially as follows: Interstate Agreement on Qualification of Educational Personnel ARTICLE 1 Purpose, Findings, and Policy 1. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, de that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best inter society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end. 2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personne taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the emplo of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educationa manpower. ARTICLE 2 Definitions As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise: 1. "Educational personnel" means persons who must meet requirements pursuant to state law or state board of education regulation as a condition of employment in educational programs. 2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement. 3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requ like determination that would otherwise be required by or pursuant to the laws of a receiving state. 4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico. 5. "Originating State" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is accepta accordance with the terms of a contract made pursuant to Article 3. 6. "Receiving State" means a state (and the subdivision thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to Article 3.
482	SECTION 59-27-20	State	Designated State official. The "designated State official" for this State shall be the State Superintendent of Education. He shall enter into contracts pursuant to Article 3 of the agreement only with the approval of the specific text thereof by the State Board of Education.
483	SECTION 59-27-30	State	Copies of contract required to be on file. True copies of all contracts made on behalf of this State pursuant to the agreement shall be kept on file in the office of the State Superintendent of Education a the office of the Secretary of State.
484	SECTION 59-28-100	State	Citation of chapter. This chapter may be cited as the "Parental Involvement in Their Children's Education Act".
485	SECTION 59-28-110	State	Purpose. It is the purpose of the General Assembly in this chapter to: (1) heighten awareness of the importance of parents' involvement in the education of their children throughout their schooling; (2) encourage the establishment and maintenance of parent friendly school settings; and (3) emphasize that when parents and schools work as partners, a child's academic success can best be assured.
486	SECTION 59-28-120	State	State agency involvement. The Governor shall require state agencies that serve families and children to collaborate and establish networks with schools to heighten awareness of the importance of parental influence on the academic success of their children and to encourage and assist parents to become more involved in their children's education.
487	SECTION 59-28-130	State	Parental involvement plans; recognition of improvement; establishing criteria for staff training. The State Board of Education shall: (1) require school and district long range improvement plans required in Section 59 139 10 to include parental involvement goals, objectives, and an evaluation component; (2) recognize districts and schools where parental involvement significantly increases beyond stated goals and objectives; and (3) establish criteria for staff training on school initiatives and activities shown by research to increase parental involvement in their children's education.

Legal Standards

488	SECTION 59-28-140	State	Design of parental involvement and best practices training programs; incorporation into teacher and principal preparation programs. The State Superintendent of Education shall: (1) design parental involvement and best practices training programs in conjunction with higher education institutions and the pre K through grade 12 education community, including parental pro coordinators, which shall include: (a) practices that are responsive to racial, ethnic, and socio economic diversity, and are appropriate to various grade level needs; (b) establishment and maintenance of parent friendly school settings; (c) awareness of community resources that strengthen families and assist students to succeed; and (d) other topics appropriate for fostering partnerships between parent and teacher; (2) work collaboratively with the Commission on Higher Education to incorporate parental involvement training into teacher preparation and principal preparation programs consistent with the tra provided in subsection (1) of this section. HISTORY: 2000 Act No. 402, Section 1. SECTION 59 28 150. State Superintendent of Education activities to promote parental involvement. The State Superintendent of Education shall: (1) promote parental involvement as a priority for all levels from pre K through grade 12, with particular emphasis at the middle and high school levels where parental involvement is currently least visible; (2) designate a Department of Education staff position whose specific role is to coordinate statewide initiatives to support school and district parental involvement; (3) collect and disseminate to districts and schools practices shown by research to be effective in increasing parental involvement at all grade levels; (4) provide parental involvement staff development training for district and school liaisons, as needed; (5) provide technical assistance relating to parental involvement training to districts and schools; (6) sponsor statewide conferences on best practices; (7) identify, recommend, and implement ways to integrate programs and funding for maximum benefit to enhance parental involvement; (8) enroll the Department of Education as a state member of national organizations which promote proven parental involvement frameworks, models, and practices and provide related services to s and local members; (9) promote and encourage local school districts to join national parental involvement organizations; and (10) monitor and evaluate parental involvement programs statewide by designing a statewide system which will determine program effectiveness and identify best practices and report evaluation findings and implications to the General Assembly, State Board of Education, and Education Oversight Committee.
489	SECTION 59-28-160	State	Local school board of trustees activities. Each local school board of trustees shall: (1) consider joining national organizations which promote and provide technical assistance on various proven parental involvement frameworks and models; (2) incorporate, where possible, proven parental involvement practices into existing policies and efforts; (3) adopt policies that emphasize the importance, strive to increase and clearly define expectations for effective parental involvement practices in the district schools; (4) provide for all faculty and staff, no later than the 2002 2003 school year, parental involvement orientation and training through staff development with an emphasis on unique school and district needs and after that, on an ongoing basis as indicated by results of evaluations of district and school parental involvement practices and as required by the State Board of Education; (5) provide incentives and formal recognition for schools that significantly increase parental involvement as defined by the State Board of Education; (6) require an annual briefing on district and school parental involvement programs including findings from state and local evaluations on the success of the district and schools' efforts; and (7) include parental involvement expectations as part of the superintendent's evaluation.
490	SECTION 59-28-170	State	School district superintendent activities. (A) Each school district superintendent shall consider: (1) designating staff to serve as a parent liaison for the district to coordinate parental involvement initiatives and coordinate community and agency collaboration to support parents and families; (2) requiring each school to designate a faculty contact for parental involvement efforts to work collaboratively with the district coordinator and network with other school faculty contacts; (3) requiring each school principal to designate space within the school specifically for parents which contains materials and resources on the numerous ways parents and schools can and should pa for a child's academic success; and (4) encouraging principals to adjust class and school schedules to accommodate parent teacher conferences at times more convenient to parents and, to the extent possible, accommodate parents in where transportation and normal school hours present a hardship. (B) Each school district superintendent shall: (1) include parental involvement expectations as part of each principal's evaluation; (2) include information about parental involvement opportunities and participation in the district's annual report; and (3) disseminate to all parents of the district the expectations enumerated in Section 59 28 180.

Legal Standards

491	SECTION 59-28-180	State	Parent expectations. Parent involvement influences student learning and academic performance; therefore, parents are expected to: (1) uphold high expectations for academic achievement; (2) expect and communicate expectations for success; (3) recognize that parental involvement in middle and high school is equally as critical as in elementary school; (4) ensure attendance and punctuality; (5) attend parent teacher conferences; (6) monitor and check homework; (7) communicate with the school and teachers; (8) build partnerships with teachers to promote successful school experiences; (9) attend, when possible, school events; (10) model desirable behaviors; (11) use encouraging words; (12) stimulate thought and curiosity; and (13) show support for school expectations and efforts to increase student learning.
492	SECTION 59-28-190	State	Education Oversight Committee survey to determine effectiveness of efforts to increase parent involvement. The Education Oversight Committee shall survey parents to determine if state and local e are effective in increasing parental involvement. This information shall be used in the public awareness campaign required by the Education Accountability Act to promote the importance of parenta involvement. The campaign shall include: (1) advice for parents on how to help their children be successful in school and the importance of nurturing their children's skills and abilities; (2) requests to employers, state agencies, entities, community groups, nonprofit organizations, and faith communities that work with children and families to distribute and display parent advice an other pertinent parent information; (3) promotion of the benefits of increased productivity, loyalty, and sense of community which result from parent friendly workplace policies; (4) ideas and encouragement to employers to adopt parent friendly workplace policies and to provide information on the importance of parents to a child's academic success; (5) recognition of businesses and employers where parent friendly policies have been adopted; and (6) recognition of agencies and faith communities that have supported and increased parental involvement.
493	SECTION 59-28-200	State	Development of informational materials. The Education Oversight Committee and the State Superintendent of Education shall develop and publish jointly informational materials for distribution to a public school parents and to teachers. The informational materials for distribution shall include: (1) an explanation of the grade level academic content standards and advice on how parents can help their children achieve the standards and the relationship of the standards to the state assessmen and (2) printed information about the standards and advice relative to parental involvement in their children's education for visible display and use in every public school K 12 classroom.
494	SECTION 59-28-210	State	Distribution of informational materials. The Education Oversight Committee shall disseminate the informational materials prepared pursuant to Section 59 28 200 to all districts and schools.
495	SECTION 59-28-220	State	Development of employer tax credit incentives for paid parent employee release time. The Education Oversight Committee, in cooperation with representatives of the Department of Commerce, the Department of Revenue, and the South Carolina Chamber of Commerce, shall develop recommendations for employer tax credits as incentives to: (1) provide parent employee release time for parent teacher conferences or attendance at their children's academic related events without loss of pay; and (2) develop workplace policies which enable parents to improve their literacy, assist their children with academics, and become more involved in their child's education as a result of employers wor with local school officials. Recommendations shall be reported to the Senate Finance and Education Committees, House Ways and Means Committee, and the House Education and Public Works Committee no later than Janua 2001.
496	SECTION 59-29 -10	State	Required subjects. The county board of education and the board of trustees for each school district shall see that in every school under their care there shall be taught, as far as practicable, orthograp reading, writing, arithmetic, geography, English grammar and instruction in phonics, the elements of agriculture, the history of the United States and of this State, the principles of the Constitutions o United States and of this State, morals and good behavior, algebra, physiology and hygiene (especially as to the effects of alcoholic liquors and narcotics upon the human system), English literature, a such other branches as the state board may from time to time direct.
497	SECTION 59-29-15	State	Teaching cursive writing and multiplication tables required. (A) In addition to the requirements that writing and arithmetic be subjects of instruction in each school district pursuant to Section 59 2 each school district shall: (1) provide instruction in cursive writing to ensure that students can create readable documents through legible cursive handwriting by the end of fifth grade; and (2) require students to memorize multiplication tables to ensure that students can effectively multiply numbers by the end of fifth grade. (B) The State Department of Education shall assist the school districts in identifying the most appropriate means for integrating this requirement into their existing curriculums. Additionally, the department, using procedures followed for other textbook adoptions, shall review and recommend cursive writing instructional materials for inclusion on the approved state textbook adoption list. Schools may select these materials in the same manner that other textbooks are selected from the list.
498	SECTION 59-29-20	State	Required subjects; nature and effect of alcoholic drinks and narcotics. The nature of alcoholic drinks and narcotics and special instruction as to their effect upon the human system shall be taught in a grammar and high schools of this State which receive any State aid whatsoever and shall be studied and taught as thoroughly and in the same manner as all other required branches in such schools, a be required by the State Board of Education. The State Board of Education shall provide for the enforcement of the provisions of this section.

Legal Standards

499	SECTION 59-29-21	State	Guidelines for career guidance. The State Department of Education is directed to develop guidelines to include career guidance as a part of the general guidance program in the schools of the State.
500	SECTION 59-29-30	State	Required subjects; Alcohol and Narcotics Education Week. Each public school of the State shall designate one week during the school year for the observance of Alcohol and Narcotics Education Wee During this week, each district board of trustees shall require the school principal or other designated person to have each class from the sixth grade upward instructed for at least thirty minutes on t days concerning the risks and dangers involved in the use of alcoholic beverages and narcotics. The principal, or such other designated person, shall also have at least one assembly session during the week of not less than forty five minutes, at which time the subject of the dangerous effect of alcohol and narcotics shall be presented. The district board of trustees shall each year inform the State Board of Education of the week each public school in its district has designated as Alcohol and Narcotics Education Week, and the State of Education shall, through the Department of Education, provide suitable printed materials and other aids for use in the observance of the week.
501	SECTION 59-29-35	State	Home school awareness week; admission privileges. To recognize the many families in South Carolina who educate their children at home as provided by law, each year the first full week in October designated and shall be recognized as "South Carolina Home School Awareness Week". During "South Carolina Home School Awareness Week", all home school students in this State and their parents guardians who serve as their children's teacher shall be provided the same admission opportunities to any educational facilities owned by or under the control of this State or any state agency, department, or institution as are provided to public or private school students and their teachers. In addition during Home School Awareness Week, educational facilities, not including public school facilities, owned or under the control of a local political subdivision or entity also shall provide the same admission opportunities as are provided to public or private school students and their teache Only during Home School Awareness Week shall these affected educational facilities provide the same special admission opportunities to home schooled students and their parents or guardians who serve as the students' teachers as they do to public or private school students and their teachers.
502	SECTION 59-29-40	State	Required subjects; films depicting nature of alcoholic drinks and narcotics; special instruction as to their effect. Films depicting the nature of alcoholic drinks and narcotics and special instructions a their effect upon the human system shall be taught in all the junior high and high schools of this State and shall be studied and taught as thoroughly and in the same manner as all other required bran in such schools, as may be required by the State Board of Education. Such films shall be presented at orientation programs of all State supported institutions of higher learning. The South Carolina Television Center shall make available to such schools and institutions television programs and films with commentary relative to such subject matter and the school shall require each student enrol therein to view such program or film. The State Board of Education or the college or university officials, as the case may be, shall provide for the enforcement of the provisions of this section.
503	SECTION 59-29-50	State	Required subjects; traffic laws. The State Department of Education and the trustees of the State institutions of higher learning shall establish and require to be taught in the respective schools under control a course of instruction on the traffic laws of this State. Such course of instruction shall be by lectures.
504	SECTION 59-29-55	State	Instruction on Black history. The State Board of Education shall examine the current status of the teaching of South Carolina History. By the 1989 1990 school year, each public school of the State mu instruct students in the history of the black people as a regular part of its history and social studies courses. The State Board of Education shall establish regulations for the adoption of history and so studies textbooks which incorporate black history and shall, through the State Department of Education, assist the school districts in developing and locating suitable printed materials and other aids instruction in black history. The State Board of Education shall examine curricular material for grades 1 6 to determine the level of emphasis on the relationship of agriculture and other industries to South Carolina economy.
505	SECTION 59-29-60	State	Required subjects; program of safety instruction. A definite program of safety instruction shall be included in the curriculum and provided in each primary and elementary grade in the public school the State.
506	SECTION 59-29-70	State	Required subjects; instruction in fire prevention. The State Board of Education shall provide for instruction in fire prevention in the elementary public schools of the State. Each teacher in a public sc of this State shall give such instruction in fire prevention as may be prescribed by the State Board.
507	SECTION 59-29-80	State	Courses in physical education; ROTC programs. (A) There shall be established and provided in all the public schools of this State physical education, training and instruction of pupils of both sexes, a every pupil attending any school, in so far as he is physically fit and able to do so, shall take the course or courses provided by this section. Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for normal pupils. However, in any public school which offers a military or naval ROTC program sponsored by one of th military services of the United States, training in such a program may be deemed equivalent to physical education instruction, and may be accepted in lieu of such instruction for all purposes, academ nonacademic, as may hereinafter be provided. (B) A student may be exempted from physical education requirements by seeking a waiver from the local school board of trustees. The local board may grant such a request based on the following criteria: (1) The student must present a statement by his attending physician indicating that participation in physical education will jeopardize the student's health and well being; or (2)(a) The parent and student must show that the student's attending physical education classes will violate their religious beliefs and would not be merely a matter of personal objection; and (b) the parent or student must be members of a recognized religious faith that objects to physical education as part of its official doctrine or creed. The local board shall encourage the student to take, as an alternative to physical education, appropriate instruction in health education or other instruction in lifestyle modification if an exemption is granted pursuant to this section.
508	SECTION 59-29-90	State	Physical education courses in teacher training colleges. All colleges, schools and other educational institutions in this State giving teacher training shall provide a course or courses in physical educat training and instruction, and every pupil attending any such college, school or educational institution in preparation for teaching service shall take such course or courses.

Legal Standards

509	SECTION 59-29-100	State	Supervision of administration of physical education program by State Superintendent of Education. The State Superintendent of Education shall supervise the administration of Section 59 29 80 and prescribe the necessary course or courses in physical education, training, and instruction. Beginning with school year 1995 96, the required physical education course in the secondary schools shall c over two semesters. For one semester, a personal fitness and wellness component must be taught and for one semester a lifetime fitness component must be taught either over the semester or in two week divisions. The State Board of Education is authorized to promulgate regulations and prepare or cause to be prepared, published, and distributed a manual of instruction, courses of study, or oth matters as it considers necessary or suitable to carry out the provisions of this section.
510	SECTION 59-29-110	State	Instruction in military science and tactics. The board of trustees of any State high school district may, with the approval and consent of the county board of education, provide for theoretical and prac instruction and training in military science and tactics in their high school, prescribe the grades in which such instruction and training shall be given and provide the necessary instructors and mater for the same. The State Board of Education shall establish and promulgate proper and suitable rules and regulations governing such instructions and training, and the Adjutant General shall assist and cooperate with the State Board of Education in the preparation of suitable rules and regulations to govern and control such instruction and training in State high schools and shall exercise such supervision and control of such instruction and training as the State Board of Education may approve and require. Any such high school may, under such rules and regulations as the State Board of Education may prescribe, install and maintain United States junior reserve officers training corps units.
511	SECTION 59-29-120	State	Study of United States Constitution requisite for graduation; attendance at veteran's activities. (A) All high schools, colleges, and universities in this State that are sustained or in any manner support public funds shall give instruction in the essentials of the United States Constitution, the Declaration of Independence, and the Federalist Papers, including the study of and devotion to American institutions and ideals, and no student in any such school, college, or university may receive a certificate of graduation without previously passing a satisfactory examination upon the provisions and principles of the United States Constitution, the Declaration of Independence, and the Federalist Papers, and, if a citizen of the United States, satisfying the examining power of his loyalty thereto. (B) On November eleventh of each year which is a legal holiday in this State as provided by Section 53 5 10 to commemorate and honor veterans, all elementary, middle, and high schools in this State they are open, shall devote at least one hour of the school day in either classroom instruction or at a student body assembly program to study the United States Constitution and the Declaration of Independence. If any such school is not open on November eleventh, this instruction or assembly program must be given on the day the school is open immediately preceding November eleventh. (C) On November eleventh of each year, schools may permit students to attend activities to commemorate and honor veterans that are held at locations within their respective counties. The parent o student seeking to be excused pursuant to this subsection shall provide prior written consent to the appropriate school personnel. Attendance at such activities shall count as a part of the instruction for purposes of Section 59 1 440.
512	SECTION 59-29-130	State	Duration of instruction in essentials of United States Constitution. The instruction provided for in Section 59 29 120 shall be given for at least one year of the high school, college and university grade respectively.
513	SECTION 59-29-140	State	Enforcement of program of study of United States Constitution by State Superintendent. The State Superintendent of Education shall make due arrangements for carrying out the provisions of Sectio 29 120 and 59 29 130. For such purpose the State Superintendent shall prescribe suitable texts adapted to the needs of the high schools, universities and colleges for the instruction required under Sections 59 29 120 and 59 29 130.
514	SECTION 59-29-150	State	Failure to comply with requirements for program of study of United States Constitution as cause for dismissal. Willful neglect or failure on the part of any public school superintendent, principal or teacher or the president, teacher or other officer of any high school, normal school, university or college to observe and carry out the requirements of Sections 59 29 120 to 59 29 140 shall be sufficie cause for the dismissal or removal of such person from his position.
515	SECTION 59-29-160	State	Two units of mathematics requisite for graduation. Every student in an accredited high school in this State shall, as a prerequisite to graduation therefrom, successfully complete at least two units of in the field of mathematics.
516	SECTION 59-29-165	State	Instruction in personal finance. All students attending a high school in this State that is sustained or in any manner supported by public funds must receive instruction in the area of personal finance. State Department of Education will assist the school districts in identifying suitable materials for instruction.
517	SECTION 59-29-170	State	Programs for talented students. Not later than August 15, 1987, gifted and talented students at the elementary and secondary levels must be provided programs during the regular school year or dur summer school to develop their unique talents in the manner the State Board of Education must specify and to the extent state funds are provided. The Education Oversight Committee shall study the implementation of this section and report its findings to the General Assembly by July 1, 1986. By August 15, 1984, the State Board of Education shall promulgate regulations establishing the criteria student eligibility in Gifted and Talented Programs. The funds appropriated for Gifted and Talented Programs under the Education Improvement Act of 1984 must be allocated to the school districts State on the basis that the number of gifted and talented students served in each district bears to the total of all those students in the State. However, districts unable to identify more than forty stude using the selection criteria established by regulations of the State Board of Education shall receive fifteen thousand dollars annually. Provided, further, school districts shall serve gifted and talented students according to the following order of priority: (1) grades 3 12 academically identified gifted and talented students not included in the state funded Advanced Placement Program for eleventh a twelfth grade students; (2) after all students eligible under priority one are served, students in grades 3 12 identified in one of the following visual and performing arts areas: dance, drama, music, an visual arts must be served; and (3) after all students eligible under priorities one and two are served, students in grades 1 and 2 identified as academically or artistically gifted and talented must be se All categories of students identified and served shall be funded at a weight of .30 for the base student cost as provided in Chapter 20 of this title. Where funds are insufficient to serve all students in a category, the district may determine which students within the category shall be served. Provided, further, no district shall be prohibited from using local funds to serve additional students above tho whom state funds are provided.

Legal Standards

518	SECTION 59-29-179	State	Identification of higher order thinking and problem solving skills. The State Board of Education shall establish a committee, which includes, but is not limited to, personnel from the State Departmen Education, school districts, and institutions of higher education. The purpose of the committee shall be to assist the State Board of Education in the identification of the dimensions of thinking which constitute "higher order thinking and problem solving" for purposes of Sections 59 26 30(b)(3), 59 26 30(b)(7), 59 26 30(j), 59 29 179, 59 29 180, 59 29 181, 59 29 182, 59 29 183, 59 30 110, and 59 600.
519	SECTION 59-29-180	State	Emphasis on higher order problem solving skills. The State Department of Education and all school districts shall emphasize higher order problem solving skills in curricula at all levels. The State Department of Education shall assist the school districts by locating, developing, and advising the districts on the development of materials and other aids which may be used to teach higher order problem solving skills within existing subjects.
520	SECTION 59-29-181	State	Selection of tests for statewide testing program. When selecting nationally normed achievement tests for the statewide testing program, the State Board of Education shall endeavor to select tests wi sufficient number of items which may be utilized to evaluate student's higher order thinking skills. The items may be used for this purpose only if the test created from the items meets applicable crit set forth in the American Psychological Association publication "Standards for Educational and Psychological Testing".
521	SECTION 59-29-182	State	Review of procedures to assess higher order thinking and problem solving skills. The State Board of Education shall review the use of procedures to assess student achievement in higher order think and problem solving skills which are different from traditional achievement tests.
522	SECTION 59-29-183	State	In service training programs. The State Department of Education shall develop or select in service training programs for teachers and staff in teaching higher order thinking and problem solving as p the existing curriculum. Upon funding for district implementation of the program by the General Assembly, the State Department of Education shall ensure that each school district implements teach service training in higher order thinking and problem solving on a schedule to train all teachers and staff within five years.
523	SECTION 59-29-190	State	Advanced placement courses for academically talented students. Each school district shall provide advanced placement courses in all secondary schools of the district which enroll an adequate numb academically talented students to support the course. By August 15, 1984, the State Board of Education by regulation shall specify what constitutes an advanced placement course and an adequate nu of students for these programs. A student who successfully completes the advanced placement requirements for a course and who receives a score of three or higher on the advanced placement exam receive advanced placement credit for the course in each post secondary public college in South Carolina in the manner specified by the Commission on Higher Education in conjunction with the Stat Board of Education.
524	SECTION 59-29-200	State	Pupil teacher ratios. Notwithstanding any other provisions of the South Carolina Education Improvement Act of 1984, no school district with a student population in excess of 9,000 shall receive any remediation funds appropriated hereunder unless each language arts and mathematics class in grades seven through twelve has in 1984 85 a pupil teacher ratio of thirty students per teacher or less, 1985 86 a pupil teacher ratio of twenty eight students per teacher or less, and in 1986 87, and thereafter, a pupil teacher ratio of twenty five to one or less.
525	SECTION 59-29-210	State	Emphasis on teaching as profession. The Governor's schools for talented high school students and the gifted and talented programs shall emphasize the importance of the teaching profession.
526	SECTION 59-29-220	State	Arts education curricula. The State Board of Education, in conjunction with the South Carolina Arts Commission, shall plan and develop discipline based arts education curricula in the visual arts, mu dance, and drama which complies with the State Department of Education discipline based arts education curriculum framework. The State Board of Education shall cause the arts education curricul be pilot tested in selected school districts during 1989 90, 1990 91, 1991 92, and 1992 93 and shall provide teacher in service training programs for arts specialists and classroom teachers. After pilot testing, the State Board of Education shall establish regulations related to in service training and curriculum development in cooperation with the Arts in Basic Curriculum Steering Comm and after consultation with the Education Oversight Committee. These regulations shall encourage innovation and flexibility and reflect the integrity of instruction required by each arts discipline. Th regulations must be developed in cooperation with school and district level teachers and administrators. Funds for the program must be used by the school districts to: (1) plan, develop, and implement discipline based arts education curricula in the visual arts, music, dance, or drama compatible with the State Department of Education discipline based arts educati curriculum framework; (2) provide teacher in service training programs for arts specialists or appropriate classroom teachers or both which are approved by the State Department of Education working with the state's col and universities; (3) hire certified arts specialists or contract with professional artists approved by the South Carolina Arts Commission to assist certified arts specialists or appropriate classroom teachers or both in planning, developing, and implementing discipline based arts education curricula. The Joint Legislative Study Committee on Formula Funding shall review whether or not arts education should be given a weighting under the Education Finance Act, if appropriate, recommend a weighting, and report to the Education Oversight Committee by December 1, 1990. The General Assembly shall phase in the arts education program and funding for the arts education program after piloting over three years in substantially equal annual intervals.

Legal Standards

527	SECTION 59-29-230	State	Old and New Testament era courses. (A)(1) A school district board of trustees may authorize, to be taught in the district's high schools, an elective course concerning the history and literature of the Testament era and an elective course concerning the history and literature of the New Testament era. (2) Each course offered must be taught in an objective manner with no attempt to influence the students as to either the truth or falsity of the materials presented. (3) Students must be awarded the same number of Carnegie units that are awarded to other classes of similar duration. (4) A particular version of the Old or New Testament to be used in either course may be recommended by the board of trustees; provided, that the teacher of the course and students enrolled in the course may use any version of the Old and New Testaments. (B) The board of trustees of a district that offers a course pursuant to this section must: (1) maintain supervision and control of the course; (2) hire any new teachers that it determines are required to teach the course in the same manner all other teachers are hired; (3) assure that all teachers teaching the course are certified by the State; and (4) make no inquiry into the religious beliefs, or the lack of religious beliefs, held by a teacher when determining which teacher shall teach the class. (C) The State Board of Education shall develop and adopt academic standards and appropriate instructional materials that must be used by high schools offering a course pursuant to this section. Th academic standards and instructional materials must ensure that the courses do not disparage or encourage a commitment to a set of religious beliefs. (D) The academic standards and appropriate instructional materials developed and adopted by the board must: (1) be designed to help students gain a greater appreciation of the Old Testament and the New Testament as great works of literature, art, and music; assist students in gaining greater insight into th many historical events recorded in the Old Testament and the New Testament; and provide students with a greater awareness of the many social customs that the Old Testament and the New Testam have significantly influenced; and (2) provide that the Old Testament is the primary text for the course exploring the history and literature of the Old Testament era and that the New Testament is the primary text for the course expl the history and literature of the New Testament era. (E) The academic standards developed and adopted may provide that students may be assigned period appropriate secular historical and literary works to supplement the primary text.
528	SECTION 59-29-410	State	Development of high school financial literacy programs; areas of instruction. (A) The State Board of Education shall develop or adopt curricula, materials, and guidelines for local school boards to us implementing a program of instruction on financial literacy within courses currently offered in high schools in this State. (B) The financial literacy program shall include, but not be limited to, instruction in the following areas: (1) opening a deposit account and assessing the quality of a depository institution's services; (2) balancing a check book; (3) spending, credit, credit scoring, and managing debt, including retail and credit card debt; (4) completing a loan application; (5) the implications of an inheritance; (6) the basic principles of personal insurance policies; (7) computing state and federal income taxes; (8) local tax assessments; (9) computing interest rates by various mechanisms; (10) understanding simple contracts; (11) contesting an incorrect billing statement; (12) savings and investing; and (13) state and federal laws concerning finance.
529	SECTIONS 59-29-420, 59-29-425	State	Repealed by 2006 Act No. 382, Section 4, eff June 14, 2006
530	SECTION 59-29-430	State	Incorporation into Academic Standards of Instruction. The State Board of Education shall incorporate the elements of the financial literacy program in Section 59 29 410(B) into the South Carolina Academic Standards of Instruction for kindergarten through twelfth grade.
531	SECTION 59-29-440	State	South Carolina Financial Literacy Initiative established. There is established the South Carolina Financial Literacy Initiative, a comprehensive, results oriented program for improving financial litera providing public and private funds for teachers and schools to provide high quality financial literacy education for students in kindergarten through twelfth grade.
532	SECTION 59-29-450	State	Purpose. The purpose of the Financial Literacy Initiative is to develop, promote, and assist efforts of agencies, private providers, and public and private organizations and entities, at the state level, to collaborate and cooperate in order to focus and intensify services, assure the most efficient use of all available resources, and eliminate duplication of efforts to serve the financial literacy needs of students, teachers, and schools. The South Carolina Financial Literacy Board of Trustees shall assure that collaboration and the sharing and maximizing of resources are occurring before funding for t grants, as provided for in this chapter, is made available.
533	SECTION 59-29-460	State	Goals. The goals for the South Carolina Financial Literacy Initiative are to: (1) provide students in kindergarten through twelfth grade with tools they will need in the real world to manage their finances; (2) increase comprehensive services so students have reduced risk for financial failure after high school; and (3) promote high quality programs that provide instruction on pertinent financial literacy issues pursuant to Section 59 29 410.

Legal Standards

534	SECTION 59-29-470	State	South Carolina Financial Literacy Board of Trustees established; acceptance of gifts; administration of trust. (A) There is established the South Carolina Financial Literacy Board of Trustees, an eleemosynary corporation, which shall oversee the South Carolina Financial Literacy Initiative, a broad range of innovative financial literacy services to meet critical needs of South Carolina's student kindergarten through twelfth grade through the awarding of grants to school districts as provided for in Section 59 29 530. (B) The board may accept gifts, bequests, and grants from a person or foundation. The trust and grants from the trust shall supplement and augment, but not take the place of, services provided by lo state, or federal agencies. The board of trustees shall carry out activities necessary to administer the trust including assessing service needs and gaps, soliciting proposals to address identified service needs, and establishing criteria for the awarding of grants.
535	SECTION 59-29-480	State	Board membership; terms; vacancies. (A) The South Carolina Financial Literacy Board of Trustees must be chaired by the State Superintendent of Education who shall serve as an ex officio voting me of the board. The board is composed of eight voting members to be appointed by the Superintendent of Education. Initial appointments must be made by the Superintendent of Education with memb representing areas of financial literacy instruction. Subsequent appointments must be made by the Superintendent of Education from a slate presented by the sitting members of the board. (B) The terms of the members are for four years and until their successors are appointed and qualify, except of those first appointed. When making the initial appointments, the Superintendent of Education shall designate half of his appointments to serve two year terms only. (C) Vacancies for any reason must be filled in the manner of the original appointment for the unexpired term. No member shall serve more than two terms or eight years, whichever is longer. Membe who miss more than three consecutive meetings without excuse or members who resign must be replaced in the same manner as their predecessor. Members may be paid per diem, mileage, and subsistence as established by the board not to exceed standards provided by law for boards, committees, and commissions. A complete report of the activities of the Financial Literacy Board of Trust must be made annually to the General Assembly and the State Auditor.
536	SECTION 59-29-490	State	Powers and duties. To carry out its assigned functions, the board is authorized, but not limited to: (1) develop a comprehensive long range initiative for improving the financial literacy of students in kindergarten through twelfth grade; (2) promulgate regulations, establish guidelines, policies, and procedures for implementation of the South Carolina Financial Literacy Initiative; (3) provide oversight on the implementation of the South Carolina Financial Literacy Initiative at the state and school district levels; (4) establish criteria and procedures for awarding grants from the Financial Literacy Trust; (5) create an annual revision of school district needs assessments and identify assets from other funding sources; (6) assess and develop recommendations for increasing the efficiency and effectiveness of financial literacy programs and funding and other programs and funding sources, as allowable, as necessar carry out the Financial Literacy Initiative, including additional fiscal strategies, redeployment of state resources, and development of new programs; (7) establish results oriented measures and objectives and assess whether services provided are meeting the goals and achieving the results established for the Financial Literacy Initiative; (8) receive gifts, bequests, and devises for deposit in the Financial Literacy Trust; and (9) report annually to the General Assembly by January first on activities and progress to include recommendations for changes and legislative initiatives and results of program evaluations.
537	SECTION 59-29-500	State	Employment of Director of the Financial Literacy Office and staff. The South Carolina Financial Literacy Board of Trustees may employ, by a majority vote, a Director of the Financial Literacy Office an other staff as necessary to carry out the South Carolina Financial Literacy Initiative and other duties and responsibilities as assigned by the board. The director, with the approval of the board, may hi staff necessary to carry out the provisions of the initiative.
538	SECTION 59-29-510	State	Acceptance of nongovernmental grants, gifts, and donations; administration of funds. (A) No state funds may be used to support or operate the Financial Literacy Initiative. This prohibition does not prevent the Department of Education from housing the offices of the Financial Literacy Initiative. A separate fund must be established to accept nongovernmental grants, gifts, and donations from a p or private source for the South Carolina Financial Literacy Trust. All funds may be carried forward from fiscal year to fiscal year. The State Treasurer shall invest the monies in the Financial Literacy T in the same manner as other funds under his control are invested and all interest derived from the investment of these funds shall remain in the trust. The South Carolina Financial Literacy Board of Trustees shall administer and authorize any disbursements from the trust. Private individuals and groups shall be encouraged to contribute to this endeavor. (B) All interest derived from the investment of the funds in subsection (A) shall remain a part of the trust.
539	SECTION 59-29-520	State	Office of South Carolina Financial Literacy established. Within the Department of Education, an Office of South Carolina Financial Literacy is established. The office shall: (1) provide to the board information on best practice, successful strategies, model programs, and financing mechanisms; (2) provide technical assistance and recommendations regarding grant proposals and improvement in meeting goals; (3) recommend to the board the applicants meeting the criteria for Financial Literacy grants to be awarded; (4) submit an annual report to the board by December first, which includes, but is not limited to, the statewide needs and resources available to meet the goals and purposes of the Financial Literacy Initiative, the ongoing progress and results of the Financial Literacy Initiative, fiscal information on the expenditure of funds, and recommendations and legislative proposals to further implement the South Carolina Financial Literacy Initiative; (5) provide for on going data collection and contract for an in depth performance audit due January 1, 2010, and every three years thereafter, to ensure that statewide goals and requirements of the Financial Literacy Initiative are being met; and (6) coordinate the Financial Literacy Initiative with all other state, federal, and local public and private efforts to promote and improve financial literacy.
540	SECTION 59-29-530	State	Applications for grants; factors considered. (A) To obtain a grant, a school district shall submit an application to the Financial Literacy Office in a format specified by the Financial Literacy Board of Trustees. The application shall include, as appropriate to the level of grant applied for, the level of funding requested, a description of needs of the school, assets and resources available, and the prop strategies to address needs as they relate to the goals of the Financial Literacy Initiative. (B) The allocations for the grants must take into consideration the quality of the grant proposal; the percentage of students who are eligible for the free and reduced price lunch program; and averag capita income. The criteria also must take into account the standing of the geographical area in relation to the statewide Kids Count indicators.

Legal Standards

541	SECTION 59-29-540	State	Use of grant funds. Grants provided to school districts must be used to address the financial literacy needs of students in kindergarten through twelfth grade. Grant funds may not supplant current expenditures by counties or state agencies for financial literacy, and may not be used where other state or federal funding sources are available or could be made available. In awarding grants, every e must be made to ensure that all geographic areas of the State are represented.
542	SECTION 59-29-550	State	Carrying forward funds into following fiscal year. To ensure effective use of funds and with the approval of the Financial Literacy Office, awards may be carried forward and used in the following fisca year. Funds appropriated to the Financial Literacy Trust also may be carried forward into subsequent years.
543	SECTION 59-29-560	State	Disbursement of and accountability for funds; penalties. (A) Schools shall demonstrate to the Financial Literacy Office the accountability of funds distributed pursuant to this chapter. (B) Disbursements may be made only on the written authorization of the individual designated by the school district and only for the purposes specified. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or imprisoned for six months, or both. (C) The offenses of misuse, misappropriation, and embezzlement of public funds, apply to this chapter.
544	SECTION 59-29-570	State	Evaluating progress toward goals; grantee participation; reports. (A) The Financial Literacy Board of Trustees shall establish internal evaluation policies and procedures for an annual review of the implementation of strategies and progress toward the interim goals and benchmarks. In instances where no progress has been made, the Financial Literacy Board shall provide targeted assistance or board may terminate the grant. In addition, a program evaluation of the Financial Literacy Initiatives at the state and local levels must be conducted every three years by an independent, external eva under contract with the Financial Literacy Board of Trustees. However, the selected evaluator must be approved, and the evaluation overseen, by a committee consisting of three members, one appoi by the Financial Literacy Board, one appointed by the Chairman of the Senate Education Committee, and one appointed by the Chairman of the House Education and Public Works Committee. These committee members must be professionally recognized as proficient in accounting, finance, banking, tax, insurance, or a closely related field. The first report must be provided no later than January 1 2010. (B) Grantees shall agree to participate in an evaluation in order to receive a Financial Literacy grant. Subsequent grant approval and grant allocations must be dependent, in part, on the results of the evaluations. If an evaluation finds no progress has been made in meeting goals or implementing strategies as agreed to in the grant, the grant must be terminated. (C) The purpose of the evaluation is to assess progress toward achieving the Financial Literacy goals and to determine the impact of the initiative on students at the state and local levels. The impact assessment shall include, but is not limited to, end of course evaluations and projects. During the course of the evaluation, if an evaluator determines that a state agency has failed to comply with the coordination and collaboration provisions as required in this chapter, the final report must reflect that information. Program evaluation reports must be reported to the General Assembly no later tha three months after conclusion of the evaluation.
545	SECTIONS 59-30-10 to 59-30-110	State	Repealed by 2006 Act No. 254, Section 10, eff March 24, 2006.
546	SECTION 59-31-10	State	Library committee. There shall be a library committee composed of the State Superintendent of Education, the director of the division of elementary education, the high school supervisor and four o members to be appointed by the State Superintendent of Education, two representing the elementary schools and two representing the high schools. All library books provided for under Article 3 of t chapter shall be selected from an approved list to be furnished the State Board of Education by the library committee.
547	SECTION 59-31-20	State	Field workers. The State Board of Education may appoint five field workers who shall be charged with the duties assigned by the Board and shall perform any and all duties required by the provision this chapter. As compensation for their services such field workers shall each receive a salary and, in addition thereto, actual traveling expenses incurred while in the discharge of their duties as prov by law.
548	SECTION 59-31-30	State	Use of uniform series of textbooks in State aided schools; exceptions. The State Board of Education shall designate a uniform series of textbooks which shall be used in every free public school of this receiving any State aid for any purpose whatsoever. No school failing or refusing to use such uniform series of textbooks, unless expressly permitted by law so to do, shall receive any State school aid any purpose whatsoever. But the provisions of this section shall not apply to any school district that provides free schoolbooks to the value of twenty thousand dollars or more to the school children such district. The State Board of Education is hereby charged with the enforcement of this section.
549	SECTION 59-31-40	State	Adoption of new books; books to be error free. The meetings of the State Board of Education in any year at which an adoption is made must be public. New textbooks adopted by the State Board of Education in any year must not be used in the free public schools of this State until the next school session begins. Each contract between the State Board of Education and a publisher of textbooks an instructional materials or vendor of instructional technology must require that all textbooks or other instructional material rented or purchased by the State be free of any clear, substantive, factual, grammatical error. The contract also must allow the State Board of Education to require reasonable remedies if an error is found.
550	SECTION 59-31-45	State	Selection of textbooks; requests; procedures. (A) In addition to any other method of textbook selection, the State Board of Education shall add to the approved list of textbooks for use in the public sc of this State any textbook or series of textbooks which have been reviewed and not adopted by the state board if the textbook or series is requested in writing by the boards of trustees of five or more school districts or by the boards of trustees of two or more school districts with a combined population of twenty five thousand or more students. Local school districts shall establish procedures unc which principals and teachers of the district may transmit textbook requests as permitted by this section. (B) The number of requests required to be received above shall be as received during any three hundred sixty five day period. A textbook so required to be added to the approved list shall be added w thirty days following the receipt by the state board of the requisite number of requests, provided that the publishers whose textbooks are to be added to the approved list as provided in this section comply with the same provisions regarding textbooks as other publishers including, but not limited to, price, durability, and availability. No designation shall be included upon the approved list whic indicates the manner in which any textbook was added to the list.
551	SECTION 59-31-50	State	Use of disapproved books unlawful. In all schools and colleges within this State which are supported in whole or in part from the free school funds it shall be unlawful to use any textbook which has b condemned or disapproved by the State Board of Education.

Legal Standards

552	SECTION 59-31-60	State	Issuing notes for books or borrowing to pay for same. The State Board of Education may issue its negotiable notes with interest not exceeding three and one half per cent per annum and may pledge books purchased and all rentals collected under Article 3 of this chapter, after the payment of all administrative expenses, for the discharge of rental or purchase contracts. The full faith, credit and ta power of the State are pledged for the payment of such notes. The State Board of Education, in its discretion, may borrow upon the same terms as above authorized, from any available source, the mo with which to purchase such schoolbooks, at a rate of interest not to exceed three and one half per cent per annum. But no notes shall be issued hereunder without the written approval of the State B and Control Board. For the purpose of carrying out the provisions of Articles 1 to 5 of this chapter and enabling the State to avail itself to the fullest extent of Federal aid, in the form of grants or other that is available for use in the State for this and other purposes, the Governor shall procure from all sources available such amounts of funds as may be needed to carry out the terms and purposes of articles.
553	SECTION 59-31-65	State	Acquisition of instructional technology. State funds for the acquisition of textbooks in the public schools of this State may also be used to acquire instructional technology and other similar materials which have been approved by the State Board of Education. The procedures applicable to the use of these funds to acquire textbooks are also applicable to the acquisition of instructional technology other similar materials. The State Board of Education shall promulgate those regulations necessary to implement the provisions of this section.
554	SECTION 59-31-70	State	Purchase of textbooks; reimbursement from state school textbook funds. A school district may purchase school textbooks approved by the Board of Education for instructional use directly from a publisher under contract with the state board when needed for instruction by the school district if the textbooks are not available from the State Department of Education. In this event, the district sh reimbursed from state school textbook funds of the Department of Education when these textbook funds become available, in accordance with any agreement between the school district and the department.
555	SECTION 59-31-75	State	Textbooks required for course to begin. A public school may not begin a course if state approved textbooks or other course material is not available on the first day of class or if the delivery date is af the first two weeks of classes unless the board of trustees determines that the class should be offered.
556	SECTION 59-31-210	State	Board required to provide textbooks on rental basis. The State Board of Education shall provide all the textbooks for use in the public schools of the State on a rental system whereby the pupils in the public schools will pay an annual rental in an amount to be fixed by the State Board of Education, in its discretion, graduated as to grades, sufficient to pay all the costs of the administration of this art and the purchase of any books necessary to be acquired by the State Board of Education. But the Board shall not be required to furnish materials which shall be consumed or rendered worthless in ar year, such as pencils, tablets, workbooks, drawing materials and other similar articles.
557	SECTION 59-31-220	State	Furnishing library books. The State Board of Education shall furnish library books, from an approved list, to the public school districts or counties of this State upon the same terms and conditions th textbooks are now furnished under the terms of this article. But when any school district or county shall pay the State Board of Education the purchase price, plus interest, for such library books, such books shall become the property of such school district or county.
558	SECTION 59-31-230	State	Furnishing audio visual equipment. The State Department of Education shall provide audio visual equipment, including films and motion picture projectors, for the use in the free public schools of th State on either the State rental plan or the library purchase plan.
559	SECTION 59-31-240	State	Pupils' option to purchase or rent books. No pupil in the public schools of the State shall be required to pay any larger amount for the use of the books than authorized by Section 59 31 210 nor to bu outright or otherwise acquire any textbook. But any pupil may purchase, if he so desires, the books to be used by him, in which event no rental fee will be charged to such pupil. The State Board of Education shall make proper arrangements for the sale of textbooks to those pupils who desire to purchase them, and such textbooks shall be sold at cost plus actual expenses.
560	SECTION 59-31-250	State	State institutions of higher learning authorized to establish textbook rental systems. Any State institution of higher learning may, in the discretion of its board of trustees or other governing body, se textbook rental system in the same manner as is provided in Section 59 31 210 for school districts and may choose or purchase its own textbooks. All funds received by such institutions from rental o books belonging to such institutions shall be retained by them respectively.
561	SECTION 59-31-260	State	School districts and counties authorized to establish rental or free textbook systems. Nothing contained in this article shall abrogate the power to set up rental or free textbook systems of any school district or county that may have such right, and all rentals received by any such distr county from rental of books belonging to such district or county shall be retained by such district or county. And school districts enrolling five thousand or more school pupils shall have the right to s rental or free textbook systems and choose and purchase their own textbooks. All rentals received by such districts from rental of books belonging to such districts shall be retained by such districts. any such county or school district having its own rental or free textbook system shall be entitled to receive all benefits under the rental library provisions of this article.
562	SECTION 59-31-270	State	Abandonment of county or district rental or free textbook system. Upon the resolution of the county legislative delegation any county or school district may abandon its rental or free system of textb and accept the provisions of this article. Upon any such county or school district abandoning its rental or free system and accepting the provisions of this article, the State Board of Education shall ma cause to be made, an investigation and shall determine the value to the State of any textbooks belonging to such county or district which can reasonably be of use to the State under this article, and th Board shall purchase such useful books from such county or district, paying therefor either in cash or in such installments as may be agreed upon between the State Board of Education on the one ha and the county board of education, or trustees, as the case may be, on the other hand. In the event it be agreed to pay therefor in installments, the State Board of Education shall enter into reimbursem agreements with such officials to pay such installments in the future.

Legal Standards

563	SECTION 59-31-280	State	Subsequent election to come under system. Notwithstanding that any school district or county may have exercised the privilege accorded under Section 59 31 410 not to come under the provisions o article, any such school district or county may retract any such election by filing with the State Board of Education a written statement, which for any school district shall be signed by the board of tru of such district and approved by the Senator and at least one half of the representatives from such county and for any county shall be signed by the county board of education and approved by the Sen and at least one half of the representatives of such county, in either case to the effect that the district or the county, as the case may be, desires to retract any such election theretofore made by it and t come under the provisions of this article. Upon any such statement being filed, any such school district or county, as the case may be, shall thereupon come under the provisions of this article.
564	SECTION 59-31-290	State	Rules and regulations as to depositories, distribution and damage to books. The State Board of Education shall adopt, establish and promulgate such rules and regulations as may be necessary to carr the purposes of this article, which, when not in conflict with the terms and purposes of this article, shall have full legal force and effect. Such rules and regulations shall provide a system of depositorie the books in the various counties of the State, which depositories may be designated as the State Board of Education may deem best, and shall establish a method of distributing the books to the pupi provide for the reasonable use, care and safety of the books, with reasonable penalties for the abuse or destruction of any books, to fall upon those using the books or those in charge of their distribut and use. Such rules and regulations shall provide for payment by the pupils, their parents or legal guardians for the loss of or damage, if any, to any books, ordinary wear and tear excepted.
565	SECTION 59-31-300	State	Retention of books within districts. As far as may be practicable the State Board of Education shall provide for the retention of all necessary schoolbooks for use by the school districts within such districts.
566	SECTION 59-31-310	State	Counties required to provide depositories for books. The various counties, through their properly constituted authorities, shall furnish a sufficient and proper place for depositing or storing books u such counties.
567	SECTION 59-31-320	State	Contracts with publishers for general depositories. The State Board of Education may require all publishers of textbooks with whom textbook contracts have been made to maintain a joint agency or depository, in some city in the State to be located at some suitable and convenient distributing point, at which general depository each textbook publisher shall keep on hand a sufficient stock of bool supply the requirements of the State and through which central depository all textbooks shall be distributed. Any person or school not controlled by the State may order books from the general depository, and the books so ordered shall be furnished for cash at cost plus actual expenses.
568	SECTION 59-31-330	State	Fumigation or disinfection of books. The State Board of Education, in conjunction with the Department of Health and Environmental Control, shall adopt rules and regulations governing the fumigati disposal of textbooks from quarantined homes and for the regular disinfection of all textbooks used in the public schools of the State.
569	SECTION 59-31-340	State	School districts responsible for proper protection, use and care of books. The director shall hold each school district in the State responsible for the proper protection, use and care of all schoolbooks allotted to each such district under the terms of this article. Each school district shall make reports to the director when required by the director as to the books on hand and their condition and shall within thirty days after the end of each school term, return all schoolbooks allocated to such district to the place or places required by the director. The director shall, as soon as practicable after the c of each school term, determine the loss and damage, if any, ordinary wear and tear excepted, sustained by such books in any school district or other educational unit and shall make demand for the payment for such damage upon the various districts and units against which loss and damage shall have been assessed. Any such district or unit feeling itself aggrieved by any such determination ma appeal to the State Board of Education. Unless such appeal be taken and sustained, any such district or unit shall forthwith pay for such loss and damage.
570	SECTION 59-31-350	State	Rentals payable annually in advance. The rentals shall be paid by or for each pupil annually in advance upon the opening of school, before any pupil is allowed the use of the books.
571	SECTION 59-31-360	State	Waiver of textbook rental charges; use of school districts' books. The State Board of Education shall waive textbook rental charges for grades kindergarten through twelve of the public schools, to the that basal textbooks adopted and approved by the board for use in the public schools must be supplied to the school children of the State without charge. Title to books so provided shall remain in th State Board of Education. Each school district shall fully utilize all books owned by it to effect the purposes of this section.
572	SECTION 59-31-370	State	Collection and payment of rentals. The rentals provided hereunder shall be collected by the various school districts in the State, and each school district shall pay the amount thereof due for the use c books by the pupils in such district within thirty days from the date of the opening of the schools or the admission of new pupils to the schools. No schoolbooks shall be delivered to any school child c rental plan until the rentals have been fully paid.
573	SECTION 59-31-380	State	Tax levy for payment of losses, damages or unpaid rentals. Upon proper certification by the State Board of Education and county superintendent of education, the county auditors and county treasur the respective counties in which such school districts or units are located shall levy sufficient millage in or upon any such school district or other educational unit sufficient to pay any amount due the Board of Education for any loss, damage or rentals due by such district or other educational unit under the terms of this article. But in the event there are sufficient funds on deposit to the credit of th school district or other educational unit, the trustees of the school district or the county board of education are directed to draw a warrant against such funds to cover the amount of such loss or shor in rental funds accruing under the terms of this article, in which case no levy shall be made.
574	SECTION 59-31-390	State	Administrative expenses shall be paid out of rentals. All necessary expenses incurred in administering the terms of this article shall be paid from the rentals collected hereunder.

Legal Standards

575	SECTION 59-31-400	State	School authorities shall cooperate in administration of system. The county superintendents and boards of education in the various counties of the State shall cooperate with the State Board of Educa in the administration of the terms of this article and the rules and regulations established by the State Board of Education in such manner as may be requested or required by the State Board of Educa All superintendents, principals and teachers in the schools of this State shall cooperate fully with the State Board of Education and county boards of education in the proper and orderly administratio the terms of this article, and the State Board of Education may promulgate rules to provide cooperation by the superintendents, principals and teachers and to establish penalties for failure to cooper
576	SECTION 59-31-410	State	Situations in which article not applicable. The provisions of this article shall not apply (a) to any school district the board of trustees of which filed before August 1, 1936 with the former State Schoo Commission a written statement, approved by the Senator and at least one half of the representatives from such county, to the effect that it did not elect to come under the provisions of this article no to any county the county board of education of which filed before August 1, 1936 with the former State Schoolbook Commission a written statement, approved by the Senator and at least one half of t representatives from such county, to the effect that it did not elect to come under the provisions of this article.
577	SECTION 59-31-510	State	Contracts with publishers for rental or purchase of books. The State Board of Education may negotiate and execute contracts with the publishers of textbooks and instructional materials and vendor instructional technology that allow the State to rent from the publishers or buy outright the books to be used in the public schools, with discretion in the State Board of Education to make rental cont or purchase contracts as may be to the best advantage of the State. A contract made with a publisher of textbooks may be made so as to divide the payment to the publisher for rental or purchase ove period of three years, but it must not be construed to prevent the State Board of Education from purchasing or renting additional books as necessary. If the State Board of Education decides to purcha outright the books to be used in the schools of this State, they must be purchased at the lowest possible prices and, so far as existing contracts for state adopted books shall permit, pursuant to compe bidding.
578	SECTION 59-31-520	State	Continuance of contracts with publishers. At the expiration of any contract between the State and the publisher of any textbook, the State Board of Education, upon satisfactory agreement being had such publisher, may continue the contract for any such textbook, or the latest editions thereof, for an indefinite period which may be terminated either by the State Board of Education or the publishe upon ninety days' notice. The Board may extend contracts at different prices from those of the original contracts.
579	SECTION 59-31-530	State	Duration of original contracts. Original contracts made with publishers of all textbooks and providers of instructional materials shall run for not less than one year nor more than six years.
580	SECTION 59-31-540	State	Most favored purchaser clause in contract. All contracts shall provide that if any person who furnishes adopted textbooks to the State shall sell the same textbooks or cause them to be sold to any oth person, state or state board for a price less than that which this State has contracted to pay for such textbooks, then such lower price shall automatically become the contract price for such textbooks this State and the contents of the textbooks shall be considered and not the title in investigating such prices. The State Board of Education shall make the necessary investigations as to the prices of su textbooks so sold to other persons, states or state boards.
581	SECTION 59-31-550	State	Bids; details as to contracts. The State Board of Education shall make all necessary rules and regulations pertaining to: (1) The advertisement of bids; (2) The submission of prices; (3) The sampling of, and hearings on, textbooks offered for adoption; (4) The nature and type of contract to be entered into between the State and the publisher; (5) The nature and type of bond to be entered into between the State and the publisher, the penal amount of such bond, conditioned upon the faithful performance by the publisher, of any contract awarded to it, to be not more than five thousand dollars; (6) The distribution of textbooks through central or local depositories, subject to the provisions of Article 3 of this chapter providing for a rental system of textbooks for the free public schools; and (7) All other needful rules and regulations not otherwise herein specified.
582	SECTION 59-31-560	State	Approval of contracts and publishers' bonds by Attorney General. The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer.
583	SECTION 59-31-570	State	Change in terms of contracts. The State Board of Education may, in its discretion, postpone, alter, amend or modify the terms of State adoption of textbook contracts.
584	SECTION 59-31-580	State	Attorney General shall enforce article. The Attorney General shall institute and prosecute suits against all violators of the provisions of this article and all contracts entered into in violation of the ter this article shall be null and void.
585	SECTION 59-31-590	State	School personnel not permitted to act as agents for publishers. It shall be unlawful for any teacher of a school supported in whole or in part from the public school funds of this State or any trustee of such school or any other school officer to become an active or silent agent of any schoolbook publisher or be in anywise pecuniarily interested in the introduction of any schoolbook into any school i State. Any person violating any of the provisions hereof shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than one hundred dollars or imprisonment county jail for a period of not less than thirty days, or both, at the discretion of the circuit judge.

Legal Standards

586	SECTION 59-31-600	State	Standards for textbook adoptions. When the State Board of Education determines that a textbook or instructional material adoption is needed in a specific field, the board shall direct evaluating and committees to assess the textbook or instructional material for the development of higher order thinking skills and problem solving. Each evaluation and rating committee may have up to twenty five percent lay membership. A majority of those appointed to the committee must be full time classroom teachers. In addition to monitoring the accuracy of facts and grammar, the committee shall inclu its rating and evaluating criteria, where applicable, satisfaction of state mandates for graduation criteria and support for the benefits of the American economic and political system. The results of eac evaluating and rating committee's assessment must be included in its written report to the State Board of Education. Where otherwise satisfactory, the evaluating and rating committee shall recomm and the State Board of Education shall adopt textbooks and other instructional materials which develop higher order thinking skills.
587	SECTION 59-31-610	State	Public review and hearings. The State Superintendent of Education shall make arrangements for a thirty day public review of materials recommended by the instructional materials review panels pr taking those recommendations to the State Board of Education. The public review sites must be geographically distributed around the State at as many state supported colleges and universities or, if necessary, other designated sites as may agree to host the reviews. Public review sites shall be advertised in each congressional district in the newspaper with the largest circulation figures for that district. The state board shall hold a public hearing before adopting any textbook or instructional material for use in the schools of this State.
588	SECTION 59-32-5	State	Short title. This may be cited as the "Comprehensive Health Education Act".
589	SECTION 59-32-10	State	Definitions. As used in this chapter: (1) "Comprehensive health education" means health education in a school setting that is planned and carried out with the purpose of maintaining, reinforcing, or enhancing the health, health related skills, and health attitudes and practices of children and youth that are conducive to their good health and that promote wellness, health maintenance, and disease prevention. It includes age appropr sequential instruction in health either as part of existing courses or as a special course. (2) "Reproductive health education" means instruction in human physiology, conception, prenatal care and development, childbirth, and postnatal care, but does not include instruction concerning s practices outside marriage or practices unrelated to reproduction except within the context of the risk of disease. Abstinence and the risks associated with sexual activity outside of marriage must be strongly emphasized. (3) "Family life education" means instruction intended to: (a) develop an understanding of the physical, mental, emotional, social, economic, and psychological aspects of close personal relationships and an understanding of the physiological, psychological cultural foundations of human development; (b) provide instruction that will support the development of responsible personal values and behavior and aid in establishing a strong family life for themselves in the future and emphasize the responsibilities of marriage. (c) provide instruction as to the laws of this State relating to the sexual conduct of minors, including criminal sexual conduct. (4) "Pregnancy prevention education" means instruction intended to: (a) stress the importance of abstaining from sexual activity until marriage; (b) help students develop skills to enable them to resist peer pressure and abstain from sexual activity; (c) explain methods of contraception and the risks and benefits of each method. Abortion must not be included as a method of birth control. Instruction explaining the methods of contraception mu be included in any education program for grades kindergarten through fifth. Contraceptive information must be given in the context of future family planning. (5) "Local school board" means the governing board of public school districts as well as those of other state supported institutions which provide educational services to students at the elementary a secondary school level. For purposes of this chapter, programs or services provided by the Department of Health and Environmental Control in educational settings must be approved by the local sch board. (6) "Board" means the State Board of Education. (7) "Department" means the State Department of Education.
590	SECTION 59-32-20	State	Selection or adoption of instruction units by state board required. (A) Before August 1, 1988, the board, through the department, shall select or develop an instructional unit with separate componen addressing the subjects of reproductive health education, family life education, pregnancy prevention education, and sexually transmitted diseases and make the instructional unit available to local sc districts. The board, through the department, also shall make available information about other programs developed by other states upon request of a local school district. (B) In addition to the provisions of subsection (A), before September 1, 2015, the board, through the department, shall select or develop instructional units in sexual abuse and assault awareness and prevention, with separate units appropriate for each age level from four year old kindergarten through twelfth grade.

Legal Standards

591	SECTION 59-32-30	State	Local school boards to implement comprehensive health education program; guidelines and restrictions. (A) Pursuant to guidelines developed by the board, each local school board shall implement following program of instruction: (1) Beginning with the 1988 89 school year, for grades kindergarten through five, instruction in comprehensive health education must include the following subjects: community health, consumer h environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, and mental and emotional health. Sexually transmitted diseases as defined in the annual Department of Health and Environmental Control List of Reportable Diseases are to be excluded from instruction on the prevention and control of diseases and disorders. At the discretion of the local board, age appropriate instruction in reproductive health may be included. (2) Beginning with the 1988 89 school year, for grades six through eight, instruction in comprehensive health must include the following subjects: community health, consumer health, environment health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, mental emotional health, and reproductive health education. Sexually transmitted diseases are to be included as a part of instruction. At the discretion of the local board, instruction in family life education o pregnancy prevention education or both may be included, but instruction in these subjects may not include an explanation of the methods of contraception before the sixth grade. (3) Beginning with the 1989 90 school year, at least one time during the four years of grades nine through twelve, each student shall receive instruction in comprehensive health education, includin least seven hundred fifty minutes of reproductive health education and pregnancy prevention education. (4) The South Carolina Educational Television Commission shall work with the department in developing instructional programs and materials that may be available to the school districts. Films an other materials may be designed for the purpose of explaining bodily functions or the human reproductive process. These materials may not contain actual or simulated portrayals of sexual activities sexual intercourse. (5) The program of instruction provided for in this section may not include a discussion of alternate sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted diseases. (6) In grades nine through twelve, students must also be given appropriate instruction that adoption is a positive alternative. (B) Local school boards may use the instructional unit made available by the board pursuant to Section 59 32 20, or local boards may develop or select their own instructional materials addressing t subjects of reproductive health education, family life education, and pregnancy prevention education. To assist in the selection of components and curriculum materials, each local school board shall appoint a thirteen member local advisory committee consisting of two parents, three clergy, two health professionals, two teachers, two students, one being the president of the student body of a hig school, and two other persons not employed by the local school district. (C) The time required for health instruction for students in kindergarten through eighth grade must not be reduced below the level required during the 1986 87 school year. Health instruction for students in grades nine through twelve may be given either as part of an existing course or as a special course. (D) No contraceptive device or contraceptive medication may be distributed in or on the school grounds of any public elementary or secondary school. No school district may contract with any contraceptive provider for their distribution in or on the school grounds. Except as to that instruction provided by this chapter relating to complications which may develop from all types of abortion school districts may not offer programs, instruction, or activities including abortion counseling, information about abortion services, or assist in obtaining abortion, and materials containing this information must not be distributed in schools. Nothing in this section prevents school authorities from referring students to a physician for medical reasons after making reasonable efforts to notify
592	SECTION 59-32-40	State	Staff development. As part of their program for staff development, the department and local school boards shall provide appropriate staff development activities for educational personnel participat the comprehensive health education program. Local school boards are encouraged to coordinate the activities with the department and institutions of higher learning.
593	SECTION 59-32-50	State	Notice to parents; right to have child exempted from comprehensive health education program classes. Pursuant to policies and guidelines adopted by the local school board, public school principals develop a method of notifying parents of students in the relevant grades of the content of the instructional materials concerning reproductive health, family life, pregnancy prevention, and of their op to exempt their child from this instruction, and sexually transmitted diseases if instruction in the diseases is presented as a separate component. Notice must be provided sufficiently in advance of a student's enrollment in courses using these instructional materials to allow parents and legal guardians the opportunity to preview the materials and exempt their children. A public school principal, upon receipt of a statement signed by a student's parent or legal guardian stating that participation by the student in the health education program conflicts with the family beliefs, shall exempt that student from any portion or all of the units on reproductive health, family life, and pregnancy prevention where any conflicts occur. No student must be penalized as a result exemption. School districts shall use procedures to ensure that students exempted from the program by their parents or guardians are not embarrassed by the exemption.
594	SECTION 59-32-60	State	Department to ensure compliance; annual district report. The department shall assure district compliance with this chapter. Each local school board shall consider the programs addressed in this ch in developing its annual district report.
595	SECTION 59-32-70	State	Applicability to private schools. The provisions of this chapter do not apply to private schools.
596	SECTION 59-32-80	State	Penalty for teacher's violation of or refusal to comply with chapter. Any teacher violating the provisions of this chapter or who refuses to comply with the curriculum prescribed by the school board provided by this chapter is subject to dismissal.
597	SECTION 59-32-90	State	Restrictions on use of films, pictures or diagrams. Films, pictures, or diagrams in any comprehensive health education program in public schools must be designed solely for the purpose of explainin bodily functions or the human reproduction process and may not include actual or simulated portrayals of sexual activities or sexual intercourse.
598	SECTION 59-33-10	State	Legislative findings; declaration of purpose. The General Assembly finds that it is necessary and proper to provide an appropriate education for all handicapped children and youth enrolled in public schools or eligible for enrollment therein. It further finds that this purpose can best be accomplished through implementation of an intensive five year plan to expand and improve existing programs exceptional children in the public schools. The purpose of this chapter is to provide for the mandatory establishment of educational and training services and facilities for handicapped children in the public schools, between the ages designated in Section 59 63 20, who cannot be trained adequately without special educational facilities and services.

Legal Standards

599	SECTION 59-33-20	State	Definitions. As used in this chapter: (a) "Handicapped children" shall mean those who deviate from the normal either psychologically or physiologically to such an extent that special classes, special facilities, or special services are nee for their maximum development, including educable mentally handicapped, trainable mentally handicapped, emotionally handicapped, hearing handicapped, visually handicapped, orthopedically handicapped, speech handicapped, and those handicapped by learning disabilities as defined in item (1), Section 59 21 510. (b) "Professional workers" shall mean personnel certified and approved by the Department of Education and shall include, but not be limited to, speech and hearing specialists, mobility instructors, special education interns, special education administrators, supervisors or coordinators devoting full time to special education, and teachers of any class or program defined in this chapter who meet requirements of the chapter. (c) "Special education services" shall mean, but not be limited to, special classes, special housing, homebound instruction, special rental facilities, braillists and typists for visually handicapped childr transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, itinerant services and resource services.
600	SECTION 59-33-30	State	Establishment by State Board of Education of program of specialized education for handicapped children; rules and regulations. The State Board of Education shall establish a program of specialized education for all handicapped children in this State utilizing the personnel and facilities of, and administered by, the State Department of Education under the direction of the State Superintendent of Education and shall further prescribe standards and approve the procedures under which the facilities are furnished and services provided. The Board shall establish screening, evaluating and placer procedures for handicapped students who will participate in the programs established under this chapter and shall determine certification requirements for teachers, minimum room size standards standards for other equipment and materials used in such programs. To carry out the provisions of this chapter the Board may promulgate such rules and regulations, not inconsistent with law as it s deem necessary and proper.
601	SECTION 59-33-40	State	Surveys and educational plans of school districts; annual reports Each school district individually or in combination with other school districts shall conduct a survey of the educational needs of all handicapped children within its jurisdiction and, with the assistance of the State Department of Education, devise an educational plan for the children concerned. This plan shall provide instruction through the use of resource rooms, crisis teachers, itinerant teachers, diagnostic/prescriptive teachers, self contained classes, or other models approved by the State Department of Education. The pl shall be presented to the Department for approval within one year after February 14, 1972. An annual report shall be made by each district to the Department to indicate the extent to which the plan been implemented and to report additional planning.
602	SECTION 59-33-50	State	Establishment and operation of programs by school districts; contracts between districts; special arrangements for multiple handicapped children. The board of trustees of each school district shall, approval of its district's plan by the State Department of Education, establish and operate a program which will insure an appropriate education for each handicapped child resident within the distric shall maintain adequate records of the training and services provided and the children participating in the program. When a school district cannot satisfy the requirements of this section by providin the education of its resident handicapped children because of insufficient numbers, the district may contract with other districts within the State or school systems or public or private institutions or agencies within or without the State which maintain approved special educational facilities; provided, that such institutions or agencies shall accept applicable children into the program regardless o color, race, sex, or religion. The sending district must document this lack of numbers and receive prior approval from the State Department of Education. The sending district may contract and pay th receiving district or institution the per capita cost of instruction, special equipment and special services not reimbursed to the receiving district by State, Federal and other moneys plus the cost of transportation and of maintenance if the nonresident children must reside away from their homes. The district which enters into such nonresident contract arrangements, which are approved by the Department of Education, shall be reimbursed by the department for tuition, fees, transportation and books, not to exceed the per pupil cost of educating a handicapped child of identical age in the pu schools. Special arrangements for multiple handicapped children for whom special appropriations are provided because of the severity of their handicaps may be made with the Department.
603	SECTION 59-33-60	State	Cooperation with other agencies; acceptance of donations. District and State educational agencies are required to cooperate with other agencies within the State, both public and private, interested i working toward the education, training and alleviation of the handicaps of handicapped children, and all such agencies are authorized to accept gifts or donations from such private agencies.
604	SECTION 59-33-70	State	Funding; chapter is supplementary. The General Assembly shall appropriate funds to implement the provisions of this chapter with initial funding for planning and organizing to begin with the fiscal 1972 1973. Costs for all programs for handicapped children shall be shared with the school districts on the same basis that education costs are currently provided for such children attending the pub schools. The provisions of this chapter are supplementary to all existing programs for the education of handicapped children.
605	SECTION 59-33-80	State	Legislative declaration of policy as to residential and nonresidential programs. The General Assembly declares that the public policy of this State is to provide, when feasible, the resources, assistance coordination, and support necessary to enable the handicapped person to receive an education within the context of his home and community. Where individuals have previously been placed in residential treatment centers it is recognized that the services and programs to be provided under this chapter will offer new resources for the care and training of such individuals at home. The gove agencies of such residential programs are encouraged to investigate the resources to be provided by this chapter and, where appropriate, work closely with the family, guardian, or other responsible to effect the meaningful return of institutionalized persons to the more normal environment of their homes and communities. At the same time, the General Assembly directs responsible agencies administering residential programs not to view this chapter as reason for the indiscriminate return home of current institutional residents. In no instance shall the governing agency of such residential center return a person to his home without the advance, written consent of his parent, guardian, or other responsible party. However, where the parent, guardian, or other responsible party shall oppose the recommendation of the agency administering the residential program to return the individual to his home, the agen based upon professional judgment, may place the individual in other nonresidential programs such as foster homes, community residences, halfway residences, or other similar services designed to promote the growth and development of the handicapped individual.

Legal Standards

606	SECTION 59-33-90	State	Subpoena power of hearing officers; placement of handicapped children in alternative programs. Notwithstanding any other provision of law: Duly appointed hearing officers of local school districts and other state operated programs shall have the power of subpoena consistent with the requirements and regulations of Public Law 94 142. Regarding handicapped children placed in alternative programs for non educational reasons: (1) No agency of the State shall place handicapped children of lawful school age in residential, institutional or foster home settings without insuring that such children shall have available to them a and appropriate public education in conformance with the provisions of Public Law 94 142. (2) In placing children determined to be handicapped by State Board of Education regulations, state agencies must procure, except in emergency situations, advance approval by the State Departmen Education. The Department shall insure that an appropriate Individual Education Plan shall be developed by the pupil's home school district and that the proposed educational placement meets all th provisions of Public Law 94 142. Regarding handicapped children placed in other programs for educational reasons, when local school districts must place handicapped children of lawful school age in programs external to the child home district for educational reasons, the district making the placement shall insure that such placement shall be at no cost to parent or child including room, board, education and related services a non medical care.
607	SECTION 59-33-100	State	Special education for emotionally handicapped pupils. In addition to those services currently provided to "emotionally handicapped pupils" as those pupils are defined in subsection (4) of Section 59 510, the State Department of Education shall contract with the Continuum of Care Policy Council to provide services approved by the State Board of Education to enable "emotionally handicapped pu to benefit from special education.
608	SECTION 59-33-110	State	Mediation as part of due process provision. The State Board of Education shall establish a mediation process as a part of the "due process" provision required in accordance with Public Law 94 142. parties agree, mediation will be used before any due process hearings required by Public Law 94 142 or at any time during the due process procedures. During discussions of the mediation process parents, it must be clearly stated that the right of the parents or the school district to due process is in no way compromised by agreeing to mediation and that neither parents nor the school district bound by the outcomes of mediation. The mediation process must be developed by July 1, 1994, and implemented during the 1994 95 school year.
609	SECTION 59-34-10	State	Short title. This chapter may be cited as the Blind Persons' Literacy Rights and Education Act.
610	SECTION 59-34-20	State	Definitions. As used in this chapter: (1) "Blind student" means an individual who is eligible for special education services and who: (a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than twenty degrees; or (b) has a medically indicated expectation of visual deterioration. (2) "Braille" means the system of reading and writing through touch commonly known as standard English Braille. (3) "Individualized education program" means a written statement developed for a student eligible for special education services pursuant to Section 602(a)(20) of Part A of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1401(a).
611	SECTION 59-34-30	State	Entitlement to individualized education program; assessment; instruction in braille. Each legally blind student must be identified and offered an individualized education program (IEP) in consultati with a parent or legal guardian. While braille is not required, it is presumed that the need for braille reading and writing are valuable skills to be considered in the student's transition plan toward continuing in higher education and in broadening job and career opportunities. No child who is legally blind may be denied the opportunity to receive instructions in braille reading and writing on the basis that the child has the ability to read and write print. Each student must be given an assessment which must include an evaluation of the need for braille skills to be designed by the State Department of Education, and shall include strengths and deficits purpose of the assessment is to determine the most appropriate reading and writing media for the individual child and does not require the use of braille if other special education services are appropriate. Nothing in this section requires the inclusion of braille in a legally blind student's IEP.
612	SECTION 59-34-40	State	Sufficiency of instruction required; particulars of individualized education program. Instruction in braille reading and writing must be sufficient to enable each blind student to communicate effectiv and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level. The student's individualized education program must specify: (1) the results obtained from the assessment required pursuant to Section 59 34 30; (2) how braille will be implemented as the primary mode for learning through integration with other classroom activities; (3) the date on which braille instruction will commence; (4) the length of the period of instruction and the frequency and duration of each instructional session; (5) the level of competency in braille reading and writing to be achieved by the end of the period and the objective assessment measures to be used; and (6) if a decision has been made pursuant to the assessment that braille instruction or use is not required for the student then a specification of the evidence used to determine that the absence of bra instruction or use will not impair the student's ability to read and write effectively.

Legal Standards

613	SECTION 59-35-10	State	Kindergarten classes shall be provided. The board of trustees of each school district shall establish and provide kindergartens for children within its jurisdiction. All children in the five year old kindergarten program must be counted in th average daily membership of any public school district when public school funds are to be apportioned to the several school districts. State aid for the five year old kindergarten program must be distributed through the formula provided for in the "Education Finance Act" (Act 163 of 1977). Beginning with school year 1998 99, school districts shall offer an extended day five year old kindergarten program to all requesting parents and shall be eligible for funding for the extended day equ the EFA weight for a child attending a half day five year old kindergarten program. Local match is required for the extended day funding. The State Board of Education may waive the full day kinderga requirement for a particular school district on an annual basis upon application of the district if the board finds the school district does not have available space and the cost of temporary classroom s cannot be justified. Parents of children who are eligible to attend the extended day five year old kindergarten may elect the half day program for their children. Parents intending to enroll their eligible children in a full d kindergarten program must notify the district by January thirty first of the year of the anticipated enrollment date. Parents moving into the district after the notification date may apply for full day kindergarten, and the district shall enroll such child in its full day program on a space available basis. Any parent or guardian of a child eligible for kindergarten may elect for their child or ward not to attend kindergarten pursuant to Section 59 65 10.
614	SECTION 59-36-10	State	Definitions. As used in this chapter: (1) "Preschool disabilities program" means the special education and related services provided in accordance with Public Law 94 142, as amended; (2) "Preschool children with disabilities" means children ages three, four, and five whose developmental progress is delayed to the extent that a program of special education is required to ensure th adequate preparation for school age experiences. This includes four year old vision and hearing impaired children and five year old children with disabilities previously included under Section 59 21 Eligibility must be noncategorical and must provide for children who are experiencing developmental delays in one or more of the following areas: cognitive ability, social ability, emotional ability, perceptual ability, visual ability, hearing ability, motor ability, speech language ability, and other health impairments. (3) "State advisory council" means the state advisory council on the Education of Children with Disabilities established in compliance with Public Law 94 142, as amended. The advisory council mus expanded to include permanent representation by state agencies listed in Section 59 36 20 that provide services for preschool children with disabilities, ages birth through five, and the Chairperson o Interagency Coordinating Council (ICC) for P.L. 99 457. Additionally, a subcommittee of the advisory council must be established to address educational programs and services for preschool children disabilities. The chairperson of the ICC and the advisory council, or their designee; state agencies designated from those listed in Section 59 36 20; at least two parents; one representative from dayca programs; one representative from HeadStart; and two local education agency representatives form the committee, all of whom, with the exception of the Chair of the ICC, shall be selected by a major vote of the advisory council. A staff member from the Department of Education will be assigned to provide assistance to the council and the subcommittee as needed.
615	SECTION 59-36-20	State	Comprehensive system of special education and services; mandate of Individuals with Disabilities Education Act; agencies and persons responsible; inter agency cooperation; level of services; costs o services; resolving disagreements. The State Board of Education and the State Department of Education are responsible for establishing a comprehensive system of special education and related serv and for ensuring that the requirements of the Federal Individuals with Disabilities Education Act are carried out. Other state agencies which provide services for children with disabilities are directed cooperate in the establishment and support of the system. Agencies with responsibilities under this chapter include: the Department of Mental Retardation, the School for the Deaf and the Blind, the Commission for the Blind, the Department of Health and Environmental Control, the Department of Mental Health, the State Department of Social Services, Continuum of Care, and the State Departme Education. All public education programs for children with disabilities within the State, including all programs administered by any other state or local agency, are under the general supervision of the persons responsible for education programs for children with disabilities in the State Department of Education and must meet the standards of the State Board of Education. No provision of this section or of this chapter may be construed to limit the responsibilities of agencies other than the Department of Education from providing or paying for some or all of the cost of services to be provided the state's children with disabilities and the level of service must, at a minimum, be similar to that provided individuals with similar needs. If agencies are unable to agree on responsibilities for a particular child, the issue must be decided by the Children's Case Resolution System, Article 11, Chapter 11, Title 63.
616	SECTION 59-36-30	State	Assistance of state advisory council. The state advisory council shall advise the Department of Education and the State Board of Education in developing a comprehensive service system for special education and related services to preschool children with disabilities. The assistance includes, but is not limited to: (1) a comprehensive method of identifying children with disabilities; (2) a public awareness program focusing on identification of preschool children with disabilities; (3) a coordinated system of personnel development for those who serve preschool children with disabilities; (4) formal interagency agreements which: (a) define the financial responsibility of each agency for providing special education and related services; (b) establish procedures for the transition of children served under Title 44, Chapter 7; and (c) contain procedures for resolving disputes.
617	SECTION 59-36-40	State	Policies, standards, and procedures to ensure appropriate education; consultant; evaluation and placement of students; certification and credentials of personnel. The State Board of Education, with from the state advisory council, shall establish policies, standards, and procedures necessary to ensure that a free and appropriate education is available in the least restrictive environment and that a smooth transition from early intervention programs or initial entry into preschool programs occurs for children with disabilities. The Department of Education shall employ at least a full time consul in preschool education for children with disabilities. The board shall establish evaluation and placement procedures for students with disabilities who participate in the programs established under t chapter and shall determine certification requirements for teachers and appropriate credentials for all other personnel delivering education or related services in these programs.

Legal Standards

618	SECTION 59-36-50	State	Boards of school districts to provide programs; arrangements with other districts and agencies; transportation; individualized education programs; transition. The board of trustees of each school d shall provide a free appropriate public education consistent with Part B of the Individuals with Disabilities Education Act for all preschool children with disabilities residing in the district. Working w other agencies, the districts may enter into agreements with other districts or agencies, public or private, which maintain approved special education programs or who operate noneducational progr in which special education programming or related services might be provided by the district. In order to facilitate the implementation of this responsibility, each district shall arrange transportatio all children enrolled in preschool programs for children with disabilities who require transportation. Beginning on their third birthday, preschool children with disabilities meeting the placement criteria developed by the State Department of Education must have available a special education progra including related services, if needed. Local education agencies must evaluate a child in accordance with criteria established by the Department of Education and develop an individualized education program within timelines that allow placement to occur on the third birthday. Evaluations conducted by other professionals or agencies within the last six months may be accepted and used in devel the initial individualized education program so as to ensure a timely initiation of that program and to avoid overtesting of the child. When children turn three between the ending date of one school y and the beginning date of the subsequent school year, an evaluation must be conducted and an individualized education program must be developed within timelines that allow for placement to occu the beginning date of the subsequent school year. However, if the individualized education plan team determines that there is a need for summer services, these services may be provided before the beginning of the school year. School districts must adhere to the policies and procedures established by the State Department of Education to ensure a smooth transition from the early intervention services provided to infants and toddlers under Section 44 7 2510, et seq. (BabyNet) to the district preschool program. Early intervention service coordinators, parents of children with disabilities who are ready to enter preschool programming, or representatives of agencies or other entities providing services to a ch with disabilities must notify a school district at least fourteen calendar days before a transition meeting. At least ninety days before the date on which a child becomes eligible for the preschool progr school district personnel must participate in a transition meeting requested by early intervention case managers, or representatives of agencies or other entities providing services to the child.
619	SECTION 59-36-60	State	Pre existing responsibilities, funds and services not supplanted. No provision of this chapter may be construed to limit the responsibility of state agencies currently providing services to preschool children with disabilities or their families. Funds provided under this statute shall not be used to supplant services previously provided by other state or federal agencies.
620	SECTION 59-36-70	State	Annual report by advisory council summarizing services for preschoolers; reports by other agencies. (A) With the assistance of staff provided by the Department of Education, the state advisory cou shall submit annually by February first of each year a report to the Interagency Coordinating Council on P.L. 99 457, the Joint Legislative Committee on Children, the Senate Finance Committee, the H Ways and Means Committee, the Senate Education Committee, and the House Education and Public Works Committee, summarizing services provided for preschool children with disabilities and the families. The report must include, but is not limited to: (1) State Department of Education initiatives relative to preschool programs for children with disabilities; (2) data and program information collected from the local education agencies relative to the provision of special education and related services and on its child find activities; (3) financial information pertaining to the implementation of the program; (4) update on the policies and procedures governing the implementation of preschool programs for children with disabilities, including recommendations for improvement of the preschool progra needed; (5) information provided by the state agencies designated in Section 59 36 20 to the advisory council by December first of each year in a report which will include each agency's initiatives, data, fina information, and pertinent policies and procedures relative to programs for preschool children with disabilities, as well as recommendations for improving services for these children. (B) State agencies designated in Section 59 36 20 shall submit annually by December first of each year a report to the advisory council on a form provided by the council.
621	SECTION 59-36-80	State	Study of costs; recommendation as to weighting in connection with funding; annual determination of funding level. The Committee to Study Formula Funding for Educational Programs shall conduct study of the costs of the program for preschool children with disabilities and, if appropriate, recommend weights to be included in the Education Finance Act, Section 59 20 40 and report to the Gene Assembly no later than November 1, 1993. Until the weightings for preschool children with disabilities are developed and funded, four year old children with hearing or visual disabilities and all five year old children with disabilities will cont to be counted for funding purposes under the Education Finance Act. Funding for all other preschool students with disabilities will be provided for in the General Appropriations Act. The General Assembly shall determine annually in the General Appropriations Act the amount of funding necessary to carry out the provisions of this chapter.
622	SECTION 59-37-10	State	Schools for orphans or needy children in eleemosynary institutions. Upon application of the directors or managing board of any eleemosynary institution in this State, operated without profit as a ho for orphans or needy children who are admitted thereto, the State Board of Education shall establish a grammar or high school or both for the inmates of such institution within school age.
623	SECTION 59-37-20	State	Schools for eleemosynary institutions placed under direction and control of local board of trustees. Should any such school be established, the State Board of Education shall place it under the directi and control of the board of school trustees of the school district in which the institution is located, and thereupon such board of school trustees shall employ teachers and operate the school in a build or buildings to be provided free of charge by the eleemosynary institution (such building or buildings to be approved by the board of school trustees) in the same manner and subject to all the laws, r and regulations governing the conduct and operation of other public schools of the State.

Legal Standards

624	SECTION 59-38-10	State	School district procedures and responsibilities; Department of Social Services responsibilities; educational and school placement decisions; transfer of credits and grades; court appearances treated a excused absences; Department access to school records; adult advocates. (A) Each school district shall have in place procedures to ensure seamless transitions between schools and school districts for children upon notice that a child is in foster care. School districts shall consider maintaining a child in foster care in the same school if it is in the child's best interest. A school district must not place additional enrollment requirements on a child based solely on the fact t the child is in foster care. (B) Each school district shall: (1) facilitate the immediate enrollment of a child in foster care residing in a foster home, group living facility, or any other setting that is located within the district or area served by the district; (2) assist a child in foster care transferring from one district to another by ensuring proper transfer of records; (3) request school records within two school days of placement into a school and transfer records within two school days of receiving a request for school records. (C) The Department of Social Services immediately shall enroll the child in school, maintaining the child in the same school if possible, and shall provide a copy of the court order to the school distric be included in the student's school record. (D) Educational and school placement decisions for children in foster care must be made to ensure that each child immediately is placed in the least restrictive educational program and has access to academic resources, services, and extracurricular and enrichment activities that are available to all students. (E) Each school district shall accept for credit full or partial course work satisfactorily completed by a child in foster care while attending a public school, nonpublic school, or nonsectarian school in accordance with state and district policies or regulations. (F) Each school district shall ensure that when a decision to change the foster home placement of a child is made by the court or the Department of Social Services and the child must change schools, grades and credits of that child must be calculated as of the date the child left school, and the child's grades must not be lowered as a result of these circumstances. (G) Each school district shall ensure that if a child in foster care is absent from school due to a certified court appearance or related court ordered activity including, but not limited to, court ordered treatment services, these absences must be counted as excused absences upon submission of appropriate documentation. If these absences exceed the limit provided for by law, the school administra shall allow the child an opportunity to make up all assignments and required seat time. (H) Each school district, subject to federal law, may permit an authorized representative of the Department of Social Services to have access to the school records of a child in foster care for the purpo fulfilling educational case management responsibilities required by law and to assist with the school transfer or placement of the child. (I) The Department of Social Services shall ensure that children in foster care have a willing and available adult to advocate for their best educational interests, and school districts shall acknowledge accept this person's role in advocating for educational services necessary to meet each child's needs.
625	SECTION 59-39-10	State	Establishment and maintenance of high schools. The board of trustees of any school district, acting singly or in cooperation with the boards of trustees of adjoining school districts, may establish and maintain a high school, with the privileges herein granted; provided, that such high school meets all the requirements of this article and the regulations of the State Board of Education.
626	SECTION 59-39-20	State	Board of trustees of high schools. Except as otherwise expressly provided, if a single school district establish a high school, the board of trustees of such district shall be the high school board of trust and if any two or more districts establish a high school, the board of trustees of the district wherein the high school is located, together with the chairman of each of the cooperating districts, shall constitute the high school board of trustees. And except as otherwise expressly provided, if three or more adjoining school districts, none of which contains an incorporated town of twenty five hund inhabitants according to the last preceding census, shall cooperate to establish a centralized high school, the chairmen of the several cooperating districts shall constitute the board of trustees for the centralized high school.
627	SECTION 59-39-30	State	High schools established prior to February 19, 1907 may claim privileges of article. Any public high school established prior to February 19, 1907 may claim the privileges of this article; provided, th conforms to the requirements of this article and the regulations of the State Board of Education. But nothing in this article shall be construed to repeal any of the privileges granted special school dist in the special acts of the General Assembly.
628	SECTION 59-39-40	State	Creation of corporate body through establishment of high school districts by adjoining school districts. When, pursuant to or under color of authority of any general act, any special act or any act mak special provision in or about the subject matter of a general act, a high school shall have been established by the boards of trustees of two or more adjoining school districts located in the same count adjoining counties in this State, or when the boards of trustees of two or more such school districts, by the adoption of resolutions, authorization of contracts for erection or in any other way jointly o separate boards of trustees, shall have evidenced an intention to establish a high school district, a body corporate shall be and hereby is created and shall be deemed to have been created at and from time of the first joint or separate action in any such case and for such purpose by two or more boards of trustees of school districts.
629	SECTION 59-39-50	State	Area of high school districts established by adjoining districts. Such high school district shall be coterminous with and equal in area to the two or more school districts by action of whose boards of trustees it shall be created, but shall not in any way terminate the continued corporate existence of such school districts as separate entities.
630	SECTION 59-39-60	State	Boards of trustees of high school districts established by adjoining districts. The governing body of each such district shall be a board known as a high school board of trustees, which shall be constit when the boards of trustees of two or more school districts shall have acted in establishing or evidencing an intention to establish a high school pursuant to or under color of authority of any special a any act making a special provision in or about the subject matter of a general act, in the manner provided in such act and in any other case in the manner provided in Section 59 39 20.
631	SECTION 59-39-70	State	Corporate name of high school district established by adjoining districts; seal; clerk. The corporate name of each such high school district shall be such as shall be adopted by resolution of the high sc board of trustees. The high school board of trustees may likewise adopt a corporate seal and may elect from time to time one of their number as clerk to hold office during his term of office as trustee a shorter period if the board shall so determine.
632	SECTION 59-39-80	State	Privileges and regulation of high school district established by adjoining districts. All such districts shall have the privileges and benefits provided by this article and shall be subject to the regulation the State Board of Education as therein provided.

Legal Standards

633	SECTION 59-39-90	State	Rights, powers and privileges of trustees of high school districts established by adjoining districts. Such high school boards of trustees shall have all of the rights, powers and privileges conferred by upon the trustees of common school districts and may manage, lease, dispose of, sell, deliver or convey the property of the district upon such terms and conditions as the board shall deem proper and when authorized by the boards of trustees of a majority of the cooperating districts, may discontinue the operation of such high school. But such right to manage, lease, dispose of, sell, deliver or conv the property of the district or discontinue the operation of the high school shall be subject to the approval of the county board of education.
634	SECTION 59-39-100	State	Issuance of uniform diplomas by accredited high school; units required. (A) Diplomas issued to graduates of accredited high schools within this State must be uniform in every respect and particular to color, size, lettering, and marking. The number of units required for a state high school diploma is twenty units as prescribed by the State Board of Education. Beginning in the 1986 87 academic ye minimum of three units must be earned in mathematics and a minimum of two units must be earned in science. (B) One unit in computer science, if approved by the State Department of Education for this purpose, may be counted toward the mathematics requirement. (C) Students who earn one unit in science and six or more units in a specific occupational service area will meet the science requirements for a state high school diploma. Career and technology prog operating on a 3 2 1 structure may count pre career and technology education as one of the six required units. (D) Beginning with the ninth grade class of school year 1997 98, the number of units required for a high school diploma is twenty four units as prescribed by the State Board of Education by regulati with one additional unit required in mathematics, science, and computer science to include keyboarding. For students in a college preparatory track, as defined by the state board, one additional unit be earned in a foreign language; and for students in a track designed to enter the work force, as defined by the state board, one additional career and technology unit must be earned. Beginning with t ninth grade class of school year 1997 98, if a student counts one unit of computer science toward his mathematics requirement as permitted above, one additional unit of computer science must be earned. (E) Nothing in this section prohibits local school boards of trustees from awarding recognition to students who complete additional units and credits beyond those required by this section.
635	SECTION 59-39-110	State	Accelerated program of study. Each accredited high school in this State shall provide an accelerated program of study whereby any student who demonstrates sufficient ability shall, upon approval o administrative head of such school and of the parent, guardian or other lawful custodian of such student, be allowed to undertake such courses of study as will enable the student to graduate at the en eleven years of primary and secondary schooling.
636	SECTION 59-39-112	State	Elective credit for released time classes in religious instruction. (A) A school district board of trustees may award high school students no more than two elective Carnegie units for the completion of released time classes in religious instruction as specified in Section 59 1 460 if: (1) for the purpose of awarding elective Carnegie units, the released time classes in religious instruction are evaluated on the basis of purely secular criteria that are substantially the same criteria u evaluate similar classes at established private high schools for the purpose of determining whether a student transferring to a public high school from a private high school will be awarded elective Carnegie units for such classes. However, any criteria that released time classes must be taken at an accredited private school is not applicable for the purpose of awarding Carnegie unit credits for released time classes; and (2) the decision to award elective Carnegie units is neutral as to, and does not involve any test for, religious content or denominational affiliation. (B) For the purpose of subsection (A)(1), secular criteria may include, but are not limited to, the following: (1) number of hours of classroom instruction time; (2) review of the course syllabus which reflects the course requirements and materials used; (3) methods of assessment used in the course; and (4) whether the course was taught by a certified teacher.
637	SECTION 59-39-115	State	Issuance of diploma to high school student who enlisted in military during WWII; documentation; posthumous diplomas. (A) A South Carolinian who enlisted in any branch of the United States milit while enrolled as a student in any high school of this State during the period December 8, 1941, through September 1, 1946, must be issued a high school diploma upon presentation of documentatio school enrollment and a copy of an honorable discharge or honorable discharge papers (DD 214) to the South Carolina Department of Education. (B) A posthumous high school diploma must be awarded to any person meeting the criteria of this section upon written request of a member of the individual's family.
638	SECTION 59-39-120	State	Data required to be submitted by high schools and institutions of higher learning concerning high school graduates. On or before May first of each calendar year, every high school which issues a Sta high school diploma shall submit to the State Superintendent of Education in such form as he may prescribe the following data: (1) The number of high school graduates that entered the freshman class of an institution of higher learning, either in or out of this State, for whom a first semester report has been received; (2) A breakdown showing all courses passed by such group; and (3) A breakdown showing all courses failed by such group. Every high school shall seek diligently to obtain such data from out of State institutions of higher learning. Any high school which fails to file a report or files a false report shall lose its accreditation. Every institution of higher learning in this State shall submit to the state high school from which he was graduated a report on the first semester accomplishments of each freshman.
639	SECTION 59-39-130	State	Tabulation of information by State Superintendent of Education. After such reports have been received, the State Superintendent of Education shall cause them to be tabulated so as to show the acad performance of graduates from the respective high schools who entered institutions of higher learning. When such tables have been prepared, they shall be included in the annual report of the State Superintendent of Education as presented to the General Assembly. The State Superintendent of Education shall acquaint the proper officials of the institutions of higher learning with the requiremen Section 59 39 120.
640	SECTION 59-39-140	State	Regulations for inspection and classification of schools. The State Board of Education may prescribe all such regulations as may not be inconsistent with Chapters 35, 37, 39, 43, 45, 53 and 55 and wi School Code to provide for the inspection and classification of all elementary and secondary schools.

Legal Standards

641	SECTION 59-39-150	State	High school shall not lose accreditation on basis of enrollment only. No high school in this State shall lose its accreditation on the basis of class or school enrollment only, and any high school which l accreditation status during the school year 1964 65, based solely upon class or school enrollment, is hereby restored to its former accreditation status.
642	SECTION 59-39-160	State	Interscholastic activities; requirements for participation; monitoring; participation by handicapped; waiver. To participate in interscholastic activities, students in grades nine through twelve must achieve an overall passing average and either: (1) pass at least four academic courses, including each unit the student takes that is required for graduation; or (2) pass a total of five academic courses. Students must satisfy these conditions in the semester preceding participation in the interscholastic activity, if the interscholastic activity occurs completely within one semester or in the semester preceding the first semester of participation in an interscholastic activity if the interscholastic activity occurs over two consecutive semesters and is under the jurisdiction of the South Carolina High School League. Academic courses are those courses of instruction for which credit toward high school graduation is given. These may be required or approved electives. All activities currently under the jurisdiction the South Carolina High School League remain in effect. The monitoring of all other interscholastic activities is the responsibility of the local boards of trustees. Those students diagnosed as handicap in accordance with the criteria established by the State Board of Education and satisfying the requirements of their Individual Education Plan (IEP) as required by Public Law 94 142 are permitted to participate in interscholastic activities. A local school board of trustees may impose more stringent standards than those contained in this section for participation in interscholastic activities by stud in grades nine through twelve. The State Board of Education may grant a waiver of the requirements of this section. This waiver may be granted only when a written statement from a school district superintendent and athletic di has been received stating that a student's ineligibility to participate in interscholastic activities is due to misinformation concerning eligibility requirements being provided by district personnel. The Board of Education shall establish guidelines to administer this section.
643	SECTION 59-39-170	State	Secondary schools to emphasize teaching as career opportunity. Acting through guidelines adopted by the State Board of Education, the secondary schools of this State shall emphasize teaching as a career opportunity.
644	SECTION 59-39-200	State	Voter registration application forms to be made available to students. Each high school in this State shall make available to its students voter registration application forms. Pursuant to Section 7 5 1 the forms must be provided to high school administrators upon their request to the appropriate county voter registration board or entity charged by law with registering an elector.
645	SECTION 59-39-310	State	School district boards shall establish driver education and training programs. The governing board of any school district maintaining a secondary school which includes any grades nine through twelve, inclusive, shall establish driver education and training programs for stude high school grades.
646	SECTION 59 39 320	State	Rules and regulations of State Board of Education. The State Board of Education shall promulgate rules and regulations for establishment by local school districts of approved driver education and training courses, and when duly promulgated shall h full force and effect of law. Such regulations shall require that credit for completion of a driver education training course shall not be given unless the course shall have included not less than thirty classroom hours of instruction in driver education, and not less than six hours of actual behind the wheel driving.
647	SECTION 59 39 330	State	Supervision of course; instrumental standards, teacher qualifications, reimbursement procedure and other requirements. The rules and regulations of the State Board of Education and training course shall be under the supervision of a qualified driver education teacher. Such rules and regulations shall include instrume standards, teacher qualifications, reimbursement procedure, and other requirements which will further implement the purposes and intent of this article.
648	SECTION 59 39 340	State	Payments to school districts. The State Board of Education shall allow to each school district operating a driver education training program an amount equal to thirty dollars per pupil completing the standard prescribed course program in that school district during the preceding fiscal year in accordance with the regulations set forth by the State Board of Education for instructing pupils in driver education and training.
649	SECTION 59 40 10	State	Short title. This chapter may be cited as the "South Carolina Charter Schools Act of 1996".
650	SECTION 59 40 20	State	Purpose. This chapter is enacted to: (1) improve student learning; (2) increase learning opportunities for students; (3) encourage the use of a variety of productive teaching methods; (4) establish new forms of accountability for schools; (5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (6) assist South Carolina in reaching academic excellence; and (7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups.

Legal Standards

651	SECTION 59 40 30	State	Intent of General Assembly. (A) In authorizing charter schools, it is the intent of the General Assembly to create a legitimate avenue for parents, teachers, and community members to take responsible risks and create new, innovative, and more flexible ways of educating all children within the public school system. The General Assembly seeks to create an atmosphere in South Carolina's public school systems where res and development in producing different learning opportunities are actively pursued and where classroom teachers are given the flexibility to innovate and the responsibility to be accountable. As suc provisions of this chapter should be interpreted liberally to support the findings and goals of this chapter and to advance a renewed commitment by the State of South Carolina to the mission, goals, a diversity of public education. (B) It is the intent of the General Assembly that creation of this chapter encourages cultural diversity, educational improvement, and academic excellence. Further, it is not the intent of the General Assembly to create a segregated school system but to continue to promote educational improvement and excellence in South Carolina.
652	SECTION 59 40 40	State	Definitions. As used in this chapter: (1) A "charter school" means a public, nonreligious, nonhome based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charte School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which gra charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools. (2) A charter school: (a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District, the local school district in which it is located, or is sponsored by a public or independent institution of higher learning; (b) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for s education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school; (c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected as provided in Section 59 40 50(B)(9); (d) may not charge tuition or other charges pursuant to Section 59 19 90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charte school is located; (e) is subject to the same fixed asset inventory requirements as are traditional public schools. (3) "Applicant" means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Bo Trustees, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The appli also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation. (4) "Sponsor" means the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59 103 5, or an independent institution of higher learning as defined in Section 59 113 50, from which the charter school applicant requested its ch and which granted approval for the charter school's existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school's Local Educa Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a ma consistent with LEA obligations under applicable federal, state, and local law. (5) "Certified teacher" means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sect 59 27 10 and 59 25 115. (6) "Noncertified teacher" means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or universit meets the qualifications outlined in Section 59 25 115.

Legal Standards

653	SECTION 59 40 50	State	Exemption; powers and duties; admission to charter school. (A) Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter sch may elect to comply with one or more of these provisions of law or regulations. (B) A charter school must: (1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public C School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located; (2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools; (3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools; (4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the gove body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditi public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in wh the charter school is located are relieved; (5) in its discretion hire noncertified teachers in a ratio of up to twenty five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified tea in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behi law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach; (6) hire or contract for, in its discretion, administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration; (7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is requir that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school d that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the prov of Section 59 40 70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor; (8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in wh case gender may be the only reason to show preference or deny admission to the school; a charter school may give enrollment priority to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. A public charter school shall give enrollment preference to students enrolled in the public charter school the pre school year. An enrollment preference for returning students excludes those students from entering into a lottery. A charter school also may give priority to children of a charter school employee and children of the charter committee, if priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school. addition, a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use b
654	SECTION 59 40 55	State	Sponsor powers; retention of funds. (A) In order to promote the quality of charter school outcomes and oversight, the charter school sponsor shall adopt national industry standards of quality charter schools and shall authorize and implement practices consistent with those standards. (B) A charter school sponsor shall: (1) approve charter applications that meet the requirements specified in Sections 59 40 50 and 59 40 60; (2) decline to approve charter applications according to Section 59 40 70(C); (3) negotiate and execute sound charter contracts with each approved charter school; (4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation accord the charter contract; (5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools; (6) collect, in accordance with Section 59 40 140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education; (7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, un the problem warrants revocation and revocation timeframes apply; (8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions m include requiring a school to develop and execute a corrective action plan within a specified timeframe; (9) determine whether each charter contract merits renewal, nonrenewal, or revocation; (10) provide to parents and the general public information about charter schools authorized by the sponsor as an enrollment option within the district in which the charter school is located to the sa extent and through the same means as the district in which the charter school is located provides and publicizes information about all public schools in the district. A charter school shall notify its sp of its enrollment procedures and dates of its enrollment period no less than sixty days before the first day of its enrollment period; and (11) permanently close any charter school at the conclusion of the school year after receiving the lowest performance level rating as defined by the federal accountability system for three consecutiv years in accordance with Section 59 40 110(E). (C) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor's administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor's fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.

Legal Standards

655	SECTION 59 40 60	State	Charter application; revision; formation of charter school; charter committee; application requirements. (A) An approved charter application constitutes an agreement between the charter school and the sponsor. (B) A contract between the charter school and the sponsor must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the releas the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor. (C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties. (D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall: (1) organize the charter school as a nonprofit corporation pursuant to the laws of this State; (2) form a charter committee for the charter school which includes one or more teachers; and (3) submit a letter of intent and a written charter school application to the board of trustees or area commission from which the committee is seeking sponsorship. (E) A charter committee is responsible for and has the power to: (1) submit a letter of intent and an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law; (2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and (3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures. (F) The charter school application, based on an application template with compliance guidelines developed by the State Department of Education, must include: (1) an executive summary, not to exceed two pages; (2) the mission statement of the charter school, which must be consistent with the principles of the General Assembly's purposes pursuant to Section 59 40 20; (3) the goals, objectives, and academic performance standards to be achieved by the charter school, and a description of the charter school's admission policies and procedures; (4) evidence that an adequate number of parents or legal guardians with students eligible to attend the proposed school pursuant to Section 59 40 50 support the formation of a charter school and j the projected per pupil allocation in the application budget; (5) a description of the charter school's educational program, including how it will meet or exceed the academic performance standards and expectations, including academic standards adopted by t State Board of Education and how the instructional design, learning environment, class size and structure, curriculum, and teaching methods enable each pupil to achieve these standards; (6) a description of the charter school's plan for evaluating pupil achievement and progress toward accomplishment of the school's achievement standards in addition to state assessments, the time for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards; (7) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the sponsor, is to be conducted;
656	SECTION 59 40 65	State	Online or computer instruction; requirements; enrollment in South Carolina Virtual School Program. (A) If the governing body of a charter school offers as part of its curriculum a program of online or computer instruction, this information shall be included in the application and the governing body be required to: (1) provide each student enrolled in the program with a course or courses of online or computer instruction approved by the charter school's sponsor that must meet or exceed the South Carolina content and grade specific standards. Students enrolled in the program of online or computer instruction must receive all instructional materials required for the student's program; (2) ensure that the persons who operate the program on a day to day basis comply with and carry out all applicable requirements, statutes, regulations, rules, and policies of the charter school; (3) ensure that each course offered through the program is taught by a teacher meeting the requirements of Section 59 40 50; (4) ensure that a parent or legal guardian of each student verifies the number of hours of educational activities completed by the student each school year; (5) adopt a plan by which it will provide: (a) frequent, ongoing monitoring to ensure and verify that each student is participating in the program, including proctored assessment(s) per semester in core subjects graded or evaluated by the teacher, and at least bi weekly parent teacher conferences in person or by telephone; (b) regular instructional opportunities in real time that are directly related to the school's curricular objectives, including, but not limited to, meetings with teachers and educational field trips and outings; (c) verification of ongoing student attendance in the program; (d) verification of ongoing student progress and performance in each course as documented by ongoing assessments and examples of student coursework; (6) administer to all students in a proctored setting all applicable assessments as required by the South Carolina Education Accountability Act. (B) Nothing in this section shall prohibit a charter school that provides a program of online or computer instruction from reimbursing families of enrolled students for costs associated with their Int connection for use in the program. (C) A charter school shall provide no more than seventy five percent of a student's core academic instruction in kindergarten through twelfth grade via an online or computer instruction program. Th twenty five percent of the student's core academic instruction may be met through the regular instructional opportunities outlined in subitem (A)(5)(b). (D) Charter school students may enroll in the Department of Education's virtual education program pursuant to program requirements. (E) Private or homeschool students choosing to take courses from a virtual charter school may not be provided instructional materials, or any other materials associated with receiving instruction through a program of online or computer instruction at the state's expense. (F) Only students enrolled in the charter school as a full time student shall be reported in the charter school's average daily membership to the State Department of Education for the purposes of rec state or federal funds. Private and homeschool students may not be included in the student weighted pupil units or average daily membership reported to the State Department of Education for the purposes of receiving state or federal funds.

Legal Standards

657	SECTION 59 40 70	State	Application requirements; hearing; appeal. (A)(1) An applicant shall submit a letter of intent at least ninety days before submitting an application to the board of trustees or area commission from which it is seeking sponsorship and a copy to South Carolina Department of Education. (2) An applicant shall submit the application to the board of trustees or area commission from which it is seeking sponsorship and one copy to the South Carolina Department of Education. In the ca the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trus in which the charter school will be located for informational purposes only. The school district or the public or independent institution of higher learning from which the applicant is seeking sponsor may request clarifying information from the applicant. The State Department of Education shall provide guidance on compliance to both sponsors and applicants. (3) The applicant shall notify the local delegation of a county in which a proposed charter school is to be located upon submission of a charter school application and also shall provide a copy of the charter school application upon request by a member of the local delegation. (B) The board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, wit ninety days after receiving the application. If there is no ruling within ninety days, the application is considered approved. Once the application has been approved by the board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financi data for the school within forty five days after approval. (C) A board of trustees or area commission shall deny an application only if the application does not meet the requirements specified in Section 59 40 50 or 59 40 60, fails to meet the spirit and inter this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located, or if, based on the totality of information provided by the applic the board of trustees or area commission determines that the applicant has failed to demonstrate a substantial likelihood that it has the capacity to establish a viable school based on national industr standards of quality charter school authorization. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59 40 50 or 40 60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education. (D) In the event that the racial composition of an applicant's or charter school's enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the board of trustees or area commission from which the applicant is seeking sponsorship consider the applicant's or the charter school's recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscrimina manner. A finding by the board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application o revocation of a charter as provided in this section or in Section 59 40 110, as may be applicable. A finding by the board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects. (E) If the board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Court pursuant to Section 59 40 90. (F) If the board of trustees or area commission approves the application, it becomes the charter school's sponsor and shall sign the approved application. The sponsor shall submit a copy of the chart contract to the State Board of Education.
658	SECTION 59 40 75	State	Removal of sponsor or member of district or governing board; prosecution. (A) A member of the South Carolina Public Charter School District or of the governing board or sponsor of the charter school who is indicted in any court for any crime, or has waived the indictment permitted by law, may be suspended by the Governor, who shall appoint another in his stead until he is acquitted. In case of conviction, the office must be declared vacant by the Governor and the vac filled as provided by law. (B) A member of the South Carolina Public Charter School District or of the governing board of the charter school who is guilty of malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity may be removed from office by the Governor. Before removing the officer, the Governor shall inform him in writing of the specif charges brought against him and give him an opportunity on reasonable notice to be heard. (C) Whenever it appears to the satisfaction of the Governor that probable cause exists to charge a member of the South Carolina Public Charter School District or of the governing board of the charte school who has the custody of public or trust funds with embezzlement or the appropriation of public or trust funds to private use, then the Governor shall direct his immediate prosecution by the pr officer.
659	SECTION 59 40 80	State	Conditional authorization of charter school. A sponsor may conditionally authorize a charter school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates such authority is necessary for it to m the requirements of this chapter. Conditional authorization does not give rise to any equitable or other claims based on reliance, notwithstanding any promise, parole, written, or otherwise, containe the authorization or acceptance of it, whether preceding or following the conditional authorization.
660	SECTION 59 40 90	State	Appeal to Administrative Law Court. A final decision of the school district or a public or independent institution of higher learning sponsor may be appealed by any party to the Administrative Law Court as provided in Sections 1 23 380 and 1 23 600(D).

Legal Standards

661	SECTION 59 40 100	State	Conversion to charter school; employees; occupancy; sponsors; unlawful reprisals. (A)(1) Subject to item (2), an existing public school may be converted into a charter school if two thirds of the faculty and instructional staff employed at the school and two thirds of all voting paren legal guardians of students enrolled in the school agree to the filing of an application with the local school board of trustees for the conversion and formation of that school into a charter school. Pare legal guardians of students enrolled in the school must be given the opportunity to vote on the conversion. Parents or guardians of a student shall have one vote for each student enrolled in the schoo seeking conversion. The application must be submitted pursuant to Section 59 40 70(A)(5) by the principal of that school or his designee who must be considered the applicant. The application must include all information required of other applications pursuant to this chapter. The local school board of trustees shall approve or disapprove this application in the same manner it approves or disapproves other applications. The existence of another charter granting authority must not be grounds for disapproving a school desiring to convert to a charter school. (2)(a) In addition to the vote requirements required in item (1), if a proposed conversion school has outstanding general obligation bond debt owed on it and that debt is resulting from an ordinanc originally authorizing the bonds, and the original authorization was no more than ten years prior to the proposed conversion, and the bonds were specifically issued for the construction or improven of the proposed conversion school, the school may be converted into a charter school only upon a majority vote of the local school board of trustees. (b) In addition to the vote requirements required in item (1), if a proposed conversion school has outstanding general obligation bond debt owed on it and that debt is resulting from a referendum originally authorizing the bonds, and the original authorization was no more than ten years prior to the proposed conversion, and the bonds were specifically issued for the construction or improven of the proposed conversion school, the school may be converted into a charter school only upon a two thirds vote of the local school board of trustees. (B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings. (C) All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be gi enrollment priority. (D) All employees of a converted school shall remain employees of the local school district, the South Carolina Public Charter School District, or the public or independent institution of higher learnin sponsor with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district, the South Carolina Public Charter S District, or the public or independent institution of higher learning sponsor for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Artic Chapter 25, Title 59 apply to the employment and dismissal of teachers at a converted school. (E) For the duration of a converted charter school's contract with a sponsor, a converted charter school shall have the right to retain occupancy and use of the school's facility or facilities and all equipment, furniture, and supplies that were available to the school before it converted, in the same manner as before the school converted, with no additional fees or charges. (F) The South Carolina Public Charter School District or a public or independent institution of higher learning may not sponsor a public school to convert to a charter school. However, the South Car Public Charter School District or a public or independent institution of higher learning may sponsor a converted charter school renewal if the charter school has not committed a material violation of provisions specified in subsection (C) of Section 59 40 110 and the local school district board of trustees refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59 40 110(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to rece
662	SECTION 59 40 110	State	Duration of charter; renewal; revocation; termination. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The spo annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation. (B) A charter renewal application must be submitted to the school's sponsor one hundred twenty calendar days before the end of the school year for the term of the charter contract, and it must cont (1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; (2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education; and (3) any proposed material changes to the current charter or charter school contract to be implemented in the next ten year charter term. (C) A charter must be revoked or not renewed by the sponsor if it determines that the charter school: (1) committed a material violation of the conditions, standards, performance expectations, or procedures provided for in the charter application or charter school contract, or both; (2) failed to meet the academic performance standards and expectations as defined in the charter application or charter school contract, or both; (3) failed to maintain its books and records according to generally accepted accounting principles or failed to create an appropriate system of internal control, or both; or (4) violated any provision of law from which the charter school was not specifically exempted. (D) A sponsor summarily may revoke any charter school that is determined by the sponsor to pose an imminent threat of harm to the health or safety of students, or both, based on documented and and convincing data. (E) Any charter school shall automatically and permanently close at the conclusion of the school year in which the school first becomes subject to automatic closure for receiving the lowest performa level rating as defined by the federal accountability system for three consecutive years beginning with student achievement data from the 2013 2014 school year. The determination of closure is considered final. Automatic closure shall not apply to any charter school serving fifty percent or more students with disabilities or any charter school designated as an Alternative Education Campus by its sponsor as outlined in Section 59 40 111. (F) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school's governing body of the proposed action. The notification shall state t grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section. (G) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified of this section. (H) The charter school's governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the scho governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponso shall give reasonable notice to the school's governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew charter by the last day of classes in the last school year for which the charter school is authorized. (I) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in

Legal Standards

663	SECTION 59 40 111	State	Alternative Education Campus designation. (A) For purposes of this chapter, an Alternative Education Campus (AEC) is any charter school with an explicit mission as outlined in its charter to serve an enrolled student population with: (1) severe limitations that preclude appropriate administration of the assessments administered pursuant to federal and state requirements; (2) fifty percent or more of students having Individualized Education Programs (IEPs) in accordance with federal regulations; or (3) eighty five percent or more of enrolled students meeting the definition of a "high risk" student including students who: (a) have been adjudicated as juvenile delinquents or who are awaiting disposition of charges that may result in adjudication; (b) have dropped out of school or who have not been continuously enrolled and regularly attending any school for at least one semester before enrolling in this school; (c) have been expelled from school or who have engaged in behavior that would justify expulsion; (d) have documented histories of personal drug or alcohol use or who have parents or guardians with documented dependencies on drugs or alcohol; (e) have documented histories of personal street gang involvement or who have immediate family members with documented histories of street gang involvement; (f) have documented histories of child abuse or neglect; (g) have parents or guardians in prison or on parole or probation; (h) have documented histories of domestic violence in the immediate family; (i) have documented histories of repeated school suspensions; (j) are under the age of twenty years who are parents or pregnant women; (k) are homeless, as defined in the McKinney Vento Homeless Assistance Act; or (l) have a documented history of a serious psychiatric or behavioral disorder including, but not limited to, an eating disorder or a history of suicidal or self injurious behaviors. (B) Such schools must be classified as AECs by their sponsor. (C) A high poverty rating alone shall not qualify any charter school for status as an AEC. (D) Charter school applicants seeking such a designation shall provide sufficient information in their charter application to allow the authorizer to make a determination as to whether that classifica applies. (E) Charter schools already in operation may seek AEC classification by petitioning their sponsor. (F) Charter schools receiving an AEC designation either before or after opening, shall be held to applicable state and federal accountability standards along with the academic performance standards expectations established by written agreement between the sponsor and the school that takes into account the school's specialized mission and student population.
664	SECTION 59 40 115	State	Termination of contract with sponsor. A charter school may terminate its contract with a sponsor before the ten year term of contract if all parties under contract with the charter school agree to the dissolution. A charter school that terminates its contract with a sponsor directly may seek application for the length of time remaining on its original contract from another sponsor.
665	SECTION 59 40 120	State	Dissolution of charter school. Upon dissolution of a charter school, its assets may not inure to the benefit of any private person. Any assets obtained through restricted agreements with a donor through awards, grants, or gifts mu returned to that entity. All other assets become property of the sponsor.
666	SECTION 59 40 125	State	Eligibility for retirement coverage. (A) All charter schools, other than converted charter schools whose employees remain employees of the local school district or the South Carolina Public Charter School District pursuant to Section 5 100(D), are eligible covered employers in the South Carolina Retirement Systems and may elect to participate in the system by filing the appropriate application with the South Carolina Retirement Systems. If the charter school chooses not to become a covered employer, employees of that charter school are not allowed to participate in the South Carolina Retirement Systems except as provided Section 59 40 130. (B) The South Carolina Public Charter School District shall be a covered employer in the South Carolina Retirement Systems.
667	SECTION 59 40 130	State	Leave to be employed at charter school; continuation of benefits; exceptions. (A)(1) If an employee of a local school district makes a written request for leave to be employed at a charter school before July 1, 2006, the school district shall grant the leave for up to five years as requested by the employee. The school district may require that the request for leave or extension of leave be made by the date provided for by state law for the return of teachers' contracts. Employe may return to employment with the local school district at its option with the same teaching or administrative contract status as when they left but without assurance as to the school or supplementa position to which they may be assigned. (2) Notwithstanding the provisions of item (1) and subject to the provisions of subsection (B), a charter school employing after June 30, 2006, an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to that employee on leave through the earlier of the date the employee on leave returns to employment by th district or June 30, 2011, and only if the charter school and the employee have made required employer and employee contributions to the South Carolina Retirement Systems from the employee's da employment with the charter school. (B) A charter school employing an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to the employee on le hires. The employee on leave from a local school district employed by a charter school shall accrue benefits and credits in the South Carolina Retirement Systems. The charter school shall remit to the Retirement Systems the employer contributions required by law for participating employers. The employee shall make the employee contributions to the Retirement Systems required by law and the contributions must be picked up in accordance with Section 9 1 1020. The South Carolina Retirement Systems may impose reasonable requirements to administer this section. (C) The provisions of this section do not apply to teachers and other employees of a converted school whose employment relation is governed by Section 59 40 100.

Legal Standards

668	SECTION 59 40 140	State	Funds; services; reports. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year's audited total gener fund revenues, divided by the previous year's weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59 20 40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same crite the local school district. These amounts must be verified by the State Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local scho district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter a the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute fun school districts with charter schools: (i) having approved incremental growth and expansion as provided in their charter application; or (ii) for opening of new charter schools in the current fiscal ye These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no late thirty days after receipt from the Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act. (B) The South Carolina Public Charter School District or public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as provided by the General Assembly. (C) During the year of the charter school's operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the spo on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement funds. (D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students or staff serving them must be directed to the sponsor. After receipt of federal or sta categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld. (E) All services centrally or otherwise provided by the sponsor including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor and must be outlined in the contract required pursuant to Section 59 40 70(F), except as otherwise provided or required by law. (F) All awards, grants, or gifts collected by a charter school must be retained by the charter school. (G) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted by the governing board if subject to a conditio contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report required in Section 59 40 50(B)(3). (H) A charter school shall report to its sponsor and the Department of Education any change to information provided under its application. In addition, a charter school shall report at least annually t sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include, at a minimum:
669	SECTION 59 40 145	State	Students attending charter schools outside district of residence. A child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall h authority to grant or deny permission for the student to attend pursuant to Sections 59 40 40(2)(b) and 59 40 50(B)(7) and (8) according to the terms of the charter after in district children have bee given priority in enrollment. However, the out of district enrollment shall not exceed twenty percent of the total enrollment of the charter school without the approval of the sponsoring district board trustees. The district sending children to the charter school under the terms of this section must be notified immediately of the transferring students. Out of district students must be considered base the order in which their applications are received. If the twenty percent out of district enrollment is from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school. The charter school to which the child is transferring shall be eligible for state and federal funding according to the formula defined in Sectio 40 140(A), (B), and (C), as applicable. However, this section does not apply to a charter school sponsored by the South Carolina Public Charter School District Board of Trustees.
670	SECTION 59 40 150	State	Duties of Department of Education. (A) The Department of Education shall disseminate information to the public, directly and through sponsors, on how to form and operate a charter school and how to utilize the offerings of a charter school. (B) At least annually, the department shall provide upon request a directory of all charter schools authorized under this chapter with information concerning the educational goals of each charter sch the success of each charter school in meeting its educational goals, and procedures to apply for admission to each charter school. (C) The department shall bear the cost of complying with this section.
671	SECTION 59 40 155	State	Orientation programs for board members and administrators. (A) Within one year of taking office, all persons elected or appointed as members of a charter school board of trustees after July 1, 2006, shall complete successfully an orientation program in the pov duties, and responsibilities of a board member including, but not limited to, topics on policy development, personnel, instructional programs, school finance, school law, ethics, and community relatio The orientation must be provided at no charge by the State Department of Education or an association approved by the department. (B) Within ninety days of employment, an administrator employed by the charter school, who is not certified, shall complete successfully an orientation program in the powers, duties, and responsib of a school administrator including, but not limited to, topics on personnel, instructional programs, school finance, school law, ethics, and community relations. The orientation must be provided at n charge by the State Department of Education or an association approved by the department.
672	SECTION 59 40 160	State	Compilation of evaluations; impact study. (A) The State Board of Education shall compile evaluations to include, but not be limited to, school report cards of charter schools received from sponsors. They shall review information regarding th regulations and policies from which charter schools were released to determine if the releases assisted or impeded the charter schools in meeting their stated goals and objectives. (B) An impact study must be conducted by the State Board of Education two years after the implementation of the Charter School Advisory Committee review process to determine the effectiveness application process.

Legal Standards

673	SECTION 59 40 170	State	Annual listing of buildings suitable for charter school use. The Department of Education shall make available, upon request, a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by school districts in this State and may be suitable for the operation of a charter school. The department shall make the list available to applicants for charter schools and to existing charter schools. The list must include the address of building, a short description of the building, and the name of the owner of the building. Nothing in this section requires the owner of a building on the list to sell or lease the building or a portion of th building to a charter school or to any other school or to any other prospective buyer or tenant. However, if a school district declares a building surplus and chooses to sell or lease the building, a chart school's board of directors or a charter committee operating or applying within the district must be given the first refusal to purchase or lease the building under the same or better terms and condit as it would be offered to the public.
674	SECTION 59 40 175	State	Facility revolving loan program. There is created in the state treasury the Charter School Facility Revolving Loan Program. This loan program is comprised of federal funds obtained by the state for charter school facilities, other fun appropriated or transferred to the fund by the state, and privately donated funds. Funds deposited to the Charter School Facility Revolving Loan Program must remain available for the purposes of th program until appropriated or reverted by the General Assembly. The State Treasurer may approve loans from monies in the Charter School Revolving Loan Program to a charter school, upon applica by the charter school. Money loaned to a charter school pursuant to this section must be used for construction, purchase, renovation, and maintenance of public charter school facilities. The State Treasurer shall establish guidelines and procedures for application, approval, allocation, and repayment regarding loans from these monies. The Office of State Treasurer may be reimbursed from the program for costs associated with the administration of these loans.
675	SECTION 59 40 180	State	Regulations and guidelines. The State Board of Education shall promulgate regulations and develop guidelines necessary to implement the provisions of this chapter, including standards to determine compliance with this chap and an application process to include a timeline for submission of applications that will allow for final decisions, including Administrative Law Court appeal, by December first of the year preceding t charter school's opening.
676	SECTION 59 40 190	State	Liability of governing body, sponsor, board and employees; employment of member of governing body. (A) The governing body of a charter school may sue and be sued. The governing body may not levy taxes or issue bonds. (B) A sponsor is not liable for any of the debts of the charter school. (C) A local school district, sponsor, members of the board or area commission of a sponsor, and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor. The governing body of a charter school shall obtain at least the amount of and types of insurance required for this purpose. (D) A member of a school governing body may not receive pay as an employee in the same school.
677	SECTION 59 40 200	State	Effect of establishment of South Carolina Public Charter School District on pending and future applications. An application already on file with the charter school advisory committee before the effective date of Section 59 40 220 is subject to the time line in effect at the time the application was filed. An application filed after the effective date of Section 59 40 220 is subject to the new time lines established pursuant to this chapter.
678	SECTION 59 40 210	State	Conversion of private school to charter school. A school established as a private school, on the effective date of this section, which desires to convert to a charter school shall dissolve and must not be allowed to open as a charter school for a perio twelve months; provided, however, that if the enrollment of the converted private school for the most recently completed school term before the date of the proposed conversion to a charter school reflects the racial composition of the local school district in which the converted private school is located, the provisions of this section prohibiting the private school from opening as a charter schoo period of twelve months do not apply. However, the provisions of Section 59 40 70(D) continue to apply to a private school which was not required to close for a period of twelve months after its conversion to a charter school.
679	SECTION 59 40 220	State	South Carolina Public Charter School District. (A) The South Carolina Public Charter School District is created as a public body. The South Carolina Public Charter School District must be considered a local education agency and is eligible to recei state and federal funds and grants available for public charter schools and other schools to the same degree as other local education agencies. The South Carolina Public Charter School District may n have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59 40 140(B). (B) The geographical boundaries of the South Carolina Public Charter School District are the same as the boundaries of the State of South Carolina. (C) The office of the South Carolina Public Charter School District Board of Trustees must be housed in the State Department of Education.

Legal Standards

680	SECTION 59 40 230	State	Board of trustees; membership; powers and duties. (A) The South Carolina Public Charter School District must be governed by a board of trustees consisting of not more than nine members: (1) two appointed by the Governor; (2) one appointed by the Speaker of the House of Representatives; (3) one appointed by the President Pro Tempore of the Senate; and (4) five to be appointed by the Governor upon the recommendation of the: (a) South Carolina Association of School Administrators; (b) South Carolina Chamber of Commerce; (c) South Carolina Education Oversight Committee; (d) South Carolina School Boards Association; and (e) South Carolina Alliance of Black Educators. The seven members appointed by the Governor pursuant to this subsection are subject to advice and consent of the Senate. Membership of the committee must reflect representatives from each of t entities in item (4) or their designee as reflected in their recommendation. Each member of the board of trustees shall serve terms of three years, except that, for the initial members, two appointed by the Governor, one by the Speaker of the House, and one by the President Tempore of the Senate, shall serve terms of one year and three appointed by the Governor shall serve terms of two years. A member of the board may be removed after appointment pursuant to Secti 3 240. In making appointments, every effort must be made to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well a ethnic diversity of the State. (B) The South Carolina Public Charter School District Board of Trustees has the same powers, rights, and responsibilities with respect to charter schools as other school district boards of trustees of State including, but not limited to, sponsoring charter schools and applying for federal charter school grants, except that the South Carolina Public Charter School District Board of Trustees may not c application for a charter school, issue bonds, or levy taxes. (C) The South Carolina Public Charter School District Board of Trustees annually shall elect a chairman and other officers, as it considers necessary from among its membership. (D) Members of the South Carolina Public Charter School District Board of Trustees are not eligible to receive compensation but are eligible for per diem, mileage, and subsistence as provided by law members of state boards, committees, and commissions. (E) The South Carolina Public Charter School District Board of Trustees shall: (1) exercise general supervision over public charter schools sponsored by the district; (2) grant charter status to qualifying applicants for public charter schools pursuant to this chapter; (3) adopt and use an official seal in the authentication of its acts; (4) keep a record of its proceedings;
681	SECTION 59 40 235	State	Geographical boundaries. The geographical boundaries from which a charter school sponsored by a public or independent institution of higher learning may accept students are the same as the boundaries of the State of Sout Carolina.
682	SECTION 59 40 240	State	Severability. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this chapter is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this chapter, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words thereo be declared to be unconstitutional, invalid, or otherwise ineffective.
683	SECTION 59 41 10	State	Definitions. The following words and phrases as used in this chapter shall, unless a different meaning is plainly required by the context, have the following meanings: (a) "School child" shall mean any person between the ages of six and twenty whose domicile is with his or her parent within the State and who is otherwise qualified to attend the public schools of a school district in which he or she resides. (b) "Parent" shall mean the natural or adoptive parent or the guardian having legal custody of a child eligible and entitled to receive a scholarship grant under this chapter who is actually paying or will pay the tuition cost of attendance of such child at a school which qualifies such child to receive a grant under the terms of this chapter. (c) "Private school" shall mean a private or independent elementary or high school which is not operated or controlled by any church, synagogue, sect or other religious organization or institution.
684	SECTION 59 41 20	State	Children eligible for grants; amount. Subject to the terms and provisions of this chapter every school child in the State who has not yet finished or graduated from high school and who desires to attend a private school located within th State shall be eligible for and entitled to receive a State scholarship grant in an amount equal to the per pupil cost to the State of public education as certified by the Governor.
685	SECTION 59 41 30	State	Grants payable from appropriations. The State scholarship grants provided for in Section 59 41 20 shall be payable from funds appropriated by the General Assembly for the payment thereof.

Legal Standards

686	SECTION 59 41 40	State	School districts shall provide supplements to grants; levy of taxes. It shall be a prerequisite to the grant above permitted that the local school district in which the school child resides make available a grant of local funds to such school child and to that end the trust each school district within the State are hereby authorized to appropriate funds in addition to the State scholarship grants provided for in Section 59 41 20 in such amount that is equal to the per pup cost to the school district exclusive of all State funds received for such purposes. The trustees of each school district are authorized to levy taxes where the school district has the power to tax, to raise funds for the payment of such local supplements to the State scholarship grants. The State Board of Education shall render such assistance to the trustees as may be necessary to determine annual pe pupil expenditures of the school district for the purpose of fixing the amount of any supplement to be paid under this section.
687	SECTION 59 41 50	State	Grant and supplement shall not exceed private school tuition. The total of the annual scholarship grant provided for each child by this chapter shall not exceed the actual cost of tuition at the private school attended by the child.
688	SECTION 59 41 60	State	State Board authorized and directed to promulgate rules and regulations. The State Board of Education is hereby authorized and directed to promulgate such rules and regulations, consistent with the terms of this chapter, for the receiving and processing of applications fo scholarship grants, the payment of grants and the administration of this chapter generally as it may find necessary or desirable. Such rules may, among other things, provide for the payment of schola grants by the school districts of the State to the parent of any child entitled to receive a scholarship grant in installments or otherwise, and for the proration of scholarships for children attending sch less than a full school year; they shall include a minimum academic standard that shall be met by any school in order to entitle children attending such school to receive a scholarship grant; provided, however, that no rule promulgated under the authority of this chapter shall restrict, or in any way affect, the requirements of such school concerning the eligibility of pupils who may be admitted the or specify minimum physical plant facilities of any such school.
689	SECTION 59 41 70	State	Obtaining or expending scholarship funds other than for tuition unlawful. It shall be unlawful for any person to obtain, attempt to obtain, expend or attempt to expend, any scholarship funds provided by this chapter for any purpose other than in payment of, or reimbursem for, the tuition cost of the child to whom such scholarship has been awarded at the institution he or she is authorized to attend under his or her scholarship grant.
690	SECTION 59 41 80	State	Penalties. Any person convicted of violating the provisions of this chapter shall be punished by imprisonment for a term not to exceed three years or by a fine not to exceed two thousand dollars, or by both, in discretion of the court.
691	SECTION 59 41 90	State	Effect of invalidity. If any portion of this chapter, or the application thereof to any person or circumstance is, for any reason, declared unconstitutional, such declaration shall not affect the validity of the remaining porti of this chapter or its application to other persons and circumstances.
692	SECTION 59 43 10	State	Powers of district board of trustees. Any district board of trustees may raise and allocate funds for adult education, utilize buildings, equipment and other school facilities of the district for such purpose, and hire teachers, establish and maintain classes for adults in such subjects as the State Board of Education may determine. Adult education classes shall be subject to the rules and regulations of the State Board of Education.
693	SECTION 59 43 20	State	Powers of State Board of Education. (A) The State Board of Education may: (1) make and enforce regulations for the organization, conduct, and supervision of adult basic and adult secondary (GED, alternate testing, and high school diploma) education; (2) determine the qualifications of teachers and issue teaching certificates for teaching adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes; (3) determine the tuition which may be required of persons attending adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes; (4) determine the subjects which may be taught in adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes. (B) The State Board of Education is also responsible for the administration, coordination, and management of adult basic and adult secondary (GED, alternate testing, and high school diploma) educa for the purpose of facilitating and coordinating adult basic and adult secondary (GED, alternate testing, and high school diploma) education programs for South Carolina adults whose level of educati attainment is below high school, as prescribed by state and federal laws and regulations. The State Board of Education and the local school districts are responsible for effective coordination and utilization of literacy councils, the technical education system, the educational television network, nonprofit groups, business and industry representatives, and other state and local agencies and priv persons interested in adult basic and adult secondary (GED, alternate testing, and high school diploma) education programs to deliver programs to the state's undereducated adult population. (C) Any funds distributed by the State Board of Education for local literacy councils or programs must be made available to those councils or programs either in kind or in money. (D) The requirements of this section apply to alternate high school equivalency testing required in Section 59 43 25.

Legal Standards

694	SECTION 59 43 25	State	High school equivalency diploma test or test batteries. Before January 1, 2015, the State Board of Education shall select one or more tests or test batteries that an eligible candidate successfully may complete to receive a high school equivalency diploma. test batteries approved by the State Board must have demonstrated the appropriate rigor for a high school equivalency exam and must be valid and reliable for the purpose for which these test batte are administered. The State Board shall select at least one test battery meeting this requirement that is available in paper and pencil form, if one is available. The approved test batteries that are avail in paper and pencil (pen), as well as dependent on computer technology, must be available to eligible candidates in both forms. Upon making its selection, the board shall authorize the administratio this test by the State Department of Education under policies that the board shall establish by regulations promulgated by the board and other procedures that the board considers appropriate. The b shall issue a high school equivalency diploma to an eligible candidate who successfully completes the approved test or test battery after January 1, 2015.
695	SECTION 59 43 30	State	Funding. The adult education program of any school district may be supported either in whole or in part by either Federal, State, county or school district funds or by any combination thereof and may be supplemented by funds provided from other sources.
696	SECTION 59 44 10	State	Short title. This chapter may be cited as the Community Education Act of 1976.
697	SECTION 59 44 20	State	Declaration of purpose. The General Assembly finds that in recognition of the fact that the school, as the prime educational institution of the community, is most effective when it involves the people of that community in a process designed to fulfill their education needs, and since community education promotes a more efficient use of community facilities through an extension of buildings, personnel, and equipment, i the purpose of this chapter to facilitate the provision of recreational, educational, cultural, social, health and other community services, in accordance with the needs, interests and concerns of the community, through the establishment of the community education programs, for such activities, in cooperation with other governmental agencies and community service organizations.
698	SECTION 59 44 30	State	"Community education" defined. For the purpose of this chapter "community education" is a process by which public facilities are utilized as community centers operated in conjunction with governmental agencies and community service organizations to provide educational, recreational, cultural, social, health and other community services for all persons in the community in accordance with the needs, interests, and concerns that community.
699	SECTION 59 44 40	State	Duties of State Department of Education. The State Department of Education shall promote the implementation and operation of community education programs throughout the State of South Carolina.
700	SECTION 59 44 50	State	Community education advisory council. A nine member state community education advisory council, representing recreation, health, cultural, social services, community services, education, business industry, aged and minority groups, sh appointed by the State Superintendent of Education, for the purpose of promoting furtherance of this chapter and the advancement of recreational, educational, cultural, social and health opportuniti through the maximum utilization of public facilities. Members of the council shall be appointed for a four year term; provided, that staggered terms shall be established so that after the first year no m than one fourth of the members will be appointed in a given year. A minority of the council constitute a quorum.
701	SECTION 59 44 60	State	School districts authorized to coordinate community education programs. The board of trustees of each school district of the State is hereby authorized to, but not obligated to, coordinate a community education program in its district. Each participating board shall provid general supervision of the program.
702	SECTION 59 45 70	State	Home study schools. No type of home study school shall be established or permitted to operate in this State without first securing the approval of the State Board of Education. Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, in the discretion of the court.
703	SECTION 59 46 10	State	Short title. This chapter may be cited as the "Interstate Compact on Educational Opportunity for Military Children".
704	SECTION 59 46 20	State	Ratification of compact after conditions met. (A) The Governor of this State may execute a compact, in substantially the form set out in Section 59 46 50. The General Assembly signifies in advance its approval and ratification of the compact wh compact has been enacted into law by any ten of the compact states, including South Carolina, and the consent of the United States Congress to the interstate compact has been obtained. (B) When the Governor has executed the compact on behalf of this State, and caused a verified copy to be filed with the Secretary of State, and when the compact has been ratified by ten or more of th compact states, including South Carolina, the compact shall become operative and effective as between this State and the states that have ratified the compact. The Governor shall take action as may b necessary to complete the exchange of official documents between this State and any other state ratifying the compact, and to otherwise carry out the provisions of this chapter. (C) Upon the compact becoming operative and effective between this State and other states ratifying the compact, it is declared to be the policy of this State to perform and carry out the compact and accomplish its purposes.

Legal Standards

705	SECTION 59 46 30	State	Compact Commissioner to be State Superintendent of Education. The State Superintendent of Education shall serve as the Compact Commissioner of the Interstate Compact on Educational Opportunity for Military Children on behalf of this State.
706	SECTION 59 46 40	State	South Carolina Council on the Interstate Compact on Educational Opportunity for Military Children; creation; membership; terms; expense reimbursement; submission of executive summary to Gove and General Assembly. In accordance with the Interstate Compact on Educational Opportunity for Military Children, there is created the South Carolina Council on the Interstate Compact on Educational Opportunity for Mi Children, referred to in this section as "council". (A) The council consists of the following eleven members: (1) the Governor or his designee; (2) one member appointed by the Governor to represent military installations in the State; (3) two members of the House of Representatives appointed by the Speaker of the House; (4) two members of the Senate appointed by the President Pro Tempore of the Senate; (5) two members appointed by the State Superintendent of Education, to include a superintendent of a school district with a high concentration of military families and a member of a military famil experience in the educational challenges that military children face; (6) the State Board of Education chair and chair elect; and (7) the State Superintendent of Education or his designee, who shall serve as chair. (B) Appointments must be made no later than September 1, 2010, at which time the chair shall call the first meeting. Elected members serve terms coterminous with their terms of office. Citizen me serve at the pleasure of the individual making the appointment. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, must be made for the unexpired t Vacancies must be filled in the same manner as the original appointments. (C) The council shall meet on the call of the chairman and, at a minimum, shall meet annually. A majority of members constitutes a quorum. The council may consider any matters related to the Inter Compact on Educational Opportunity for Military Children or the general activities and business of the organization and has the authority to represent the State in all actions of the compact. (D) The State Superintendent of Education, in coordination with the council, shall appoint or designate a military family education liaison as provided by Article VIII of the Interstate Compact on Educational Opportunity for Military Children. (E) The council members serve without compensation. All members must be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties. The costs of expenses the legislative members incurred in the performance of their duties must be paid from appropriations to the representative body. The costs of expenses of nonlegislative citizen members incurred in performance of their duties must be paid from funds as provided for this purpose in the annual appropriations act. (F) The chairman of the council shall submit electronically to the Governor and the General Assembly an executive summary of the interim activity and work of the council no later than the first day regular session of the General Assembly following the first full year of the council's creation. Thereafter an executive summary must be electronically submitted biennially to the Clerk of the House of Representatives and the Clerk of the Senate and must be posted on the General Assembly's website.
707	SECTION 59 46 50	State	Interstate Compact on Educational Opportunity for Military Children. The Interstate Compact on Educational Opportunity for Military Children is enacted into law and entered into with all other jurisdictions legally joining in the compact in the form substantially as fol INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN ARTICLE I PURPOSE It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by: A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous sch districts or variations in entrance/age requirements. B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course co or assessment. C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities. D. Facilitating the on time graduation of children of military families. E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact. F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact. G. Promoting coordination between this compact and other compacts affecting military children. H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Legal Standards

708	SECTION 59 46 50	State	ARTICLE II DEFINITIONS As used in this compact, unless the context clearly requires a different construction: A. "Active duty" means: full time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to U.S.C. Sectio 1209 and 1211. B. "Children of military families" means: school aged children, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member. C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact. D. "Deployment" means: the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station. E. "Educational records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs. F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities inc but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities. G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission. H. "Local education agency" means: a public authority legally constituted by the State as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions. I. "Member state" means: a state that has enacted this compact. J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facili which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any ot U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects. K. "Nonmember state" means: a state that has not enacted this compact. L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought. M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy o provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule. N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought. O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other
709	SECTION 59 46 50	State	ARTICLE III APPLICABILITY (A) Except as otherwise provided in Section (B), this compact shall apply to the children of: (1) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to U.S.C. Section 1209 and 1211; (2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and (3) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death. (B) The provisions of this interstate compact shall only apply to local education agencies as defined in this compact. (C) The provisions of this compact shall not apply to the children of: (1) inactive members of the national guard and military reserves; (2) members of the uniformed services now retired, except as provided in Section (A); (3) veterans of the uniformed services, except as provided in Section (A), and other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active dut members of the uniformed services.
710	SECTION 59 46 50 Continued…	State	ARTICLE IV EDUCATIONAL RECORDS & ENROLLMENT A. Unofficial or "hand carried" education records In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the o records, as quickly as possible. B. Official education records/transcripts Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education re from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten d within such time as is reasonably determined under the rules promulgated by the Interstate Commission. C. Immunizations Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, fo students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission. D. Kindergarten and First grade entrance age Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarte from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in th sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall e the school in the receiving state on their validated level from an accredited school in the sending state.

Legal Standards

711	SECTION 59 46 50 Continued…	State	ARTICLE V PLACEMENT & ATTENDANCE A. Course placement When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the studen enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, Honors International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to e appropriate placement and continued enrollment of the student in the courses. B. Educational program placement The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the scho the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student. C. Special education services 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U. S.C.A. Section 1400, et seq, the receiving state shall initiall provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 21 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131 12165, the receiving state shall make reasonable accommodations an modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the s in the receiving state from performing subsequent evaluations to ensure appropriate placement of the students. D. Placement flexibility local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offe under the jurisdiction of the local education agency. E. Absence as related deployment activities A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.
712	SECTION 59 46 50 Continued…	State	ARTICLE VI ELIGIBILITY A. Eligibility for enrollment: 1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requi parental participation and consent. 2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who li a jurisdiction other than that of the custodial parent. 3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue t attend the school in which he/she was enrolled while residing with the custodial parent. B. Eligibility for extracurricular participation State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless application deadlines, to the extent they are otherwise qualified.
713	SECTION 59 46 50 Continued…	State	ARTICLE VII GRADUATION In order to facilitate the on time graduation of children of military families states and local education agencies shall incorporate the following procedures: A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency sh provide an alternative means of acquiring required coursework so that graduation may occur on time. B. Exit exams. States shall accept: 1) exit or end of course exams required for graduation from the sending state; or 2) national norm referenced achievement tests; or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then provisions of Article VII, Section C shall apply. C. Transfers during Senior year. Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduatio requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on time graduation of the student in accordance with Sections (A) and (B) of this article.

Legal Standards

714	SECTION 59 46 50 Continued…	State	ARTICLE VIII STATE COORDINATION A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a mil installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that d not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Co B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact. C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state. D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Co
715	SECTION 59 46 50 Continued…	State	ARTICLE IX INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children". The activities of the Interstate Commission are the formation of public policy and are discretionary state function. The Interstate Commission shall: A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact. B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner. 1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote. 2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. 3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Coun may delegate voting authority to another person from their state for a specified meeting. 4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication. C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members. D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings. E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Mem of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day to day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, s serve as an ex officio, nonvoting member of the executive committee. F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committee may close a meeting, or portion thereof, where it determines by two thirds vote that an open meeting would be likely to: 1. Relate solely to the Interstate Commission's internal personnel practices and procedures; 2. Disclose matters specifically exempted from disclosure by federal and state statute; 3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

Legal Standards

716	SECTION 59 46 50 Continued…	State	ARTICLE X POWERS AND DUTIES OF THE INTERSTATE COMMISSION The Interstate Commission shall have the following powers: A. To provide for dispute resolution among member states. B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall b binding in the compact states to the extent and in the manner provided in this compact. C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions. D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the u judicial process. E. To establish and maintain offices which shall be located within one or more of the member states. F. To purchase and maintain insurance and bonds. G. To borrow, accept, hire, or contract for services of personnel. H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commis in carrying out its powers and duties hereunder. I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel. J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it. K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed. L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed. M. To establish a budget and make expenditures. N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission. O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports s also include any recommendations that may have been adopted by the Interstate Commission. P. To coordinate education, training, and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity. Q. To establish uniform standards for the reporting, collecting, and exchanging of data. R. To maintain corporate books and records in accordance with the bylaws. S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact. T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.
717	SECTION 59 46 50 Continued…	State	ARTICLE XI ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION A. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may necessary or appropriate to carry out the purposes of the compact, including, but not limited to: 1. Establishing the fiscal year of the Interstate Commission; 2. Establishing an executive committee, and such other committees as may be necessary; 3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission; 4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting; 5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission; 6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and rese of all of its debts and obligations. 7. Providing "start up" rules for initial administration of the compact. B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority a duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary a necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission. C. Executive Committee, Officers and Personnel 1. The executive committee shall have such authority and duties as may be set forth in the bylaws including, but not limited to: a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission; b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and techn support functions; and c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission. 3. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compens as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The execut director shall hire and supervise such other persons as may be authorized by the Interstate Commission. D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused b

Legal Standards

718	SECTION 59 46 50 Continued…	State	ARTICLE XII RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION A. Rulemaking Authority The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, then such an action by the Inter Commission shall be invalid and have no force or effect. B. Rulemaking Procedure Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act", of 1981, Uniform Laws Annotated, V p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission. C. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority. D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further fo and effect in any compacting state.
719	SECTION 59 46 50 Continued…	State	ARTICLE XIII OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION A. Oversight 1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law. 2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect th powers, responsibilities, or actions of the Interstate Commission. 3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide servi process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules. B. Default, Technical Assistance, Suspension, and Termination If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities un this compact, or the bylaws or promulgated rules, the Interstate Commission shall: 1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interst Commission shall specify the conditions by which the defaulting state must cure its default. 2. Provide remedial training and specific technical assistance regarding the default. 3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the of the default. 4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall b given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states. 5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination including obligati the performance of which extends beyond the effective date of suspension or termination. 6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutua agreed upon in writing between the Interstate Commission and the defaulting state. 7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission ha principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees. C. Dispute Resolution 1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between memb and nonmember states.
720	SECTION 59 46 50 Continued…	State	ARTICLE XIV FINANCING OF THE INTERSTATE COMMISSION A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities. B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states. C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the membe states, except by and with the authority of the member state. D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accountin procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant a the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

Legal Standards

721	SECTION 59 46 50 Continued…	State	ARTICLE XV MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT A. Any state is eligible to become a member state. B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be in to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states. C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and member states unless and until it is enacted into law by unanimous consent of the member states.
722	SECTION 59 46 50 Continued…	State	ARTICLE XVI WITHDRAWAL AND DISSOLUTION A. Withdrawal 1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing statute, which enacted the compact into law. 2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction. 3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof. 4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyo the effective date of withdrawal. 5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission. B. Dissolution of Compact 1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. 2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.
723	SECTION 59 46 50 Continued…	State	ARTICLE XVII SEVERABILITY AND CONSTRUCTION A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable. B. The provisions of this compact shall be liberally construed to effectuate its purposes. C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.
724	SECTION 59 46 50 Continued…	State	ARTICLE XVIII BINDING EFFECT OF COMPACT AND OTHER LAWS A. Other Laws: 1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact. 2. All member states' laws conflicting with this compact are superseded to the extent of the conflict. B. Binding Effect of the Compact: 1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states. 2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms. 3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.
725	SECTIONS 59 52 10 to 59 52 150	State	Repealed by 2005 Act No. 88, Section 4, eff May 27, 2005.
726	SECTION 59 54 10	State	Short title; meaning of "unserved or underserved persons or clients". (A) This chapter is known and may be cited as the South Carolina Employment Revitalization Act of 1986. (B) As used in this chapter or Chapter 53, Title 59 of the 1976 Code, the term "unserved or underserved persons or clients" means persons who have not previously been primary beneficiaries of vocational education, adult basic and adult secondary education, and technical education programs and specifically including recipients of public assistance payments through the Aid to Families wit Dependent Children (AFDC) program, and at risk youth.

Legal Standards

727	SECTION 59 54 20	State	State Occupational Training Advisory Committee; duties and recommendations. (A) The State Council on Vocational and Technical Education membership shall comply with all requirements of Section 112 of the Carl D. Perkins Vocational and Applied Technology Education Act o 1990. In addition, a majority of the council membership appointed by the Governor must be members of the Commission on Higher Education, provided that members of the commission meet the fe requirements of the establishment of the council. Further, at least four members of the council shall represent secondary career and technology education. (B) The Commission on Higher Education shall serve as the State Occupational Training Advisory Committee and in this regard shall make recommendations to the State Board of Education, the Stat Board for Technical and Comprehensive Education, the Governor's Office, and the public for: (1) improving the coordination among the state's plans and programs for adult career and technology education, adult basic and adult secondary education, post secondary technical education, and secondary career and technology education; (2) assuring the compatibility of these educational plans and programs with the state's economic development strategies; (3) improving the articulation between secondary career and technology education and post secondary technical education and between post secondary technical education and four year degree programs; (4) improving service to groups or communities in the State which are unserved or underserved and need additional training and education to be employed or to move into the work force and off of public assistance; (5) improving the accountability systems and effectiveness of the adult career and technology education, adult basic and adult secondary education, post secondary technical education, and seconda career and technology education programs; (6) improving the implementation of the South Carolina Employment Revitalization Act of 1986.
728	SECTION 59 54 30	State	Progress reports of area occupational advisory committees and State Occupational Training Advisory Committee. After one year from the effective date of this chapter, each area occupational advisory committee shall make a written progress report to the State Occupational Training Advisory Committee. The re must indicate the progress of area technical college commissions and local school boards in reaching the agreement required by Section 59 54 50 and specifically identify issues, if any, delaying final agreement. The State Occupational Training Advisory Committee shall report area technical college commissions and local school boards that have not made appropriate progress toward reaching a agreement to the Governor, General Assembly, State Board of Education, and the State Board for Technical and Comprehensive Education. Based upon a review of the written reports required of the area occupational advisory committees by Section 59 54 40, the memoranda of agreement, and other pertinent information, the State Occupational Training Advisory Committee shall report to the Governor and General Assembly upon the cooperation, articulation, and coordination between technical college commissions and local school boards. The State Occupational Training Advisory Committee shall make its report within one year of the execution of memoranda of agreement between all affected technical college commiss and local school boards or within three years of the effective date of this chapter, whichever comes first. The report is not limited to but must specifically identify technical college commissions and lo school boards whose agreements have not achieved coordination and articulation, specify the deficiencies, and make recommendations for removing deficiencies. The report of the State Occupationa Training Advisory Committee shall contain the written responses, if any, of the State Board of Education, the State Board for Technical and Comprehensive Education, technical college commissions, a local school boards to the State Occupational Training Advisory Committee's findings. In 1989 90 and every two years thereafter, the State Occupational Training Advisory Committee shall monitor the implementation of the memoranda of agreement and assess the cooperation, coordination, and articulation between technical college commissions and local school boards in a report to the Governor and General Assembly. Other appropriate state agencies shall assist the State Occupational Training Advisory Committee in preparing the reports required by this section so that the reports may be prepared using existing personnel.

Legal Standards

729	SECTION 59 54 40	State	Creation of area occupational training advisory committees; responsibilities; membership and meetings; expenses; reporting requirements; dissolution. (A) An area occupational training advisory committee is created for each of the service areas presently established by the State Board for Technical and Comprehensive Education for the various tec colleges. The purpose of the Area Occupational Training Advisory Committee is to increase coordination, articulation, and effectiveness among the various career, technical, occupational, and adult education and economic development programs in that area. (B) Each area occupational training advisory committee shall have the responsibility of assuring that each area technical college commission and appropriate local school boards shall enter into memoranda of agreement that demonstrates the following: (1) cooperation between the technical college and the career and technology school in the planning and delivery of adult career and technology education; (2) articulation of secondary career and technology courses to post secondary courses in the curricula of the technical college; (3) coordination among local boards with other local community agencies, literacy councils, private and nonprofit groups in planning and delivering adult basic education, adult secondary educatio literacy programs. (C) The membership of each area occupational training advisory committee is as follows: (1) two private sector representatives from the area technical college commission, appointed by the State Board for Technical and Comprehensive Education; (2) two professional representatives from the area technical college, appointed by the State Board for Technical and Comprehensive Education; (3) one private sector representative from the governing or advisory board for career and technology education programs in the area, appointed by the State Board of Education; (4) one faculty member or administrator for career and technology education programs in the area, appointed by the State Board of Education; (5) two school superintendents in the area, appointed by the State Board of Education; (6) two private sector representatives from the area, appointed by the Secretary of Commerce; (7) two private sector representatives from the area, appointed by the Governor. (D) With the joint approval of the State Board for Technical and Comprehensive Education, the State Board of Education, and the Secretary of Commerce, an area occupational job training advisory committee may expand its membership in the manner approved by these boards or councils in order to respond to particular local needs. (E) Each advisory committee shall elect a chairman and such other officers as they consider necessary, the chairman to be elected from among the private sector representatives on the committee. E committee must meet within ninety days following the effective date of this chapter and the Governor's Office working through the state technical education system and the Department of Education convene the first meeting. (F) Committee and staff expenses must be paid by the technical college within the service area. (G) Vacancies on each advisory committee must be filled by appointment in the same manner of original appointment. (H) The members of each area advisory committee so appointed shall serve until the advisory committee is dissolved as provided in this section. (I) Each area occupational advisory committee must prepare a written report analyzing the cooperation, articulation, and coordination achieved in the memoranda of agreement between technical c commissions and local school boards. The written report must be completed and provided to the State Occupational Training Advisory Committee, the State Board of Education, the State Board for
730	SECTION 59 54 50	State	Memoranda of agreements involving local technical college commissions and local school boards; effect of failure to enter into memoranda of agreement. (A) To assure a coordinated and articulated local delivery of career, technical, and adult basic and adult secondary education and job training, each local technical college commission and local schoo boards within each service area, as presently established by the State Board for Technical and Comprehensive Education for the various technical colleges, shall enter into memoranda of agreement t must demonstrate the following: (1) cooperation between the technical college and the career and technology school in the planning and delivery of adult career and technology education; (2) articulation of secondary career and technology courses to post secondary courses in the curricula of the technical colleges; (3) coordination among local boards, other local community agencies, literacy councils, private and nonprofit groups in planning and delivering adult basic education, adult secondary education, an literacy programs. (B) A technical college commission or local school board that fails to enter into memoranda of agreement which substantially agrees with the provisions of this chapter within two years of the effecti date of this chapter may not receive further state funding for post secondary or secondary career and technology education until such time as memoranda of agreement that substantially agree with chapter have been executed.
731	SECTION 59 54 60	State	Annual reports of state agencies offering certain educational programs. Each state agency offering career, technical, occupational, or adult basic and adult secondary education programs shall include in its annual report at least the following: (1) a summary of students or clients served each year and the cost for each student served each year of the training or educational programs; (2) the completion and placement rate and further education of students enrolled in career, technical, and occupational training and the completion and further education of students enrolled in adu basic and adult secondary education programs; (3) the number of new programs started with an assessment of future job opportunities; (4) the number of programs discontinued; (5) the effectiveness of coordination efforts among education and training entities; (6) the effectiveness of articulation efforts with other education and training entities; (7) the effectiveness of the coordination of the training or education program to economic development efforts in each area of the State and the State as a whole; (8) the degree to which unserved or underserved clients or areas previously identified are now being served or referred to other entities for service including the effectiveness of the training and education programs to assist public assistance clients and at risk youth to move into the work force; (9) a summary report of follow up studies reflecting employer satisfaction and earnings rate of a sample of persons completing various educational and training programs and students participating cooperative education programs.
732	SECTION 59 55 10	State	Establishment and maintenance of departments of junior college work by school boards. The school board of any independent or special school district, when authorized by a three fourths vote of th district so to do, may establish and maintain a department of junior college work to consist of not more than two years' work beyond a four year high school course.

Legal Standards

733	SECTION 59 55 20	State	Establishment and maintenance of junior college in cities of 5,000 or more. In any school district in this State whose limits are coextensive with the limits of any city of five thousand inhabitants or more the school board, when authorized to do so by the majority vote of the electors of any such school district voting on the proposition, may establish, maintain or discontinue a junior college to consist of not more than two years of college work beyond a four year high sch course and may charge such tuition fees for instruction in such junior college as shall be fixed by any such school board.
734	SECTION 59 55 30	State	Buildings and equipment. Any such school board may make use of any existing school building or school equipment or may provide any necessary building or equipment for the establishment and maintenance of any such junior college.
735	SECTION 59 55 40	State	Requirements for establishment and maintenance. In the establishment and maintenance of such junior college courses, the following provisions shall be observed: (1) Application on the part of any school to be classified as a junior college shall be made by the school board to the State Department of Education not later than July first of the first year for which a school seeks such classification and shall be accompanied by the curricula to be maintained; (2) Each applicant shall be visited by a representative of the State Department of Education who shall make a report to the State Board of Education as a basis for its action upon the application at th regular meeting; (3) Each applicant will be notified promptly as to the action taken by the State Board; (4) A junior college shall be a public school providing one or more two year courses beyond the eleventh year of the public school course and it shall be located in a school district which maintains a accredited high school and employs a junior college dean and at least the equivalent of two junior college teachers who, together with the superintendent, shall constitute the faculty of the junior coll (5) A junior college shall be maintained only when the district assessed valuation exceeds one million dollars; (6) The superintendent of the college shall administer and exercise general supervision over the junior college and shall make such reports as the State Superintendent of Education may require; (7) The superintendent of the college shall examine the certification of all persons under consideration as teachers in the junior college and recommend for employment only such persons as are fou be fully qualified in accordance with the standards established by the State Board of Education and he shall also keep a record of such certification and, on or before October first of each year, shall transmit a copy of this record to the State Department of Education; (8) The building space available for this use shall be modern, adequate and well adapted to the needs of the work to be undertaken; (9) There shall be provided a general and reference library, well chosen and adequate for the course offered and for the enrollment in the junior college; (10) Suitable laboratory space and equipment shall be provided for such advanced work in the natural sciences as is included in the courses offered; (11) The county superintendent shall prescribe the duties of the dean and such duties may be made to include instruction, organization, classification, discipline and management of the junior colleg (12) The junior college year shall consist of at least nine months, or thirty six weeks; (13) Students shall be limited to the following two classes: (a) regular students, who have completed, in a satisfactory manner, a full high school course or its equivalent and (b) special students, who to pursue special courses of college rank and who are deemed by the local authority fully qualified to do so; (14) No school board shall, under any conditions, issue to any person a certificate or diploma showing the completion of a junior college course except upon recommendation of the county superintendent, and a two year certificate or diploma shall be recommended only upon the completion in a credible manner of at least sixty semester hours, or its equivalent, in a course approved by State Department of Education; (15) The minimum length of a recitation period shall be fifty minutes; and (16) The dean and instructors in a junior college shall have the following qualifications: (a) scholastic training, at least an A.B. or B.S. degree, or its equivalent, from a college recognized as fully entitl confer such degree and (b) professional training, at least eighteen semester hours in education. These qualification standards are not to be interpreted as retroactive in their application to present instructors in any school district maintaining a junior college prior to May 20, 1935.
736	SECTION 59 55 50	State	Powers of State Department of Education over junior colleges. The State Department of Education shall have the same supervision, control and powers over any such junior college, when established hereunder, as it now has over other departments of the public school system of this State.
737	SECTION 59 55 60	State	State aid for public schools not allocated to junior colleges. No State aid for public schools shall be allocated to any junior college established hereunder.
738	SECTION 59 59 10	State	Citation of chapter. This chapter may be cited as the “South Carolina Education and Economic Development Act”.
739	SECTION 59 59 20	State	Development of curriculum based on career cluster system; individual graduation plans; role of school districts. (A) The Department of Education shall develop a curriculum, aligned with state content standards, organized around a career cluster system that must provide students with both strong academics a real world problem solving skills. Students must be provided individualized educational, academic, and career oriented choices and greater exposure to career information and opportunities. This sy must promote the involvement and cooperative effort of parents, teachers, and school counselors in assisting students in making these choices, in setting career goals, and in developing individual graduation plans to achieve these goals. (B) School districts must lay the foundation for the clusters of study system in elementary school by providing career awareness activities. In the middle grades programs must allow students to ider career interests and abilities and align them with clusters of study for the development of individual graduation plans. Finally, high school students must be provided guidance and curricula that will enable them to complete successfully their individual graduation plans, preparing them for a seamless transition to relevant employment, further training, or postsecondary study.

Legal Standards

740	SECTION 59 59 30	State	Implementation of chapter; administrative support and staffing. This chapter must be implemented fully by July 1, 2012, at which time the council created pursuant to Section 59 59 170 shall cease to exist. The Department of Education shall provide administrativ support and staffing to the council to carry out its responsibilities under this chapter.
741	SECTION 59 59 40	State	Guidance and counseling model. During the 2005 06 school year, the Department of Education's guidance and counseling model must provide standards and strategies for school districts to use and follow in developing and implementing a comprehensive guidance and counseling program in their districts. This model must assist school districts and communities with the planning, development, implementation, and assessment of a school guidance and counseling program to support the personal, social, educational, and career development of pre kindergarten through twelfth grade students.
742	SECTION 59 59 50	State	State models and prototypes for individual graduation plans and curriculum framework of career clusters of study. (A) Before July 1, 2006, the Department of Education shall develop state models and prototypes for individual graduation plans and the curriculum framework for career clusters of study. These clus of study may be based upon the national career clusters and may include, but are not limited to: (1) agriculture, food, and natural resources; (2) architecture and construction; (3) arts, audio video technology, and communications; (4) business, management, and administration; (5) education and training; (6) finance; (7) health science; (8) hospitality and tourism; (9) human services; (10) information technology; (11) law, public safety, and security; (12) manufacturing; (13) government and public administration; (14) marketing, sales, and service; (15) science, technology, engineering, and mathematics; and (16) transportation, distribution, and logistics. (B) The Department of Education is to include in the state models and prototypes for individual graduation plans and curriculum framework the flexibility for a student to develop an individualized for graduation utilizing courses offered within the clusters at the school of attendance. Any plan of this type is to be approved by the student, parent or guardian, and the school guidance staff.
743	SECTION 59 59 55	State	Model for addressing at risk students. The State Board of Education shall develop a state model for addressing at risk students. This model shall include various programs and curriculum proven to be effective for at risk students.
744	SECTION 59 59 60	State	Organizing high school curricula around clusters of study and cluster majors. Before July 1, 2007, school districts shall: (1) organize high school curricula around a minimum of three clusters of study and cluster majors. The curricula must be designed to provide a well rounded education for students by fostering arti creativity, critical thinking, and self discipline through the teaching of academic content, knowledge, and skills that students will use in the workplace, further education, and life; (2) promote increased awareness and career counseling by providing access to the South Carolina Occupational Information System for all schools. However, if a school chooses another occupationa information system, that system must be approved by the State Department of Education.
745	SECTION 59 59 70	State	Implementation of career development plan for educational professionals in career guidance. During the 2006 07 school year, the department shall begin implementing a career development plan for educational professionals in career guidance that provides awareness, training, release time, preparatory instruction. The plan must include strategies for certified school counselors effectively to involve parents, guardians, or individuals appointed by the parent or guardian to serve as their designee in the career guidance process and in the development of the individual graduation plans. The plan also must include innovative approaches to recruit, train, and certify professionals neede carry out the career development plan.
746	SECTION 59 59 80	State	Integrating career awareness programs into curricula for first through fifth grades. During the 2006 07 school year, the department's school guidance and counseling program model along with career awareness and exploration activities must be integrated into the curricula for stu in the first through fifth grades.
747	SECTION 59 59 90	State	Counseling and career awareness programs on clusters of study for sixth, seventh, and eighth grades; selection of preferred cluster of study; development of graduation plan. Beginning with the 2006 07 school year, counseling and career awareness programs on clusters of study must be provided to students in the sixth, seventh, and eighth grades, and they must receive career interest inventories and information to assist them in the career decision making process. Before the end of the second semester of the eighth grade, eighth grade students in consultation with parents, guardians, or individuals appointed by the parents or guardians to serve as their designee shall select a preferred cluster of study and develop an individual graduation plan, as provided for i Section 59 59 140.

Legal Standards

748	SECTION 59 59 100	State	Providing services of career specialist; qualification of specialist; career specialists currently employed by tech prep consortia. (A) By the 2006 07 school year, middle schools and by 2007 08 high schools shall provide students with the services of a career specialist who has obtained a bachelor's degree and who has successf completed the national Career Development Facilitator (CDF) certification training or certified guidance counselor having completed the Career Development Facilitator certification training. This ca specialist shall work under the supervision of a certified guidance counselor. By the 2007 08 school year, each middle and high school shall have a student to guidance personnel ratio of three hundre one. Guidance personnel include certified school guidance counselors and career specialists. (B) Career specialists currently employed by the sixteen tech prep consortia and their performance responsibilities related to the delivery of tech prep or school to work activities must be supervise the State Department of Education's Office of Career and Technology Education in conjunction with the immediate site supervisor of the tech prep consortia.
749	SECTION 59 59 105	State	Duties of career specialists. An individual employed by school districts to provide career services pursuant to Section 59 59 100 shall work to ensure the coordination, accountability, and delivery of career awareness, developr and exploration to students in kindergarten through twelfth grade. To ensure the implementation and delivery of this chapter, this individual shall: (1) coordinate and present professional development workshops in career development and guidance for teachers, school counselors, and work based constituents; (2) assist schools in promoting the goals of quality career development of students in kindergarten through twelfth grade; (3) assist school counselors and students in identifying and accessing career information and resource material; (4) provide educators, parents, and students with information on career and technology education programs offered in the district; (5) support students in the exploration of career clusters and the selection of an area of academic focus within a cluster of study; (6) learn and become familiar with ways to improve and promote career development opportunities within the district; (7) attend continuing education programs on the certified career development facilitator curriculum sponsored by the State; (8) assist with the selection, administration, and evaluation of career interest inventories; (9) assist with the implementation of the district's student career plan or individual graduation plan; (10) assist schools in planning and developing parent information on career development; (11) coordinate with school counselors and administration career events, career classes, and career programming; (12) coordinate community resources and citizens representing diverse occupations in career development activities for parents and students; and (13) assist with the usage of computer assisted career guidance systems.
750	SECTION 59 59 110	State	Implementation of career guidance program model in high school; counseling of students; declaration of area of academic focus within cluster of study. During the 2007 08 school year, each public high school shall implement a career guidance program model or prototype as developed or approved by the State Department of Education. At least ann after that, certified school guidance counselors and career specialists, under their supervision, shall counsel students during the ninth and tenth grades to further define their career cluster goals and individual graduation plans, and before the end of the second semester of the tenth grade, tenth grade students shall have declared an area of academic focus within a cluster of study. Throughout hig school, students must be provided guidance activities and career awareness programs that combine counseling on career options and experiential learning with academic planning to assist students fulfilling their individual graduation plans. In order to maximize the number of clusters offered, a school district is to ensure that each high school within the district offers a variety of clusters. A stud may transfer to a high school offering that student's career cluster if not offered by the high school in his attendance zone.
751	SECTION 59 59 120	State	Limitation of activities of guidance counselors and career specialists. School guidance counselors and career specialists shall limit their activities to guidance and counseling and may not perform administrative tasks.
752	SECTION 59 59 130	State	Implementation of principles of "High Schools that Work" organizational model. By the 2009 10 school year, each high school shall implement the principles of the "High Schools that Work" organizational model or have obtained approval from the Department of Education for ar cluster or major organizational model.
753	SECTION 59 59 140	State	Individual graduation plans; requirements. An individual graduation plan is a student specific educational plan detailing the courses necessary for the student to prepare for graduation and to successfully transition into the workforce or postsecondary education. An individual graduation plan must: (1) align career goals and a student's course of study; (2) be based on the student's selected cluster of study and an academic focus within that cluster; (3) include core academic subjects, which must include, but are not limited to, English, math, science, and social studies to ensure that requirements for graduation will be met; (4) include experience based, career oriented learning experiences including, but not limited to, internships, apprenticeships, mentoring, co op education, and service learning; (5) be flexible to allow change in the course of study but be sufficiently structured to meet graduation requirements and admission to postsecondary education; (6) incorporate provisions of a student's individual education plan, when appropriate; and (7) be approved by a certified school guidance counselor and the student's parents, guardians, or individuals appointed by the parents or guardians to serve as their designee.

Legal Standards

754	SECTION 59 59 150	State	Regulations for identifying at risk students; model programs. By July 2007, the State Board of Education shall promulgate regulations outlining specific objective criteria for districts to use in the identification of students at risk for being poorly prepared for the level of study or for dropping out of school. The criteria must include diagnostic assessments to identify strengths and weaknesses in the core academic areas. The process for identifying these studer must be closely monitored by the State Department of Education in collaboration with school districts to ensure that students are being properly identified and provided timely, appropriate guidance assistance and to ensure that no group is disproportionately represented. The regulations also must include evidence based model programs for at risk students designed to ensure that these studen have an opportunity to graduate with a state high school diploma. By the 2007 08 school year, each high school of the State shall implement one or more of these programs to ensure that these studer receive the opportunity to complete the necessary requirements to graduate with a state high school diploma and build skills to prepare them to enter the job market successfully. The regulation also include an evaluation of model programs in place in each high school to ensure the programs are providing students an opportunity to graduate with a state high school diploma.
755	SECTION 59 59 160	State	Parental participation; annual parent counseling conferences. Parental participation is an integral component of the clusters of study system. Beginning with students in the sixth grade and continuing through high school, schools must schedule annual parent counseling conferences to assist parents, guardians, or individuals appointed by the parents or guardians and their children in making career choices and creating individual graduation plans. These conferences must include, but are not limited to, assisting the student in identifying career interests and goals, selecting a cluster of study and an academic focus, and developing an individual gradua plan. In order to protect the interests of every student, a mediation process that includes parent advocates must be developed, explained, and made available for conferences upon request of the pare student.
756	SECTION 59 59 170	State	Repealed by 2014 Act No. 149, Section 3, eff April 7, 2014
757	SECTION 59 59 180	State	Repealed by 2014 Act No. 149, Section 3, eff April 7, 2014
758	SECTION 59 59 190	State	Assistance in planning and promoting career information and employment options. (A) The South Carolina Department of Employment and Workforce, in collaboration with the State Board for Technical and Comprehensive Education and the Commission on Higher Education, shall assist the Department of Education, in planning and promoting the career information and employment options and preparation programs provided for in this chapter by: (1) identifying potential employers to participate in the career oriented learning programs; (2) serving as a contact point for employees seeking career information and training; (3) providing labor market information including, but not limited to, supply and demand; (4) promoting increased career awareness and career counseling through the management and promotion of the South Carolina Occupational Information System; (5) collaborating with local agencies and businesses to stimulate funds; and (6) cooperating in the creation and coordination of workforce education programs. (B) The South Carolina Department of Employment and Workforce shall assist in providing a link between employers in South Carolina and youth seeking employment.
759	SECTION 59 59 200	State	Training of teachers and guidance counselors; review of performance. Beginning with the 2006 07 academic year, colleges of education shall include in their training of teachers, guidance counselors, and administrators the following: career guidance, the use of the clus study curriculum framework and individual graduation plans, learning styles, the elements of the Career Guidance Model of the South Carolina Comprehensive Guidance and Counseling Program Mo contextual teaching, cooperative learning, and character education. The State Board of Education shall develop performance based standards in these areas and include them as criteria for teacher program approval. By the 2009 10 school year, the teacher evaluation system established in Chapter 26, Title 59, and the principal's evaluation system established in Section 59 24 40 must include a review of performance in career exploration and guidance. The department also shall develop programs to train educators in contextual teaching.
760	SECTION 59 59 210	State	Review of articulation agreements between school districts and institutions of higher learning. (A) By September 2005, the Commission on Higher Education shall convene the Advisory Committee on Academic Programs to address articulation agreements between school districts and public institutions of higher education in South Carolina to provide seamless pathways for adequately prepared students to move from high school directly into institutions of higher education. The commit shall review, revise, and recommend secondary to postsecondary articulation agreements and promote the development of measures to certify equivalency in content and rigor for all courses include articulation agreements. The advisory committee shall include representatives from the research institutions, four year comprehensive teaching institutions, two year regional campuses, and technic colleges. The committee, for purposes pursuant to this chapter, shall include representation from the State Department of Education, and school district administrators, to include curriculum coordin and guidance personnel. (B) By July 2006, the Advisory Committee on Academic Programs shall make recommendations to the Commission on Higher Education regarding coursework that is acceptable statewide for dual enrollment to be accepted in transfer within a related course of study. Dual enrollment college courses offered to high school students by two year and four year colleges and universities must be equivalent in content and rigor to the equivalent college courses offered to college students and taught by appropriately credentialed faculty. Related policies and procedures established by the Commission on Higher Education for dual enrollment and guidelines for offering dual enrollment coursework and articulation to two year and four year colleges and universities for awarding of cred must be followed. (C) The advisory committee, in collaboration with the Department of Education, shall coordinate work to study the content and rigor of high school courses in order to provide a seamless pathway to postsecondary education. (D) The Commission on Higher Education shall report annually to the Education and Economic Development Coordinating Council regarding the committee's progress.
761	SECTION 59 59 220	State	Development of appropriate resources and instructional materials. With the implementation of the clusters of study system, appropriate resources and instructional materials, aligned with the state's content standards, must be developed or adopted by the State Department of Education and made available to districts.
762	SECTION 59 59 230	State	Promulgation of regulations. The State Board of Education, with input from the Education and Economic Development Council, shall promulgate regulations necessary to carry out the provisions of this chapter.

Legal Standards

763	SECTION 59 59 240	State	Private and home schools. The requirements of this chapter do not apply to private schools or to home schools.
764	SECTION 59 59 250	State	Funding. Each phase of implementation of this chapter is contingent upon the appropriation of adequate funding as documented by the fiscal impact statement provided by the Office of State Budget of the Sta Budget and Control Board. There is no mandatory financial obligation to school districts if state funding is not appropriated for each phase of implementation as provided for in the fiscal impact state of the Office of the State Budget of the State Budget and Control Board.
765	SECTION 59 63 20	State	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 publ 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 initiat 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, th 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 pro 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 m counted for funding under both funding sources.
766	SECTION 59 63 30	State	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 sect (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.

Legal Standards

767	SECTION 59 63 31	State	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 Just 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 pare 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 r 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 place 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).
768	SECTION 59 63 32	State	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 concerni 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 gra 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 atten 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 purs 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 eligibl 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.
769	SECTION 59 63 35	State	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 a nonresident military personnel enrolled in these programs.
770	SECTION 59 63 40	State	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 purpo 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 pu 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 selec to its pupils as is calculated to promote the religious principle for which it is established.

Legal Standards

771	SECTION 59 63 45	State	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.
772	SECTION 59 63 50	State	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 Enforceme 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 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. T implementation of this section is a local responsibility and it must be implemented as the local school board determines appropriate.
773	SECTION 59 63 55	State	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 ma part of the student's school record.
774	SECTION 59 63 60	State	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 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 suc persons within his district are furnished with the articles required by this section.
775	SECTION 59 63 65	State	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 ba 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 f 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 Departm 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, 200 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. Pup 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 deriv from the Children's Education Endowment Fund may be used to acquire such portable or temporary facilities.
776	SECTION 59 63 70	State	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 mem 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 tea 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 t 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 tha 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.

Legal Standards

777	SECTION 59 63 75	State	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 proce 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 fro 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 sectior 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 t 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 i 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 c 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 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 writte 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 healt 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 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 immunit 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.
778	SECTION 59 63 80	State	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 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 schoo 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 t
779	SECTION 59 63 90	State	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 Rehabilitation Act of 1973, the IDEA, and medical homebound regulations at the beginning of the school year.

Legal Standards

780	SECTION 59 63 95	State	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 form 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 wh 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 o 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 licen 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.
781	SECTION 59 63 100	State	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 seas 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 hom 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 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 squad participating in that interscholastic activity.
782	SECTION 59 63 110	State	Citation of article. This article may be cited as the "Safe School Climate Act".

Legal Standards

783	SECTION 59 63 120	State	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 o school premises, or at another program or function where the school is responsible for the child.
784	SECTION 59 63 130	State	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 appro school official.
785	SECTION 59 63 140	State	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 basi 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 provide 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, community members.
786	SECTION 59 63 150	State	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 wh 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.
787	SECTION 59 63 210	State	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 disobed 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 b 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 sch 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 enroll 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).

Legal Standards

788	SECTION 59 63 217	State	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 delinqu 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, 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 enrol 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 procedur 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.
789	SECTION 59 63 220	State	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 th 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 schoo 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.
790	SECTION 59 63 230	State	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 pl 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 o guardian may appeal the suspension to the board of trustees or to its authorized agent.
791	SECTION 59 63 235	State	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 expulsi 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.
792	SECTION 59 63 240	State	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 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 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 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 day 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 ma permanently expel any incorrigible pupil.
793	SECTION 59 63 250	State	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 paren legal guardian may appeal a transfer made by an administrator to the board.
794	SECTION 59 63 260	State	Corporal punishment. The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.
795	SECTION 59 63 270	State	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.
796	SECTION 59 63 275	State	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 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 inju 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 dismis 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.

Legal Standards

797	SECTION 59 63 280	State	"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 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 wri 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.
798	SECTION 59 63 310	State	Short title. This article may be cited as the "School Crime Report Act".
799	SECTION 59 63 320	State	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 a 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 und 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 studen 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.
800	SECTION 59 63 330	State	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 departm 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 t 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.
801	SECTION 59 63 333	State	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' (2 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 t conform with the requirements of this section.
802	SECTION 59 63 335	State	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 subje 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 dis to comply with Section 59 24 60 or 59 63 330.
803	SECTION 59 63 340	State	Promulgation of regulations. The State Board of Education shall promulgate regulations necessary to enforce the provisions of this article.
804	SECTION 59 63 350	State	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 weap 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.
805	SECTION 59 63 360	State	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.

Legal Standards

806	SECTION 59 63 370	State	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 seni 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 stu 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 senten 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 day 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 li 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 inflictio bodily harm or death.
807	SECTION 59 63 380	State	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 t exposure to criminal prosecution or civil liability arises from the same report of school related crime.
808	SECTION 59 63 390	State	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.
809	SECTION 59 63 410	State	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 f public schools of this State shall receive and enroll such pupils as they present themselves, if otherwise admissible under existing law.
810	SECTION 59 63 420	State	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 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 shal 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 h 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 of such pupils shall be kept and maintained and reported on a separate sheet attached to the list of enrolled pupils.
811	SECTION 59 63 425	State	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 classmat 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 bein violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers.
812	SECTION 59 63 430	State	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 there may be deemed expedient and advisable.
813	SECTION 59 63 440	State	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. T fines collected under this section shall be credited to the school fund of the county.
814	SECTION 59 63 450	State	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 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 o imprisoned not more than three years, or both.

Legal Standards

815	SECTION 59 63 460	State	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, show 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 th first day of August in every year.
816	SECTION 59 63 470	State	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 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.
817	SECTION 59 63 480	State	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 offi 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 a 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 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 pr 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.
818	SECTION 59 63 485	State	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 Se 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 stude (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 Dis 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 schoo 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 perc 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 yea (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 Distric 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 thi 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 Fin 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 Constitu 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 o 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 Distri 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 2 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 delinquen provisions of subsection (C) apply to the payment.
819	SECTION 59 63 490	State	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 dist 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 s 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.
820	SECTION 59 63 500	State	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 gu of a misdemeanor and, upon conviction, shall pay a fine not exceeding twenty five dollars or be imprisoned not more than thirty days.

Legal Standards

821	SECTION 59 63 510	State	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 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 t 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 oth charges paid by patrons of such district for any special course or courses.
822	SECTION 59 63 520	State	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 w 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 su child for whom a request for retransfer to his former district is made shall be returned to such former district.
823	SECTION 59 63 530	State	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 schoo 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.
824	SECTION 59 63 540	State	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 counted as enrolled only in the first school district, or operating unit, such pupil legally attended.
825	SECTION 59 63 710	State	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 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 foo 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 Stat Department of Education.
826	SECTION 59 63 720	State	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 t salaries and expenses of such additional supervisors.
827	SECTION 59 63 730	State	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 fr any funds provided therefor.
828	SECTION 59 63 740	State	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 pro 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 car 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.
829	SECTION 59 63 750	State	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 progra
830	SECTION 59 63 760	State	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 pro in the local schools.
831	SECTION 59 63 765	State	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 fe funds are available to cover the entire cost of the program and if no additional personnel are required to implement the program.
832	SECTION 59 63 770	State	Funds provided by State Budget and Control Board 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 Budget and Control Board shall provide from the general funds of the State such an amount a be necessary for the State to take advantage of such distribution.

Legal Standards

833	SECTION 59 63 780	State	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 pup 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.
834	SECTION 59 63 790	State	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.
835	SECTION 59 63 800	State	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 acquisi 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.
836	SECTION 59 63 910	State	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 superintende 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 county treasurer for ordinary county purposes.
837	SECTION 59 63 920	State	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 f 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.
838	SECTION 59 63 930	State	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 each of the public school buildings of his county.
839	SECTION 59 63 1110	State	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.
840	SECTION 59 63 1120	State	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 purs bookbags, wallets, and satchels with or without probable cause.
841	SECTION 59 63 1130	State	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.
842	SECTION 59 63 1140	State	Strip searches prohibited. No school administrator or official may conduct a strip search.
843	SECTION 59 63 1150	State	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 perso entering the school premises and of the students attending the school.
844	SECTION 59 63 1160	State	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 require 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.
845	SECTION 59 63 1300	State	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. I 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 service 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 coope agreements may be developed among school districts in order to implement innovative exemplary programs.

Legal Standards

846	SECTION 59 63 1310	State	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 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 separati 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 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 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 ma acquire a separate facility.
847	SECTION 59 63 1320	State	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 th 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 exhibition 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 t 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 polic 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 reg classes without completing the period of the placement.
848	SECTION 59 63 1330	State	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 studen 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 discreti the district and school board, regardless of the offense, record of the child, or other information presented from any source.
849	SECTION 59 63 1340	State	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 state requirements may be waived in these areas if such waiver assists the alternative school in meeting its purpose.
850	SECTION 59 63 1350	State	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 teach 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 se 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 ad 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 an 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.
851	SECTION 59 63 1360	State	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.

Legal Standards

852	SECTION 59 63 1370	State	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 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.
853	SECTION 59 63 1380	State	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 studen 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 popul 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 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 re 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 2 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 bas 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 ba 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 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 receiv 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 6 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 Educatio met.
854	SECTION 59 63 1390	State	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 n 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 ma terminated.
855	SECTION 59 63 1400	State	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 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.
856	SECTION 59 65 10	State	Responsibility of parent or guardian; transportation for kindergarten pupils. (A) A parent or guardian shall require his child to attend regularly a public or private school or kindergarten of this State which has been approved by the State Board of Education, a member school South Carolina Independent Schools' Association, a member school of the South Carolina Association of Christian Schools, or some similar organization, or a parochial, denominational, or church rela school, or other programs which have been approved by the State Board of Education from the school year in which the child is five years of age before September first until the child attains his seventeenth birthday or graduates from high school. A parent or guardian whose child is not six years of age on or before the first day of September of a particular school year may elect for their chil ward not to attend kindergarten. For this purpose, the parent or guardian shall sign a written document making the election with the governing body of the school district in which the parent or guar resides. The form of this written document must be prescribed by regulation of the Department of Education. Upon the written election being executed, that child is not required to attend kindergart (B) Each school district shall provide transportation to and from public school for all pupils enrolled in public kindergarten classes who request the transportation. Regulations of the State Board of Education governing the operation of school buses shall apply.
857	SECTION 59 65 20	State	Penalty for failure to enroll or cause child to attend school. Any parent or guardian who neglects to enroll his child or ward or refuses to make such child or ward attend school shall, upon conviction, be fined not more than fifty dollars or be imprisoned not n than thirty days; each day's absence shall constitute a separate offense; provided, the court may in its discretion suspend the sentence of anyone convicted of the provisions of this article.

Legal Standards

858	SECTION 59 65 30	State	Exceptions. The provisions of this article do not apply to: (a) A child who has graduated from high school or has received the equivalent of a high school education from a school approved by the State Board of Education, member school of South Carolina Independent Schools' Association, a private school in existence at the time of the passage of this article, or a member school of the South Carolina Association of Christian Schools; (b) A child who obtains a certificate from a psychologist certified by the State Department of Education or from a licensed physician stating that he is unable to attend school because of a physical or mental disability, provided there are no suitable special classes available for such child in the school district where he resides; (c) A child who has completed the eighth grade and who is determined by the court to be legally and gainfully employed whose employment is further determined by such court to be necessary for th maintenance of his home; (d) [Reserved] (e) A student who has a child and who is granted a temporary waiver from attendance by the district's attendance supervisor or his designee. The district attendance supervisor may grant a tempora waiver only if he determines that suitable day care is unavailable. The student must consult with the district supervisor or his designee in a timely manner to consider all available day care options or district shall consider the student to be in violation of this chapter. (f) A child who has reached the age of sixteen years and whose further attendance in school, vocational school, or available special classes is determined by a court of competent jurisdiction to be disruptive to the educational program of the school, unproductive of further learning, or not in the best interest of the child, and who is authorized by the court to enter into suitable gainful employm under the supervision of the court until age seventeen is attained. However, prior to being exempted from the provisions of this article, the court may first require that the child concerned be examine physically and tested mentally to assist the court to determine whether or not gainful employment would be more suitable for the child than continued attendance in school. The examination and tes must be conducted by the Department of Youth Services or by any local agency which the court determines to be appropriate. The court shall revoke the exemption provided in this item upon a findi that the child fails to continue in his employment until reaching the age of seventeen years.
859	SECTION 59 65 40	State	Home schooling programs. (A) Parents or guardians may teach their children at home if the instruction is approved by the district board of trustees of the district in which the children reside. A district board of trustees shall approve home schooling programs which meet the following standards: (1) the parent: (a) holds at least a high school diploma or the equivalent general educational development (GED) certificate and, beginning in the 1989 90 school year, attains a passing score on the basic skills examination developed pursuant to Section 59 26 20(b)(1) after the State Department of Education has validated the test for use with home schooling parents; or (b) has earned a baccalaureate degree; (2) the instructional day is at least four and one half hours, excluding lunch and recesses, and the instructional year is at least one hundred eighty days; (3) the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies and in grades seven through twelve, composition and litera (4) as evidence that a student is receiving regular instruction, the parent shall present a system for maintaining and maintain the following records for inspection upon reasonable notice by a representative of the school district: (a) a plan book, diary, or other written record indicating subjects taught and activities in which the student and parent engage; (b) a portfolio of samples of the student's academic work; and (c) a record of evaluations of the student's academic progress. A semiannual progress report including attendance records and individualized assessments of the student's academic progress in each the basic instructional areas specified in item (3) must be submitted to the school district. (5) students must have access to library facilities; (6) students must participate in the annual statewide testing program and the Basic Skills Assessment Program approved by the State Board of Education for their appropriate grade level. The tests be administered by a certified school district employee either with public school students or by special arrangement at the student's place of instruction, at the parent's option. The parent is responsi for paying the test administrator if the test is administered at the student's home; and (7) parents must agree in writing to hold the district, the district board of trustees and the district's employees harmless for any educational deficiencies of the student sustained as a result of home instruction. At any time the school district determines that the parent is not maintaining the home school program in keeping with the standards specified in this section the district board of trustees shall notify parent to correct the deficiencies within thirty days. If the deficiencies are not corrected within thirty days, the district board of trustees may withdraw its approval. (B) The district board of trustees shall provide for an application process which elicits the information necessary for processing the home schooling request, including a description of the program, t texts and materials to be used, the methods of program evaluation, and the place of instruction. Parents must be notified in advance of the date, place, and time of the meeting at which the application considered by the board and parents may be heard at the meeting. (C) Within the first fifteen instructional days of the public school year, students participating in home instruction and eligible for enrollment in the first grade of the public schools must be tested to determine their readiness for the first grade using the readiness instrument approved by the State Board of Education for public school students. If a student is determined to be "not ready" or is
860	SECTION 59 65 45	State	Alternative home schooling requirements. In lieu of the requirements of Section 59 65 40, parents or guardians may teach their children at home if the instruction is conducted under the auspices of the South Carolina Association of Indepen Home Schools. Bona fide membership and continuing compliance with the academic standards of South Carolina Association of Independent Home Schools exempts the home school from the further requirements of Section 59 65 40. The State Department of Education shall conduct annually a review of the association standards to insure that requirements of the association, at a minimum, include: (a) a parent must hold at least a high school diploma or the equivalent general educational development (GED) certificate; (b) the instructional year is at least one hundred eighty days; and (c) the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies, and in grades seven through twelve, composition and litera By January thirtieth of each year, the South Carolina Association of Independent Home Schools shall report the number and grade level of children home schooled through the association to the child respective school districts.

Legal Standards

861	SECTION 59 65 46	State	Home schooling of foster child. A foster parent may teach a foster child at home as provided in Sections 59 65 40, 59 65 45, or any other provision of law, if, in addition to any other requirements, home schooling of the child has be approved by the Department of Social Services or other agency having custody of the child.
862	SECTION 59 65 47	State	Associations for home schools; requirements. In lieu of the requirements of Section 59 65 40 or Section 59 65 45, parents or guardians may teach their children at home if the instruction is conducted under the auspices of an association for hom schools which has no fewer than fifty members and meets the requirements of this section. Bona fide membership and continuing compliance with the academic standards of the associations exempt home school from the further requirements of Section 59 65 40 or Section 59 65 45. The State Department of Education shall conduct annually a review of the association standards to ensure that requirements of the association, at a minimum, include: (a) a parent must hold at least a high school diploma or the equivalent general educational development (GED) certificate; (b) the instructional year is at least one hundred eighty days; (c) the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies, and in grades seven through twelve, composition and litera and (d) educational records shall be maintained by the parent teacher and include: (1) a plan book, diary, or other record indicating subjects taught and activities in which the student and parent teacher engage; (2) a portfolio of samples of the student's academic work; and (3) a semiannual progress report including attendance records and individualized documentation of the student's academic progress in each of the basic instructional areas specified in item (c) abo By January thirtieth of each year, all associations shall report the number and grade level of children home schooled through the association to the children's respective school districts.
863	SECTION 59 65 50	State	Nonattendance reported to court having jurisdiction of juveniles. If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age group specified in Section 59 65 10, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of Section 22 540; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.
864	SECTION 59 65 60	State	Procedure upon receipt by court of report of nonattendance. (a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action a court may deem necessary to carry out the provisions of this article. (b) The court may, after hearing upon ten days notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish suc parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense. The procedure herein provided shall be alternative to the penalties provided in Section 59 65 20.
865	SECTION 59 65 70	State	Court empowered to declare child delinquent. If the court determines that the reported absence occurred without the knowledge, consent or connivance of the responsible parent or guardian or that a bona fide attempt has been made to control keep the child in school, the court may declare such child to be a delinquent and subject to the provisions of law in such cases.
866	SECTION 59 65 80	State	Enrollment or attendance of expelled or suspended child not authorized. Nothing herein shall be construed as granting authority to require enrollment or attendance of a child who has been or may be expelled or suspended by the board of trustees of the district or any ot person acting with authority from the board of trustees.
867	SECTION 59 65 90	State	Rules and regulations. The State Board of Education shall establish regulations defining lawful and unlawful absences beyond those specifically named in this article and additional regulations as are necessary for the orde enrollment of pupils so as to provide for uniform dates of entrance. These regulations shall require: (1) that school officials shall immediately intervene to encourage the student's future attendance the student has three consecutive unlawful absences or a total of five unlawful absences and (2) that the district board of trustees or its designee shall promptly approve or disapprove any student ab in excess of ten days. As used in this section, "intervene" means to identify the reasons for the child's continued absence and to develop a plan in conjunction with the student and his parent or guardi improve his future attendance. Provided, However, That nothing within this section shall interfere with the Board's authority to at any time refer a child to a truancy prevention program or to the court pursuant to Section 59 65 5
868	SECTION 59 65 210	State	State appropriation for attendance supervisor program. For each county which has indicated a desire for the service of an attendance supervisor or supervisors there shall be appropriated annually for the ensuing fiscal year a sum sufficient to pay the sala and expenses of an attendance supervisor or supervisors for each county, one such supervisor for each ten thousand children, or fraction thereof, enrolled in each county as of the closing date of the s year immediately preceding the commencing of each such fiscal year. This sum shall be the State's portion of the attendance supervisor program. Nothing in this article shall limit the number of attendance supervisors that a county or a school district may employ at its own expense.
869	SECTION 59 65 220	State	Election of attendance supervisors. In each county desiring the services of an attendance supervisor, such supervisor shall, if his salary and expenses are to be paid by the State, be elected on or before July first of each year, or as soon thereafter as practicable, by the members of the county board of education whose terms of office run concurrently with or extend beyond the period of employment of such supervisor.

Legal Standards

870	SECTION 59 65 230	State	Certification of attendance supervisors by State Board of Education. Attendance supervisors shall be certified by the State Board of Education. Qualifications for the certification of attendance supervisors shall be determined by the State Board of Education in the sam manner as the Board now determines qualifications for all other teachers, provided, that such certification requirements shall not adversely affect attendance supervisors who were employed prior t passage of this article.
871	SECTION 59 65 240	State	Census of children not enrolled in public schools; list submitted to attendance supervisor. Within thirty days after the opening date of each school year of each public school district in the State in which a public school is being operated, the trustees or other governing board thereof shall n or cause to be made a complete census of all children of school age therein, that is, between the years of seven and sixteen years, inclusive, who have not enrolled in such school district or in some oth district during the thirty day enrollment period. The names, ages, places of residence and names of the parents or guardians of such children of school age not enrolled shall be forthwith filed with the county superintendent of education, who shall thereupon consolidate all of such names of children in alphabetical order into one list and certify the list to the attendance supervisor of the county.
872	SECTION 59 65 250	State	Cooperation between attendance supervisors and county and district agencies and the like. The county attendance supervisor whose salary shall be paid from State funds and such other attendance supervisors as may be employed by the county or school districts therein shall cooperate wi social and civic organizations and agencies of the county or district, as well as with the trustees of the several school districts in the county.
873	SECTION 59 65 260	State	Duties of attendance supervisor relating to nonattending children. The attendance supervisor shall, upon receiving the list of nonattending children from the county superintendent of education, contact as rapidly as possible the parents or guardians of such nonatte children with the object in mind of interesting nonattending children in school work, and influencing them by means of persuasion to attend school regularly. All principals shall report to such attend supervisor on continuous absences which appear to be unwarranted, and the attendance supervisor shall make an earnest effort to have enrolled and keep enrolled all children of school age in the co
874	SECTION 59 65 270	State	Procurement of books, clothing and shoes for nonattending children. In the event that any nonattending children reported to the attendance supervisor shall be unable to procure books, that fact shall be reported to the trustees and county superintendent of education steps shall be taken immediately to provide the necessary books and working material. In the event that such nonattending children shall not have suitable clothing or shoes, and the parents or guard of such children are financially unable to provide the same, such condition shall be reported by the attendance supervisor to the social and civic organizations of such county for such action in the premises as to such social and civic organizations shall seem meet and proper.
875	SECTION 59 65 280	State	Acceptance of cash, clothing, shoes, books and similar articles from organizations and county or community agencies. The attendance supervisor shall accept and receive from the social or civic organizations and agencies of the county or community all cash, clothes, shoes, books, materials and similar articles as may provided, and shall supply them to the nonattending school children of the county who are unable or whose parents or guardians are unable financially to provide such articles.
876	SECTION 59 65 470	State	Wil Lou Gray Opportunity School to have access to list of dropouts. To enable the Wil Lou Gray Opportunity School to inform dropouts of the school's academic and vocational training programs, the school is authorized to contact the attendance supervisors or princ at the various high schools or school districts of this State at reasonable intervals for the purpose of receiving access to the names and addresses of students reported by the supervisors and principa be dropouts, and the attendance supervisors and principals must supply this information to the Wil Lou Gray Opportunity School.
877	SECTION 59 66 20	State	School safety coordinator grant program; funding; requirements. (A) The General Assembly annually shall provide funds in the general appropriations act to be awarded to school districts which choose to employ safety coordinators in accordance with this sectior State funds may be awarded for not more than one safety coordinator for each county. The amount of the award for a county for fiscal year 1995 96 may not exceed twenty five thousand dollars, exce counties which are designated as economically distressed pursuant to Section 41 43 180. Economically distressed counties participating in the program shall receive additional state funds for fiscal y 1995 96 in the amount of five thousand five hundred dollars. The amount which may be awarded for a county, including the additional state funds for economically distressed counties, must be incre each fiscal year after 1995 96 by the same percentage as the average teacher salary. (B) An award of state funds to school districts under this program is contingent upon a district or group of districts jointly matching the state grant with an equal amount of funds and in kind contributions; however, school districts located primarily within an economically distressed county are not required to match any portion of the state grant. Additionally, funds only may be awarded where the duties of the safety coordinator relate exclusively to school and district safety functions. It is the intent of the General Assembly that the safety coordinator have a strong background in law enforcement, safety matters, or coordination of relevant services. (C) If a county consists of more than one school district, any or all school districts within the county may apply jointly for funds for a safety coordinator. Each participating school district must provic portion of the local matching funds based upon the relationship the district's student membership bears to the total student membership of all participating districts within the county. Nonparticipat school districts in multi district counties may begin participation in the program by contributing to the local match in the same manner as those school districts originally participating in the progran (D) When more than one school district in a multi district county is provided funds under this section, the safety coordinator must be an employee of the school district with the largest student membership during the immediately preceding school year, unless the participating school districts have a memorandum of agreement providing otherwise; however, the safety coordinator must pr services to all participating school districts. (E) For purposes of this section, "student membership" means the cumulative one hundred thirty five day average daily membership during the immediately preceding school year. (F) The State Board of Education, through the State Department of Education, shall develop and implement regulations establishing the safety coordinator grant program.

Legal Standards

878	SECTION 59 66 30	State	Public middle schools and high schools to be equipped with metal detector; training; regulations. (A) Using funds appropriated by the General Assembly, each public middle, junior high, and high school in the State must be equipped with one hand held metal detector. (B) In consultation and cooperation with the Office of the Attorney General and the State Law Enforcement Division, the State Department of Education shall provide training in the use of hand held m detectors to school officials who shall use the equipment. (C) The State Board of Education, through the State Department of Education, shall promulgate regulations to implement this section.
879	SECTION 59 66 40	State	School safety task force. (A)(1) There is created a school safety task force to: (a) examine the various funding streams for school based mental health services and determine how these streams may best be utilized in order to provide more accessible and efficient delivery of mental health programs; (b) examine school mental health staffing ratios and provide suggestions that allow for the full delivery of services and effective school community partnerships, including collaboration between sch districts; (c) develop standards for district level policies to promote effective school discipline and mental health intervention services; (d) examine current intra and interagency collaboration and suggest ways to improve cooperation; and (e) examine how to best support multitiered systems of support. (2) Any recommendations made by the task force must be revenue neutral. (3) The task force shall report its findings and make recommendations concerning proposed changes to the General Assembly. (B) The task force must be composed of: (1) one member appointed by the South Carolina Association of Licensed Professional Counselors; (2) one member appointed by the South Carolina Society for Clinical Social Work; (3) one member appointed by the South Carolina Education Association; (4) one member appointed by the Palmetto State Teachers Association; (5) one member appointed by the South Carolina School Counselor Association; (6) one member appointed by the South Carolina Association of School Psychologists; (7) one member appointed by the South Carolina Association of School Social Workers; (8) one member appointed by the South Carolina Association for Marriage and Family Therapy; (9) one member appointed by the South Carolina Association of School Administrators; (10) one member appointed by the South Carolina School Boards Association; (11) one member appointed by the South Carolina Department of Mental Health; (12) one member appointed by the South Carolina Association of School Resource Officers; (13) one member appointed by the Chief of the State Law Enforcement Division; (14) one member appointed by the Governor; (15) one member appointed by the State Superintendent of Education; (16) two members appointed by the Chairman of the House Education and Public Works Committee; and
880	SECTION 59 67 10	State	"School bus" defined. When used in this article, "school bus" shall be construed to mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.
881	SECTION 59 67 20	State	Regulations of State Board of Education governing design and operation of school buses. The State Board of Education, by and with the advice of the Department of Public Safety, shall adopt and enforce regulations not inconsistent with Chapter 5 of Title 56 to govern the design and opera of all school buses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this State such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to such regulations. Any officer or employee of any school district who violates any of such regulations or fails to include the obligation to comply with such regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a schoo district who fails to comply with any such regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school distric
882	SECTION 59 67 30	State	Painting and markings of school buses. Every State owned school bus while being used in the transportation of school pupils shall be substantially painted with high visibility yellow paint, conforming and similar to National School Bus ch yellow, and shall display the following markings: (1) Sides The words "SOUTH CAROLINA PUBLIC SCHOOLS" in not less than four inch high letters located directly under the windows. (2) Back The words "SCHOOL BUS" in letters not less than eight inches high located between the warning signal lamps. (3) Front The words "SCHOOL BUS" in letters not less than eight inches high located between the warning signal lamps. The State Board of Education is hereby authorized to adopt and to enforce whatever additional regulations regarding the painting and marking of school buses which they may deem necessary and proper.

Legal Standards

883	SECTION 59 67 40	State	Applicability of laws and regulations to private school buses. All school buses owned and operated by a private school or operated under contract for a private school must conform to State laws and regulations of the State Board of Education with respect to painting, lettering on the front and rear of the bus, use of stop arm and warning lights for loading and unloading pupils on the highway, maximum speeds and stopping at railroad crossings. Buses not complying with these requirements shall be painted a color other than yellow and shall not be entitled to the privileges and protection of a school bus operating on the highways of this Sta
884	SECTION 59 67 50	State	Removal of identification marks from former school buses. All school buses in this State, when no longer used for school purposes and sold to any person for private or public use, must have all marks of identification showing that these buses were used by s and school districts removed before private or public use may be made of them. Any person violating the provisions of this section shall be subject to a fine not exceeding twenty five dollars or imprisonment upon the public works of the county in which the offense is committed for a period of not more than thirty days.
885	SECTION 59 67 60	State	Repainting of former school buses. Any person who purchases a used school bus must paint it a color other than yellow before operating such bus on the highway. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both, in the discretion of the court.
886	SECTION 59 67 70	State	Dual wheels. County boards of education may at their discretion require that all replacement or new buses, placed in service in their respective counties, shall be equipped with dual wheels.
887	SECTION 59 67 80	State	Windshield wiper, brakes, lights and rear view mirrors. Every school bus shall be equipped with a power driven windshield wiper, adequate brakes and efficient lights which shall at all times when in use be in good working order and also with a rear view mirror or mirrors of such dimensions as will enable the driver, from the driver's seat, to see reflected in them not only the occupants of the vehicle but also the road to the left and to the rear of the ve for a proper distance adequately to observe traffic in his rear.
888	SECTION 59 67 90	State	Gasoline tanks. The gasoline tank of every school bus shall be filled, vented and located entirely outside of that part of the school bus utilized for carrying passengers.
889	SECTION 59 67 100	State	Seating space; aisle; seats; number and location of pupils. Sufficient seating space must be provided so far as practicable for each passenger transported inside each school bus, an aisle in the school bus must not be less than twelve inches in width and all se must be securely fastened to the floor or body of the vehicle. All students must be within the body of the bus at all times while the bus is in motion. Students are not permitted any place outside the bu may not ride with heads or arms protruding through open windows. The number of students assigned to a school bus must not be greater than the manufacturer certified seating capacity, and all passengers transported must have adequate seating area to comply with the occupant protection performance standards required in the Federal Motor Vehicle Safety Standards. Provided, however, limited number of excess passengers on regular routes may be permitted until the bus routes can be adjusted to accommodate the overload but not to exceed twenty school days.
890	SECTION 59 67 105	State	Maximum ride time; routing. (A) A student may not ride continuously on a state owned school bus for more than ninety minutes. With the approval of the Department of Education, the ninety minute maximum ride time may be exceeded when the area's geography requires longer than average highway travel because of a circuitous or meandering road network, extremely low population density, or waterway barriers. The n minute maximum ride time may be exceeded when attendance zones are multidistrict or countywide. (B) The Department of Education annually shall assure that state owned school buses are routed in the most efficient manner and shall require that they are operated only on adequately maintained safe public and private accessible highways and streets.
891	SECTION 59 67 108	State	Training and certification of drivers. (A)(1) Only a person who has been certified by the State Board of Education may drive a school bus, as defined in Section 59 67 10, when transporting preprimary, primary, or secondary students to from school. (2) When transporting public school students, a driver operating a bus owned by the State, a local school agency, or by a private contractor that is in compliance with Section 56 5 2770 and the Natio School Bus chrome yellow requirements in Section 59 67 30 must possess a School Bus Driver's Certificate A, as established by the State Board of Education. A driver awarded a school bus driver's certificate pursuant to Section 59 67 470 shall be issued the School Bus Driver's Certificate A. (3) When transporting public school students, a driver operating a bus owned by a local school agency or by a private contractor that is not in compliance with either Section 56 5 2770 or the Nation School Bus chrome yellow requirements in Section 59 67 30 must possess a School Bus Driver's Certificate B, as established by the State Board of Education. A driver who possesses a School Bus Driv Certificate B may not use traffic control devices permitted in Section 56 5 2770. (B) Any person transporting ten or more preprimary, primary, or secondary students to or from school, school related activities, or childcare in a vehicle with enabled traffic control devices must rec training as to the proper operation of these traffic control devices. The State Department of Education shall establish an appropriate level of driver certification.
892	SECTION 59 67 110	State	Front entrance exit; emergency exit. Every school bus shall be provided with a front entrance exit on the right side of the vehicle and a rear emergency exit or door, conspicuously marked on the inside "emergency door" and equipped w fastening device capable of being quickly released in emergency but entirely safe from accidental opening upon the application of any pressure from within the bus. Except in the event of an emergen person shall be allowed to enter or leave the bus by any other than the front entrance exit.

Legal Standards

893	SECTION 59 67 120	State	Tampering with governors prohibited. It shall be unlawful for any person, other than authorized mechanics, to tamper with governors on school buses operated in this State. Any person violating the provisions of this section shall be guilt misdemeanor and, upon conviction, shall be fined the sum of one hundred dollars or be imprisoned for a term of thirty days.
894	SECTION 59 67 130	State	Inspection of road conditions on bus routes; reporting hazards. Prior to the opening of school each year, each school superintendent shall be responsible for inspecting the road conditions of all designated bus routes including school property and all conditions deemed to be hazardous shall be reported, in writing, to the State employed county transportation supervisor who shall verify any such hazardous conditions and report them, in writing, to the prop municipal, county, or State official who shall be responsible for taking corrective action.
895	SECTION 59 67 140	State	Inspection of road conditions on bus routes; duties of drivers. During the school year, each school bus driver shall report, in writing, to the proper school official any hazardous road conditions on his routes. The school official shall forward such reports to the co transportation supervisor who shall follow the procedure required of him in Section 59 67 130.
896	SECTION 59 67 150	State	Qualifications of bus driver; drinking or smoking on bus. The driver of each school bus must be an experienced driver of good moral habits, and neither he nor any pupil nor any other person shall use alcoholic liquors or smoke any cigar, cigarette, pipe, tob or other substance in such vehicle during the time he is operating the same as a school bus.
897	SECTION 59 67 160	State	Physical examination of school bus driver. A school bus driver shall have a physical examination certified by a physician, a nurse practitioner acting within an approved protocol, or a physician assistant acting within an approved scope of pra guideline before the testing required to operate a school bus and every two years after that. The examining physician, nurse practitioner, or physician assistant's certification must be made on forms provided by the State Department of Education or the United States Department of Transportation. The school bus driver candidate shall provide the testing administrator with the certified physical examination before taking the school bus driver physical performance test and the commercial driver's license skills test. The school bus driver candidate shall provide a copy of the physician, nurse practitioner, or physician assistant's certification to the employing school district. A school district may require additional physical examinations as the district determines to be appropriate. The Sta assumes no responsibility for the cost of physical examinations required by districts.
898	SECTION 59 67 180	State	General supervision of bus by driver. The driver of every school bus while the bus is being operated as such shall have general supervision of it and shall not permit or allow any person in the bus to occupy such a position as will interfer with the vision of the driver either to the front, either side or rear of the vehicle while it is in motion.
899	SECTION 59 67 190	State	Driver prohibited from leaving bus while engine is running. No driver or operator of a school bus shall leave the bus while the engine is running.
900	SECTION 59 67 200	State	Complete stop to receive or discharge passenger required. Each school bus must come to a complete stop with clutch disengaged before any passenger is permitted to alight or enter.
901	SECTION 59 67 210	State	School bus passing another school bus unlawful. It shall be unlawful for any person operating a school bus to pass another school bus unless the lead bus is in a stopped position and the driver of the lead bus has signalled to the operator of the bus rear that it is safe to pass. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined the sum of one hundred dollars or be imprisoned for term of thirty days.
902	SECTION 59 67 220	State	Filling gasoline tank while engine is running or pupils are on bus prohibited. No gasoline tank on or in any vehicle used as a school bus shall be filled while the engine is running or, except in an emergency, when there are pupils in the bus.
903	SECTION 59 67 230	State	Driver required to stop before crossing railroad track. The operator of any school bus shall, before crossing at grade any tracks of any railroad, bring his vehicle to a full and complete stop within not less than fifteen feet nor more than fifty feet from the the track nearest to the front of such vehicle and shall, after such stop, ascertain if it is safe to proceed before crossing such tracks.
904	SECTION 59 67 240	State	Other duties of driver; discipline of pupils for misconduct. The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all h pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the mornings and give pupils within sight a reasonable time in which to boar bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any miscond or any violation of the driver's instructions by any person riding in his bus. District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the d

Legal Standards

905	SECTION 59 67 245	State	Interference with operation of school bus; penalties. No person shall wilfully and wrongfully interfere with the operation of a school bus, either public or private, by boarding, restricting movement or using threats, either physical or verbal, to the drive any passenger while the bus is engaged in the transportation of pupils to and from school or any lawful school activity or while passengers are entering or leaving the bus nor shall any person wilfully or refuse to obey a lawful order of a school bus driver relating to the occupancy of a school bus. The use of threatening, obscene or profane language addressed to the driver or any passenger enterin leaving or waiting for a school bus is disorderly conduct and any person convicted for the use of such language shall be punished as provided in Section 16 17 530. Nothing contained herein shall be interpreted to infringe upon the power and duties of duly constituted authorities.
906	SECTION 59 67 250	State	Posting of copies of relevant statutes. The trustees of the various school districts shall cause to be posted in each school bus operating within their district at least two copies of Section 59 67 240, and the Superintendent of Education of t State shall furnish a sufficient number of copies of said section to the various school districts to the end that the provisions of this section may be complied with.
907	SECTION 59 67 260	State	Check of school bus operation by Department of Public Safety. The Department of Public Safety shall have the operation of school buses spot checked periodically and report all infractions of the laws or misconduct of any kind on the part of the drivers to the chairman of the board of trustees of the school that may be affected thereby.
908	SECTION 59 67 270	State	Inspection of buses. (A)(1) All publicly owned or leased school buses, including buses owned or leased by a public school district, must be inspected annually in compliance with either the State Department of Educatio annual school bus inspection program or the federal Department of Transportation annual inspection program if the standards of the federal inspection program meet or exceed the standards of the state's program. The State Department of Education shall assist school districts using the Department of Education's program by providing the training and certification of a limited number of person designated by a school district to perform the inspection, providing the inspection manuals and forms, and supplying the inspection certificate stickers for the school buses. The State Department of Education's assistance must be free of charge. Any savings resulting from the ability to be inspected by either the State Department of Education or the federal Department of Transportation shall be expended on accountability programs set forth in Chapter 18 of this title. (2) All privately owned vehicles designed and used to transport ten or more preprimary, primary, or secondary students to or from school, school related activities, or childcare must be inspected annually. Inspections for these privately owned vehicles must comply with applicable federal inspection requirements. A copy of the vehicle inspection report must be kept on these vehicles at all tim (3) The owner or lessee of a school bus shall be solely responsible for the implementation and accountability of school bus inspections. (B) All school buses are subject to inspection at any time or place by officers of the State Transport Police or inspection forces. A school bus may not continue in operation in the transportation of stu when the annual inspection is more than twelve months old or the school bus is found to be unsafe after any inspection until the unsafe conditions disclosed by the inspection have been corrected.
909	SECTION 59 67 280	State	Penalties. The doing of anything prohibited by this article or failing to do anything required by this article shall be a misdemeanor, punishable by a fine of not less than five dollars nor more than one hundred dollars or imprisonment in the county jail for not less than five nor more than thirty days.
910	SECTION 59 67 290	State	Negligence or carelessness of driver not imputable to passengers. The negligence or carelessness of the driver of any motor driven vehicle used for the transportation of children to and from school shall not be imputed to the passengers on such vehicle.
911	SECTION 59 67 300	State	Overnight parking. State owned school buses must be parked overnight and during the school day in a location that is central to the area in which the school buses are operated. The Department of Education shall gran waiver to the requirements of this section if a waiver is requested by the district superintendent in compliance with Department of Education policies.
912	SECTION 59 67 410	State	Control by state Board of Education of school bus transportation. The control and management of all school bus transportation in the State shall be vested in the State Board of Education.
913	SECTION 59 67 415	State	Parental responsibility for safe and timely arrival of children to and from bus stop. Parents or guardians are responsible for the safety, conduct, and the timely arrival of their children to, from, and at the designated school bus stop before the arrival of the school bus for pick up and transport to school and the timely departure of the children after the school bus leaves the designated school bus stop after transporting the children from school. For purposes of this section, the ph "arrival of the school bus" includes the time that the school bus assigned to the school bus stop activates the required pedestrian safety devices, stops, and loads or unloads students until the school b deactivates all pedestrian safety devices.

Legal Standards

914	SECTION 59 67 420	State	Extent of transportation to be provided. (A) The State, acting through the State Board of Education, assumes no obligation to transport any student to or from school who lives within one and one half miles of the school he attends, nor to provide transportation services extending within three tenths of a mile walking distance of the residence of any student, nor to furnish transportation for any student who attends a school outside th school attendance zone in which the student resides when the same grade is taught in an appropriate school that is located within the school district in which the student resides. The State shall bear cost of transporting students to regularly organized instructional classes in the school attendance area for which state required school credit is given. The State is not responsible for any additional transportation that is not authorized by state law or regulation. (B) The State may assume the obligation of transporting students living within one and one half miles of their schools and within three tenths of a mile walking distance of their residences when it is the health and safety of the students where hazardous traffic conditions are involved, provided funds are appropriated annually by the General Assembly for this purpose. In these cases, the local sch district shall apply in writing to the State Department of Education for the State to assume the financial responsibility for this transportation, provided funds are appropriated annually by the Genera Assembly for this purpose. If funds are not appropriated by the General Assembly, then neither the State nor a local school district is required to assume this obligation. Highway and railroad traffic hazardous criteria must be established by the school district governing body and must address the safety of the walk zone as it relates to the location of the school to the student's residence, the traffi patterns, speeds and volume on roadways and railroads, the existence of sidewalks or other walk paths, the student's age, available crossing control systems and personnel, and other factors consider pertinent. The districts shall weigh the need for state hazardous transportation funds by giving priority to students who are least familiar with traffic movement and the complexity of the traffic haza The Department of Education shall equitably allocate appropriated funds to the district for hazardous transportation services, provided funds are appropriated by the General Assembly for this purp The department shall receive each district's applications for transportation within a hazardous area and apply these against the district's allocation until available funds are exhausted. When availabl state funds are exhausted, the remaining costs are the responsibility of the respective district, if the local school district has elected to assume this obligation. If funds are not appropriated by the Gen Assembly, then neither the State nor a local school district shall be required to assume this obligation. (C) Notwithstanding the provisions of subsection (A), the State shall transport and bear the cost of transporting three and four year old students attending public school programs to their residences the conclusion of a morning child development session and from their residences to an afternoon child development session. (D) The State shall provide school transportation service as closely and safely as practicable, to the residence of each unescorted student who is eligible to receive state funded school transportation service and who is enrolled in a full day four year old child development program or kindergarten through the second grade, provided funds are appropriated annually by the General Assembly for th purpose. The State shall provide school transportation service within two tenths of a mile of each unescorted student's residence who is eligible to receive state funded school transportation service who is enrolled in third through fifth grade provided funds are appropriated annually by the General Assembly for this purpose. The special provisions of unescorted students in child development through fifth grade are limited to service documented in the annual route plan. If funds are not appropriated by the General Assembly, then neither the State nor a local school district is required to a this obligation. Any unescorted stop made pursuant to this subsection is deemed in compliance with any applicable regulation as determined by the State Department of Education. (E) An unescorted student is defined as a student who has no adult or responsible older person available to accompany him to or from the school bus stop for the purpose of providing protection an guidance. Parents or guardians may be considered unavailable for escort if they make application to, meet the unescorted criteria established by, and are granted approval by the school district gover body. The extent and level of service for students will be established and implemented by each individual school district to assure that the most efficient, safe, and timely service possible is provided.
915	SECTION 59 67 421	State	Liability in regard to school transportation within hazardous areas. In relation to expenditures for transportation within hazardous areas as authorized by Section 59 67 420, no school district shall suffer liability for designation of such area as within the authority of Section 59 67 420 or for failure to designate any area as hazardous.
916	SECTION 59 67 425	State	Transportation of children attending kindergarten or child development programs. Three, four, or five year old children attending public school sponsored kindergarten or child development programs must be permitted to ride state owned buses to the extent funds are made availa by the General Assembly or as long as transportation services may be provided at no additional cost to the State.
917	SECTION 59 67 440	State	Board may borrow from Division of Sinking Funds and Property to effect purchases of school bus equipment. The State Board of Education is empowered to borrow, and the Division of Sinking Funds and Property is empowered and directed to lend to the State Board of Education, such sums of money as the Board of Education shall require to enable it to effect purchases of school bus equipment, provided, that, the aggregate of such indebtedness to be outstanding shall not at any time exceed one million hundred thousand dollars. The indebtedness shall be repayable not later than one year from the occasion that it shall be incurred, and shall be incurred only to the extent that the aggregate of such indebtedness, plus the other indebtedness incurred pursuant to Article 5 of Chapter 71 of this Title for school bus equipment, shall not exceed, on the date that such indebtedness shall mature, the lin prescribed by Section 59 71 420 for outstanding bonded indebtedness incurred for the purpose of school bus equipment, it being intended that notwithstanding that the aggregate of indebtedness prescribed for school bus equipment may be increased through the incurring of indebtedness pursuant to this section to an extent which may, on the occasion that the short term indebtedness herein authorized shall be incurred, exceed the limit prescribed for bonded debt to be outstanding for school bus equipment, the limit established by Section 59 71 420 shall not be otherwise exceeded.
918	SECTION 59 67 450	State	Form of indebtedness; interest; payment. The indebtedness incurred pursuant to Section 59 67 440 shall be in such form and shall bear such rate of interest as may be agreed upon between the State Budget and Control Board and the State B of Education. For the payment of the indebtedness and the interest to accrue thereon, the principal proceeds of the next bonds to be issued pursuant to Article 5 of Chapter 71 of this Title for school purposes shal pledged and on the occasion that such further school bonds shall be issued pursuant thereto, sufficient of the proceeds thereof shall be used to retire such indebtedness, both principal and interest.

Legal Standards

919	SECTION 59 67 460	State	Contracts for transportation services with private individuals or contractors; State aid. Any county board of education may at any time contract for any part or all of its transportation services with private individuals or contractors for the furnishing of such services. In any such instanc county board of education shall execute the contracts. The county board shall be responsible for the payment of all sums due under contracts so entered into and shall receive aid from the State for pu thus transported only on the basis of the average per pupil operating cost of State owned equipment for the current year as determined by the State Board of Education. The Board may enter into agreements with county boards of education whereby pupils living in isolated areas may be transported by special arrangements when such transportation can be provide lower cost than by operating a regular bus route.
920	SECTION 59 67 470	State	Bus drivers; selection; eligibility, training and certificates. The school bus drivers, whether students or adults, shall be selected and employed by the respective boards of trustees of the school districts, subject to the approval of the respective county boards education. No person under sixteen years of age shall be eligible for consideration as a bus driver. Before being employed, all prospective drivers shall be examined by the State Board of Education to determine their competency. The State Board of Education shall provide a rigid school bus driver training course and issue special "school bus driver's certificates" to successful candidates. No perso shall be authorized to drive a school bus in this State transporting children, whether the bus be owned by the State, by a local school agency, or by a private contractor, who has not been so certified b State Board of Education. All school bus driver certificates shall be renewed every three years. Drivers who have certificates issued prior to September 1962, must enroll and satisfactorily complete b driver training courses prior to September 1965, and each three years thereafter. Local school superintendents shall supervise the conduct of pupils being transported and of school bus drivers. Whe person is relieved of his duties as a bus driver, for just cause, the local school superintendent shall require the driver to turn in his school bus driver certificate which shall be forwarded to the State B of Education. A certificate may be reissued to such a driver at a later date upon approval of the local superintendent and the State Board of Education. The provisions of this section shall not apply to private schools.
921	SECTION 59 67 480	State	Salaries of drivers of State owned buses. Salaries of school bus drivers of State owned buses shall be fixed annually by the General Assembly.
922	SECTION 59 67 490	State	Proposed routes shall be submitted to Board of Education annually; approval. The boards of trustees of each district shall make a thorough study of transportation needs each year, and shall submit proposed route descriptions in accordance with the limitations of Section 59 6 and approved by county school authorities to the State Board of Education annually. All routes served by State owned equipment shall be subject to the approval of the Board and the local board of trustees; no such equipment shall be operated except upon routes so approved.
923	SECTION 59 67 500	State	Routes of buses owned and operated by local school agencies. The Board shall have no jurisdiction over the routing of buses owned and operated by local school agencies either directly or by contract.
924	SECTION 59 67 510	State	Use of transportation equipment for special events, office of Adjutant General and armed services reserve component functions, and other educational purposes. County boards of education may permit the use of school bus equipment for transportation in connection with athletic events, boy's and girl's clubs, special events in connection with the schools, off functions by the office of the Adjutant General of South Carolina, and the Reserve Components of the United States Armed Forces which must reimburse the boards of education, at least, for the costs of the buses, including depreciation, and other educational purposes as may appear proper to the respective boards.
925	SECTION 59 67 515	State	Speed limit for public school buses; exceptions. No public school bus may be operated in this State in excess of forty five miles an hour, except when traveling on a highway with a posted maximum speed limit above fifty five miles an hour, or whe traveling to and from special events which necessitate travel on interstate or state primary highways. Special event variances from the authorized speed limit for public school buses must be obtaine written authorization from the Department of Education. In no instance may the public school bus be authorized to exceed the speed of fifty five miles an hour. Public school buses are not required to devices to govern the speed or operation of the vehicles.
926	SECTION 59 67 520	State	Transportation of handicapped persons. Notwithstanding the provisions of Sections 59 33 50, 59 67 420 and 59 67 510, the State Department of Education shall have the responsibility for transporting handicapped persons of lawful schoo to and from the nearest school in which a handicapped pupil has been duly assigned. Additionally, when a school district is providing classes for handicapped persons between the ages of five and tw one years at the same location where classes and programs are provided for handicapped persons under age five and over age twenty one, and when a cost reduction will result, the Department may into a reciprocal agreement with the facility whereby certain handicapped persons between the ages of five and twenty one years may be transported on buses not owned by the Department and cert handicapped persons under age five and over age twenty one may be transported on Department owned buses.
927	SECTION 59 67 530	State	Expenses of operation of State and locally owned buses. The Board shall be responsible for all expenses of operation of State owned buses and for the replacement of obsolete equipment. The State shall assume no obligation whatever for the expenses of operating buses owned by local or county school agencies, except as provided in Section 59 67 460.

Legal Standards

928	SECTION 59 67 535	State	Use of boats for transportation of school children from Sandy Island to transport residents. Boats operated by the State Department of Education for transportation of school children from Sandy Island to mainland schools also may be used to transport, on a space available basis only, any S Island resident. A person requesting boat transportation shall present his residence verification to the employee or representative of the State Department of Education who is in charge of the partic boat. The term "resident" as used herein means a person with an official residential address on Sandy Island. Use of these boats by residents shall be only on a space available basis and only at such time as the boat is being otherwise operated on official business. School children in every case shall be given priority of carriage. Provided, that other trips on the Sandy Island boat may be approved by the county school district, in which case the operations, logistics, and all costs shall be borne by the school district to the extent that funds are available. The school district may contract with a third party to operate the ferry and manage the logistics associated with the other trips. Persons who are not resi of Sandy Island may be allowed to be transported by the boat when accompanied by a resident. Any person authorized for transportation pursuant to the provisions of this section shall, prior to boarding, execute a "covenant not to sue" the State of South Carolina or any agency thereof, on a for approved by the State Department of Education. Nothing in this section shall be construed as a waiver of the state's general immunity from liability and suit.
929	SECTION 59 67 540	State	Supplies and maintenance of State owned buses; maintenance and supply stations. The Department of Transportation shall be responsible for providing all supplies required for the operation of state owned school buses and for maintaining them in efficient and safe mechanical condition. The department shall be reimbursed periodically by the State Board of Education for expenditures incident to the operation and maintenance of buses, but no charge by, or reimbursement the Department of Transportation shall be made except to cover direct and additional expenses incurred by the department on account of the performance of this service. Provided, however, that the Board of Education shall have authority to establish and operate maintenance and supply stations, on an experimental or permanent basis, if it should be determined to be of advantage to the State, a connection therewith to acquire real property by purchase or lease.
930	SECTION 59 67 545	State	Parents and other adult school volunteers or employees authorized to ride route school buses on space available basis. Parents and other adult school volunteers or employees may ride route school buses on a space available basis. Parents and other adults also may ride school buses in conjunction with special progr that are sponsored by the local school district. This use of route school buses shall be in accordance with local school district board policies and programs. School districts may not re route school buses in order to accommodate the pickup of adults authorized to ride school buses as provided by this section. The State is not responsible for any costs associated with parents and other adults riding school buses in conjunction with special programs. The provisions of this section shall not be construed as a waiver or abrogation of the state's limited immunity from liability and suit under the State Tort Claims Act.
931	SECTION 59 67 550	State	Instalment purchase of maintenance shops. The State Board of Education is authorized to enter into an instalment payment agreement with any political subdivision offering to convey real property to the Board for use as a school bus mainte shop, whereby payments for such property may be extended over a period of not more than ten years.
932	SECTION 59 67 570	State	Rules and regulations. The State Board of Education may adopt such rules and regulations as may be necessary to carry out the intent and purposes of this article. Such rules and regulations shall have the full force and eff law. But rules and regulations that affect the functions of the Department of Public Safety under this article or the operation of buses on the highways shall be adopted only jointly with the Departme Public Safety.
933	SECTION 59 67 580	State	Replacement cycle; funding. (A) With funds appropriated by the General Assembly for school bus purchases, the State Board of Education shall implement a school bus replacement cycle to replace approximately one fifteenth o fleet each year with new school buses, resulting in a complete replacement of the fleet every fifteen years. These funds must not be used for school bus maintenance or fuel. (B) With funds appropriated by the General Assembly for transportation grant programs, the department shall establish a grant program to fund transportation of students to alternate public school including, but not limited to, vocational second and third choice schools, magnet schools, montessori schools, international baccalaureate schools, and English as a second language schools. Those dis having alternate public schools may apply to the department for grant funds to pay for the additional cost of transporting students to these schools. If funds are not appropriated by the General Asse for this purpose, then neither the State nor a local school district is required to assume this obligation.
934	SECTION 59 67 585	State	Use of biodiesel fuel. The State Department of Education, when feasible, shall utilize biodiesel fuel as an energy source to power the state school bus fleet.

Legal Standards

935	SECTION 59 67 710	State	Contracts of insurance on State owned school buses. (1) The Director of the Division of General Services, with the approval of the State Budget and Control Board, shall provide insurance coverage on all state owned school buses which are operated un the authority of, and which are being used for the purposes of, Article 3 of this chapter. Such insurance contracts must be provided either through commercial carriers or through the insurance reser funds of the Division of General Services. The insurance contracts shall provide at least the following benefits: (a) for the lawful occupant of any such school bus who suffers bodily injuries or death, a death benefit of not less than fifty thousand dollars; (b) for the lawful occupant of any such school bus who suffers bodily injuries, an amount sufficient to defray the cost of hospitalization, surgery, dentistry, medicine, and all other medical expenses u three thousand dollars or such amount as promulgated by regulation of the Department of Education; (c) additional coverage must also be provided for the following named perils: (i) for the loss of both hands or both feet or sight of both eyes, fifty thousand dollars; (ii) for loss of one hand and one foot, thirty thousand dollars; (iii) for loss of either hand or foot and sight of one eye, thirty thousand dollars; and (iv) for loss of either hand or foot or sight of one eye, thirty thousand dollars. (2) The benefits provided for in subsection (1) shall exist without regard to fault or negligence. The insurance shall cover any accident which occurs: (a) while getting on a school bus; (b) while riding within a school bus; (c) by being thrown from within a school bus; (d) while getting off a school bus; (e) by being run down, struck, or run over while crossing a public highway while approaching or leaving a school bus at the point of loading or unloading; or (f) by being run down, struck, or run over by any moving vehicle while en route between home and the point of loading or en route between the point of unloading and home. (3)(a) For any action or claim for damages brought under the provisions of Chapter 78 of Title 15 of the 1976 Code, the liability may not exceed the following limits: (i) Except as provided in Section 59 67 710(3)(a)(iii), no person may recover in any action or claim brought hereunder a sum exceeding two hundred fifty thousand dollars because of loss arising fr single occurrence regardless of the number of agencies or political subdivisions involved. (ii) Except as provided in Section 59 67 710(3)(a)(iv), the total sum recovered hereunder arising out of a single occurrence may not exceed five hundred thousand dollars regardless of the number agencies or political subdivisions or claims or actions involved. (iii) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entit acting within the scope of his profession, a sum exceeding one million dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved. (iv) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmenta entity and acting within the scope of his profession, may not exceed one million dollars regardless of the number of agencies or political subdivisions or claims or actions involved.
936	SECTION 59 67 720	State	Payment of premiums. The premiums on all insurance contracts procured under the authority of Section 59 67 710 shall be paid out of the annual appropriation for transportation operated by the State Board of Education premiums shall be considered a part of the general expenses of operating school bus transportation.
937	SECTION 59 67 730	State	Counties and other political subdivisions prohibited from providing supplemental benefits on State owned buses. No county or other political subdivision shall supplement the benefits provided in this article by the procuring of insurance or by any other means on State owned buses.
938	SECTION 59 67 740	State	Contracts of insurance on county and district owned and contract buses. County and district boards of education owning school buses are directed to provide the same insurance coverage for the lawful occupants of a county or district owned bus as is provided for the law occupants of a State owned school bus under Section 59 67 710. County and district boards of education are further directed to see that this same insurance coverage is provided for all lawful occupa any contract vehicle operated under contract with such county and district boards of education.
939	SECTION 59 67 760	State	Waiver of claim against bus driver. The acceptance of any payment or the bringing of any action authorized by this article shall constitute a waiver of any liability that might otherwise exist on the part of the driver of any State owned school bus operated under the authority of Article 3 of this chapter.
940	SECTION 59 67 765	State	Waiver of sovereign immunity up to limits of insurance coverage. For the purpose of this article, the doctrine of sovereign immunity for the State is hereby waived up to the limits of the insurance coverage specified therein.
941	SECTION 59 67 770	State	State's immunity not waived. Nothing in this article shall be construed as a waiver of the State's general immunity from liability and suit beyond the limits of the insurance coverage specified therein.
942	SECTION 59 67 780	State	Rules and regulations. The Director of the Sinking Funds and Property Division of the State Budget and Control Board may promulgate any rules or regulations or set up any procedure which will, in his judgment, clarify th provisions or facilitate the purposes of this article.

Legal Standards

943	SECTION 59 67 790	State	Pupil Injury Insurance Fund. There is hereby created a fund to be administered by the Director of the Division of General Services to provide major medical benefits for bodily injuries to school bus passengers when the cost exce the benefits provided for in subsection (1)(a) of Section 59 67 710 of the 1976 Code. No claim shall exceed fifty thousand dollars for any one person for any one accident. The Director of the Division of General Services shall pay into the Pupil Injury Insurance Fund that portion of the premiums charged to the State Department of Education for providing insurance cov buses he deems necessary to maintain the Pupil Injury Insurance Fund at an actuarially sound level sufficient to pay the benefits authorized by this section. No payment from the Pupil Injury Insurance Fund shall be permitted when other insurance benefits or workers' compensation is available to pay such cost or where no charge is made for treatment. Whoever shall file a claim for payment from the Pupil Injury Insurance Fund shall at the same time file an affidavit swearing under oath that the requested claim is not covered by other insurance ben or workers' compensation to be received for that claim; provided, this shall not apply to any injured school bus passenger who receives, for bodily injuries, an amount not exceeding three thousand d under Section 59 67 710(1)(b) of the 1976 Code. Any recovery from the State or governmental entity under Chapter 78 of Title 15 of the 1976 Code shall be reduced by the sum received pursuant to this section. In any recovery from a third party, th State shall have a right of subrogation for recovery of payments pursuant to this section. The Director of the Division of General Services, with the approval of the State Budget and Control Board, shall promulgate such rules and regulations as may be necessary to carry out the provisions this section.
944	SECTION 59 69 10	State	State Treasurer may invest certain fund received from United States Government. The State Treasurer may invest the fund received by him pursuant to an act entitled "An Act to Authorize the State Treasurer to Receive from the United States Government a Certain Fund and to Hol Same Subject to the Uses Declared by an Act of Congress," approved February 20, 1907, as amended by an act approved February 25, 1908, in bonds or stocks of the State, in loans secured by like bon stock of the State or in bonds of any county, school district or municipality within the State and shall hold the same subject to the trust and uses in said act of Congress designated, and the State Treas may, in making such investments, pay the market value for bonds, whether the same be above par or not.
945	SECTION 59 69 20	State	State Treasurer shall hold certain property and moneys for educational purposes. The State Treasurer shall take and hold in trust for the State any grant or devise of lands and any gift or bequest of money or other personal property made to him for educational purposes, all gifts to State when the purpose is not designated, all escheated property, the net assets or funds of all estates or copartnerships in the hands of the courts of the State when there have been no claimants for t same within the last seventy years and other money that came into the State Treasury by reason of the twelfth section of an act entitled "An Act to Provide a Mode of Distribution of the Moneys as Collected as Direct Tax from the Citizens of this State by the United States, and Turned Over in Trust to the State of South Carolina," approved December 24, 1891 (Acts 1891, p. 1067), together with s other means as the General Assembly may provide. For faithful management of all property so received the State Treasurer shall be responsible upon his bond to the State as for other funds received him in his official capacity.
946	SECTION 59 69 30	State	Investment of such fund. The State Treasurer shall from time to time invest in bonds of this State or of the United States or in bonds of any county, school district or municipality within the State all such money in the name o State as a permanent State school fund and shall pay out the income derived therefrom to the counties of the State as the same may be apportioned among the counties by the State Board of Educatio no disposition shall be made of any property, grant, devise, gift or bequest inconsistent with the purposes, conditions or terms thereof.
947	SECTION 59 69 40	State	Funds given to State Superintendent for educational purposes. The State Superintendent of Education shall take and hold in trust for the State any grant or devise of lands and any gift or bequest of money or other personal property made to him for educational purposes and he shall pay into the State Treasury, for safekeeping and investment, all moneys and incomes from property so received. The State Treasurer shall, from time to time, invest all such mor in the name of the State and shall pay to the State Superintendent of Education, on the warrant of the Comptroller General, the income or principal thereof as he may, from time to time, require; provi that no disposition shall be made of any grant, devise, gift or bequest inconsistent with the conditions or terms thereof. For all such property the State Treasurer shall be responsible on his bond as fo other funds received by him in his official capacity.
948	SECTION 59 69 110	State	Authorization for creation of reserve fund to place schools on cash basis. In any county in this State in which the schools have not funds sufficient to pay all claims in cash the county board of education may, at its discretion, direct the county superintendent of education to aside from the school funds of the county, or any of the school districts, an amount annually not in excess of ten per cent of such funds, for so many years as may be necessary to create a sufficient fun put the schools of such county or any of the school districts on a cash basis.
949	SECTION 59 69 120	State	Use of reserve fund. Whenever any such reserve fund reaches an amount sufficient to put the county or school district, as the case may be, on a cash basis, the fund may be used for said purpose. And in each year during time necessary to create such reserve fund, the county superintendent of education shall use the fund accumulated as a loan, without interest, to pay claims held by teachers to whom pay certificates originally issued, the funds so used to be replaced annually from taxes collected for school purposes.
950	SECTION 59 69 210	State	Prerequisites to payment of claims. Every claim which is chargeable against the fund raised for the support of the free public schools of the State, except such as is otherwise provided for by law, must be signed by at least a majority of board of trustees of the school district against which the claim is chargeable, and the correctness and legality of the same shall be sworn to and subscribed by the person presenting such claim before shall be approved by the person or persons authorized by law to give such approval. The oath required by this section may be administered by any person authorized to administer oaths either withi without the State. School trustees and county superintendents of education shall, free of charge, administer oaths to persons presenting claims under this section.

Legal Standards

951	SECTION 59 69 215	State	Notwithstanding the provisions of this article, the treasurer of any county shall disburse to any school district within his county any funds which he may have on hand available for use in the operatio the school district; provided, the governing body of the school district requests disbursement to the school district funds as they become available and; provided, further, that the governing body of t county concurs in the request made by the district. Upon receipt of the school district funds, it may maintain its own bank account for the purpose of making disbursement for the payment of expens approved by the governing body of the district. Funds received by the school district from the county treasurer which are not needed for immediate disbursement may be invested by the district in interest bearing accounts or certificates of deposit issued by banking institutions or savings and loan associations licensed to do business in this State or in securities issued by or guaranteed by the U States Government. Upon establishing the disbursement method from the county treasurer to the district, the disbursement by the county treasurer shall continue to the district as funds become ava unless the procedure is rescinded by action of the governing body of the district or the county governing body.
952	SECTION 59 69 220	State	Approval of warrants by county superintendent of education or his agent. No school warrants issued by any board of school trustees against any public school fund shall be paid by the county treasurer or other officer having the custody of such fund until the warrant has b approved by the county superintendent of education of the county in which such warrant is drawn or by such person in the office of such county superintendent as may be designated by him in writi provided the person designated shall have furnished good and sufficient bond payable to the county for the faithful performance of his duties in the sum of one thousand dollars or in the sum of the b of the county superintendent of education, whichever is higher.
953	SECTION 59 69 230	State	Payments from school funds. All moneys disbursed by any county treasurer on account of school funds or taxes shall be paid on the order of the board of school trustees, countersigned by the county superintendent of education otherwise directed by law.
954	SECTION 59 69 240	State	Treasurer required to report monthly to superintendent of education. Each county treasurer shall report monthly, on the fifteenth day of each month, to the county superintendent of education of his county the amount of collections and disbursements made by him for month on account of school tax and all other school funds. It shall be a misdemeanor on the part of any county treasurer to neglect, fail or refuse to make such report and, on conviction thereof, he sha a fine of not more than five hundred dollars to be used for school purposes in his county.
955	SECTION 59 69 250	State	Treasurer required to carry forward unexpended balances; report. The county treasurer shall carry forward all sums in his hands collected for any previous year or years for school purposes and unexpended to the next fiscal year and credit the same to the school districts respectively, for which they were apportioned. He shall report such sums to the county superintendent of education.
956	SECTION 59 69 260	State	Officials shall not acquire interest in claims or contracts. It is unlawful for any county treasurer, county auditor, member of a county board of education, or school trustee to buy, discount, or share, directly or indirectly, or be in any way interested in any teacher's pay certificate or other order on a school fund, except those as are payable to him for his own services. If any of the above officers violate the provisions of this section, he is guilty of a misdemeanor and upon conviction must be fined not less than one hundred dollars nor more than five hundred dollars to be used for school purposes in his county or must be imprisoned not less tha three months nor more than twelve months, or both. He shall also forfeit the amount of the claim or of his interest in the claim. The provisions of this section do not prohibit a county board of education member, a school trustee, or a business with which he is associated from providing services or selling products to the distri which he is a board member or trustee as long as all these transactions are in accordance with the provisions of Chapter 13 of Title 8.
957	SECTION 59 69 270	State	Borrowing to pay school claims. The county treasurer and the county supervisor or other managing officer of the several counties in this State shall, upon the application of the county boards of education of the respective counties, borrow from time to time during any fiscal year such sums of money as may be necessary to pay the school claims of such counties, not to exceed seventy five per cent of the amount reported by the county auditors for schools for such fiscal year. In addition thereto they may borrow not exceeding fifty per cent of the estimated receipts from the State for school aid or any other school fund that m estimated to be paid to such county, at a rate of interest not exceeding the rate of six per cent per annum. They may pledge the taxes to be collected for that purpose or the funds to be paid therefor as security for the payment of the money so borrowed and the interest thereon. All money borrowed shall be held and paid out by the county treasurer as school funds and without extra commission.
958	SECTION 59 71 10	State	Short title. This article may be cited as the "School Bond Act."
959	SECTION 59 71 20	State	Definitions. As used in this article: (1) The word "authorities" shall mean the board of trustees or the commission vested by law with the duty of operating the public schools in any particular district, unit or county of the State; (2) The term "operating school unit" shall mean any type of school district, whether it be located in its entirety in one county or located partly in more than one county or, in case the schools of any c be operated by the county unit plan, the county; (3) The term "capital improvements" shall mean the constructing, improving, equipping, renovating and repairing of school buildings or other school facilities or the cost of the acquisition of land whereon to construct or establish such school facilities; and (4) The term "county board" shall mean the county board of education of the county wherein the operating school unit is located, except that when an operating school unit is located partly in one co and partly in another county such term shall in such instances relate to the county boards of education of the counties wherein the operating school unit is located.

Legal Standards

960	SECTION 59 71 30	State	Authorities of operating school units authorized to issue general obligation bonds. The authorities of any operating school unit may issue general obligation bonds of such operating school unit for the purpose of defraying the cost of capital improvements to any amount not exceed the constitutional debt limitation applicable to such operating school unit, if: (1) The election required by this article as a condition precedent to the issuance of bonds results favorably thereto; (2) The bonds are issued within three years following the holding of the election; and (3) The county board wherein such operating school unit is located, if there is such, shall give its approval to the issuance of such bonds.
961	SECTION 59 71 40	State	Election. The election hereby required shall be ordered by the authorities, who shall fix the date thereof and prescribe the form of the notice of the holding of the election. Advices of the action thus taken by t authorities shall be transmitted to the commissioners of election for the county, or counties, wherein the election is to be held. It shall thereupon become the duty of the commissioners of election to conduct the election so ordered. To that end, the commissioners of election shall prescribe the form of ballot, arrange for voting places in each precinct, or any part of a precinct, constituting all or a portion of the operating school unit, appoint managers, and receive the returns of the election. After duly canvassing the returns, the commissioners of election shall declare the results thereof and ce such results to the authorities.
962	SECTION 59 71 50	State	Notice of election. Notice of the holding of such an election shall be given by publication thereof, in some newspaper published in the county wherein the operating school unit is located, at least once not less than fifte days prior to the occasion set for the holding of such election. If the operating school unit lies partly in one county and partly in another the publication required by this section shall be made in both counties. Such notice shall state: (1) The occasion of the holding of the election; (2) The location of the several polling places; (3) The qualifications imposed upon persons desirous of voting; (4) The amount of bonds to be issued; and (5) A brief description of the purpose for which the proceeds of the bonds shall be applied.
963	SECTION 59 71 60	State	Declaration of result of election; declaration conclusive unless contested within thirty days. Upon the receipt of the returns of the election the authorities shall by resolution declare the results thereof and may provide for the filing of a certified copy of such resolution declaring the results of election in the office of the clerk of the court for each county wherein the operating school unit is located. In such event the results of the election, as declared by resolution of the authorities so certifi and filed, shall not be open to question except by a suit or proceeding instituted within thirty days from the date of the filing thereof.
964	SECTION 59 71 70	State	Maturity of bonds. Such bonds shall mature in such annual series or installments as the authorities shall provide, except that: (1) The first maturing bonds shall mature within three years from the date as of which they may be issued; (2) Not less than three per cent of the aggregate of the issue shall mature in any year; and (3) No bond shall mature later than twenty five years from the date as of which it may be issued. The provisions of this section shall not prevent the authorities from issuing the aggregate of the bonds authorized by the election on one or more occasions as two or more issues.
965	SECTION 59 71 80	State	Provision for redemption. Any bond may be issued with a provision for its redemption prior to its stated maturity at par and accrued interest, plus such redemption premium as may be prescribed by the authorities, but no bo shall be redeemable before maturity unless it contains a statement to that effect. In the proceedings authorizing the issuance of such bonds, provision shall be made specifying the manner of call and notice thereof that must be given.
966	SECTION 59 71 90	State	Negotiability and registration. The bonds issued pursuant to this article shall be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered as to principal on the books of treasurer of the county wherein the operating school unit is located, in whole or in part, and the principal thus made payable to the registered holder (unless the last registered transfer shall have bee bearer) upon such conditions as the authorities may prescribe. Unless registered such bonds shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commerci Code.
967	SECTION 59 71 100	State	Place of payment. The bonds issued pursuant to this article shall be made payable at such places, within or without the State, as the authorities shall provide.
968	SECTION 59 71 110	State	Interest rate. Such bonds shall bear interest at rates to be named by the authorities.
969	SECTION 59 71 120	State	Execution of bonds. Such bonds and the coupons annexed thereto shall be executed in the manner provided for by the authorities.

Legal Standards

970	SECTION 59 71 130	State	Sale of bonds. The bonds shall be sold at public sale, after advertisement of such sale in a newspaper having general circulation in the State or in a financial publication published in the city of New York or, in the discretion of the authorities, in both such publications. Such advertisement shall appear not less than ten days prior to the occasion set for such sale. The bonds may be disposed of at private sale if th are no bids received or if all bids are rejected. The provisions of this section shall not prevent a sale at private sale to the United States of America or any agency thereof.
971	SECTION 59 71 140	State	Minimum sales price. All such bonds must be sold at a price of not less than par and accrued interest to the date of delivery.
972	SECTION 59 71 150	State	Credit pledged for payment; tax therefor. For the payment of the principal and interest on such bonds as they respectively mature and for the creation of such sinking fund as may be necessary therefor the full faith, credit and resources of th operating school unit are irrevocably pledged and there shall be levied annually by the auditor of each county wherein such operating school unit is located, and collected by the treasurer of such cou the same manner as county taxes are levied and collected, a tax, without limit, on all taxable property in such operating school unit sufficient to pay the principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor.
973	SECTION 59 71 155	State	General obligation bonds; transfers from state general fund to make payments on bonded indebtedness of school districts; maximum amount allowed for transfers. (A) This section applies to existing and future general obligation bonds issued by an operating school unit. For purposes of this section, general obligation bonds are obligations expressly secured by full faith, credit, and taxing power of the operating school unit that issues the bonds. (B) The county treasurer of a county in which any operating school unit has outstanding general obligation bonds shall notify the State Treasurer on the fifteenth day prior to the due date of any pay of principal or interest on the bonds if the county treasurer does not have on deposit, or there is not on deposit with a paying agent, the sum required to make that payment. If the county treasurer or paying agent does not have on deposit the sum required to make that payment on the third business day prior to the due date, the State Treasurer shall transfer to the county treasurer from the gene fund of the State the sum necessary to enable the county treasurer or paying agent to make payment of principal and interest then coming due. However, the total amount to be advanced to operating school units for this purpose in any fiscal year may not exceed the amount appropriated in that year under the Education Finance Act. Immediately upon receipt of the sum from the State Treasurer o bond for which a paying agent other than the county treasurer has been appointed, the county treasurer shall transfer to the paying agent all amounts required to effect punctual payment of the sum The State Treasurer shall withhold from the operating school unit from the next and subsequent distributions of any revenue to that operating school unit sufficient monies necessary to reimburse th general fund of the State for the sums applied to pay the principal and interest on the bonds and for the investment earnings that would have been received on the monies advanced from the general In addition, the State Treasurer may direct the county treasurer to apply to the payment due on the bonds any monies being held by the county treasurer in any fund, other than the sinking fund, deri from state revenue for the operating school unit. (C) The amounts forwarded to any county treasurer by the State Treasurer under subsection (B) must be applied by the county treasurer or paying agent solely to the payment of the principal of or interest on the bonds. The State Treasurer shall notify the State Department of Education, the county auditor, and the superintendent of the operating school unit of payments made and sums withhe pursuant to this section. (D) Whenever the State Treasurer makes a payment to a county treasurer pursuant to subsection (B) and withholds sums from revenue to the operating school unit pursuant to this section, or direct county treasurer to apply monies for this purpose, the county treasurer shall pay to the operating school unit all collections of property taxes levied for the payment of the operating school unit's gen obligation bonds until the sums so withheld or applied have been paid by the county treasurer to the operating school unit from such tax levies. (E) A county auditor in any county in which the provisions of subsection (B) have been implemented for the payment of principal and interest on the general obligation bonds of an operating school shall adjust the millage levied for the payment of those bonds in the next fiscal year to the level necessary to provide for the punctual payment of all sums due during that year and shall file a report w the State Treasurer demonstrating compliance with this subsection not later than five business days after setting the millage for this fiscal year.
974	SECTION 59 71 160	State	Exemption of bonds from taxes. Bonds issued under this article shall be exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general or special, whether imposed for the purpos general revenue or otherwise.
975	SECTION 59 71 170	State	Bonds as legal investments. It shall be lawful for all executors, administrators, guardians, committees and other fiduciaries and all sinking fund commissions to invest any moneys in their hands in bonds issued under this articl
976	SECTION 59 71 180	State	Deposit and use of proceeds. The proceeds derived from the sale of the bonds must be deposited with the treasurer of the county in which the operating school unit is located, in whole or in part, in a special fund to the credit of t operating school unit and must be applied solely to the purposes for which the bonds were issued, except that the accrued interest, if any, must be used to discharge in part the first interest to becom on the bonds.
977	SECTION 59 71 190	State	Investment of sinking funds in defense securities. The county treasurers of the various counties of the State may invest the sinking funds of the school districts of their respective counties in United States Defense Bonds and Defense Securities upon written request of the county superintendent of education and a majority of the trustees of the school district whose funds are to be invested.

Legal Standards

978	SECTION 59 71 310	State	Resolution of school district concerning bonds in default. The district board of any school district authorized to issue general obligation bonds of the school district is hereby authorized to provide by resolution duly adopted that if the principal or interest o general obligation bonds issued by the school district are not paid when they become due, the holder of the bonds and coupons may present them to the State Treasurer of South Carolina who, to the extent that moneys shall be available to the school district for any purpose and from any source, shall effect payment of them and charge such payments to the account of the school district and dimin the payments otherwise to be made to the extent thereof; provided, that no such resolution shall be effective unless it has been approved by the State Treasurer as provided in Section 59 71 320.
979	SECTION 59 71 320	State	Duties of State Treasurer. Upon adoption of the resolution, a copy shall be transmitted to the State Treasurer together with a concise statement showing the principal and estimated interest payments to become due on the bo to be issued. If the State Treasurer determines (a) that sufficient funds can reasonably be expected to accrue to the school district from State revenues otherwise applicable to the school district for other purposes to provide debt service on the b (b) that the resolution provides adequate assurance that ad valorem taxes will be levied annually on all taxable property within the school district sufficient to pay the principal and interest on the b as they become due and (c) that an interest savings can be expected to result from his approval of the resolution, the State Treasurer shall approve the resolution by signing it. It is not the intent of this section to give the Sta Treasurer authority to approve or disapprove a local bond issue.
980	SECTION 59 71 330	State	Rules and regulations. The State Treasurer is hereby authorized to prescribe rules and regulations (a) requiring the filing of such information as he deems pertinent with respect to bonds to be sold with the provision authorized by Section 1 of 1973 Act No. 378, (b) requiring school districts issuing bonds to provide him with an analysis of each annual tax levy to be made therein before it is imposed, (c) providing for the immediate withholding of any funds due to a school district which fails to impose adequate millage for debt service, or which fails to perform any of the terms and provisions contained in any such resolution or to comply with any such rules and regulations.
981	SECTION 59 71 340	State	Levy of additional tax. The State Comptroller is directed in any year to levy and the State Treasurer is directed to collect in any school district which does not levy adequate millage for that year, to provide debt service to become due on bonds sold with the provision authorized by Section 1 of 1973 Act No. 378, an ad valorem tax on all taxable property in the school district without limit as to rate or amount sufficient pay the principal of and interest on the bonds as they become due, including all bonds and coupons paid by him pursuant to Section 2 of 1973 Act No 378. A notice of such tax levy shall be provided to district board by March first.
982	SECTION 59 71 410	State	Authority to issue State school bonds. For the purpose of enabling the State Board of Education to raise funds for capital improvements and other purposes in addition to those funds provided by Article 3 of Chapter 21 of this Title, for th purpose of enabling the Board to raise funds necessary to acquire the school bus equipment authorized to be acquired by the provisions of Article 3 of Chapter 67 of this Title and for the purpose of permitting the Board to raise funds to refinance the short term indebtedness incurred in connection with the acquisition of school bus equipment, the Governor and the State Treasurer may issue Sta schools bonds under the conditions prescribed by this article.
983	SECTION 59 71 420	State	Limits on aggregates of indebtedness; maturity date. The aggregate outstanding principal indebtedness on account of bonds issued for capital improvements and other purposes, after deducting that part of any sinking fund applicable to the retirement bonds issued for such purposes, shall never exceed one hundred thirty seven million, five hundred thousand dollars. The aggregate outstanding principal indebtedness on account of bonds issued to acquire the school bus equipment authorized by the provisions of Article 3 of Chapter 67 of this Title, after deducting part of any sinking fund applicable to the retirement of bonds issued for such purpose, shall never exceed nine million dollars. Within such limits, State school bonds may be issued from time to time under the conditions prescribed by this article, but in no event to mature later than July 1, 1991.
984	SECTION 59 71 430	State	Request for issuance of bonds. Before any State school bonds are issued, the State Board of Education shall transmit to the Governor and to the State Treasurer a request for the issuance thereof and shall embody in such request: (a) A schedule showing the aggregate of bonds issued pursuant to previous requests, the purposes for which they were issued, the annual payments required to retire such bonds, the interest thereo the amount of sinking fund applicable to the retirement of such outstanding bonds, apportioned in accordance with the requirement of Section 59 71 570; (b) the amount of bonds sought to be issued; (c) a schedule showing future annual principal requirements and estimated annual interest requirements on the bonds requested to be issued; (d) a schedule showing (i) the estimated total funds required to cover applications for capital improvements and other purposes to be approved by the Board in that fiscal year; (ii) the amount of funds then available to apply on such applications and; (iii) the remaining amount required to cover such applications, being the amount for which it is proposed that State school bonds be issued.

Legal Standards

985	SECTION 59 71 440	State	Conditions warranting issuance of bonds. If the following shall appear to the satisfaction of the Governor and the State Treasurer from the foregoing request: (a) That the amount of revenues derived from the retail sales tax received during the next preceding fiscal year will, if received annually thereafter, be sufficient to pay as they fall due the principal a interest on such proposed State school bonds and all other State school bonds theretofore issued; (b) that the amount of revenues estimated by the State Board of Education to be received during the term for which such proposed State school bonds will be outstanding will be sufficient to pay, as same respectively mature, the principal and interest of such bonds and of all other State school bonds theretofore issued; (c) that the estimate by the State Board of Education of its needs as shown pursuant to Section 59 71 430 requires bonds to be issued in the amount requested; (d) that the issue will be within the limitations prescribed by Section 59 71 420; it shall be the duty of the Governor and the State Treasurer to issue State school bonds in accordance with such requ
986	SECTION 59 71 450	State	Form of bonds; time, place and medium of payment. The State school bonds shall be issued in such form and with such provisions as to time, place or places and medium of payment as may be determined by the Governor and the State Treasurer, subje the provisions of this article.
987	SECTION 59 71 460	State	Denomination of bonds. State school bonds shall each be in the denomination of one thousand dollars or some multiple thereof.
988	SECTION 59 71 470	State	Form of bonds; registration. State school bonds issued pursuant to this article may be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered in his name on the bool the State Treasurer as to principal only, or as to both principal and interest, and such principal, or both principal and interest, as the case may be, thus made payable to the registered holder, subject t such conditions as the State Treasurer may prescribe. State school bonds so registered as to principal in the name of the holder may thereafter be registered as payable to bearer and made payable accordingly. State school bonds may also be issued as fully registered bonds with both principal and interest thereof made payable only to the registered holder. Such fully registered bonds shall be subject to tra under such conditions as the State Treasurer may prescribe. Such fully registered bonds may, if the proceedings authorizing their issuance so provide, be convertible into negotiable coupon bonds w the attributes set forth in the first paragraph of this section.
989	SECTION 59 71 480	State	Interest; maturities; redemption. State school bonds shall bear interest, payable semiannually, at a rate or rates not exceeding the maximum interest rate specified in the Board's request for the issuance thereof. Each issue of State sc bonds shall mature in annual series or installments, the first of which annual series or installments shall mature not more than ten years after the date of the bonds and the last not more than twenty years after such date. The installments or series may be equal or unequal in amount. State school bonds may, in the discretion of the Board, be made subject to redemption at par and accrued interest such redemption premium as it shall approve and on such occasions as it may specify in its request for the issuance of such bonds. State school bonds shall not be redeemable before maturity unless contain a statement to that effect.
990	SECTION 59 71 490	State	Exemption of bonds from taxes. All State school bonds issued under this article, and the income therefrom, shall be exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general special, whether imposed for the purpose of general revenue or otherwise.
991	SECTION 59 71 510	State	Pledge of credit and revenues for payment of bonds. For the payment of the principal and interest on all State school bonds at any time issued and outstanding pursuant to this article as now constituted or hereafter amended, there shall be pledged the faith, credit and taxing power of the State and, in addition thereto, but subject to the provisions of Section 59 71 520, the entire amount of revenue derived from the retail sales tax levied by Chapter 3 Title 12. The revenues derived from such retail sales tax during each fiscal year shall be discharged from the foregoing pledge when payment or provision for payment has been made for the principa interest of all State school bonds maturing in such fiscal year and when the requirements of Section 59 71 570 as to payments into the sinking fund have been met.
992	SECTION 59 71 520	State	Revision of retail sales tax not precluded by pledge. The pledge of such revenue derived from such retail sales tax shall not preclude the revision of such retail sales tax as to rate or as to the item taxed, either or both, if the State Auditor shall certify tha estimate of the revenue to be derived annually from the tax as thus revised will not be less than one hundred and fifty per cent of that sum which is equal to the maximum annual principal and interes requirements on all State school bonds outstanding or then requested to be issued on the date such certificate bears. Such certificate shall be appended to the enrolled act reducing such tax and be presented to the joint assembly of the General Assembly on the occasion such act is presented for ratification.

Legal Standards

993	SECTION 59 71 530	State	Sale of bonds. State school bonds whose proceeds are to be applied exclusively to the purchase of school bus equipment may be privately placed, if the terms and conditions of such disposition shall be approved b resolution duly adopted by the State Budget and Control Board. All other State school bonds shall be sold by the Governor and the State Treasurer upon sealed proposals, after publication of notice of such sale one or more times at least ten days before such sale, i newspaper of general circulation in the State and also in a financial paper published in New York City which regularly publishes notices of sale of state or municipal bonds. The bonds shall be awarde the highest bidder at a price not less than par and accrued interest to the date of delivery, but the right shall be reserved to reject all bids and to readvertise the bonds for sale. For the purpose of bringing about successful sales of such bonds, the Board may do all things ordinarily and customarily done in connection with the sale of State or municipal bonds. All expenses in to the sales of such bonds shall be paid from the proceeds of the sale of such bonds.
994	SECTION 59 71 540	State	Bonds as lawful investments. It shall be lawful for all executors, administrators, guardians and other fiduciaries and all sinking fund commissions to invest any moneys in their hands in State school bonds.
995	SECTION 59 71 550	State	Disposition of proceeds of sale. The proceeds of the sale of State school bonds shall be received by the State Treasurer and placed by him to the credit of the State Board of Education, except that the premium, if any, shall be placed sinking fund established by Section 59 71 570 and the accrued interest, if any, shall be used to discharge in part the first interest to become due on such bonds. On the occasion that he receives the proceeds of State school bonds from the purchasers, the State Treasurer shall segregate that part of the proceeds which are intended for allocation to school districts for capital improvements and ot purposes from that portion intended for the purchase of school bus equipment, but the purchasers of such bonds shall in no wise be liable for the proper application of the proceeds to the purposes f which they are intended. The State Board of Education shall in turn credit each of the several school districts with its proportionate share of the proceeds of the bonds applicable to capital improvements and other purposes, district's share being determined in the ratio of its public school enrollment to the enrollment of the State as a whole.
996	SECTION 59 71 560	State	Use of proceeds; segregation for different uses. The proceeds derived from the sale of State school bonds shall be applied by the Board only to the purposes for which the bonds are issued, and, if it shall be provided that a part of the proceeds of ar issue of bonds shall be allocated to school districts for capital improvements and other purposes and another part be applied to defray the cost of school bus equipment, the State Treasurer shall, upo receipt of the proceeds of such bonds, segregate such proceeds in accordance with the provisions of the request made to the Governor and the State Treasurer pursuant to the provisions of Section 5 430.
997	SECTION 59 71 570	State	Sinking fund payments. If the annual principal payment on account of outstanding bonds be less than five per cent of the aggregate of all bonds outstanding, there shall be placed in the sinking fund hereby established for th retirement of State school bonds such sum as is the difference between five per cent of the outstanding State school bonds and the amount retired by way of principal of such outstanding bonds durin such year. The sinking fund shall be duly apportioned between debt existing by reason of borrowings for advances to the school districts or operating units of the several counties and debt existing b reason of borrowings to defray the cost of acquiring school bus equipment, in the proportion that each bears to the total of State school bonds outstanding. Notwithstanding the preceding paragraph, the remaining balance in the Sinking Fund as of July first, 1981, shall be remitted to the General Fund of the State.
998	SECTION 59 71 580	State	Retail sales tax provisions as part of contract with bondholders. The provisions of Chapter 35 of Title 12 levying the retail sales tax and of this article pledging the proceeds thereof to the payment of the principal and interest of State school bonds and to the sinkin fund to be established for the retirement of the outstanding principal of the bonds shall be deemed to partake of the obligation of the contract between the State and the holders of the State school bo
999	SECTION 59 139 05	State	Purpose of chapter. It is the purpose of the General Assembly in this chapter: (1) to place an emphasis on early childhood education and prevention while promoting assistance for students at every grade level which is more flexible and tailored to individual needs and learnin styles; (2) to focus the state's resources on academic success and prevention of academic problems; (3) to establish the expectation that by providing extra assistance and learning time that enables young students to attain essential skills and success all children will be prepared for the fourth grad all students will graduate from high school with their peers; (4) to promote the advancement of developmentally appropriate curriculum and coordinated programs from preschool through grade three which are supportive of the curriculum for grades four through twelve; and (5) to allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance.

Legal Standards

1,000	SECTION 59 139 10	State	Districts and schools to design plan; what plan must include; early childhood development initiative; academic assistance initiative; staff training; goals; progress review; school improvement counci input; peer review; requests for funds. (A) The State Board of Education, through the Department of Education and in consultation with the Education Oversight Committee, shall develop and implement regulations requiring that beginni school year 1993 94 and by school year 1994 95, each school district, in coordination with its schools, and each school in the district shall design a comprehensive, long range plan with annual updat carry out the purposes of this chapter. To that end, the plans shall: (1) establish an early childhood initiative which integrates the planning and direction of the half day program for four year olds established in Section 59 5 65, the parenting program established in Section 59 1 450, the early childhood assistance program established in Section 59 139 20, school practices in kindergarten through grade three, and any other federal, state, or district programs for preschool children in the district in order to better focus on the needs of this student population; (2) develop an academic assistance initiative to support students with academic difficulties in grades four through twelve so they are able to progress academically and move through school with th peers; and (3) provide staff training, upon appropriation of funds by the General Assembly for this purpose, to prepare and train teachers and administrators in the teaching techniques and strategies needed t implement the district and school plan. (B) The State Board of Education, through the Department of Education, shall establish criteria by regulation for the comprehensive plan and the annual updates to be prepared by each district and s so that the plans address, but are not limited to, the interrelationship of the various components of the early child development initiative and the academic assistance initiative, strategies to be implemented for expanding and improving early child development activities, plans for accelerating the performance of students performing below their peers, methods of assessing the efficacy of th strategies, and the coordination of the strategies with federally funded programs. However, in every instance, district and school plans should be derived from strategies found to be effective in educa research. The plans must contain performance goals, interim performance goals, and time lines for progress. The methods of assessing the efficacy of the strategies must provide data regarding the impact of t strategies and whether they should be continued, modified, or terminated. (C) The design for the early child development initiative must include: (1) the formation and implementation of the parenting/family literacy component which addresses, but is not limited to, collaboration in each district with health and human service agencies, and a education programs, as well as the other components of the early child development initiative; (2) the development and implementation of a developmentally appropriate curriculum from early childhood education through grade three. Options available to districts and schools in designing th early childhood assistance component include: (a) expanded kindergarten day; (b) reduction in kindergarten pupil teacher ratio; (c) floating teachers in grades one through three assigned to work with students with academic difficulties; (d) multiage grouping for four and five year olds;
1,001	SECTION 59 139 11	State	Use of SACS Plan by Southern Association of Colleges and Schools accredited institutions. A school accredited by the Southern Association of Colleges and Schools (SACS) may substitute the SACS five year plan and annual updates for the comprehensive plan and updates required by Sectio 139 10(B), provided that all requirements for information and evaluation and the participation requirements for the community and School Improvement Council are met as mandated in Chapters 1 139 of Title 59. Beginning with 2001, with approval by the State Board of Education, a school district may request to have its combined strategic plan/accountability system cycle required by Chapte and 139 adjusted to coincide with its schools' SACS review.
1,002	SECTION 59 139 15	State	Extension of completion dates of certain long range, comprehensive plans. Notwithstanding any other provision of law, the stipulated completion dates of the long range, comprehensive plans required by Chapter 139 of Title 59 of the 1976 Code may be extended until the e school year 1994 95 upon approval from the State Board of Education. Districts requesting such a waiver must outline how the extension will improve the planning and implementation of Act 135 of and provide the expected date of completion. Before implementation of the plans, the plans must be submitted to the State Department of Education to be subjected to the peer review process; distric wishing to submit their plans before the required or expected completion date may do so. For 1994 95 schools and districts shall implement strategies for academic assistance to students experienci difficulties in kindergarten through grade twelve. For school year 1993 94, schools may submit either the improvement plans consistent with state department guidelines or its five year plan.
1,003	SECTION 59 139 20	State	Appropriations for academic assistance initiative; uses of funds; matching of weighted pupil units. Beginning in fiscal year 1994 95 in the annual general appropriations act, the General Assembly shall determine an appropriation level for the academic assistance initiative. The State Board of Educa through the Department of Education shall promulgate regulations to implement a system to provide a pro rata matching of the weighted pupil units pursuant to Section 59 20 40 to the pupils in the districts of the State as follows: (1) early childhood assistance for students in kindergarten through grade three who are eligible for the federal free and reduced price lunch program at a weight of .26; (2) grade four through twelve academic assistance for students in these grades who score below minimum basic skills act standards in reading, mathematics, or writing, or their equivalent, at a weig .114. Funds generated by kindergarten through grade three students must be used by the districts and schools to provide to any student in these grades needed academic assistance. The assistance may b short, intensive periods or for longer, on going assistance as needed by each student. Based upon the district and school plans provided for in Section 59 139 10, a portion of these funds may be used support other components of the early child development initiative in order to better prepare children for entering school. Further, districts may request a waiver from the State Board of Education t a portion of the funds generated by students in kindergarten through grade three for students in grades four through twelve, if such a change promotes better coordination of state and federal funds provided for programs for these children. Funds generated by students in grades four through twelve must be used to provide any student with needed academic assistance with an emphasis on assistance at the time of need and on accelera the progress of students performing below their peers. The assistance may be for short, intensive periods or for longer, on going assistance as needed by the student. Enhanced opportunities for learn must be emphasized. In reviewing the districts' plans, provided for in Section 59 139 10, the State Board of Education shall stress district and school flexibility in addressing student needs.

Legal Standards

1,004	SECTION 59 139 30	State	Formula for allocating funds. For fiscal year 1993 94, funds must be allocated to districts on the same percentage as they received funds for the Compensatory and Remedial Programs for 1992 93. By January 1, 1995, the Joint Legislative Committee to Study Formula Funding in Education Programs shall review and approve the allocation formula.
1,005	SECTION 59 139 40	State	Development of criteria for monitoring district and school plans and implementation. By December, 1993, the State Board of Education, through the Department of Education and in consultation with the Education Oversight Committee, shall develop criteria for the monitoring of the district and school plans and the implementation of the plans required in this chapter.
1,006	SECTION 59 139 50	State	Development of plan for providing technical assistance to districts in designing and implementing plans. By September, 1993, the Department of Education, in consultation with the State Board of Education and the Education Oversight Committee, shall develop a written plan outlining the process for providing technical assistance to districts in designing their overall plans and implementing those plans, including compiling and disseminating research on effective practice and contracting with recognized groups for providing expertise to the districts and schools in the areas addressed by this chapter.
1,007	SECTION 59 139 60	State	Evaluating fulfillment of purposes of chapter; assessments of students, schools, and districts; sharing of results. The State Board of Education, through the State Department of Education and in consultation with the Education Oversight Committee, shall establish an assessment system to evaluate the degree to which the purposes of this chapter are met. To that end, the State Board of Education, through the Department of Education shall: (1) develop or adapt a developmentally appropriate assessment program to be administered to all public school students by the end of grade three that is designed to measure a student's strengths a weaknesses in skills required to perform academic work considered to be at the fourth grade level. Information on each student's progress and on areas in need of improvement must be provided to student's parent and fourth grade teacher. Aggregated information on student progress must be given to the students' kindergarten through third grade schools so that deficiencies in the schools' academic programs can be addressed; (2) review the performance of students on the eighth grade basic skills assessment test pursuant to Section 59 30 10, or its equivalent, for progress in meeting the skill levels required by these examinations. Student data must be aggregated by the schools the students attended so that programs' deficiencies can be addressed; (3) review the data on students overage for grade in each school at grades four and nine; (4) monitor the performance of schools and districts so that continuing weaknesses in the programs preparing students for the fourth grade and ninth grade shall receive special assistance from the Department of Education; and (5) propose other methods or measures for assessing how well the purposes of this chapter are met.
1,008	SECTION 59 139 70	State	Half day program for four year olds to be maintained. The half day program for four year old children established in Section 59 19 340, must be maintained at no less than the 1993 94 level in each school district as funded by the General Assembly.
1,009	SECTION 59 139 80	State	Targeted technical assistance if goals and time lines are not met; assistance if progress lacking after two years. If a review of a district's comprehensive plan indicates the goals and time lines established by the district are not being met, the Department of Education, after consultation with the district's administration, shall provide targeted technical assistance. If after two consecutive years, the district is not making progress toward achieving its goals, the State Board of Education, through the Stat Department of Education, shall enter into a partnership with the district board of trustees to review implementation of the district's comprehensive plan, make recommendations for improvement, a provide assistance in implementing the recommendations.
1,010	SECTION 59 139 90	State	Strategic plans to include goals and objectives for parent involvement. The school and district strategic plans required in Section 59 139 10 must include the stated goals and objectives for parent involvement and the methods used for data collection to support statewi evaluation of parent involvement efforts.

Legal Standards

1,011	SECTION 59 141 10	State	National education goals. (A) The State Department of Education shall formulate an implementation plan to accomplish the following national education goals as applicable to South Carolina, which are: (1) By the year 2000, all children in America will start school ready to learn. (2) By the year 2000, the high school graduation rate will increase to at least ninety percent. (3) By the year 2000, American students will leave grades four, eight, and twelve having demonstrated competency over challenging subject matter including English, mathematics, science, history, geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment i modern economy. The South Carolina goals also include the areas of foreign languages, health and physical education, arts and humanities, and occupational education as part of this goal. (4) By the year 2000, U.S. students will be first in the world in science and mathematics achievement. (5) By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizens (6) By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive of learning. The Department of Education, building upon the South Carolina Total Quality Education Framework for Change and the South Carolina Goals Panel Report shall formulate this plan, which must focus equity, productivity, and interagency collaboration to meet the National Goals by the year 2000. The plan at a minimum shall address: (a) a review of the Education Finance Act and a Defined Maximum Program; (b) a review of the Education Improvement Act and Target 2000; (c) an alignment of the plan with the national goals; (d) an identification of sources and reallocation of funds and revenue; (e) accountability measures for state agencies, local school districts, and local communities; (f) a system which connects funding costs with school performance effectiveness; (g) a system for coordinating interagency funds to support health, social, and education services to children and families; and (h) a system for coordinating funds with technical colleges and higher education to support lifelong learning. The Education Improvement Act is to be included in this review, but all EIA funds must be used only for new reforms and innovations and not for regular ongoing operations at schools, although afte review the reforms and innovations for which these funds were dedicated may be different than originally provided. (B) In formulating this plan the Department of Education shall coordinate its efforts with the South Carolina Business Education Partnership for Excellence in Education, to include its planning comn and outreach committee and also the accountability committee of the Business Education Subcommittee. Input must be solicited from the State Board of Education, South Carolina Education Goals Panel, EIA Education Oversight Committee, Human Services Coordinating Council, South Carolina Business Center for Education, Chamber of Commerce, South Carolina School Boards Association, South Carolina Association of School Administrators, South Carolina Parent Teacher Association, South Carol School Improvement Councils, Palmetto Teachers Association, South Carolina Education Association, South Carolina Teacher Forum, American Association of Retired Persons, Business and Commun
1,012	SECTION 59 144 10	State	Use of Children's Education Endowment Fund. Funds available from the Children's Education Endowment Fund, as established in Chapter 143 of this title, must be used for public school facilities assistance as provided in this chapter.
1,013	SECTION 59 144 20	State	Legislative purpose. For the benefit of the people of the State and the increase of their commerce, welfare, and prosperity, it is essential that the school districts of this State be assisted in obtaining adequate school facili assist youth in achieving the required levels of learning. It is the purpose of this chapter to provide a measure of assistance to the school districts of this State in securing the facilities and structures w are needed to accomplish the goals and purposes of public education, all to the public benefit and good, to the extent and manner provided in this chapter.
1,014	SECTION 59 144 30	State	Funds for permanent school facilities and fixed equipment. Funds made available through this chapter must be used for permanent school instructional facilities and fixed equipment including the costs for construction, improvement, enlargement, or renova of public school facilities. The district may use its fiscal year 1996 97 allocation for payment of debt service provided that the debt service relates to school facilities as defined herein. In subsequent y after all construction and renovation needs identified in a district's school facilities improvement plan have been met, the district may request to use its allocation for payment of debt service provide debt service relates to school facilities as defined herein. As used in this chapter, "school facilities" only includes facilities necessary for instructional and related purposes including, but not limited to, classrooms, libraries, media centers, laboratories, cafet physical education spaces, related interior and exterior facilities, and the conduit, wiring, and powering of hardware installations for classroom computers or for area network systems. "School facilit does not include unimproved real property, centralized district administration facilities, portable classrooms, or other facilities, including those normally identified with interscholastic sports activit However, for fiscal year 1996 97 only, "school facilities" includes portable classrooms. As used in this chapter, fixed equipment means a fixture as defined in Section 36 9 313(1)(a).
1,015	SECTION 59 144 40	State	Accumulation of annual allotments. From annual allotments made to the various districts, a school district may accumulate its allotments for up to seventy two months to meet the facilities' needs identified in its capital improvement p

Legal Standards

1,016	SECTION 59 144 100	State	Allocation of funds to school districts. (A) Funds made available under this chapter must be allocated annually to the school districts in the following manner: (1) thirty five percent of the funds allocated annually to the several school districts for facilities' needs must be allocated on a per pupil basis using the weighted pupil units of each district for the preceding year; (2) thirty five percent must be allocated according to the preceding year's Education Finance Act (EFA) formula; (3) fifteen percent of the funds allocated annually to the several school districts for facilities' needs must be distributed based on a standardized assessment of the districts' needs for facilities using uniform estimate of costs as established in Section 59 144 120. Individual district allotments must be based on the district facilities need relative to the state total facilities need; (4) fifteen percent of the funds allocated annually to the school districts must be distributed based on equalized effort defined as the prior five years' average expenditures for capital projects and de service, including lease purchase obligations, for school instructional facilities divided by the average assessed value of all property subject to ad valorem school taxation and adjusted to reflect an equalized per pupil mill value. Individual district allotments must be based on a district's equalized effort relative to the state total equalized effort. The amount included for lease purchase obligation shall not include the costs of utilities or operation and maintenance of the leased facility; (5) a district's annual allotment must be the sum of the four amounts calculated as provided in this section. Funds from a district's allotment shall be made available as needed once approval is recei from the State Board of Education pursuant to Chapter 23 of this title. (B) The Department of Juvenile Justice, the Wil Lou Gray Opportunity School, the John de la Howe School, and the South Carolina School for the Deaf and the Blind also shall be annually allocated func from the Children's Education Endowment Fund for facilities' needs on a per pupil basis using weighted pupil units for one hundred percent of their allocations. For purposes of these allocations only pupils of these schools are considered K 12 pupils.
1,017	SECTION 59 144 120	State	State Board of Education responsibilities. The State Board of Education responsibilities in regard to this chapter include: (1) developing policies, guidelines, and standards for a uniform assessment of facilities' needs and standardized cost allowances for estimating the cost in meeting these needs in order to provide for systematic reporting of each district's needs to be used in calculating the allotment of funds under Section 59 144 100. Any standardized cost allowances must take into account regional variances tha beyond the control of individual districts. Facilities' needs include, but are not limited to, facility need capacity and condition, space requirements, program standards, and pupil growth. Costs allowa shall be developed to include such measures as costs per square foot, costs per pupil, or costs per teaching unit with such costs adjusted annually to reflect changes in the cost of labor and materials. T standards and cost allowances are to be used only for providing a uniform reporting of districts' needs for formula allotment purposes and are not intended to limit district options in determining the most appropriate manner in which to meet individual district needs; and (2) adopting policies, standards, and regulations to ensure the accuracy of district reporting required under this chapter and the use of funds disbursed under this chapter.
1,018	SECTION 59 144 130	State	Report to General Assembly. Every three years by December first beginning with the year 1998, the State Board of Education shall report to the General Assembly the projected five year school facilities improvement requireme reported by the school districts, the needs identified since the last report, and those previously identified needs addressed since the last report.
1,019	SECTION 59 144 140	State	Department of Education responsibilities. The Department of Education's responsibilities shall include: (1) providing staffing assistance to the State Board of Education in the development of policies, guidelines, standards, and regulations implementing this chapter; and (2) ensuring compliance with state standards and requirements, inspecting construction projects for education facilities, and approving completed construction pursuant to Chapter 23 of this title f projects financed in whole or in part with funds allocated under this chapter. To assist with the inspection of construction projects, the State Board of Education may designate selected local units of administration which have staff qualified to conduct the inspections to act on behalf of the Department of Education.
1,020	SECTION 59 144 150	State	Qualification for funds. To qualify for funds under this chapter, each school district shall meet the provisions of this chapter and any regulations promulgated hereunder. Funds must be withheld from districts when inappropriate reporting of facilities' needs is found or when inappropriate use of funds is documented.
1,021	SECTION 59 144 160	State	Recommendations to General Assembly. By December 1, 1998, the State Board of Education shall recommend to the General Assembly changes to be made to this chapter regarding program objectives, appropriate funding levels, and fundi allotment formulas.
1,022	SECTION 59 146 10	State	Short title. This chapter may be cited as the "State School Facilities Bond Act".
1,023	SECTION 59 146 20	State	Purpose of chapter to assist school districts to provide educational facilities. It is declared that, for the benefit of the people of the State, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this a future generations of youth be given the full opportunity to learn and to develop their intellectual and mental capacities; that it is essential that school districts of this State be provided with adequate educational facilities and appropriate additional means to assist the youth in achieving the required levels of learning and development of their intellectual and mental capacities; and that it is the pu of this chapter to provide a measure of assistance to enable school districts in this State to provide the facilities and structures which are needed to accomplish the purposes of this chapter, all to the benefit and good, to the extent and manner provided in this chapter.

Legal Standards

1,024	SECTION 59 146 30	State	Definitions. As used in this chapter: (1) “Department” means the State Department of Education. (2) “School district” means a public body corporate and politic operating as a school district under the provisions of Chapter 17, Title 59. (3) “School facilities” means only those facilities defined as ‘school facilities’ in Section 59 144 30. (4) “State board” means the State Board of Education. (5) “State school facilities bonds” means general obligation bonds of the State of South Carolina issued under the authority of this chapter.
1,025	SECTION 59 146 40	State	School facilities bonds. In order to obtain funds for allocation to school districts for school facilities, there shall be issued from time to time state school facilities bonds under the conditions prescribed by this chapter.
1,026	SECTION 59 146 50	State	Maximum principal amount of state school facilities bonds; expiration of authority to issue bonds. The maximum principal amount of state school facilities bonds that may be issued pursuant to this chapter shall not exceed seven hundred fifty million dollars except that this limitation shall not ap any state school facilities bonds issued for the purpose of refunding prior issues of state school facilities bonds. The General Assembly directs the Department of Education to allocate seven hundred million dollars pursuant to Section 59 144 100 and to inform each school district of its individual allocation. Further, it is the intent of the General Assembly that not more than two hundred fifty mill dollars of state school facilities bonds shall be issued in fiscal year 1999 2000, except that no bonds issued in fiscal year 1999 2000 may be released until after January 1, 2000. The authority to issue under this chapter shall expire four years from the effective date of this chapter. The four year limitation, however, does not apply to bonds issued to retire bond anticipation notes.
1,027	SECTION 59 146 60	State	State Board of Education notification to State Budget and Control Board. The State Board of Education, by resolution, shall notify the State Budget and Control Board of the following: (1) the amount then required for allocation to local school districts for school facilities for the next fiscal year; (2) a tentative time schedule setting forth the period of time during which the sum requested will be expended; (3) a debt service table showing the annual principal and interest requirements for all state school facilities bonds then outstanding; and (4) the total amount of all state school facilities bonds issued. This notification shall be presented to the Budget and Control Board by March first of each year.
1,028	SECTION 59 146 70	State	Issuance of state school facilities bonds by State Budget and Control Board. Following the receipt of the notification presented pursuant to Section 59 146 60, the State Budget and Control Board shall, by resolution duly adopted, effect the issuance of state school facilities bo or pending the issuance thereof, effect the issuance of bond anticipation notes pursuant to Chapter 17 of Title 11.
1,029	SECTION 59 146 80	State	Resolution by State Budget and Facilities Board for issuance of state school facilities bonds. In order to effect the issuance of state school facilities bonds, the State Budget and Control Board shall adopt a resolution providing for the issuance of state school facilities bonds pursuant to the provisions of this chapter. The authorizing resolution must include: (1) schedules setting forth the aggregate of all general obligation debt of the State (excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes) together wit certificates of the State Treasurer and State Auditor evidencing compliance with the provisions of paragraph 6(c) of Section 13 of Article X of the South Carolina Constitution; (2) a schedule showing the aggregate of state school facilities bonds issued, the purposes for which they were issued, the annual payments required to retire the state school facilities bonds, the inter thereon, and the amount of any special funds applicable to the retirement of the outstanding state school facilities bonds; (3) the amount of state school facilities bonds to be issued; and (4) a schedule showing future annual principal requirements and estimated annual interest requirements on the state school facilities bonds to be issued.
1,030	SECTION 59 146 90	State	Terms of state school facilities bonds. The state school facilities bonds must bear the date and mature at the time that the resolution provides, except that no state school facilities bond may mature more than thirty years from its date of The state school facilities bonds may be in the denominations, be payable in the medium of payment, be payable at the place and at the time, and be subject to redemption or repurchase and contain provisions determined by the State Budget and Control Board before their issuance. The bonds may bear interest payable at the times and at the rates as determined by the State Budget and Control
1,031	SECTION 59 146 100	State	Tax exemption of state school facilities bonds. All state school facilities bonds issued under this chapter are exempt from taxation as provided in Section 12 2 50.
1,032	SECTION 59 146 110	State	Execution and authentication of state school facilities bonds. All state school facilities bonds issued under this chapter must be signed by the Governor and the State Treasurer. The Governor and the State Treasurer may sign these obligations by a facsimile of t signatures. The Great Seal of the State must be affixed to, impressed on, or reproduced upon each of them and each must be attested by the Secretary of State. The delivery of the state school facilities bonds executed and authenticated is valid notwithstanding changes in officers or seal occurring after the execution or authentication.

Legal Standards

1,033	SECTION 59 146 120	State	Payment of principal and interest. For the payment of the principal and interest on all state school facilities bonds issued and outstanding pursuant to this chapter there is pledged the full faith, credit, and taxing power of the State of S Carolina, and in accordance with the provisions of paragraph (4) of Section 13 of Article X of the South Carolina Constitution, the General Assembly hereby allocates on an annual basis sufficient tax revenues to provide for the punctual payment of the principal and interest on the debt authorized by this chapter.
1,034	SECTION 59 146 130	State	Sale of state school facilities bonds. State school facilities bonds must be sold by the Governor and the State Treasurer upon sealed proposals, after publication of notice of the sale one or more times at least seven days before the sale, i financial paper published in New York City which regularly publishes notices of sale of state or municipal bonds. The state school facilities bonds may be awarded only to the lowest interest cost bidd but the right is reserved to reject all bids and to readvertise the state school facilities bonds for sale. For the purpose of bringing about successful sales of the bonds, the State Budget and Control Boar may do all things ordinarily and customarily done in connection with the sale of state or municipal bonds. All expenses incident to the sale of the bonds must be paid from the proceeds of the sale of t bonds.
1,035	SECTION 59 146 140	State	Proceeds of sale of state school facilities bonds. The proceeds of the sale of state school facilities bonds must be received by the State Treasurer and applied by the State Treasurer to the purposes for which issued, except that the accrued interest, must be used to discharge in part the first interest to become due on the bonds, but the purchasers of the bonds are not liable for the proper application of the proceeds to the purposes for which they intended.
1,036	SECTION 59 146 150	State	Investment in state school facilities bonds by fiduciaries. It is lawful for all executors, administrators, guardians, and other fiduciaries to invest any monies in their hands in bonds issued pursuant to this chapter.
1,037	SECTION 59 146 160	State	Allocation of proceeds of sale of state school facilities bonds. The proceeds received from the issuance of state school facilities bonds, after deducting the costs of issuance, must be allocated to the school districts in the same manner and for the same purposes provided in Section 59 144 100 and the first paragraph of Section 59 144 30.
1,038	SECTION 59 146 170	State	Responsibilities and duties of State Department of Education and State Board of Education. The responsibilities and duties of the State Department of Education and State Board of Education shall be as outlined in Sections 59 144 120, 59 144 130, and 59 144 140.
1,039	SECTION 59 146 180	State	Qualification of school districts for funds. To qualify for the funds under this chapter, each school district shall meet the requirements of this chapter and any guidelines promulgated hereunder. Funds must be withheld from districts when inappropriate reporting of facilities' needs is found or when inappropriate use of funds is documented.
1,040	SECTION 59 155 110	State	South Carolina Read to Succeed Office. There is established within the South Carolina Department of Education the South Carolina Read to Succeed Office to implement a comprehensive, systemic approach to reading which will ensure th (1) classroom teachers use evidence based reading instruction in prekindergarten through grade twelve, to include oral language, phonological awareness, phonics, fluency, vocabulary, and comprehension; administer and interpret valid and reliable assessments; analyze data to inform reading instruction; and provide evidence based interventions as needed so that all students develop proficiency with literacy skills and comprehension; (2) classroom teachers periodically reassess their curriculum and instruction to determine if they are helping each student progress as a proficient reader and make modifications as appropriate; (3) each student who cannot yet comprehend grade level text is identified and served as early as possible and at all stages of his or her educational process; (4) each student receives targeted, effective, comprehension support from the classroom teacher and, if needed, supplemental support from a reading interventionist so that ultimately all students ca comprehend grade level texts; (5) each student and his parent or guardian is continuously informed in writing of: (a) the student's reading proficiency needs, progress, and ability to comprehend and write grade level texts; (b) specific actions the classroom teacher and other reading professionals have taken and will take to help the student comprehend and write grade level texts; and (c) specific actions that the parent or guardian can take to help the student comprehend grade level texts by providing access to books, assuring time for the student to read independently, reading t students, and talking with the student about books; (6) classroom teachers receive pre service and in service coursework which prepares them to help all students comprehend grade level texts; (7) all students develop reading and writing proficiency to prepare them to graduate and to succeed in their career and post secondary education; and (8) each school district publishes annually a comprehensive research based reading plan that includes intervention options available to students and funding for these services.

Legal Standards

1,041	SECTION 59 155 120	State	Definitions. As used in this chapter: (1) "Board" means the State Board of Education. (2) "Department" means the State Department of Education. (3) "Discipline specific literacy" means the ability to read, write, listen, and speak across various disciplines and content areas including, but not limited to, English/language arts, science, mathemati social studies, physical education, health, the arts, and career and technology education. (4) "Readiness assessment" means assessments used to analyze students' literacy, mathematical, physical, social, and emotional behavioral competencies in prekindergarten or kindergarten. (5) "Reading interventions" means individual or group assistance in the classroom and supplemental support based on curricular and instructional decisions made by classroom teachers who have proven effectiveness in teaching reading and an add on literacy endorsement or reading/literacy coaches who meet the minimum qualifications established in guidelines published by the Departmen Education. (6) "Reading portfolio" means an organized collection of evidence and assessments documenting that the student has demonstrated mastery of the state standards in reading equal to at least a level the lowest achievement level on the state reading assessment. (7) "Reading proficiency" means the ability of students to meet state reading standards in kindergarten through grade twelve, demonstrated by readiness, formative, or summative assessments. (8) "Reading proficiency skills" means the ability to understand how written language works at the word, sentence, paragraph, and text level and mastery of the skills, strategies, and oral and written language needed to comprehend grade level texts. (9) "Research based formative assessment" means assessments used within the school year to analyze strengths and weaknesses in reading comprehension of students individually to adapt instruct meet student needs, make decisions about appropriate intervention services, and inform placement and instructional planning for the next grade level. (10) "Substantially fails to demonstrate third grade reading proficiency" means a student who does not demonstrate reading proficiency at the end of the third grade as indicated by scoring at the lo achievement level on the statewide summative reading assessment that equates to Not Met 1 on the Palmetto Assessment of State Standards (PASS). (11) "Summative assessment" means state approved assessments administered in grades three through eight and any statewide assessment used in grades nine through twelve to determine student mastery of grade level or content standards. (12) "Summer reading camp" means an educational program offered in the summer by each local school district or consortia of school districts for students who are unable to comprehend grade lev texts and who qualify for mandatory retention. (13) "Third grade reading proficiency" means the ability to read grade level texts by the end of a student's third grade year as demonstrated by the results of state approved assessments administere third grade students, or through other assessments as noted in this chapter and adopted by the board. (14) "Writing proficiency skills" means the ability to communicate information, analysis, and persuasive points of view effectively in writing.
1,042	SECTION 59 155 130	State	Duties of Office. The Read to Succeed Office must guide and support districts and collaborate with university teacher training programs to increase reading proficiency through the following functions, including, but limited to: (1) providing professional development to teachers, school principals, and other administrative staff on reading and writing instruction and reading assessment that informs instruction; (2) providing professional development to teachers, school principals, and other administrative staff on reading and writing in content areas; (3) working collaboratively with institutions of higher learning offering courses in reading and writing and those institutions of higher education offering accredited master's degrees in reading liter design coursework leading to a literacy teacher add on endorsement by the State; (4) providing professional development in reading and coaching for already certified reading/literacy coaches and literacy teachers; (5) developing information and resources that school districts can use to provide workshops for parents about how they can support their children as readers and writers; (6) assisting school districts in the development and implementation of their district reading proficiency plans for research based reading instruction programs and assisting each of their schools to develop its own implementation plan aligned with the district and state plans; (7) annually designing content and questions for and review and approve the reading proficiency plan of each district; (8) monitor and report to the State Board of Education the yearly success rate of summer reading camps. Districts must provide statistical data to include the: (a) number of students enrolled in camps; (b) number of students by grade level who successfully complete the camps; (c) number of third graders promoted to fourth grade; (d) number of third graders retained; and (e) total expenditure made on operating the camps by source of funds to include in kind donations; and (9) provide an annual report to the General Assembly regarding the implementation of the South Carolina Read to Succeed Act and the State and the district's progress toward ensuring that at least five percent of all students are reading at grade level.

Legal Standards

1,043	SECTION 59 155 140	State	State Reading Proficiency Plan. (A)(1) The department, with approval by the State Board of Education, shall develop, implement, evaluate, and continuously refine a comprehensive state plan to improve reading achievement in pul schools. The State Reading Proficiency Plan must be approved by the board by February 1, 2015, and must include, but not be limited to, sections addressing the following components: (a) reading process; (b) professional development to increase teacher reading expertise; (c) professional development to increase reading expertise and literacy leadership of principals and assistant principals; (d) reading instruction; (e) reading assessment; (f) discipline specific literacy; (g) writing; (h) support for struggling readers; (i) early childhood interventions; (j) family support of literacy development; (k) district guidance and support for reading proficiency; (l) state guidance and support for reading proficiency; (m) accountability; and (n) urgency to improve reading proficiency. (2) The state plan must be based on reading research and proven effective practices, applied to the conditions prevailing in reading literacy education in this State, with special emphasis on addressi instructional and institutional deficiencies that can be remedied through faithful implementation of research based practices. The plan must provide standards, format, and guidance for districts to u develop and annually update their plans, as well as to present and explain the research based rationale for state level actions to be taken. The plan must be updated annually and must incorporate a st reading proficiency progress report. (3) The state plan must include specific details and explanations for all substantial uses of state, local, and federal funds promoting reading literacy and best judgment estimates of the cost of researc supported, thoroughly analyzed proposals for initiation, expansion, or modification of major funding programs addressing reading and writing. Analyses of funding requirements must be prepared b department for incorporation into the plan. (B)(1) Beginning in Fiscal Year 2015 2016, each district must prepare a comprehensive annual reading proficiency plan for prekindergarten through twelfth grade consistent with the plan by respon to questions and presenting specific information and data in a format specified by the Read to Succeed Office. Each district's PK 12 reading proficiency plan must present the rationale and details of it blueprint for action and support at the district, school, and classroom levels. Each district shall develop a comprehensive plan for supporting the progress of students as readers and writers, monitori the impact of its plan, and using data to make improvements and to inform its plan for the subsequent years. The district plan piloted in school districts in Fiscal Year 2013 2014 and revised based on
1,044	SECTION 59 155 150	State	Readiness assessment. (A) With the enactment of this chapter, the State Superintendent of Education shall ensure that every student entering publically funded prekindergarten and kindergarten beginning in Fiscal Year 2 2015 will be administered a readiness assessment by the forty fifth day of the school year. Initially the assessment shall focus on early language and literacy development. Beginning in Fiscal Year 201 2017, the assessment must assess each child's early language and literacy development, mathematical thinking, physical well being, and social emotional development. The assessment may include multiple assessments, all of which must be approved by the board. The approved assessments of academic readiness must be aligned with first and second grade standards for English/language arts mathematics. The purpose of the assessment is to provide teachers and parents or guardians with information to address the readiness needs of each student, especially by identifying language, cogn social, emotional, health problems, and concerning appropriate instruction for each child. The results of the assessment and the developmental intervention strategies recommended to address the c identified needs must be provided, in writing, to the parent or guardian. Reading instructional strategies and developmental activities for children whose oral language skills are assessed to be below norm of their peers in the State must be aligned with the district's reading proficiency plan for addressing the readiness needs of each student. The results of each assessment also must be reported t Read to Succeed Office. (B) Any student enrolled in prekindergarten, kindergarten, first grade, second grade, or third grade who is substantially not demonstrating proficiency in reading, based upon formal diagnostic assessments or through teacher observations, must be provided intensive in class and supplemental reading intervention immediately upon determination. The intensive interventions must be prov as individualized and small group assistance based on the analysis of assessment data. All sustained interventions must be aligned with the district's reading proficiency plan. These interventions mu at least thirty minutes in duration and be in addition to ninety minutes of daily reading and writing instruction provided to all students in kindergarten through grade three. The district must continu provide intensive in class intervention and at least thirty minutes of supplemental intervention until the student can comprehend and write text at grade level independently. In addition, the parent o guardian of the student must be notified, in writing, of the child's inability to read grade level texts, the interventions to be provided, and the child's reading abilities at the end of the planned interven The results of the initial assessments and progress monitoring also must be provided to the Read to Succeed Office. (C) Programs that focus on early childhood literacy development in the State are required to promote: (1) parent training and support for parent involvement in developing children's literacy; and (2) development of oral language, print awareness, and emergent writing; and are encouraged to promote community literacy including, but not limited to, primary health care providers, faith based organizations, county libraries, and service organizations. (D) Districts that fail to provide reports on summer reading camps pursuant to Section 59 155 130(8) are ineligible to receive state funding for summer reading camps for the following fiscal year; however, districts must continue to operate summer reading camps as defined in this act.

Legal Standards

1,045	SECTION 59 155 160	State	Mandatory retention. (A) Beginning with the 2017 2018 School Year, a student must be retained in the third grade if the student fails to demonstrate reading proficiency at the end of the third grade as indicated by scorin the lowest achievement level on the state summative reading assessment that equates to Not Met 1 on the Palmetto Assessment of State Standards (PASS). A student may be exempt for good cause fr the mandatory retention but shall continue to receive instructional support and services and reading intervention appropriate for their age and reading level. Good cause exemptions include student (1) with limited English proficiency and less than two years of instruction in English as a Second Language program; (2) with disabilities whose individual education plan indicates the use of alternative assessments or alternative reading interventions and students with disabilities whose Individual Education Plan Section 504 Plan reflects that the student has received intensive remediation in reading for more than two years but still does not substantially demonstrate reading proficiency; (3) who demonstrate third grade reading proficiency on an alternative assessment approved by the board and which teachers may administer following the administration of the state assessment o reading; (4) who have received two years of reading intervention and were previously retained; (5) who through a reading portfolio document, the student's mastery of the state standards in reading equal to at least a level above the lowest achievement level on the state reading assessment. Su evidence must be an organized collection of the student's mastery of the state English/language arts standards that are assessed by the grade three state reading assessment. The Read to Succeed Off shall develop the assessment tool for the student portfolio; however, the student portfolio must meet the following minimum criteria: (a) be selected by the student's English/language arts teacher or summer reading camp instructor; (b) be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom; (c) include evidence that the benchmarks assessed by the grade three state reading assessment have been met. Evidence is to include multiple choice items and passages that are approximately sixt percent literary text and forty percent information text, and that are between one hundred and seven hundred words with an average of five hundred words. Such evidence could include chapter or u tests from the district or school's adopted core reading curriculum that are aligned with the state English/language arts standards or teacher prepared assessments; (d) be an organized collection of evidence of the student's mastery of the English/language arts state standards that are assessed by the grade three state reading assessment. For each benchmark th must be at least three examples of mastery as demonstrated by a grade of seventy percent or above; and (e) be signed by the teacher and the principal as an accurate assessment of the required reading skills; and (6) who successfully participate in a summer reading camp at the conclusion of the third grade year and demonstrate through either a reading portfolio or through a norm referenced, alternative assessment, selected from a list of norm referenced, alternative assessments approved by the Read to Succeed Office for use in the summer reading camps, that the student's mastery of the state stan in reading is equal to at least a level above the lowest level on the state reading assessment. (B) The superintendent of the local school district must determine whether a student in the district may be exempt from the mandatory retention by taking all of the following steps: (1) The teacher of a student eligible for exemption must submit to the principal documentation on the proposed exemption and evidence that promotion of the student is appropriate based on the student's academic record. This evidence must be limited to the student's individual education program, alternative assessments, or student reading portfolio. The Read to Succeed Office must provid districts with a standardized form to use in the process.
1,046	SECTION 59 155 170	State	Reading comprehension of print and nonprint texts authentic to content area. (A) To help students develop and apply their reading and writing skills across the school day in all the academic disciplines, including, but not limited to, English/language arts, mathematics, science social studies, the arts, career and technology education, and physical and health education, teachers of these content areas at all grade levels must focus on helping students comprehend print and nonprint texts authentic to the content area. The Read to Succeed Program is intended to institutionalize in the public schools a comprehensive system to promote high achievement in the content ar described in this chapter through extensive reading and writing. Research based practices must be employed to promote comprehension skills through, but not limited to: (1) vocabulary; (2) connotation of words; (3) connotations of words in context with adjoining or prior text; (4) concepts from prior text; (5) personal background knowledge; (6) ability to interpret meaning through sentence structure features; (7) questioning; (8) visualization; and (9) discussion of text with peers. (B) These practices must be mastered by teachers through high quality training and addressed through well designed and effectively executed assessment and instruction implemented with fidelity research based instructional practices presented in the state, district, and school reading plans. All teachers, administrators, and support staff must be trained adequately in reading comprehension i order to perform effectively their roles enabling each student to become proficient in content area reading and writing. (C) During Fiscal Year 2014 2015, the Read to Succeed Office shall establish a set of essential competencies that describe what certified teachers at the early childhood, elementary, middle or second levels must know and be able to do so that all students can comprehend grade level texts. These competencies, developed collaboratively with the faculty of higher education institutions and based o research and national standards, must then be incorporated into the coursework required by Section 59 155 180. The Read to Succeed Office, in collaboration with South Carolina Educational Televis shall provide professional development courses to ensure that educators have access to multiple avenues of receiving endorsements.

Legal Standards

1,047	SECTION 59 155 180	State	Pre service and in service teacher education programs. (A) As a student progresses through school, reading comprehension in content areas such as science, mathematics, social studies, English/language arts, career and technology education, and the art critical to the student's academic success. Therefore, to improve the academic success of all students in prekindergarten through grade twelve, the State shall strengthen its pre service and in service teacher education programs. (B)(1) Beginning with students entering a teacher education program in the fall semester of the 2016 2017 School Year, all pre service teacher education programs including MAT degree programs r require all candidates seeking certification at the early childhood or elementary level to complete a twelve credit hour sequence in literacy that includes a school based practicum and ensures that candidates grasp the theory, research, and practices that support and guide the teaching of reading. The six components of the reading process that are comprehension, oral language, phonological awareness, phonics, fluency, and vocabulary will provide the focus for this sequence to ensure that all teacher candidates are skilled in diagnosing a child's reading problems and are capable of provic an effective intervention. All teacher preparation programs must be approved for licensure by the State Department of Education to ensure that all teacher education candidates possess the knowled and skills to assist effectively all children in becoming proficient readers. The General Assembly is not mandating an increase in the number of credit hours required for teacher candidates, but is requ that pre service teacher education programs prioritize their missions and resources so all early and elementary education teachers have the knowledge and skills to provide effective instruction in re and numeracy to all students. (2) Beginning with students entering a teacher education program in the fall semester of the 2016 2017 School Year, all pre service teacher education programs, including MAT degree programs, mu require all candidates seeking certification at the middle or secondary level to complete a six credit hour sequence in literacy that includes a course in the foundations of literacy and a course in conte area reading. All middle and secondary teacher preparation programs must be approved by the department to ensure that all teacher candidates possess the necessary knowledge and skills to assist effectively all adolescents in becoming proficient readers. The General Assembly is not mandating an increase in the number of semester hours required for teacher candidates but rather is requiring pre service teacher education programs prioritize their mission and resources so all middle and secondary education teachers have the knowledge and skills to provide effective instruction in readin numeracy to all students. (C)(1) To ensure that practicing professionals possess the knowledge and skills necessary to assist all children and adolescents in becoming proficient readers, multiple pathways are needed for developing this capacity. (2) A reading/literacy coach shall be employed in each elementary school. Reading coaches shall serve as job embedded, stable resources for professional development throughout schools in order t generate improvement in reading and literacy instruction and student achievement. Reading coaches shall support and provide initial and ongoing professional development to teachers based on an analysis of student assessment and the provision of differentiated instruction and intensive intervention. The reading coach shall: (a) model effective instructional strategies for teachers by working weekly with students in whole, and small groups, or individually; (b) facilitate study groups; (c) train teachers in data analysis and using data to differentiate instruction; (d) coaching and mentoring colleagues; (e) work with teachers to ensure that research based reading programs are implemented with fidelity;
1,048	SECTION 59 155 190	State	Local school districts. Local school districts are encouraged to create family school community partnerships that focus on increasing the volume of reading, in school and at home, during the year and at home and in the community over the summer. Schools and districts should partner with county libraries, community organizations, local arts organizations, faith based institutions, pediatric and family practice med personnel, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports, services, and books that enhance reading development and proficiency. A district shall include specific actions taken to accomplish the requirements of this section in its reading proficiency plan.
1,049	SECTION 59 155 200	State	Promotion of reading and writing habits and skills development. The Read to Succeed Office and each school district must plan for and act decisively to engage the families of students as full participating partners in promoting the reading and writing habits and sl development of their children. With support from the Read to Succeed Office, districts and individual schools shall provide families with information about how children progress as readers and writ and how they can support this progress. This family support must include providing time for their child to read, as well as reading to the child. To ensure that all families have access to a considerable number and diverse range of books appealing to their children, schools should develop plans for enhancing home libraries and for accessing books from county libraries and school libraries and to in families about their child's ability to comprehend grade level texts and how to interpret information about reading that is sent home. The districts and schools shall help families learn about reading a writing through open houses, South Carolina Educational Television, video and audio tapes, websites, and school family events and collaborations that help link the home and school of the student. T information should enable family members to understand the reading and writing skills required for graduation and essential for success in a career. Each institution of higher learning may operate a round program similar to a summer reading camp to assist students not reading at grade level.
1,050	SECTION 59 155 210	State	Standards, practices, and procedures. The board and department shall translate the statutory requirements for reading and writing specified in this chapter into standards, practices, and procedures for school districts, boards, and their employees and for other organizations as appropriate. In this effort, they shall solicit the advice of education stakeholders who have a deep understanding of reading, as well as school boards, administrators, and others who play key roles in facilitating support for and implementation of effective reading instruction.
1,051	SECTION 59 156 110	State	South Carolina Child Early Reading Development and Education Program. There is created the South Carolina Child Early Reading Development and Education Program which is a full day, four year old kindergarten program for at risk children which must be made availab qualified children in all public school districts within the State. The program must focus on: (1) a comprehensive, systemic approach to reading that follows the State Reading Proficiency Plan and the district's comprehensive annual reading proficiency plan, both adopted pursuant to Chapt 155, Title 59; (2) successfully completing the readiness assessment administered pursuant to Section 59 155 150; (3) the developmental and learning support that children must have in order to be ready for school; (4) incorporating parenting education, including educating the parents as to methods that may assist the child pursuant to Section 59 155 110, 59 155 130, and 59 155 140; and (5) identifying community and civic organizations that can support early literacy efforts.

Legal Standards

1,052	SECTION 59 156 120	State	Trial districts. (A)(1) The South Carolina Child Early Reading Development and Education Program first must be made available to eligible children from the following eight trial districts in Abbeville County Schoo District et al vs. South Carolina: Allendale, Dillon 2, Florence 4, Hampton 2, Jasper, Lee, Marion 7, and Orangeburg 3. (2) With any funds remaining after funding the eight trial districts, the program must be expanded to the remaining plaintiff school districts in Abbeville County School District et al vs. South Carolin then expanded to eligible children residing in school districts with a poverty index of ninety percent or greater. Priority must be given to implementing the program first in those of the plaintiff distri which participated in the pilot program during the 2006 2007 School Year, then in the plaintiff districts having proportionally the largest population of underserved at risk four year old children. (3) With any funds remaining after funding the school districts delineated in items (1) and (2), the program must be expanded statewide. The General Assembly, in the annual general appropriation shall set forth the priority schedule, the funding, and the manner in which the program is expanded. (B) Unexpended funds from the prior fiscal year for this program shall be carried forward and shall remain in the program. In rare instances, students with documented kindergarten readiness barri especially reading barriers, may be permitted to enroll for a second year, or at age five, at the discretion of the Department of Education for students being served by a public provider or at the discre of the Office of South Carolina First Steps to School Readiness for students being served by a private provider.
1,053	SECTION 59 156 130	State	Eligibility for enrollment in program. (A) Each child residing in the program's district, who has attained the age of four years on or before September first of the school year and meets the at risk criteria, is eligible for enrollment in the Sc Carolina Child Early Reading Development and Education Program for one year. (B)(1) The parent of each eligible child may enroll the child in one of the following programs: (a) a school year four year old kindergarten program delivered by an approved public provider; or (b) a school year four year old kindergarten program delivered by an approved private provider. (2) The parent enrolling a child must complete and submit an application to the approved provider of choice. The application must be submitted on forms and must be accompanied by a copy of the child's birth certificate, immunization documentation, and documentation of the student's eligibility as evidenced by family income documentation showing an annual family income of one hundred five percent or less of the federal poverty guidelines as promulgated annually by the United States Department of Health and Human Services or a statement of Medicaid eligibility. (3) In submitting an application for enrollment, the parent agrees to comply with provider attendance policies during the school year. The attendance policy must state that the program consists of and one half hours of instructional time daily and operates for a period of not less than one hundred eighty days a year. Pursuant to program guidelines, noncompliance with attendance policies may in removal from the program. (C)(1) No parent is required to pay tuition or fees solely for the purpose of enrolling in or attending the program established under this chapter. Nothing in this chapter prohibits charging fees for childcare that may be provided outside the times of the instructional day provided in these programs. (2) If by October first of the school year at least seventy five percent of the total number of children eligible for the Child Early Reading Development and Education Program in a district or county a projected to be enrolled in that program, Head Start, or ABC Child Care Program as determined by the Department of Education and the Office of First Steps, Child Early Reading Development and Education Program providers may then enroll pay lunch children who score at or below the twenty fifth national percentile on two of the three DIAL 3 subscales and may receive reimbursement for children if funds are available.
1,054	SECTION 59 156 140	State	Application for school providers. (A) Public school providers participating in the South Carolina Child Early Reading Development and Education Program must submit an application to the Department of Education. Private provide participating in the South Carolina Child Early Reading Development and Education Program must submit an application to the Office of First Steps. The application must be submitted on the forms prescribed, contain assurances that the provider meets all program criteria set forth in this section, and will comply with all reporting and assessment requirements. (B) Providers shall: (1) comply with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for s education services; (2) comply with all state and local health and safety laws and codes; (3) comply with all state laws that apply regarding criminal background checks for employees and exclude from employment any individual not permitted by state law to work with children; (4) be accountable for meeting the educational needs of the child and report at least quarterly to the parent or guardian on his progress; (5) comply with all program, reporting, and assessment criteria required of providers; (6) maintain individual student records for each child enrolled in the program, including, but not limited to, assessment data, health data, records of teacher observations, and records of parent or guardian and teacher conferences; (7) designate whether extended day services will be offered to the parents and guardians of children participating in the program; (8) be approved, registered, or licensed by the Department of Social Services; and (9) comply with all state and federal laws and requirements specific to program providers. (C) Providers may limit student enrollment based upon space available, but, if enrollment exceeds available space, providers shall enroll children with first priority given to children with the lowest on an approved prekindergarten readiness assessment. Private providers must not be required to expand their programs to accommodate all children desiring enrollment, but are encouraged to kee waiting list for students they are unable to serve because of space limitations.

Legal Standards

1,055	SECTION 59 156 150	State	Duties of Department of Education, Read to Succeed Office, and Office of First Steps to School Readiness. The Department of Education, the Read to Succeed Office, and the Office of First Steps to School Readiness shall: (1) develop the provider application form; (2) develop the child enrollment application form; (3) develop a list of approved research based preschool curricula for use in the program based upon the South Carolina Content Standards, and provide training and technical assistance to support it effective use in approved classrooms serving children; (4) develop a list of approved prekindergarten readiness assessments to be used in conjunction with the program, and provide assessments and technical assistance to support assessment administr in approved classrooms serving children; (5) establish criteria for awarding new classroom equipping grants; (6) establish criteria for the parenting education program providers must offer; (7) establish a list of early childhood related fields that may be used in meeting the lead teacher qualifications; (8) develop a list of data collection needs to be used in implementation and evaluation of the program; (9) identify teacher preparation program options and assist lead teachers in meeting teacher program requirements; (10) establish criteria for granting student retention waivers; and (11) establish criteria for granting classroom size requirements waivers.
1,056	SECTION 59 156 160	State	Providers to offer complete educational program. (A) Providers of the South Carolina Child Early Reading Development and Education Program shall offer a complete educational program in accordance with age appropriate instructional practice a research based preschool curriculum aligned with school success. The program must focus on: (1) a comprehensive, systemic approach to reading that follows the State Reading Proficiency Plan and the district's comprehensive annual reading proficiency plan, both adopted pursuant to Chapt 155, Title 59; (2) successfully completing the readiness assessment administered pursuant to Section 59 155 150; (3) the developmental and learning support that children must have in order to be ready for school; (4) incorporating parenting education, including educating the parents as to methods that may assist the child pursuant to Section 59 155 110, 59 155 130, and 59 155 140, including strengthening parent involvement in the learning process with an emphasis on interactive literacy; and (5) identifying community and civic organizations that can support early literacy efforts. (B) Providers shall offer high quality, center based programs, including, but not limited to, the following: (1) employ a lead teacher with a two year degree in early childhood education or related field or be granted a waiver of this requirement from the Department of Education for public schools or fror Office of First Steps to School Readiness for private centers; (2) employ an education assistant with pre service or in service training in early childhood education; (3) maintain classrooms with at least ten four year old children, but no more than twenty four year old children, with an adult to child ratio of 1:10. With classrooms having a minimum of ten childre 1:10 ratio must be a lead teacher to child ratio. Waivers of the minimum class size requirement may be granted by the South Carolina Department of Education for public providers or by the Office of Steps to School Readiness for private providers on a case by case basis; (4) offer a full day, center based program with six and one half hours of instruction daily for one hundred eighty school days; (5) provide an approved research based preschool curriculum that focuses on critical child development skills, especially early literacy, numeracy, and social and emotional development; (6) engage parents' participation in their child's educational experience that shall include a minimum of two documented conferences for each year; and (7) adhere to professional development requirements outlined in this chapter.
1,057	SECTION 59 156 170	State	Classroom requirements; lead teacher; education assistants. (A) Every classroom providing services to four year old children established pursuant to this chapter must have a qualified lead teacher and an education assistant as needed to maintain an adult to ratio of 1:10. (B)(1) In classrooms in private centers, the lead teacher must have at least a two year degree in early childhood education or a related field and who is enrolled and is demonstrating progress toward completion of a teacher education program within four years. (2) In classrooms in public schools, the lead teacher must meet state requirements pertaining to certification. (C) All education assistants in private centers and public schools must have the minimum of a high school diploma or the equivalent, and at least two years of experience working with children unde years old. The assistant must have completed the Early Childhood Development Credential (ECD) 101 or enroll and complete this course within twelve months of hire. Providers may request waivers the ECD 101 requirement for those assistants who have demonstrated sufficient experience in teaching children five years old and younger. The providers must request this waiver in writing to First or the Department of Education, as applicable, and provide appropriate documentation as to the qualifications of the teaching assistant.
1,058	SECTION 59 156 180	State	Professional development. The General Assembly recognizes there is a strong relationship between the skills and preparation of prekindergarten instructors and the educational outcomes of students. To improve these educat outcomes, participating providers shall require all personnel providing instruction and classroom support to students participating in the South Carolina Child Early Reading Development and Educa Program to participate annually in a minimum of fifteen hours of professional development, including, teaching children from poverty. Professional development should provide instruction in strateg and techniques to address the age appropriate progress of prekindergarten students in developing emergent literacy skills, including, but not limited to, oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

Legal Standards

1,059	SECTION 59 156 190	State	Eligibility for transportation funds. Both public and private providers are eligible for transportation funds for the transportation of children to and from school. Nothing in this section prohibits providers from contracting with anothe entity to provide transportation services provided the entities adhere to the requirements of Section 56 5 195. Providers must not be responsible for transporting students attending programs outsi district lines. Parents choosing program providers located outside of their resident district shall be responsible for transportation. When transporting four year old child development students, provi shall make every effort to transport them with students of similar ages attending the same school. Of the amount appropriated for the program, not more than one hundred eighty five dollars for each student may be retained by the Department of Education for the purposes of transporting four year old students. This amount annually must be increased by the same projected rate of inflation as determined by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office for the Education Finance Act.
1,060	SECTION 59 156 200	State	Duties of Office of First Steps to School Readiness to private providers. For all private providers approved to offer services pursuant to this chapter, the Office of First Steps to School Readiness shall: (1) serve as the fiscal agent; (2) verify student enrollment eligibility; (3) recruit, review, and approve eligible providers. In considering approval of providers, consideration must be given to the provider's availability of permanent space for program service and wheth temporary classroom space is necessary to provide services to any children; (4) coordinate oversight, monitoring, technical assistance, coordination, and training for classroom providers; (5) serve as a clearing house for information and best practices related to four year old kindergarten programs; (6) receive, review, and approve new classroom grant applications and make recommendations for approval based on approved criteria; (7) coordinate activities and promote collaboration with other private and public providers in developing and supporting four year old kindergarten programs; (8) maintain a database of the children enrolled in the program; and (9) promulgate guidelines as necessary for the implementation of the program.
1,061	SECTION 59 156 210	State	Duties of Department of Education to public school providers. For all public school providers approved to offer services pursuant to this chapter, the Department of Education shall: (1) serve as the fiscal agent; (2) verify student enrollment eligibility; (3) recruit, review, and approve eligible providers. In considering approval of providers, consideration must be given to the provider's availability of permanent space for program service and wheth temporary classroom space is necessary to provide services to any children; (4) coordinate oversight, monitoring, technical assistance, coordination, and training for classroom providers; (5) serve as a clearing house for information and best practices related to four year old kindergarten programs; (6) receive, review, and approve new classroom grant applications and make recommendations for approval based on approved criteria; (7) coordinate activities and promote collaboration with other private and public providers in developing and supporting four year old kindergarten programs; (8) maintain a database of the children enrolled in the program; and (9) promulgate guidelines as necessary for the implementation of the program.
1,062	SECTION 59 156 220	State	Funding for students enrolled with private providers. (A) Eligible students enrolling with private providers during the school year must be funded on a pro rata basis determined by the length of their enrollment. (B) Private providers transporting eligible children to and from school must be eligible for a reimbursement of up to five hundred fifty dollars for each eligible child transported, funded on a pro rata determined by the length of the child's enrollment. Providers who are reimbursed are required to retain records as required by their fiscal agent. (C) Providers enrolling between one and six eligible children must be eligible to receive up to one thousand dollars for each child in materials and equipment grant funding, with providers enrolling or more such children eligible for grants not to exceed ten thousand dollars. (D) Providers receiving equipment grants are expected to participate in the program and provide high quality, center based programs for a minimum of three years. A provider who fails to participa three years shall return a portion of the equipment allocation at a level determined by the Department of Education and the Office of First Steps to School Readiness. Funding to providers is continge upon receipt of data as requested by the Department of Education and the Office of First Steps.
1,063	SECTION 59 156 230	State	Duties of Department of Social Services. The Department of Social Services shall: (1) maintain a list of all approved public and private providers; and (2) provide the Department of Education and the Office of First Steps information necessary to carry out the requirements of this chapter.
1,064	SECTION 59 156 240	State	Collection and maintenance of data. The Office of First Steps to School Readiness is responsible for the collection and maintenance of data on the state funded programs provided through private providers.
1,065	South Carolina Code of Regulations CHAPTER 43 - STATE BOARD OF EDUCATION	State	

Legal Standards

1,066	ARTICLE 3 REQUIREMENTS FOR TEACHER EDUCATION AND CERTIFICATION REGULATIONS 43-50 Persons Required to Hold a Teaching Certificate.	State	Each individual employed in an instructional, classroom teaching position or who serves in a position designed for the support of the instructional program in a public school of this state must hold a appropriate South Carolina teaching credential. The licensing of related educational professionals in the areas of Audiology, Nursing, and Social Work is remanded to the established licensing boards effective July 1, 2000. Individuals employed as Trade and Industrial teachers are required to meet all general certification requirements except where specified otherwise. HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999.
1,067	43-51 Certification Requirements.	State	I. Requirements for Certification The applicant must meet all requirements for certification that are in effect in the current application year (July 1 June 30). The responsibility for providing accurate and complete documentation of eligibility for certification is that of the applicant. To qualify for certification in South Carolina, the applicant must fulfill the following requirements: A. Earn a bachelor's or master's degree either from an institution that has a state approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE). Professional education credit must be earned through an institution that has a teacher education program approve initial certification. 1. Graduate degrees acceptable for certificate advancement include academic or professional degrees in the field of education or in an academic area for which a corresponding or relevant teaching is authorized by the State Board of Education. 2. All credit at the graduate level must be earned through the graduate school of an institution that is accredited for general collegiate purposes by a regional accreditation association and that has a regular graduate division that meets regional accreditation requirements. Graduate credit can also be earned through a South Carolina institution that has graduate programs approved for teacher education by the State Board of Education or through an institution that has graduate programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCAT B. Submit the required teacher area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of ge professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will be required for initial certification. Until that date, the general professional knowledg (pedagogy) examination will be required only for professional certification. C. Be at least eighteen years of age. D. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigat the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who hav prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate can be issued to them. Background checks from other states are not transferable to South Carolina. II. Acceptable Credits A. All credits are computed by semester hours; three quarter hours are equivalent to two semester hours. B. Duplicate credit will not be allowed for courses with the same title unless approved by the Office of Teacher Certification of the State Department of Education. III. Out of State Applicants A. To be eligible for a South Carolina teaching certificate, the out of state applicant must submit the teaching area examination score(s) and the score on the examination of general professional knowledge (pedagogy) that are required for certification in the state in which he or she holds a valid standard out of state certificate. If no tests were required for certification in the state where the individual holds a valid standard certificate, the applicant for South Carolina certification must submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. If the applicant has less than twenty seven months of successful teaching experience within the last seven years in the state in which he or she holds a valid standard certifica

Legal Standards

1,068	43-52 Application for Teaching Credential.	State	I. Required Documentation The Office of Teacher Certification requires the following forms of documentation from applicants for teacher certification: A. Application Form. The applicant must submit the completed State Department of Education application form. B. Recommendation Form. The applicant must include a completed "Verification of College Preparation: Recommendation for Teacher Certificate" form, signed by the dean or a designated college of C. College Transcripts. The applicant must submit complete and official transcript(s). Each transcript must bear the official seal of the institution, the signature of the designated official, the type of de earned, if any, and the date awarded. Only official transcripts will be accepted for certification purposes. Electronically transmitted transcripts from the individual college will be accepted as the technology becomes available in the State Department of Education. D. Examination Scores. The applicant must submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will be required for initial certification. Unti date, the general professional knowledge (pedagogy) exam will be required only for professional certification. Only official score reports will be accepted. E. Experience Verification. The applicant must submit appropriate verification of previous teaching experience. F. FBI Fingerprint Card and Background Check. The applicant must submit an FBI fingerprint card and must undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the FBI. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the State Board of Education and be approved befo certificate can be issued to them. Background checks from other states or agencies are not transferable to South Carolina. II. Application and Evaluation Fee The applicant must submit to the Office of Teacher Certification a nonrefundable fee for the evaluation and processing of each of his or her applications. III. Effective Date of Credential A. The effective date of the credential will be based upon the date of receipt of the complete certification application by the Office of Teacher Certification and/or request for additional area(s) of certification, certification renewal, or certificate advancement. An incomplete application will be considered active for a period of twelve months. If after twelve months the applicant has not submitt required documentation, the application will be archived. B. If the applicant becomes eligible for an initial certificate, certificate advancement, or certification renewal, requests received by the Office of Teacher Certification on or before November 1 will bec effective July 1 of the current school year. For requests from November 2 through April 30, changes become effective when the requirements are met, provided that full documentation, including the request, is received by the Office of Teacher Certification within forty five days after the applicant has fulfilled all requirement(s). Requests received forty five days or more after eligibility will be effe the date the request is received. Requests received after April 30 are effective on the following July 1. C. If an applicant holding a graded certificate or warrant qualifies for a professional certificate as the result of attaining the minimum qualifying score on the required certification examination, the upgraded credential will become effective the semester following the date of examination As a result of the authorization of the federal No Child Left Behind Act of 2001 (Pub. L. 107 110), graded certificates and warrants will become invalid at the end of the 2005 06 school year.
1,069	43-53 Credential Classification. (Statutory Authority: S.C. Code Ann. Section Section 59 5 60(1) (2004), 59 25 110 (2004), 59 26 10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq (2001))	State	I. Types of Credential Classification A. Initial Certificate An initial certificate is valid for three years. Beyond the initial three year validity period, teachers who do not yet meet the requirements for professional certification, but who are employed by a pub school district at the annual contract level, as defined in S.C. Code Ann. Section 59 26 40, may have their certificates renewed annually at the request of the employing school district. Teachers who hold initial certificates and are employed in a nonpublic school educational setting may have their certificates renewed annually for an indefinite period at the request of the education entity, provided that certificate renewal requirements, as specified in R.43 55 (Renewal of Credentials) are met every five years. Teachers who hold initial certificates but who are not employed by a public school district in a position requiring certification at the time the initial certificate expires, and who have not otherwise m requirements for professional certification, may reapply for an initial certificate at such time as they become employed by a public school district or private school, subject to the requirements for ini certification in effect at the time of reapplication. To qualify for an initial certificate, the applicant must fulfill the following requirements: 1. Earn a bachelor's or master's degree either from an institution that has a state approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE). Professional education credit must be earned through an institution that has a teacher education program approv initial certification. 2. Submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of ge professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will also be required for the initial certification. Until that date, the general professional knowledge (pedagogy) exam will be required only for the professional certification. 3. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigati the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who hav prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate may be issued. Background checks from other states or agencies are not transferable to South Carolina. B. Professional Certificate All professional certificates are valid for five years. To qualify for each successive level of professional certification (bachelor's degree, bachelor's degree plus 18 hours, master's degree, master's degr plus 30 hours, and doctorate), an applicant must 1. Meet all criteria for initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval and successfully complete the induction program, the ancillary requirements (including any additional testing requirements approved by the State Board of Education), and the formal evaluation of teaching perform and effectiveness approved by the State Board of Education OR 2. Successfully complete the requirements for reciprocity according to Interstate Agreement on Qualifications of Educational Personnel

Legal Standards

1,070	43-55 Renewal of Credentials.	State	I. For the purposes of this regulation an educator is defined as any person who holds a professional certificate issued by the South Carolina Department of Education. II. An educator's professional certificate is valid for five years and expires on June 30 of the expiration year. III. The total number of years an individual has held any type of temporary credential issued by the South Carolina Department of Education will be deducted from the normal five year period of the professional certificate at the time of issue. IV. To renew a professional certificate, educators must comply with all applicable guidelines relative to certificate renewal options and criteria, renewal credits, and verification requirements, in accordance with the current Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education, as follows: (A) An applicant who is employed in a position that requires educator certification must maintain verification of having earned a minimum of 120 renewal credits during the certificate's five year va period. Renewal credits may be earned through professional activities that directly relate to the educator's professional growth and development plan, support the goals of the employing educational entity, and promote student achievement, as required by Regulation 43 205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), and Regulation 43 165.1, Program for Assisting, Developing, and Evaluating Principal Performance (ADEPP). (B) An applicant who is not employed in a position that requires educator certification but who chooses to maintain a current certificate must submit verification of having earned a minimum of 120 renewal credits during the certificate's five year validity period. Renewal credits may be earned through professional activities that directly relate to the educator's current area(s) of certification or t formal program of study (master's, specialist, or doctorate) in a certification area in which the educator is officially enrolled. V. Educators who do not hold a master's degree must earn a minimum of sixty renewal credits of the 120 credits required during each five year validity period by completing at least three semester h of college credit at the graduate level. These credits must be earned from a national or regionally accredited college or university or through a college or university that has graduate programs approv for teacher education by the State Board of Education. VI. Renewal credits earned in state identified areas of critical needs may be applied toward certificate renewal. VII. Applicants must comply with current State Department of Education approved Certificate Renewal Plan guidelines relative to obtaining, verifying, and submitting renewal credits. Applicants also responsible for paying any required fee for credential renewal to the Office of Teacher Certification. VIII. Credit will not be allowed for a renewal activity that is repeated unless the activity has received prior written approval in writing from the Office of Teacher Certification. IX. Regulations governing effective dates of renewed certificates will be the same as those for initial and revised certificates, as specified in State Board of Education Regulation 43 52. X. A South Carolina professional teaching credential that has been expired (A) for less than five (5) years may be extended upon written request from the educator to the Office of Teacher Certification. This nonrenewable extension is valid for one (1) year, during which tim school district or educator must submit verification that the educator has fulfilled all current requirements for renewal of the Professional Certificate. Upon verification that all requirements have bee met, the Professional Certificate will be renewed for the remainder of the validation period (i.e., four additional years). (B) for more than five (5) years, but less than ten (10) years, may be extended for a maximum of one (1) year at the written request of the school district that intends to employ the educator. During one year extension, the school district or educator must submit verification that the educator has met all current requirements for renewal of the Professional Certificate. Upon verification that all requirements have been met, the Professional Certificate will be renewed for the remainder of the validation period (i.e., four additional years).
1,071	43-56 Foreign Applicants.	State	Applicants for initial teacher certification who have foreign transcripts or other credentials must consult with appropriate personnel at a regionally or nationally accredited college approved for teac education purposes or which has programs approved for teacher education by the South Carolina State Board of Education to determine if requirements are met in the certification area. HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999.
1,072	43-57 Prior Work Experience.	State	The State Department of Education shall maintain records indicating the work experience for which persons are entitled.
1,073	43-57.1 Computing the Experience of Teachers.	State	A. In the computation of experience credit, the following conditions will apply. 1. Full time equivalents (FTEs) of the 190 day school year will be utilized as the basis of computation. The minimum experience to be credited shall be one tenth (.1) FTE per year; the maximum experience to be credited shall be one (1) FTE per year. A school day is defined as a minimum of seven hours. 2. One year of experience may be credited provided the teacher is employed in a full time position for a minimum of eight tenths (.8) of the contract year but in no case fewer than 152 days. 3. Partial year experience may be utilized to compute full years of experience provided the sum of the partial experience meets the requirement stated in number 1, above. 4. Summer school teaching credit will be calculated at the rate of two (2) days of summer school as the equivalent of one (1) regular school day provided the teacher works one (1) session for four (4 hours per day or at the rate of one (1) regular school day provided the teacher works two (2) sessions for eight (8) hours per day. Summer school teaching credit may be added to partial years of experience. HISTORY: Amended by State Register Volume 16, Issue No. 3, eff March 27, 1992; State Register Volume 24, Issue No. 2, eff February 25, 2000; State Register Volume 25, Issue No. 6, eff June 22, 2001.

Legal Standards

1,074	43-57.2 Teaching Experience Acceptable for Credit.	State	A. To receive experience credit, the applicant must provide an official description of the professional duties for which he or she wishes to receive the credit. These duties must have been connected to primary educational program through teaching, education administration, curriculum development, or teacher training. With the exception of trade and industry experience credit (see R. 43 63), employment must meet the requirements for full time or half time employment as stated below. B. For an individual to receive experience credit, he or she must verify full time or half time employment in one of the following educational positions: 1. A professional position in a public, private, or parochial elementary or secondary school. 2. A professional position in a regionally or nationally accredited institution of higher education or an institution with teacher education programs approved by the South Carolina State Board of Education. 3. A position as a teacher's aide, provided the applicant had an earned undergraduate degree during the period of employment. 4. A professional education position in a teacher exchange program or a city, county, state, or federal education program for school aged or adult populations. 5. A professional education or training position in a privately funded education program for school aged or adult populations. 6. A professional education position in a city, county, state, or federal educational system that supports the primary education program for a school aged or adult population. HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 25, Issue No. 6, eff June 22, 2001.
1,075	43-57.5 Military Service.	State	Experience credit may be granted for up to five years of service in the Armed Forces provided the applicant held a valid South Carolina or out of state teaching credential prior to or during the period military service.
1,076	43-58 Disciplinary Action on Educator Certificates. (Statutory Authority: S.C. Code Ann. Section Section 59 1 445 (2004), 59 5 60 (2004), 59 5 65 (2004), 59 25 110, et seq. (2004), 59 25 530 (2004), 59 26 40 (2004), and 20 7 840, et seq. (Supp. 2004))	State	The State Board of Education has the legal authority to deny, revoke, or suspend a certificate, or issue a public reprimand for the following causes: 1. incompetence, 2. willful neglect of duty, 3. willful violation of the rules and regulations of the State Board of Education, 4. unprofessional conduct, 5. drunkenness, 6. cruelty, 7. crime against the law of this state or the United States, 8. immorality, 9. any conduct involving moral turpitude, 10. dishonesty, 11. evident unfitness for the position for which one is employed, 12. sale or possession of narcotics, 13. obtaining or attempting to obtain a certificate by fraudulent means or through misrepresentation of material facts, 14. failure to comply with the provisions of a contract without the written consent of the local school board, 15. test security violation, 16. failure to comply with a court order for child support, and 17. failure for a second time to complete successfully the formal evaluation process as an annual contract teacher. HISTORY: Amended by State Register Volume 30, Issue No. 5, eff May 26, 2006.
1,077	43-58.1 Reporting of Terminations of Certain School District Employees.	State	A district superintendent, on behalf of the local board of education, shall report to the Chair of the State Board of Education and the State Superintendent of Education, the name and certificate numbe any certified educator who is dismissed, resigns, or is otherwise separated from employment with that district based on allegations of misconduct including, but not limited to, misconduct involving sexual misconduct, the commission of a crime, immorality, moral turpitude, or dishonesty, that is reasonably believed by the district superintendent to constitute grounds for revocation or suspensio the certificate issued to the educator by the State Board. This report is required notwithstanding any termination agreement to the contrary that the district board of trustees or superintendent may into with the educator. The reasons for the educator's termination of employment with the district shall also be provided along with all evidence in the possession of the district relating to the termin The intentional failure of a district board of trustees to instruct the district superintendent to report the termination of school employees as required by this regulation shall be considered by the Sta Department as an accreditation deficiency pursuant to R43 130 and, upon approval of the State Board of Education, all district schools will be placed on an accreditation status of probation. The intentional failure of a district superintendent to report the termination of employees as required by this regulation shall be considered an act of unprofessional conduct and may be sufficient ca for revocation of such person's education certificate pursuant to Section 59 25 160, Code of Laws of South Carolina, 1976. Pending the issuance of a Final Order revoking or suspending a certificate by the State Board in a proceeding pursuant to Section 59 25 260, Code of Laws of South Carolina, 1976, no preliminary information gathered by the State Department of Education concerning misconduct reasonably believed to constitute grounds for revocation or suspension of a certificate, including the name and certificate number of the certified educator, shall be disclosed to any third party. HISTORY: Amended by State Register Volume 17, Issue No. 7, eff July 23, 1993.

Legal Standards

1,078	43-62 Requirements for Additional Areas of Certification.	State	I. GENERAL INFORMATION A. Individuals who desire to add areas of certification to an existing certificate must complete a State Board of Education approved program and present a passing score on the appropriate content ar examination(s) in the specific subject field, or complete the following add on certification requirements specified by the Board. B. In the event that the State Board of Education should eliminate, revise, or adopt new certification areas, currently certified individuals who are affected may retain the areas of certification for whi they previously qualified. However, the State Board of Education may require previously certified individuals to upgrade their certification by completing the new requirements within a specified pe of time. C. The following designations apply to the grade spans for teacher certification in South Carolina, effective September 1, 2005. CERTIFICATION GRADE SPANS Early childhood = pre-Kindergarten-grade 3 Elementary = grades 2–6 Middle-level = grades 5–8 Secondary = grades 9–12 The areas of art, music, physical education, English for Speakers of Other Languages (ESOL), foreign languages, theater, and exceptional children education (all categories) have a pre Kindergarten (p 12) grade span. D. Instructional areas may not be added to certificates in guidance, media specialist, or school psychologist unless the applicant has completed a teacher education program designed and approved fo initial certification purposes. E. Certification is divided into four sections: (1) regular program, (2) exceptional children education, (3) career and technology education, and (4) other types of specialized certification. II. REGULAR PROGRAM ADD ON CERTIFICATION REQUIREMENTS The following areas are included: A. Art B. Driver Education C. Early Childhood Education D. Elementary Education E. English F. English for Speakers of Other Languages (ESOL) G. Gifted and Talented
1,079	43-62 continued…	State	A. ART 1. Bachelor's degree 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education 4. Specialized Preparation Semester Hours Art History/Appreciation 6 Work devoted to the basic techniques of design and color 6 Work devoted to drawing and painting (the student should 6 use as many different media as possible) School art program 3 Crafts 3 B. DRIVER EDUCATION 1. Bachelor's degree 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level 3. Evidence of at least three years of successful driving experience. Applicant must provide a copy of his or her driver's record from the applicable state transportation department. An applicant whos driver's license has six or more points against it will not be accepted for add-on certification in driver education. 4. Valid driver's license issued by South Carolina or another state in which the teacher is a legal resident. (If a teacher holding certification in driver education has his or her driver's license revoked suspended, the teacher must report this action to the Office of Educator Certification upon which the certification in driver education will automatically be rescinded.) 5. Professional education The following twelve (12) hours are required to add the area of driver education to an existing certificate. Semester Hours Basic instructor's course in driver education 3 Advanced instructor's course in driver education 3 Electives (from the list below) 6 Range and Simulation of Driver Education Emergency Maneuvers Multimedia Systems in Traffic Safety Education Research Methods in Traffic Safety Education General Safety Drugs in Relation to Highway Safety Motorcycle Safety Education Administration of Traffic Safety Education

Legal Standards

1,080	43-62 continued…	State	1. Bachelor's Degree 2. Initial or professional certificate at the early childhood or elementary level, or in special education or Speech and Language 3. Minimum qualifying score on the content area examination(s) required by the State Board of Education 4. Specialized Preparation Semester Hours Human Growth and Development 3 Introduction to Early Childhood Special Education 3 Partnerships in Early Childhood Special Education: Team- 3 ing with Parents and Professionals Assessment of Young Children with Disabilities 3 Procedures for Working with Young Children with Disabili- 3 ties Social/Emotional Development and Guidance for Young Children with Disabilities Practicum/Field Experience* 3 *Practicum may be waived based on two years' successful experience teaching young children with disabilities. NOTE: Individuals who have three (3) years teaching experience within the last five (5) years with young children with disabilities (birth to six years) will be granted add-on certification in Early Childhood Special Education by achieving the minimum qualifying score on the content area examination(s) required by the State Board of Education for Early Childhood Special Education within th year period. Timeline: Effective July 1, 2016, all individuals working as Early Childhood Special Education teachers will be required to hold certification in Early Childhood Special Education. B. EDUCATION OF BLIND AND VISUALLY IMPAIRED 1. Bachelor's degree 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education 4. Specialized Preparation Semester Hours Teaching of Reading 3 Nature of Visually Impaired 3 Educational Procedures for Visually Impaired 3 Braille—Reading and Writing 3
1,081	43-62 continued…	State	4. Specialized Preparation Semester Hours Accounting 6 Business Communications 3 Business Law Computer applications and technology (to include, but not 9 be limited to: word processing, spreadsheets, database management, and Web publishing//multimedia) Economics 3 Entrepreneurship 3 Hospitality, Tourism or Hotel/Motel Management 3 International Business 3 Management 3 Marketing 3 Instructional Methods for Teaching Business, Marketing, 3 Computer Technology C. COMPUTER PROGRAMMING (for Career and Technology Education programming courses) 1. Bachelor's degree 2. Initial or professional certificate at the secondary level in any subject area. 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education 4. Specialized Preparation Semester Hours Computer programming (any combination of currently rele- 9 vant language(s) being used in business) Note: Programming courses completed at the post-secondary level within the past five years may be counted toward this endorsement. D. FAMILY AND CONSUMER SCIENCE 1. Bachelor's degree 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

Legal Standards

1,082	43-62 continued…	State	a. Bachelor's degree b. Initial or Professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level AND c. Six semester hours in the following courses Semester Hours Living in Poverty 3 One course from among the following: 3 Language, Literacy, and Poverty Teaching and Assessing Children of Poverty Home, Community, and Classroom Partnerships in High Poverty Areas 2. Add-on Certification a. Bachelor's degree b. Initial or Professional certificate at the early childhood, elementary, middle, secondary or pre-K-12 level c. Specialized Preparation Semester Hours Living in Poverty 3 Language, Literacy, and Poverty 3 Teaching and Assessing Children of Poverty 3 Home, Community, and Classroom Partnerships in 3 High Poverty Areas NOTE: All courses must include a field experience component. HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 26, Issue No. 2, eff February 22, 2002; State Register Volume 28, Issue No. 6, eff June 25, 2004; S Register Volume 30, Issue No. 5, eff May 26, 2006; State Register Volume 32, Issue No. 7, eff July 25, 2008; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 35, Issue No. June 24, 2011; State Register Volume 36, Issue No. 5, eff May 25, 2012; State Register Volume 38, Issue No. 6, Doc. No. 4422, eff June 27, 2014.
1,083	43-63 Requirements for Career and Technology Education Work Based Certification.	State	A. POLICIES AND REGULATIONS GOVERNING CERTIFICATION The policies and regulations governing the certification requirements for Career and Technology Education educators as presented in this document replace all such procedures and regulations appr prior to this publication, except as indicated. (1) Certificates are issued in levels based on educational background and experience in the field in which the certificate is requested. The level of the certificate is used to determine salary. (2) Career and Technology Education Program Areas Covered in This Regulation (a) Engineer/Industrial Technology Cluster: All courses in this program area are included in this regulation. Entry level into teaching these courses shall be defined in this regulation. (b) Family and Consumer Sciences Cluster: The courses covered in this program area are Clothing and Interior Design, Culinary Arts, and Early Childhood. An associate degree is the minimum requirement for entry level into teaching these courses. (c) Health Science Technology Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses. (d) Hospitality and Tourism Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses. (e) Information Technology Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses. B. PERSONS REQUIRED TO HOLD A CERTIFICATE (1) A valid South Carolina educator's certificate is required of each individual employed in an instructional or classroom teaching position in a public school of this state. (2) Each individual who serves in a position designed for the support of the instructional program is also required to hold the appropriate South Carolina educator's certificate. C. REQUIREMENTS FOR CERTIFICATION (1) The applicant must meet all requirements for certification that are in effect on the date of receipt by the Office of Teacher Certification, Division of Teacher Quality, of all required documentation. responsibility for providing accurate and complete documentation of eligibility is that of the applicant. (2) Age requirement: A person must be at least 18 years of age before making application for an educator's certificate. (3) The Application (a) The statement of qualifications or appropriate educator's application should be secured from the Office of Teacher Certification, Division of Teacher Quality, State Department of Education, Colu South Carolina 29201. The completed application should be submitted to the same address. (b) The applicant will be informed in writing after the application is received what documentation is necessary to complete the certification process. (4) Documentation Required (a) Verification of all work experience in the field for which the applicant wishes to be certified must be provided (Forms available). Work experience completed while in the armed forces may be validated by providing official military documents certified as true copies by a notary public. These documents must show what the work experience was and the time served in that field. (b) Two (2) technical references from employers in the area for which the applicant wishes to be certified must be provided (Forms available). (c) A notarized copy of high school diploma or state high school equivalency certificate. (d) Official transcripts of any college or technical college credit must be provided. Transcripts must be sent directly from the registrar and bear the seal of the issuing institution (Request form availa

Legal Standards

1,084	43-64 Requirements for Certification at the Advanced Level.	State	I. ADMINISTRATION A. Elementary School Principal and Supervisor (Tier 1) 1. Master's degree 2. Valid South Carolina Educator's Professional Certificate at the elementary level 3. Minimum qualifying score(s) on the area examinations required by the State Board of Education 4. Verification of three years' teaching experience, including at least one year of teaching in grades Pre K 8 5. Completion of an advanced program approved by the State Board of Education for the training of elementary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the Principal Induction Program (PIP) in the principal's first year, as well as an overall rating of Proficient or Exemplary on the Program for Assisting, Developing, and Evaluating Princi Performance (PADEPP) evaluation instrument in the second year of employment as a principal. B. Secondary School Principal and Supervisor (Tier 1) 1. Master's degree 2. Valid South Carolina Professional Certificate at the secondary level 3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education 4. Verification of three years' teaching experience, including at least one year of teaching in grades 7 12 5. Completion of an advanced program approved by the State Board of Education for the training of secondary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the PIP in the principal's first year, as well as an overall rating of Proficient or Exemplary on the PADEPP evaluation instrument in the second year of employment as a principal. C. Elementary or Secondary School Principal or Supervisor (Tier 1 Alternative Route for Career Changers) 1. Master's degree 2. Verification of at least three years of successful experience in leadership, supervision, upper level management, or other position in a business, corporation, agency, or the military with responsibi similar to those of a principal 3. Recommendation for elementary or secondary principal certification (Tier 1 Alternative Route for Career Changers) by the superintendent of a South Carolina public school district interested in employing the individual as an assistant principal 4. Elementary or Secondary Principal Certification (Tier 1 Alternative Route for Career Changers. A one year certificate that may be extended annually provided that the following requirements are (a) Year One: At the end of this year, the South Carolina Department of Education (SCDE) must receive verification that the educator has completed a full year of experience as an assistant principal public school, has received a passing score on the area examination(s) required for certification of principals by the State Board of Education, and has received a successful rating on an SCDE approve evaluation instrument from the employing school district. Additionally, the employing school district must submit a written request for a one year extension of the educator's elementary or secondar principal certificate (Tier 1 Alternative Route for Career Changers). (b) Years Two and Three: At the end of each of these years, the SCDE must receive verification that the educator has completed a full year of experience as an assistant principal in a public school an
1,085	ARTICLE 4 TEXTBOOK REGULATIONS 43-70 Textbook Adoption Regulation. (Statutory Authority: 1976 Code Section Section 59 5 60 and 59 31 550 Code of Laws of South Carolina) SECTION 1. Statutory Authority	State	Pursuant to Sections 59 5 60 and 59 31 550, the State Board of Education shall have the responsibility and duty to adopt the instructional materials used for instruction in the free public schools of Sc Carolina subject to the provisions of the sections that follow. South Carolina contract statutes and any other applicable State laws guide the instructional materials adoption process. SECTION 2. Instructional Materials Evaluation Criteria General criteria governing the adoption of instructional materials shall be developed and revised by the State Department of Education and presented to the State Board of Education. Specific subjec criteria are contained in the grade level education standards adopted by the State Board as well as each curriculum framework, occupational education core curriculum, and other program area mate which are not addressed within the standards and or curriculum framework and shall be used in the evaluation process. SECTION 3. Instructional Materials Advisory Committee The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, an Instructional Materials Advisory Committee. The Committee shall consist of fifteen members; six members who are actively engaged in teaching in South Carolina public schools; eight members who are actively engaged in school work either administratively or supervisory, at least from each congressional district and two at large; and one lay citizen, preferably a former member of the State Board of Education. It is the intention of the State Board that the Committee membersh include members whose interests reflect the needs of all students served by the educational system. Seven of the members shall be appointed for a term of two years; eight shall be appointed for a ter four years. Thereafter, the term of all appointed members shall be four years. The Committee shall be facilitated by appropriate staff members from offices of the State Department of Education. The duties of the Advisory Committee shall be to study continually the Instructional Materials Review, Selection, and Distribution Process and make recommendations to the State Board of Educatio through the State Superintendent of Education as to changes needed in the process to meet the needs of students, schools, and school districts for instructional materials. The Committee should addr recommendations in regard to exercising options in existing contracts; recommendations in regard to renegotiating expiring contracts; and recommendations for prioritization of purchases should f not be available. The Committee shall give careful attention to new and improved methods of presenting instructional materials. The Committee is authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state. The Instructional Materials Advisory Committee shall meet annually at the call of the Chair. Additional meetings, when necessary, may be held at the call of the Chair, a majority of its members, on re by the State Board of Education, or the State Superintendent of Education. However, the State Board of Education reserves the right to limit the number of official meetings this Committee may hold i school year. The Instructional Materials Advisory Committee may make curriculum reports when in its judgment such reports are deemed advisable. The Committee shall report to the State Board of Education later than May of each year any changes needed to be made in the Instructional Materials Review, Selection, and Distribution Process during the following school year. SECTION 4. Instructional Materials Review Panels Established The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, Instructional Materials Review Panel or Panels for each area for which a curriculum framework has been adopted by the State Board of Education, occupational education core curriculum, or other program areas not addressed within a curriculum framework. The number of Panels needed and number of Panel members needed for each framework, occupational education core curriculum, or other program area shall be included in the recommendation from the State Superinte of Education. Names of potential Review Panel members shall be obtained from district superintendents, State Board of Education members, curriculum framework writing teams, State Department Education curriculum specialists, and others. For each position there shall be a nominee and one alternate. In the event the nominee does not accept, the State Superintendent of Education is authoriz

Legal Standards

1,086	43-71 Free Textbooks. (Statutory Authority: 1976 Code Section Section 59 5 60 and 59 31 360)	State	Section 1. Free Basal Textbook Enabling Act. Pursuant to Section 59 31 360 to provide "free basal textbooks" in Grades 1 through 12, S. C. State Board of Education does hereby set forth procedures fo ordering instructional materials. Section 2. Requisition for Free Instructional Materials. Requisitions for free instructional materials shall be made only to the South Carolina Department of Education (SCDE) , in accordance with "Instructional Materials Management Procedures for Schools", by completing the official current order form or on internet using the ordering system on the South Carolina Instructional Materials Ce Depository website. Section 3. Provisions for Requisitioning and Distributing Free Instructional Materials. A. Acquisition of Free Instructional Materials on Levels of Achievement. Any pupil who is a member of any grade within the free instructional materials program may be assigned free instructional materials on the appropriate achievement level as indicated by tests and other evaluations. B. Allocation of Instructional Materials to Schools. The SCDE shall provide a schedule of instructional materials allocation formulas to the State Board of Education for information annually. The form shall be based on available funding provided by the General Assembly for the Instructional Materials program; the average cost of adopted instructional materials; and the prescribed percentage of to membership used in calculating materials allocations. C. Educable Mentally Handicapped (Special Education) Reading Primary classes shall be eligible for necessary reading materials not to exceed two pre readiness readers and/or readiness programs a one beginning reading program. Section 4. Changing to New Titles or Series. A school may change to a new title or series in a subject area only when new material on the same level is adopted by the State Board of Education. Schools not return materials presently on the state adopted list to be exchanged for other titles or series, except limited changes that are justified by variations in student achievements. Any books materials exchanged must be on different levels of difficulty. Provided, that the Board shall have the authority to limit or postpone the acquisition of titles or series for such period of time as may be deemed advisable. Section 5. Property of the State. Title to all materials issued to schools and depositories under the Free Textbook Act shall be vested in the State. (Legislative Provision). Section 6. Responsible Parties. The district board of trustees shall be responsible for the proper custody of all materials in its schools and depositories and shall be responsible for the administration Instructional Materials Management Procedures for Schools in those schools and depositories. Section 7. Distribution to Schools. The county or district board of trustees shall elect from the procedures listed below the system of distribution to be used. A. County Depository: A county depository may be established through which all materials in the county will be distributed. B. District Depository: A district depository may be established through which all materials in the district will be distributed. C. School Depository: A school depository may be established through which all materials in the school will be distributed. The board of trustees may designate an agent to operate the depository, maintain adequate records and make necessary reports and remittances to the responsible office at the SCDE; however, such designation does not relieve the board of its responsibilities. Section 8. Shipping of Instructional Materials. Each school or depository will be sent a Shipment Advisory listing the materials shipped to it. The school or depository agent shall verify the materials received with the materials listed on the Shipment Advisory. If the title(s) and number of materials received do not agree with the title(s) and number of materials on the Shipment Advisory, a report
1,087	43-73 Disposition of Instructional Materials Samples after State Adoption Process.	State	A. Sample copies of instructional materials, textbooks, and supplementary materials furnished to members of the Instructional Materials Review Panels shall remain in possession of panel members u the adoption process has been completed. State Board of Education action on recommendations from the panels will be considered as the completion of the adopted cycle in a given year. Samples furnished by publishers shall be handled in the following manner: 1. The publisher shall notify the State Department of Education of its intent to reclaim samples when official bids are submitted. 2. Each publisher electing to reclaim samples must arrange for collecting samples at its own expense from panel members within 30 days after the State Board of Education has approved the adoptio 3. Where publishers do not elect to reclaim samples or fail to collect the materials according to the procedures set forth in the policy, panel members may use them in their own work, donate them to public schools, state supported institutions, or charitable non profit organizations. 4. A panel member or employee of the State Department of Education shall not dispose of any instructional material samples or supplementary materials for profit or personal gain. 5. Samples furnished to the State Department of Education that are not adopted may be reclaimed at the publisher's expense by mail or picked up by the publisher's representative within 30 days af the adoption. Any samples not collected after 30 days may be donated to public schools, state supported institutions, or charitable non profit organizations but may not be sold. 6. A sample copy of all adopted instructional materials including workbooks and other supplemental materials shall be stored at the State Department of Education for the duration of the contract w publisher. 7. Samples of materials stored at the State Department of Education, with expired contracts, be sent to the Central Depository for donating to public schools, state supported institutions, charitable n profit organizations, or disposing/recycling but may not be sold. B. Samples of Non Textbook Materials 1. A publisher may propose in writing to the instructional materials adoption program coordinator an alternative plan for sampling of non textbook materials (kits, software, Internet based program etc.). If the proposal is approved by the program coordinator such sampling shall be deemed acceptable for meeting State Board of Education sampling requirements. 2. Samples under the approved alternative plan must be reclaimed from panel members in the same manner as traditional samples as stated in A.2. of this policy. Unless excluded by the alternative p the State Department of Education shall retain non textbook samples of adopted materials and access to adopted Internet programs for the duration of the contract with its publishers. HISTORY: Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003.

Legal Standards

1,088	ARTICLE 5 TRANSPORTATION REGULATIONS 43-80 Operation of Public Pupil Transportation Services. (Statutory Authority: 1976 Code Sections 59 5 60, 59 67 20, 59 67 410 and 59 67 570)	State	A. The school district board of trustees shall be responsible to the State Board of Education for the supervision of the school transportation program in the district. This shall include the recruitment o school bus drivers, employment and dismissal of school bus drivers, supervision of school bus drivers and the pupils being transported, proposed routing of buses, accurate transportation records as mileage, number of pupils transported pursuant to Section 59 67 100, driver's time reports, school bus safety, and enforcing all other transportation regulations. The recruitment and employment of school bus drivers and supervisory personnel is the responsibility of the school district board of trustees. The transportation of pupils is an integral and essential part of the school program, and teac and administrative personnel shall be assigned to school bus duties in the interest of the transportation program. B. Transportation on regular school bus routes is authorized for public school pupils. Public school pupils include three year to five year old pupils that are disabled, kindergarten pupils in half day programs, and the K 12 regularly enrolled students during the 180 day school year. Three and four year old children attending public school sponsored kindergarten or child development programs r be permitted to ride state owned buses to the extent funds are made available by the General Assembly. Special programs operated and/or sponsored by the governing body of the school district may school buses as long as transportation services are paid for by the school district at no cost to the State and do not disrupt school bus maintenance servicing or regular school bus routes. A special pro is any education or other program sponsored by the school district that is not a program required by State statute or regulation to be operated by the school district. A student that is disabled shall be accompanied by an aide if the student's Individual Education Program so specifies. Assignment of buses for new routes will be made on the basis of actual need. Justification must be submitted showing that all buses presently assigned to the district or area are being used to the maximum before additional equipment can be assigned. To enhance school bus routing effectiveness, kindergarten pupils shall be assigned to morning or afternoon sessions on the basis of where they live. C. The State shall not be required to operate buses for high school, junior high school, middle school, and elementary school pupils separately. Approval of separate transportation will be given only w such transportation can be accomplished with the same number of buses and approximately the same mileage. The schedule of work and the opening and closing hours for all schools served by the s buses must be arranged so as to facilitate a maximum amount of school work and at the same time permit the operation of a satisfactory and economical transportation program. School districts shal stagger school opening times when feasible to maximize the use of the school bus transportation system. D. Five year old through grade 12 public school pupils that have temporary physical handicaps or have a chronic disorder of lengthy duration may have their parents or guardians apply for these stu to receive special school bus transportation services. The application process is as follows: 1. Secure appropriate forms from the District Superintendent. 2. Have the pupil examined by a licensed medical doctor and receive a written statement from the licensed medical doctor to the effect that without special school bus transportation service, unusua hardship will be experienced by the pupil in walking the required distance to the regular route. 3. Submit the statement from the licensed medical doctor to the District Superintendent for approval. 4. The District Superintendent shall submit the health statement with a Request For Special School Bus Transportation Service approval to the local representative of the State Department of Educat Approval by the State Department of Education shall be required before a change in a school bus route for this purpose becomes official. 5. Approval for such a change in school bus routes shall terminate at the time the pupil no longer qualifies for special school bus transportation service, or when the pupil for whom the service was intended has moved residences.
1,089	43-80 continued…	State	Certificate A Authorizes an individual to operate any school bus owned or leased by the State, a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students. Certificate B Authorizes an individual to only operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transportin school students. Certificate C Authorizes an individual to operate a school bus owned or leased by a private school or a childcare facility when the school bus is an FFSB. Additionally, the individual is authorized to operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students. Certificate categories B and C are divided into two sub classifications: commercial vehicles and non commercial vehicles. The non commercial classification is established to certify individuals to onl operate a school bus that is not classified as a Commercial Motor Vehicle by the South Carolina Department of Motor Vehicles (SCDMV). In order to obtain any one of the SCDE School Bus Driver's Certificates, either an A, B, or C, an individual seeking certification or renewal must successfully complete all requirements established by t regulation and the related tests of the SCDE and SCDMV. Certificates are only issued by the SCDE. The SCDE School Bus Driver Certification Program includes requirements that are common to all three (3) certificate categories plus requirements that are unique to a driver certificate category. The common requirements that all drivers must satisfy for issuance and renewal of an SCDE School Bus Driver's Certificate are as follows. 1. Driver candidates must not have or have had in the past twelve (12) months more than four (4) points against his/her driver license or driving Motor Vehicle Record (MVR). 2 Driver candidates shall successfully complete the SCDE School Bus Driver's Classroom Training Program. 3. Driver candidates shall have a physical examination administered by a qualified medical examiner; the driver must pass the examination every two years, or more frequently if directed by the med examiner. The physical examination shall be administered using an "SCDE Medical Examination Report for Commercial Driver Fitness Determination" form provided by the South Carolina Departme Education or the United States Department of Transportation "Medical Examination Report" form. The driver candidate must provide the certificate testing administrator his or her qualifying Medica Examination Report prior to taking the school bus driver physical performance test and the commercial driver's license skills test. The school bus driver candidate must provide a copy of the qualifyi Medical Examination Report to his or her employer. An employer may require additional physical examinations as the employer determines to be appropriate. The State assumes no responsibility fo cost incurred by the employer or driver for the physical examinations required by this regulation. 4. Driver candidates shall successfully pass the SCDE School Bus Driver Physical Performance Tests. 5. Driver candidates shall successfully complete a minimum of 10 hours of SCDE Behind the Wheel Road Skills Training, for initial issuance only. 6. Driver candidates shall pass the SCDE Behind the Wheel Road Skills Examination. 7. Drivers must show proof that they are covered by and will continue to be covered by a substance abuse program. The program must comply with state and Federal laws requiring drivers to partic in a drug and alcohol testing program encompassing at a minimum: (1) a substance abuse policy; (2) a substance abuse education program; (3) substance abuse testing (including pre employment, reasonable suspension, post accident, and random selection testing); and (4) a substance abuse referral assistance program. The substance abuse testing program shall comply with the U. S. Departm Transportation Regulation, Title 49, Chapter III, Section 382 et al., and Federal Highway Administration for testing drivers of commercial vehicles. 8. The driver candidate must satisfy the above common requirement items 3 though 7 within one hundred and eighty (180) days after successfully completing item 2.

Legal Standards

1,090	ARTICLE 6 TEACHER TRAINING INSTITUTIONS 43-90 Program Approval Standards for South Carolina Teacher Education Institutions.	State	The South Carolina State Board of Education requires that all teacher education programs meet the performance based standards as established by the National Council for Accreditation of Teacher Education (NCATE). For State Board of Education approval, public institutions must seek and receive NCATE accreditation. Private institutions may seek NCATE accreditation or meet NCATE standar State Board of Education approval. The State Department of Education will develop guidelines to assist teacher education programs to meet the NCATE performance based standards. Statutory autho to determine accreditation decisions for and impose sanctions against teacher education programs is granted to the State Board of Education. HISTORY: Amended by State Register Volume 19, Issue No. 6, eff July 1, 1996; State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002.
1,091	ARTICLE 7 TEST SECURITY 43-100 Test Security. (Statutory Authority: 1976 Code Section 59 1 447)	State	I. Tests administered by or through the State Board of Education shall include but are not limited to: A. The statewide tests; as defined in the State Board of Education Regulation 43 262 including field tests and pilot tests; B. Examinations for admission to teacher education program and teacher certification examinations; C. Examinations for admission to programs such as the gifted and talented program; D. The High School Equivalency Program test (GED). II. As used in this regulation, "local school board" means the governing board of a public school district as well as those of special school districts, special schools, and institutions that utilize tests administered by or through the State Board of Education. III. Each local school board must develop and adopt a district test security policy. The policy must provide for the security of the materials during testing and the storage of all secure tests and test materials, before, during, and after testing. Before and after testing all materials must be stored at a location(s) in the district under lock and key. This also applies to district owned materials that are same as those used in any State operated testing or assessment program. Throughout the time testing materials are under the control of the school district, tests must be secured under lock and key not in use for approved test administration activities. IV. Each District Superintendent must designate annually one individual in each district for each mandated assessment who will be the sole individual in the district authorized to procure test instru that are utilized in testing programs administered by or through the State Board of Education. The name of the designated individual must be provided to the State Department of Education (SDE) in writing. When the testing program involves procurement of materials available commercially, the designated individual must be the sole individual in the district authorized to procure commercial t instruments which are utilized in testing programs administered by or through the State Board of Education. V. State owned test materials and district owned materials that are the same as those utilized in any State mandated testing program must not be used for census testing in the grades included in the mandated program(s) except on testing dates specified by the State Department of Education. VI. Individuals must adhere to all procedures specified in all operating manuals governing the mandated testing programs. Manuals are provided by or through the SDE. VII. A. The State Board of Education may invalidate test scores that reflect improbable gains and that cannot be satisfactorily explained through changes in student populations or instruction; B. In cases where test results are invalidated because of a breach of security or action of the State Board of Education, any programmatic, evaluative, or certification criteria dependent upon the data be deemed to not have been met. VIII. Any individual(s) who knowingly engage(s) in any activity that results in the invalidation of scores derived from teacher certification examinations, the examinations for admission to teacher education programs, and/or the High School Equivalency Program test (GED) forfeits all opportunities to retake the test(s). IX. Any knowing involvement in the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to a test administration site for any of the tests administered b through the State Board of Education will be considered a breach of test security within the meaning of S.C. Code Ann. Section 59 1 445 (1990). Any individual(s) who knowingly cause(s) or allow(s) presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to any test administration site specified in this paragraph forfeits all opportunities to retake the tes X. Each of the following is considered a breach of professional ethics which may jeopardize the validity of the inferences made on the basis of test data, and as such are viewed as security violations w could result in criminal prosecution and/or disciplinary action to an educator's professional certificate.
1,092	ARTICLE 10 DEFINED MINIMUM PROGRAM 43-130	State	Repealed by State Register Volume 38, Issue No. 6, Doc. No. 4401, eff June 27, 2014.
1,093	ARTICLE 13 GENERAL SCHOOL ADMINISTRATION 43-161 Appointment (Term) of School Superintendent.	State	Each school district shall employ a chief administrative officer who serves as the executive officer of the board of trustees and the professional leader of the school district. Administrators serving as or district superintendents for the first time after June 30, 1968, shall hold a superintendent's certificate. Annually, by October 15, the chairman of the district board of trustees shall request an out of permit from the Office of Teacher Education and Certification for a superintendent not properly certified.
1,094	43-162	State	Repealed by State Register Volume 38, Issue No. 6, Doc. No. 4391, eff June 27, 2014.

Legal Standards

1,095	43-165.1 Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP).	State	I. PURPOSE The State Board of Education, through the South Carolina Department of Education, is required to adopt statewide performance standards and criteria that shall serve as a foundation for all processe used for assisting, developing, and evaluating principals employed in the school districts of this state. School districts shall use the standards and procedures adopted by the State Board of Education the purposes of conducting evaluations and guiding the professional development of principals. Districts are to consider evaluation results in making decisions regarding principal development, compensation, promotion, retention, and removal. The South Carolina Department of Education shall ensure the implementation of the principal evaluation in the school districts. Principals must be evaluated using the Performance Standards and Criteria for Principal Evaluation adopted by the State Board of Education. Additional performance standards and criteria may be established by the superintendent. As required by S.C. Code Ann. Section 59 24 30, the principal's annual Professional Development Plan (PDP) shall be established on the basis of the PADEPP Perfor Standards and Criteria and the school's renewal plan. II. DEFINITIONS FOR THE PURPOSES OF THIS EVALUATION PROGRAM A. PRINCIPAL: A principal is the chief administrative head or director of an elementary, middle, or secondary school or of a vocational, technical, special education, or alternative school. Induction principals are those serving for the first time as building level principals. These principals are considered probationary until they have completed the requirements of the Principal Induction Progran (PIP) and have received an overall rating of Proficient or Exemplary on the PADEPP evaluation instrument in the second year of employment as a principal. B. EVALUATOR: The evaluator is the district superintendent and/or the superintendent's designee. All evaluators must have successfully completed the Office of School Leadership's (OSL) Program f Assisting, Developing, and Evaluating Principal Performance (PADEPP) training before evaluating principals. C. EVALUATION INSTRUMENT: The evaluation instrument developed by the South Carolina Department of Education is based upon the PADEPP Performance Standards and Criteria and is available the Office of School Leadership. In lieu of the state instrument, districts may request permission to use an alternative evaluation process that meets state requirements and national standards. This instrument must be approved by the South Carolina Department of Education and the State Board of Education. D. EVALUATION CYCLE: The evaluation cycle shall be consistent with the school year as defined by law. After the induction year, principals shall be evaluated annually. A full evaluation using all PAD Performance Standards will be conducted every other year. Principal evaluations on years between full evaluations will include Performance Standard 2 Instructional Leadership, Performance Stand rated the previous year as "Needs Improvement", and any additional Performance Standards identified for growth in the Principal's Professional Development Plan (PDP). Full evaluations may, of cou be conducted every year, if the superintendent chooses to do so. III. PROGRAM IMPLEMENTATION A. PRINCIPALS WITH TIER 1 CERTIFICATION (1) First year principals shall participate in an induction program as provided for in State Board of Education Regulation 43 167, "Principal Induction Program." The superintendent or his or her des shall provide the first year principal with written and oral feedback relative to each performance standard and criterion. Principals are to receive this feedback at least at mid year and end of year conferences. The superintendent or his or her designee will observe, collect relevant data, consult with the first year principal on a regular and consistent basis, and provide the first year principal wi informal written evaluation.
1,096	43-166 Student and School Safety.	State	A. School Safety Assessment 1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the follo topics: a. the existence of a comprehensive safety plan; b. communication of discipline policies and procedures; c. intra agency and interagency emergency planning; d. recording of disruptive incidents; e. training of staff and students; f. assessment of buildings and grounds; g. procedures for handling visitors; h. assignment of personnel in emergencies; i. emergency communication and management procedures; and j. transportation rules and accident procedures. 2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990. 3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state. 4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59 5 65, S.C. Code of Laws, 1976. This safety assessm should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59 20 60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools c list should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness. B. First Aid Supplies Each school shall provide adequate first aid supplies and equipment. C. Support for Authorities The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers. D. Emergency and Disaster Plans A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each schoo conduct at least one emergency drill within the first month of school to insure safety against such disasters. E. Guidelines will be developed by the State Department of Education which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Edu will review and update these guidelines as needed.

Legal Standards

1,097	43-167 Principal Induction Program. (Statutory Authority: 1976 Code Section Section 59 5 60 and 59 24 80)	State	A. Purpose The purpose of the Principal Induction Program is to add one component of many strategies which are to be combined by the districts to meet the intent of the Education Accountability Act to impro teaching and learning so that students are equipped with a strong academic foundation. The Principal Induction Program will assist public school districts in providing support and professional development for first year principals. The State Board of Education recognizes that a school district makes one of its most important personnel decisions when it appoints a principal. The Board also recognizes the value of formal inducti programs that provide novice school principals with an academy that focuses on developing and refining the leadership skills necessary to help their faculties provide the most effective instructional programs possible. Therefore, the following regulations have been developed to facilitate the implementation of the South Carolina Principals Induction Program. B. Definitions 1. The Principal Induction Program is a yearlong program (July to June) of support and professional development for new principals in which instructional leadership skills, use of effective schools research, and planning for curricular improvement through the analysis of test scores are central components of the curriculum. 2. A principal is the chief administrator or head building administrator of any public elementary or secondary school or specialized education unit as defined by the local school district, or the chief administrator of an occupational education center. 3. A Principal Induction Program mentor is an experienced, practicing building level principal or director selected by the school district superintendent designee to provide support and assistance to principals. C. Participation 1. Beginning with the school year 1999 2000, any person appointed to serve for the first time as a building level principal, director of a specialized education unit, or occupational education center director must participate in the Principal Induction Program. 2. Principals appointed after the Principal Induction Program Summer Institute held for a week in July must participate in a make up session in September and in Induction Program activities for the remainder of that school year. D. Program Design and Content The Principal Induction Program must consist of New Principals' Academy activities provided by the State Department of Education and school district orientation activities provided by the individu school districts as follows: 1. The combination of time for New Principals' Academy and district activities must not be less than twelve days: five days for the New Principals' Academy Summer Institute, three days for New Principals' Academy follow up meetings, two days for district orientation activities, and two days for professional development related to the individual new principal's Professional Development Pla 2. Districts developing their own program in lieu of the program offered by the Leadership Academy must secure approval of the program from the South Carolina Leadership Academy. 3. Each district must design a district orientation for new principals. Activities should include, but are not limited to, fiscal/budgetary policies and procedures, plant maintenance procedures, special education policies, student support services, outside agencies available in the district, curriculum requirements and resources, human resource policies and procedures, including ADEPT, and instruc on the Principal Evaluation Program criteria and standards.
1,098	43-168 Nutrition Standards for Elementary Schools (K 5) School Food Service Meals and Competitive Foods. (Statutory Authority: Students Health and Fitness Act, 2005 S.C. Acts 59 (to be codified at S.C. Code Ann. Section 59 1 310) and S.C. Code Ann. Section 59 5 60 (2004))	State	I. School Meals Federal law specifically, the National School Lunch Act (42 U.S.C. Section 1758(f), the National School Lunch Program (7 C.F.R. Section 210.10), and the School Breakfast Program (7 C.F.R. Section 22 regulates the nutritional quality of foods served in the nation's school meal programs. For a school meal program to receive USDA subsidies, school meals must meet nutrition standards for saturated vitamins, minerals, protein, calories, and portion sizes. A. School food service meals should be made attractive to students by appealing to their taste preferences and meeting their cultural needs. Therefore, school districts must: 1. Offer a choice of entrées at lunch a minimum of two in elementary (K 5) schools (one choice may be an entrée salad). 2. Encourage input regarding the selection of food items in elementary (K 5) schools to be offered in the school meal programs by promoting and encouraging student and parent participation in tas testing events, in menu review panels, and in online recipe reviewing. 3. Require that school cafeteria managers meet with student advisory committees in grades four through five a minimum of twice each year. 4. Allow students to purchase at à la carte prices additional servings of any food item that is part of a reimbursable school meal (serving sizes should be comparable to those of the meal components). B. School food service meals should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of health eating behaviors in students, including their learning to eat a variety of foods. Therefore, school districts must: 1. Offer a minimum of two milk choices (1 percent fat and nonfat milk) for all grade levels at breakfast and lunch. Whole milk is no longer required by USDA regulations. 2. Offer a low fat meal choice (30 percent or less of calories from fat) at every meal. 3. Provide low fat and nonfat salad dressings. 4. Provide information on calories, percentages of fat, and serving sizes of school meal items to help children select appropriate portions of food. 5. Offer a minimum of four choices of fruits and vegetables daily, including fresh fruits and vegetables in season, in elementary (K 5) schools (salad bars or prepackaged salads may be included). Stud can take two to four servings based on the school district's discretion. 6. Offer whole grain foods in all programs in elementary (K 5) schools, whenever possible, to meet bread and cereal requirements. 7. Encourage preschool, kindergarten, and elementary students to try a variety of foods by serving the full reimbursable meal. II. Other Foods and Beverages (Competitive Foods) A. All foods sold at any K 5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must: 1. Ensure that one serving of snacks, sweets, and side dishes has no more than 30 percent of calories from fat, less than 10 percent of calories from saturated fat, no more than 1 percent of calories fr trans fatty acids, and no more than 35 percent of added sugar by weight. (Note: Nuts, seeds, and some cheeses are exceptions. Although more than 30 percent of their calories come from fat, these foo can be considered appropriate and nutritious snacks when served in small portions.) 2. Limit single serving food items sold to students to the following maximum portion sizes: 1.25 ounces for snacks (includes baked chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruits,

Legal Standards

1,099	43-169 Food Service Management Company Contracts	State	I. PURPOSE Pursuant to regulations and policy guidelines promulgated by the United States Department of Agriculture (USDA), the South Carolina Department of Education (SCDE) is charged with the state leve administration and monitoring of local child nutrition programs funded by and subject to the provisions of the National School Lunch, Breakfast, and After School Snack Programs. Part of this responsibility relates to the development, execution, and monitoring of contracts between local child nutrition programs and private food service management companies. This regulation provides th statewide contract template and uniform timeframe shall be used for all contracts approved by the SCDE. II. DEFINITIONS A. SCHOOL FOOD AUTHORITY (SFA): A school food authority (SFA) is USDA verbiage used to identify any public school district, private, parochial, and charter school, as well as residential child care facility that participates in the National School Lunch, Breakfast, and After School Snack Programs. B. FOOD SERVICE MANAGEMENT COMPANY (FSMC): A food service management company (FSMC) is USDA verbiage used to identify a private sector entity that manages a child nutrition program fo SFA versus the SFA operating their own program. III. IMPLEMENTATION A. SOUTH CAROLINA DEPARTMENT OF EDUCATION (SCDE) RESPONSIBILITIES (1) The SCDE shall create and update, as needed, a template contract document with appropriate terms and conditions that encompass all federal and state requirements for procurement agreemen child nutrition programs. (2) The SCDE shall communicate all contractual requirements to all affected parties as part of any solicitation, bid, award, and final contract process initiated by a SFA. (3) The SCDE reserves the right to accept, modify, and/or reject any request for deviations and/or amendments to the template contract document. B. SCHOOL FOOD AUTHORITY (SFA) RESPONSIBILITIES (1) A SFA shall communicate in writing any requested deviations and/or amendments to the template contract document, to include a justification as to why said changes are necessary. C. FOOD SERVICE MANAGEMENT COMPANY (FSMC) RESPONSIBILITIES (1) A FSMC shall communicate in writing any requested deviations and/or amendments to the template contract document, to include a justification as to why said changes are necessary D. CONTRACT TIMEFRAMES (1) The fiscal year for all food service management company contracts shall commence on July 1 and conclude on June 30. HISTORY: Added by State Register Volume 35, Issue No. 6, eff June 24, 2011.
1,100	ARTICLE 14 FISCAL MANAGEMENT 43-171.1 Disbursement of Funds for Pressing Repairs, Renovations and Construction	State	I. ALLOCATION OF FUNDS Funds will be allocated to the district annually on a per pupil basis, based on the Districts' 135 day cumulative average daily membership for the previous fiscal year. These funds are to be kept in an account separate from all other funds allocated from the State General Fund. II. QUALIFICATION CRITERIA 1. In order to qualify for allocation of the funds, the District Board of Trustees shall: a) Maintain at least the level of financial effort per pupil for non capital programs as in prior years as set forth under Division V of the Education Improvement Act: and b) By June 30, 1985, adopt and file with the Division of General Services a procurement code modeled after the South Carolina Consolidated Procurement Code or the model set forth in the Report o Local Government Task Force on procurement Code or the model set forth in the Report of the Local Government Task Force on procurement as set forth under Division V, Section 6 of the Education Improvement Act. III. PURPOSE OF FUNDS Funds are available for two purposes pursuant to Subdivision G, Section 1: (a) For the renovation, capital improvement, or repair of school classrooms, libraries, laboratories, and other institutional facilities including music rooms as set forth in the Education Improvemen (b) For the reduction of millage required to pay principal and interest on bonds issued for any capital improvement programs. IV. STIPULATIONS REGARDING EXPENDITURE OF FUNDS 1. If a school district has issued bonds or otherwise undertaken any capital improvement programs during any of the most recent five fiscal years, at least fifty percent of the funds allocated from the Education Improvement Act funds must be used to reduce the millage required to pay debt service on such outstanding bonds unless a waiver is granted by the State Board of Education. (See V. WAI (Subdivision G. Section 1(b) A Capital Improvement Program for purposes of this funding is defined as incurring debt for school building purposes or levying and collecting school taxes for school building purposes over the district's last five fiscal years averaged at least one half the amount of Education Improvement Act Funds the district is entitled to receive during Fiscal Year 1984 85. If the district has fiscal autonomy to any degree, it shall provide for the manner in which the school millage must be reduced. If the district does not have fiscal autonomy, the governing body of the c wherein the district is located shall provide for the manner in which the school millage must be reduced. (Subdivision G, Section 1(c) 2. Funds must be expended, in accordance with the rules set forth in the "South Carolina School Facilities Planning and Construction Guide." 3. The funds authorized herein for reduction in millage for debt service may not be expended in conjunction with the authorization of bonds that increase a school district's bonded indebtedness ab the limit provided for in Article X of the South Carolina Constitution or expended to pay debt serve on bond anticipation notes authorized which would put the total bonded indebtedness of the schoo district (general obligation and bond anticipation) above the constitutionally mandated limit. (Subdivision G, Section 1(d) 4. Any funds received pursuant to the Education Improvement Act must be expended or contractually committed within forty eight months of the appropriation provided for school buildings under act. No school district may use the funds allocated for school building purposes for operational, instructional, or any purposes other than those enumerated in these regulations. Any school district using these funds as herein prohibited is prohibited from receiving any other funds under this act until the school district has reimbursed the Education Improvement Act of 198

Legal Standards

1,101	43-172 Accounting and Reporting	State	I. Pupil Accounting According to Section 4, paragraph (1)(c) of the South Carolina Education Finance Act of 1977, each pupil in the state shall be counted in only one of the pupil classifications and must meet all qualific both general and specific, before the pupil can be classified and claimed in a public school. A. General Qualifications Criteria: 1. A pupil will be counted in membership on the first day of entrance in an instructional program either through original entry, reentry, or transfer. 2. Membership is defined as the number of pupils present plus the number of pupils absent. 3. Cumulative average daily membership is the aggregate number of days in membership divided by the total number of days the school is in session. 4. A pupil shall maintain membership in the appropriate instructional program for the minimum length of the school day. 5. To be eligible for membership a pupil must not be more than twenty one years old (or in a graduating class and becomes twenty one before graduation) before September 1 of the current school y 6. A pupil shall be dropped from membership on the day when the number of unlawful days absent exceeds ten consecutive days or when the pupil leaves school because of transfer, death, expulsion graduation, legal withdrawal, or for any other reason. Notwithstanding any other provision, students with disabilities who have been expelled and continue to receive educational services pursuant t Regulation 43 279 (Section V, Part D) shall not be dropped from membership. 7. An unlawful absence is defined in State Board of Education Regulation 43 274. 8. A class period is defined as a minimum of fifty minutes, or an accumulation of the equivalency of 120 hours required for a Carnegie Unit of Credit. 9. A pupil whose program of instruction meets the criteria for more than one category shall be classified in the highest weighted category. B. Specific Qualifications Criteria: 1. A pupil shall be five years old or older on or before September 1 of the current school year to be admitted in a kindergarten program. 2. Specific qualifications for grades 1 12 a. A pupil shall be six years old or older on or before September 1 of the current school year to be admitted to the first grade. b. b. A pupil in an ungraded class shall be classified in the grade level corresponding to the pupil's age. c. A pupil shall maintain membership in a minimum of 200 minutes of daily instruction or its equivalency for an annual accumulation of 36,000 minutes. 3. Specific qualifications criteria for exceptional programs a. To be counted in membership in an exceptional program, a pupil must be at least five (5) years of age by September 1 of the current school year, except for hearing disabled or visually disabled pu who must be at least four (4) years of age by September 1 of the current school year. b. To be counted in membership in a disabilities program, a pupil must be placed in a program in specific compliance with Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Disabled. c. A pupil must maintain membership in a program designed for the appropriate disability and meet the time constraints for regular programs consistent with the provisions of the Defined Program d. An itinerant program is one where specialized instruction, materials, and/or equipment is delivered within the framework of a regular education setting. A resource room program is one in which
1,102	ARTICLE 15 BUSINESS MANAGEMENT 43-180. Repealed by State Register Volume 37, Issue No. 5, eff May 24, 2013	State	
1,103	43-181. Repealed by State Register Volume 37, Issue No. 5, eff May 24, 2013	State	
1,104	43-183. Repealed by State Register Volume 37, Issue No. 5, eff May 24, 2013	State	
1,105	43-187. Repealed by State Register Volume 37, Issue No. 5, eff May 24, 2013	State	
1,106	43-188 Displaying the Flag. (Statutory Authority: S.C. Code Ann. Section Section 59 5 60 (2004), 59 1 320 (2004) and 4 U.S.C. Section 1, et seq.)	State	I. Display of the United States Flag Schools shall display the United States flag each school day and shall fly the flag in accordance with the laws regulating the display of the United States flag as set forth in 4 U.S.C. Section 6 10 and consistent with the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10 1 161. II. South Carolina Flag The South Carolina flag shall be flown consistent with 4 U.S.C. Section 6 10 and the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10 1 161 as it applies to the flyin state flags with the United States flag. HISTORY: Added by State Register Volume 30, Issue No. 5, eff May 26, 2006. Amended by State Register Volume 38, Issue No. 6, Doc. No. 4403, eff June 27, 2014.
1,107	ARTICLE 16 FACILITY EXPANSION PROGRAM 43-190. Repealed by State Register Volume 37, Issue No. 5, eff May 24, 2013	State	

Legal Standards

1,108	43-191. Repealed by State Register Volume 37, Issue No. 5, eff May 24, 2013	State	
1,109	ARTICLE 17 PERSONNEL 43-201.1. Repealed by State Register Volume 38, Issue No. 6, Doc. No. 4409, eff June 27, 2014	State	
1,110	43-205 Administrative and Professional Personnel Qualifications, Duties, and Workloads. (Statutory Authority: S.C. Code Ann. Section 59 5 60 (2004), 20 U.S.C. Section 6301 et seq. (2002) [No Child Left Behind Act of 2001], and S.C. Code Ann. Section 59 59 10 et seq. (Supp. 2005))	State	I. District Level Administrative Personnel Personnel employed as administrative assistants, supervisors, and consultants having responsibilities for supervising instructional programs and student services must hold a master's degree and b certified in their area of primary responsibility or must earn a minimum of 6 semester hours annually toward appropriate certification. The district superintendent must request from the Office of Educator Certification an out of field permit for members of the central staff who are not properly certified. II. Prekindergarten through Grade Five A. Professional Personnel Qualifications and Duties 1. Principals Each school with an enrollment of more than 375 students must be staffed with a full time properly certified principal. Each school with an enrollment of fewer than 375 students must be staffed wi least a part time properly certified principal. A principal's duties and responsibilities are to be prescribed by the district superintendent. The district superintendent must request an out of field perm from the Office of Educator Certification for each principal who is not properly certified. 2. Assistant Principals or Curriculum Coordinators Each school with an enrollment of 600 or more students must be staffed with at least one full time properly certified assistant principal or curriculum coordinator. 3. Teachers, Guidance Counselors, and Library Media Specialists Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the "highly qualified" teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301 et seq. (2002). The core academic subjects are English, reading or language arts, mathematics science, foreign languages, civics, government, economics, history, geography, and the arts. The duties and responsibilities of teachers, guidance counselors, and library media specialists are to be prescribed by the school principal. The district superintendent must request an out of field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library m specialist who is not properly certified. 4. School Nurses Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervisio professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulatio governing nursing in South Carolina. B. Professional Personnel Workload 1. Regular Education Teachers (a) The average student teacher ratio in any school must not exceed 28:1 based on the average daily enrollment. The total number of teachers must include all regular, special area, and resource tea whose students are counted in the regular enrollment. (b) Each district must maintain an average student teacher ratio of 21:1 based on the average daily enrollment in reading and mathematics classes in grades one through three.

Legal Standards

1,111	43-205 continued…	State	(c) Class sizes must not exceed the following student teacher ratios: Grade Level Maximum Student- Teacher Ratio Prekindergarten 20:1 Grades K-3 30:1 Grades 4–5, English language arts and mathematics 30:1 Grades 4–5, all other subjects 35:1 (d) Paraprofessionals may be counted in computing the student teacher ratio at the rate of .5 per paraprofessional if they work under the supervision of a teacher and make up no more than 10 perc of the total staff. Excluded from the computation are the following: (1) teachers of self contained special education classes, prekindergarten and kindergarten classes, principals, assistant principals, library media specialists, and guidance counselors; and (2) students in self contained special education classes, prekindergarten classes, or kindergarten classes. 2. Guidance Counselors and Specialists in Art, Music, and Physical Education (a) Schools having any combination of grades one through five must employ the full time equivalent (FTE) of a school guidance counselor and specialists in art, music, and physical education (PE) in following ratios for each area: Average Daily Enrollment 800 or more FTE 1.0 Minimum Allotted Time Daily 300 minutes 640–799 .8 240 minutes 480–639 .6 180 minutes 320–479 .4 120 minutes
1,112	43-205 continued…	State	4. School Nurses Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervisio professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulatio governing nursing in South Carolina. 5. Career Specialists Each career specialist must work under the supervision of a certified guidance counselor. The career specialist must hold a bachelor's degree and must have earned either Global Career and Develop Facilitator (GCDF) certification or Career Development Facilitator (CDF) certification. The guidance counselor may serve as the career specialist if he or she holds the GCDF or the CDF credential. B. Professional Personnel Workload 1. Guidance Counselors (a) Schools with fewer than 600 students must provide the services of a guidance counselor in the following ratios: Minimum Allotted Time Enrollment Daily Up to 200 100 minutes 201 to 300 150 minutes 301 to 400 200 minutes 401 to 500 250 minutes 501 to 600 300 minutes (b) Schools with an enrollment of 501 or more students must employ one full time certified counselor. Schools with more than 600 students must provide guidance services at the ratio of one 50 m period for every 100 students or major portion thereof. (c) A career specialist may be employed to provide career guidance services. (d) By the 2011 12 school year, the student to guidance personnel ratio will be reduced to 300 to 1 as funds become available. 2. Library Media Specialists (a) Schools with fewer than 400 students must employ a library media specialist who devotes not less than 200 minutes daily to library media services. (b) Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full time to library media services. (c) Schools having an enrollment of 750 or more must employ an additional full time person (paraprofessional or certified library media specialist) in the library media center. 3. Classroom Teachers

Legal Standards

1,113	43-205 continued…	State	(b) In addition to being staffed with a full time principal/director, each school with an enrollment of 500 or more students must be staffed with at least one full time properly certified assistant principal/assistant director and a properly certified assistant principal or the equivalent for each additional 500 students. 3. Teachers, Guidance Counselors, and Library Media Specialists Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the "highly qualified" teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301 et seq. (2002). The core academic subjects are English, reading or language arts, mathematics science, foreign languages, civics, government, economics, history, geography, and the arts. Their duties and responsibilities are to be prescribed by the principal. The district superintendent must re an out of field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library media specialist who is not properly certified. 4. School Nurses Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervisio professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulatio governing nursing in South Carolina. 5. School Transition Coordinators When a school to work transition coordinator is employed, the coordinator must be certified in one or more occupational subjects, have at least a bachelor's degree, and have two years' work exper In lieu of these requirements, a qualified person with an employment background in business or industry may be employed as a school to work transition coordinator if the person possesses at least bachelor's degree and five years of business/industry work experience in the fields of personnel or administration. 6. Career Specialists Each career specialist must hold a bachelor's degree and must have earned either Global Career and Development Facilitator (GCDF) certification or Career Development Facilitator (CDF) certificati The guidance counselor may serve as the career specialist if he or she holds GCDF or CDF certification. If this person is to provide classroom instruction, he or she must be certified. B. Professional Personnel Workload 1. Guidance Counselors (a) Schools with fewer than 600 students must provide the services of a guidance counselor in the following ratios: Enrollment Minimum Allotted Time Daily Up to 200 100 minutes 201 to 300 150 minutes 301 to 400 300 minutes
1,114	43-205 continued…	State	(b) Cross categorical classes must not exceed the following student teacher ratios: Area Maximum Ratio Based on Average Daily Enrollment Mental Disabilities (mild) and Learning Disabilities 18:1 Mental Disabilities (mild), Learning Disabilities, and Emotional Disabil- 17:1 ities Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, 16:1 and Orthopedically Impaired When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross categorical class, a full time teaching assistant must be employed. (c) The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on average daily enrollment is as follows: Area Maximum Teaching Load Mental Disabilities (mild) 33 students Emotional Disabilities 33 students Learning Disabilities 33 students Mental Disabilities (moderate and severe) and Orthopedically 20 students Impaired Visually Impaired 15 students Deaf and Hard of Hearing 15 students (d) When resource room and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability. (e) The maximum caseload for speech language therapists must not exceed 60 students.

Legal Standards

1,115	43-205.1 Assisting, Developing, and Evaluating Professional Teaching (ADEPT)	State	I. State Standards for Professional Teaching Teacher preparation programs and school districts must address, but are not limited to, the performance standards for Assisting, Developing, and Evaluating Professional Teaching (ADEPT), as speci in the State Board of Education's ADEPT implementation guidelines. II. Teacher Candidates A. All teacher education programs must adhere to State Board of Education regulations governing the preparation and evaluation of teacher candidates. B. Each teacher education program must develop and implement a plan for preparing, evaluating, and assisting prospective teachers relative to the ADEPT performance standards in accordance with State Board of Education's ADEPT implementation guidelines. ADEPT plans must be approved by the State Board of Education prior to implementation. C. By July 1 of each year, teacher education programs must submit assurances to the South Carolina Department of Education (SCDE) that they are complying with the State Board of Education's ADE implementation guidelines. Proposed amendments to previously approved ADEPT plans must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation. D. Teacher education programs must submit information on their teacher candidates, as requested annually by the SCDE. E. The SCDE will provide teacher education programs with ongoing technical assistance such as training, consultation, and advisement, upon request. III. Induction Contract Teachers A. Teachers who possess a valid South Carolina pre professional teaching certificate, as defined by the State Board of Education, may be employed under an induction contract for up to, but not to exc three years. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under induction cont B. Each local school district must develop and implement a plan to provide induction contract teachers with comprehensive guidance and assistance throughout each induction year. District inductio plans must comply with the State Board of Education's guidelines for assisting induction contract teachers and must be approved by the State Board of Education prior to implementation. C. On or before the date that the district extends offers of teaching employment for the following school year, teachers employed under induction contracts are to be notified in writing concerning th employment status. Teachers who complete an induction contract year may, at the discretion of the school district, be employed under another induction contract or an annual contract, or they may released from employment. Teachers who are released may seek employment in another school district at the induction contract level. The maximum induction period for a teacher is three years, regardless of the district in which the teacher is employed. A teacher who is completing a third year of induction is eligible for employment at the annual contract level. D. School districts must submit information on all teachers employed under induction contracts, as requested annually by the SCDE. Available flow through funds to school districts will be provided first year induction teacher basis. E. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for assisting induction contract teachers. A copy of the district's proposed induction timeline must accompany the assurances. Proposed amendments to the district's previously approved induction plan must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation. F. By June 20 of each year, school districts must submit end of year information on teachers employed under induction contracts and on the employment contract decisions made for the following ye requested by the SCDE.
1,116	43-205.1 continued…	State	An annual contract teacher who has demonstrated potential but who has not yet met the formal evaluation criteria set by the State Board of Education and/or the requirements set by the local board trustees is eligible for a diagnostic assistance year at the annual contract level. This diagnostic assistance year must be provided, if needed, at the discretion of the employing school district, either du the teacher's first annual contract year or during the annual contract year following the teacher's first unsuccessful formal evaluation. A teacher is eligible to receive only one diagnostic assistance yea the end of the diagnostic assistance year, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may se employment in another school district at the annual contract level. A diagnostic assistance year must be followed by formal (summative) evaluation at the annual contract level during the teacher's n year of teaching employment. 4. An annual contract teacher who for the second time fails to meet the formal evaluation criteria set by the State Board of Education will have his or her teaching certificate automatically suspended the State Board of Education, as prescribed in Section 59 5 60 of the South Carolina Code of Laws, 1976, and in State Board of Education Regulation 43 58. Subsequent to this action, the teacher will b ineligible to be employed as a classroom teacher in a public school in this state for a minimum of two years. Before reentry into the profession, the teacher must complete a state approved remediatio plan based on the area(s) that were identified as deficiencies during the formal evaluation process. Remediation plans must be developed and implemented in accordance with the State Board of Education's ADEPT implementation guidelines. Following the minimum two year suspension period and the completion of the remediation plan, as verified by the SCDE, the teacher's certificate suspension will be lifted, and the teacher will be eligi for employment at the annual contract level. Upon his or her reentry into the profession, the teacher must be formally evaluated. If, at the completion of the evaluation process, the teacher meets the formal evaluation criteria set by the State Board of Education, he or she may continue toward the next contract level. If, at the completion of the evaluation process, the teacher does not meet the form evaluation criteria set by the State Board of Education, he or she is no longer eligible to be employed as a public school teacher in this state. E. Each school district must develop a plan to evaluate and provide diagnostic assistance to teachers at the annual contract level, in accordance with the State Board of Education's ADEPT implement guidelines. District plans also must include procedures for developing, implementing, and evaluating individualized professional growth plans for annual contract teachers. F. School districts must establish criteria or requirements that teachers must meet at the annual contract level. At a minimum, districts must require annual contract teachers to meet the ADEPT form evaluation criteria and all other requirements for the professional teaching certificate, as specified by the State Board of Education, in order to advance to the continuing contract level. G. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for evaluating and assist teachers at the annual contract level. A copy of the district's proposed formal evaluation and diagnostic assistance timelines must accompany the assurances. Proposed amendments to the district's previously approved ADEPT plan for annual contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation. H. By June 20 of each year, school districts must submit end of year information on teachers employed under annual contracts and on the employment contract decisions made for the following year requested by the SCDE. I. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request. V. Continuing Contract Teachers A. Teachers who have met the formal evaluation criteria set by the State Board of Education, the requirements for annual contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate are eligible for employment at the continuing contract level. Teachers employed under continuing contracts have

Legal Standards

1,117	43-205.1 continued…	State	XI. Teachers Employed in Charter Schools A. Except as otherwise provided in the Charter Schools Act (S.C. Code Ann. Section 59 40 50(A) (Supp. 2012)), charter schools are exempt from all provisions of law and regulations applicable to a pu school, a school board, or a district. However, a charter school may elect to comply with one or more of these provisions of law or regulations, such as the provisions of the ADEPT statute and regulati B. Charter schools that elect not to implement the ADEPT system may assist and/or evaluate their teachers according to the policies of their respective charter school committees. Certified teachers these schools will accrue experience credit in a manner consistent with the provisions of State Board of Education Regulation 43 57 (S.C. Code Ann. Regs. 43 57 (2011)). Teachers in non ADEPT chart schools who hold an initial teaching certificate are eligible to advance to a renewable limited professional certificate, as specified in State Board of Education Regulation 43 53 (S.C. Code Ann. Regs. (S 2012)). C. Charter schools that elect to implement the ADEPT system must comply with all provisions of the amended ADEPT statute (S.C. Code Ann. Sections 59 26 30 and 59 26 40, to be codified at Supp. 2(this regulation, and the State Board of Education's ADEPT implementation guidelines. In fulfilling these requirements, the contract between the charter school and its sponsor must include an ADEPT provision. All certified teachers in the charter school must be assisted and evaluated in a manner consistent with the sponsor's State Board of Education approved ADEPT plan for induction, formal evaluation, and goals based evaluation. The ADEPT provision must address the charter school's responsibilities for ensuring the fidelity of the implementation of the ADEPT system. The provision als must address the sponsor's responsibilities in terms of staff training and program implementation. At a minimum, the sponsor must agree to disseminate all ADEPT related information from the SCD the charter school and to report charter school teacher data to the SCDE. The provision must be included in the sponsor's ADEPT plan and approved by the State Board prior to implementation. XII. Teachers Who Hold a Limited Professional Certificate An educator who holds a valid South Carolina limited professional certificate is eligible for employment in a "regulated" South Carolina public school at the annual contract level. At the annual contra level, teachers may receive either a diagnostic assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet t formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual contract level before they are eligible to move from a limited professional certificate to a full professional certificate and to be employed under a continu contract. XIII. Reporting Requirements Failure of a teacher education program or local school district to submit all required assurances or requested information pursuant to this regulation may result in the State Board of Education's withholding ADEPT funds. HISTORY: Amended by State Register Volume 22, Issue No. 6, Part 1, eff June 26, 1998; State Register Volume 24, Issue No. 6, eff June 23, 2000; State Register Volume 29, Issue No. 6, eff June 24, 2005 Register Volume 37, Issue No. 6, eff June 28, 2013.
1,118	43-206 Professional Personnel Resignation	State	Any teacher who fails to comply with the provisions of his contract without the written consent of the school board shall be deemed guilty of unprofessional conduct. A breach of contract resulting fr the execution of an employment contract with another board within the State without the consent of the board first employing the teacher makes void any subsequent contract with any other school district in South Carolina for the same employment period. Upon the formal complaint of the school board, substantiated by conclusive evidence, the State Board shall give notice to the said teacher b registered mail to appear before the State Board of Education to show cause why such teacher's certificate should not be revoked or suspended, the notice to contain the information that the teacher entitled to counsel if he so desires and to bring counsel with him to the meeting. If the teacher fails to appear before the State Board, or if the teacher does appear and the said Board rules that such te did not have sufficient cause for terminating the contract, the said Board shall suspend or revoke the teacher's certificate, for a period not to exceed one calendar year. State education agencies in oth states with reciprocal certification agreements shall be notified of the revocation of the certificate. The term "teacher" as herein used shall include all school personnel required to be certified by the State Board of Education.
1,119	43-207 Health Examination	State	All personnel shall be screened for tuberculosis as required by Section 44 29 150 and Section 44 29 160 of the Code of Laws of South Carolina, 1976, as amended April 24, 1979. Guidelines for screen school employees for tuberculosis are available in each county health department.

Legal Standards

1,120	43-209 Support Personnel/Paraprofessional Personnel Positions, Qualifications and Duties (Statutory Authority: S.C. Code Ann. Section 59 5 60 (1990) and 20 U.S.C. Section 6301 et seq. (2002))	State	A. Support personnel positions for school district superintendents and school principals 1. Secretarial services shall be provided. 2. Custodial services shall be provided. B. Paraprofessional personnel positions 1. Each teacher of trainable, orthopedically, emotionally, or visually disabled pupils in a self contained classroom model shall have a paraprofessional full time, provided that the class has a minimum membership of four pupils. 2. Each teacher of a kindergarten unit shall have a paraprofessional full time. C. Paraprofessional Personnel Qualifications and Duties 1. Paraprofessionals helping with classroom instruction or programs shall meet the following requirements: a. All instructional paraprofessionals must be at least 18 years of age. b. All instructional paraprofessionals must have at least a high school diploma or state equivalency certificate. c. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired after January 8, 2002, must either (1) hold a two year associate's degree from an accredited institution, or (2) have completed two years (60 semester hours) of college coursework from an accredited institution, or (3) have passed a state approved examination of content knowledge and pedagogy. d. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired before January 8, 2002, must meet the requirements listed in C.1.c. by Janu 2006. e. All instructional paraprofessionals must work under the direct supervision of a certified teacher. f. All instructional paraprofessionals must participate in preservice and inservice training programs for instructional paraprofessionals. 2. The State Department of Education will maintain an electronic registry of instructional paraprofessionals that indicates whether the instructional paraprofessional has met the requirements listed C.1.c. HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997; State Register Volume 27, Issue No. 11, eff November 28, 2003.
1,121	ARTICLE 19 INSTRUCTIONAL PROGRAM 43-220 Gifted and Talented (Statutory Authority: S.C. Code Ann. Section 59 29 170 (Supp. 2002))	State	Purpose: The State Board of Education recognizes the need to provide gifted and talented education services to identified students in grades one through twelve. These regulations provide the frame for provision of these services. All regulations must be followed in order to qualify for state funding. In order to comply with the South Carolina Education Improvement Act of 1984, school districts must provide programming for all gifted and talented students at the elementary and secondary level These programming services shall develop the unique talents of students. I. DEFINITIONS A. Population 1. Gifted and talented students are those who are identified in grades one through twelve as demonstrating high performance ability or potential in academic and/or artistic areas and therefore requ educational programming beyond that normally provided by the general school programming in order to achieve their potential. 2. Gifted and talented abilities for these regulations include (a) Academic and Intellectual Ability: Students who have the academic and/or intellectual potential to function at a high level in one or more academic areas. (b) Visual and Performing Arts: Students who have the artistic potential to function at a high performance level in one or more of the fine arts (dance, music, theatre, and visual arts). B. Terms 1. Academic areas: any or all of the academic disciplines and performance skills that cross the disciplines to include research, technology, and reasoning 2. Academic discipline/disciplines: English language arts, mathematics, science, social studies, and foreign language 3. Artistic areas: any or all of the artistic disciplines and performance skills that cross the disciplines to include research, technology, creativity, and aesthetics 4. Assessment: evaluation and re evaluation of student aptitudes, attributes, and behaviors according to specified dimensions 5. Confluent: blending and moving forward together 6. Demonstrating (academic): making evident or establishing by reasoning; proving 7. Demonstrating (artistic): making evident or establishing by reasoning, performing, and producing 8. Differentiation: the deliberate adaption and modification of the curriculum, instructional processes, and assessments to respond to the individual needs of gifted and talented learners 9. High level: functional or performance level set by the identification dimensions in these regulations 10. Multi: more than one 11. Multiage classroom: regular classroom where gifted and talented students are served through grade placement above chronological grade placement 12. Placement: evaluation of student profiles for service indications 13. Referral: consideration of one or more students based upon the screening and identification process established in these regulations 14. Regular classroom cluster/itinerant teacher: an intra classroom model in which students in grades 1 2 receive services from the trained classroom teacher or an itinerant teacher 15. Resource room/pull out: self contained gifted and talented class that meets away from the regular classroom to provide the services established in these regulations 16. Screening: consideration of all students on consistent measures as established in these regulations

Legal Standards

1,122	43-220 continued…	State	4. The models and teacher pupil ratios that are approved for programming service at respective grade levels are Grades Approved Programming Model Choices 1–2 Regular Classroom/Itinerant Teacher (1:10) Multiage Classroom (NA) Resource Room/Pull-out (1:15) 3–5 Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20) 6–8 Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20) 9–12 Special School (1:25) Special Class (1:25) 5. An appropriate teacher pupil ratio fosters positive results. The teacher pupil ratios are listed beside the models in the chart above. 6. Extension Models, while encouraged to supplement service, may not be substituted for one of the Approved Programming Model Choices. They include but are not limited to Grades Extension Model 1–2 After School/Summer Services Individual Educational Plan Grade/Subject Acceleration Independent Study Special Training/Services for Parents Critical Thinking Seminars
1,123	43-220 continued…	State	(3) Dimension C: Intellectual/Academic Performance These students demonstrate a high degree of interest in and commitment to academic and/or intellectual pursuits or demonstrate intellectual characteristics such as curiosity/inquiry, reflection, persistence/tenacity in the face of challenge and creative productive thinking. Characteristics for this dimension are demonstrated through a) Evidence of commitment in academic disciplines through grades for placement in grades six through twelve; the standard is 3.75 points on a 4.0 scale (See the glossary of terms for a listing of th academic disciplines.); or b) Assessments of performance on STAR Performance Task Assessment for placement in grades three through six. Instruments for these assessments will be maintained secure under S.C. Code An Section 59 1 445 (1990), Section 59 1 445, Violations of mandatory test security; penalties; investigations. The performance standard for the primary level is sixteen on either the verbal or nonverbal assessments for placement into grade three and eighteen on either the verbal or nonverbal assessment for placement into grade four. The performance standard for the intermediate level is sixteen o verbal or twenty two on the nonverbal for placement into grade five and eighteen on the verbal or twenty five on the nonverbal for placement into grade six. The qualifying standards for new forms o STAR Performance Task Assessment will be equivalent to those of the base year. (4) Districts will follow steps established by the SCDE to guarantee no single criterion eliminates students from gifted and talented programming participation. 8. Placement (a) The evaluation step in the identification process of gifted and talented students shall be the responsibility of an evaluation/placement team within the school or district. The team shall be compo of at least a teacher, an administrator, and a guidance counselor or a psychologist (if employed by the district). In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories. The evaluation/placement team for an individual student may also include a guidance counselor and/or a community related person whose training and expe qualifies him or her to appraise the special competencies of students. (b) The evaluation/placement team shall have the responsibility to interpret and evaluate student data in such a way that will insure appropriate placement. The evaluation/placement team may re additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Criteria for trial placement shall be establishe guidelines established by the SCDE. Students whose progress within the gifted and talented programming at the end of trial placement is not deemed adequate by the evaluation/placement team may withdrawn from the programming. (c) The evaluation/placement team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. The criteria for these procedures according to the programming model shall be established by the SCDE . Removal from the programming must be preceded by appropriate counseling with the student and conferences w the student's parents and teachers. Records of any assessment and evaluative measures and other student information must be maintained in a confidential manner. (d) Students identified and served according to prior eligibility criteria will continue to be eligible for placement and funding provided their programming service meets the requirements herein. A student entering the programming once these regulation amendments are effective shall be considered for placement based on the eligibility criteria herein. C. Staff 1. Teacher Qualifications

Legal Standards

1,124	43-220 continued…	State	E. Funding 1. Allocation of Funds The SCDE will annually calculate each district's allocation based on the number of gifted and talented students projected to be served in each district as it relates to the total of all such students in th state. Unobligated funds, which become available during the fiscal year (July 1 June 30) will be redistributed to serve additional eligible students. 2. Distribution of Funds School districts will be authorized to expend allocated funds on students meeting the eligibility criteria of prior regulations and students meeting the eligibility criteria and being served in approve programming. Distribution of funds will be made periodically with a final adjustment occurring at the end of the 135 day attendance reporting period for regular academic programming. 3. Base Allocation for School Districts with Small Enrollments School districts identifying and serving, according to the State Board of Education Regulations, forty students or less shall receive a minimum funding of $15,000 for academic programming. F. Expenditures and Accounting Procedures 1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedu shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures. 2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept. III. ARTISTIC A. Programming 1. Districts shall develop a written plan to include the following artistic requirements: (a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students; (b) support services that facilitate student learning and personalized education (e.g., assistive technology, guidance, artistic support, staff development, artistic competition, independent study, and online courses); (c) programming models that facilitate the delivery of differentiated curriculum and instruction; (d) a teacher pupil ratio that fosters positive results; (e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and (f) systematic assessment of student progress and programming effectiveness relative to goals. 2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for the artistic gifted and talented students must reflect the following characteristics: (a) content, process, and product standards that exceed the state adopted arts standards for all students and that provide challenges at an appropriate level for the strengths of the individual studen (b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking skills, and problem solving skills; (c) instructional strategies that accommodate the unique needs of gifted and talented learners;
1,125	43-220 continued…	State	4. Length of Time in Models Academic School Year (In-school, after-school, and Saturday Programming) Grades Minimum Minutes Per Year 1–3 4500 4–8 7200 9–12 8100 Summer Programming (30 days in length) Saturday Programming (minimum 30 Saturdays) Grades Minimum Hours Per Day 1–3 2 1/2 hours 4–8 4 hours 9–12 5 hours 5. Teacher Pupil Ratios: an appropriate teacher pupil ratio fosters positive results. Districts should reference the most current edition of the South Carolina Gifted and Talented Best Practices Manua further information. B. Identification of Population to be Served 1. The purposes of identification are (1) to find students who display talent beyond that of their peers in one or more artistic areas (dance, music, theatre, and visual arts); (2) to assess the aptitudes attributes, potential, interests, and artistic behaviors of each student; and (3) to evaluate each student for the purposes of referral. 2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations with physical disabilities, learnin disabilities, or behavioral problems. C. Identification/Selection is a three step process, which consists of referral/recommendation, demonstration/audition/portfolio, and placement. 1. Referral Procedures (a) Students may be referred by a teacher, administrator, parent, self, or a peer using a SCDE approved instrument appropriate to the visual and performing arts area, to include creativity and expre qualities. The referral should be used to identify students who have an aptitude for the arts and may benefit from intense exploration and in depth study in one or more of the arts. The initial referral not itself guarantee placement. (b) Districts shall include the following procedures in the referral process:

Legal Standards

1,126	43-229 Defined Program for the Palmetto Unified School District (PUSD)	State	Palmetto Unified School District No. 1 (PUSD) was established in 1981 by the South Carolina General Assembly, pursuant to S.C. Code Ann. Section 24 25 10, to provide educational services to inmate through a statewide school district. PUSD as a sanctioned school district is also mandated to comply with the regulations of the State Board of Education (SBE) unless otherwise noted in this regulati I. District Organization The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees, district operations, secondary grades, and adult education, unless otherwis noted in this regulation. A. Due to the uniqueness of the school population served by the PUSD (i.e., the large number of students over the public school age of 21 and age disparity within each institution), the operation of a program of secondary and adult education for the majority of the district's schools is necessary. The following classifications will be recognized as the organizational patterns for school operation wi the district: Secondary (Grades 9 12) Adult Education (Level 1, Level 2, High School Equivalency Programs) B. Students of public school age (17 21) are assigned under pupil classification system as set forth in the Education Finance Act (EFA) as either secondary students (grades 9 12), students enrolled i high school equivalency program, students with disabilities, or career and technology education (CATE) students. Students who become twenty one years old after September 1 of the school year wil remain under the secondary grade pupil classification for the entire school year. Students over public school age will be assigned to the adult education program. C. Accredited schools shall operate a minimum of 1,170 instructional hours for all students. Exercises for issuing diplomas to graduates shall be scheduled at the discretion of the PUSD. High school diploma credits will be awarded per Regulation 43 234, Defined Program, Grades 9 12 and Graduation Requirements. II. District Governance A. Board of Trustees 1. The school district Board of Trustees must ensure quality schooling by providing rigorous, relevant instructional programs for all students. 2. The PUSD shall be under the control and management of its Board of Trustees. With the consent of the agency director, the Board of Trustees shall operate as the executory agent for the schools u its jurisdiction and shall perform administrative functions as stated in S.C. Code Ann. Section 24 25 70, Powers and Duties of School Boards. B. Board Policies Written school board policies, cooperatively developed by employees, administrative staff, and the Board of Trustees, are essential for successful operation of the district's school system. School boa policies establishing the guidelines and responsibilities shall outline the relationship of board members, the superintendent, and staff; provide understanding and clarity of purpose; and facilitate administration. Copies of the school board policies shall be filed on the district's web page. C. School Budgets Notwithstanding any other provision of the law, the Board of Trustees in this state shall annually make available to the general public its budget for that year. D. District Strategic Plan and School Renewal Plans The PUSD will submit a five year strategic plan to the South Carolina Department of Education (SCDE) with annual updates due by April 30 each year. The district strategic plan, school renewal plans
1,127	43-229 continued…	State	1. Student Records a. The PUSD will maintain accurate student data according to the pupil accounting system prescribed by the SCDE. b. The district superintendent or designee will verify the accuracy of the student enrollment, attendance, membership by category, and submit this information to the SCDE. 2. Course Records for Students The district superintendent or designee will verify the accuracy of course records for students. 3. Student Enrollment a. Students will not be concurrently enrolled in the Adult Basic Education (ABE) funding database and the EFA funding database. b. Cases of extended or chronic illnesses that are certified by a physician and absences due to emergency conditions may be approved by the principal as excusable. c. Any student who receives fewer than 120 clock hours of instruction during a school year will not be eligible to receive a full unit of credit unless the Board of Trustees approves excessive absence accordance with Regulation 43 274, and the student makes up the work missed to satisfy the 120 hour requirement, unless that credit is earned in a proficiency based course, as permitted under Regulation 43 234. 4. Transfer of Students a. Accurate accounting records shall be developed and maintained for student transfers and withdrawals according to Regulation 43 273. Comprehensive transcripts shall be submitted directly to t receiving school. A permanent record of the transferred student shall be retained in the school from which the student is transferred. All transfers and withdrawals shall be in accordance with Regula 43 273, Transfers and Withdrawals. b. Units earned by a student in an accredited high school of this state or in a school of another state, which is accredited under the regulations of the Board of Education of that state, will be accepted under the same value which would apply to students in the school to which they transferred. IV. School Personnel Based on EFA Requirements A. School Personnel Workload 1. PUSD will be divided into regions. Each region will have no more than three (3) schools. Each region will be staffed by a full time properly certified principal. 2. Each region will be staffed by a properly certified guidance counselor. 3. Each region will be staffed by a properly certified media specialist. 4. All students with disabilities under the Individuals with Disabilities Education Act (IDEA) will receive special education and related services consistent with their individualized education progra (IEP), in accordance with the IEP. Caseload and class size must adhere to the relevant state regulations governing special education. B. Minimum District Staff The South Carolina Department of Corrections (SCDC) shall employ a superintendent of the PUSD who shall be employed full time. C. Additional District Staff Operation of the school program involves functions of management and administration as well as teaching, counseling, supervising, and related activities. The enrollment and scope of the education

Legal Standards

1,128	43-229 continued…	State	I. Advisory Councils The superintendent or designee may establish advisory councils, including but not limited to a Student Advisory Council, Teacher Advisory Council, School Improvement Council, and a Career and Technology Advisory Council. Advisory councils shall meet no less than annually. No advisory council shall have any of the powers and duties reserved by law or regulation of the Board of Trustees. J. Accident Prevention Each school will comply with safety regulations as prescribed in state law and approved in the individual institution's emergency plan (Section 59 63 910, S.C. Code of Laws, 1976, as amended). K. Emergency Closings All school closings, other than for security reasons, must be approved by the district superintendent or designee and reported to the SCDE. L. Displaying of United States and South Carolina Flags (R.43 188) Each school will display the American and State flags appropriately. VI. Adult Education The adult education program is designed primarily for, but not limited to, adults over twenty one years of age. Those students who are under twenty one years of age that have withdrawn from a PUS EFA school to prepare for a high school equivalency program may participate in the adult education program. The district shall provide educational programs, including the following: Academic Education Level I (1 8), Level II (9 12), High School Diploma Program, and the SCDE virtual education program or other Distance Learning programs. A. Academic Education 1. Level 1: Basic education shall include organized and systematic instruction in the skills of language arts and mathematics. 2. Level II: High school completion shall provide a more defined and structured program which will allow the student to work concurrently toward preparing for the high school equivalency diploma and/or toward receiving high school unit credits. 3. High School Diploma Program: High school credit may be granted for a course completed in an approved adult education program provided (1) the teacher is properly certified to teach the course (2) the student receives a minimum of 60 clock hours of instruction. A school may award one unit of credit for a course that has been approved by the SCDE in a proficiency based system. A proficien based course may also be offered for one fourth and one half unit if the system specifies these units (R.43 234). High school diploma credits will be awarded per R.43 259, Graduation Requirements. 4. High School Equivalency Programs a. Students who are not currently enrolled as part of the EFA funding formula will be eligible to take a high school equivalency program exam upon the recommendation of the principal or school le Attainment of a high school equivalency diploma will be determined by achieving a passing score as determined by the SCDE and approved by the SBE. b. A candidate for a state high school equivalency certificate who is seventeen to twenty one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA fundi The documentation must verify the candidate's date of birth and the date of his or her last attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testin B. Adult Basic Education (ABE) Personnel 1. Each adult education teacher must be properly certified and meet appropriate federal statutory requirements.
1,129	43-231 Defined Program K 5	State	Each school district board of trustees shall ensure quality schooling having a rigorous, relevant curriculum for all students. Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work toge to ensure that students are prepared to achieve these standards. I. Basic Program/Curriculum, Kindergarten The curriculum for children PreK K shall consist of experiences and activities which will enhance their physical, emotional, social, and intellectual growth and development and help each child attain his own rate of speed, the educational goals set for the primary school. II. Basic Program/Curriculum, Grades 1 5 Instruction in the subject areas shall be scheduled for each student for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis. The subjects shall include, but not be limited to: A. Subject Areas Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six ho including lunch, or its equivalent weekly. B. Alcohol and Drugs Through special instruction, schools shall provide age appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades K 5. C. Guidance Program A comprehensive guidance program including career awareness, is required in schools having any combination of grades K 5. D. Library/Media Program Library media programs and technology resources are required and accessible to all students and staff and are appropriate to achieve the strategies and goals in each school renewal or district strat plan. III. Innovative Approaches A school encompassing any combination of grades K 5 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans. IV. Class Size, Grades K 5 A. The average pupil teacher ratio in any school shall not exceed 28 to 1 based on average daily membership. The total number of teachers shall include all regular, special area, and resource teacher whose pupils are counted in the regular membership. B. Each district shall attain an average pupil teacher ratio based on average daily membership in the basic skills of reading and mathematics in Grades 1 3 as 21 to 1. C. Teacher aides may be counted in computing the ratio at the rate of .5 per aide if they work under the supervision of a teacher and make up no more than 10 percent of the total staff. Excluded from

Legal Standards

1,130	43-231 continued…	State	V. Additional Regulatory Requirements Additional regulatory requirements related to the basic program include, but are not limited to, the following: Gifted and Talented Regulation (43 220) School to Work Regulation (43 225) Health Education Requirement Regulation (43 238) Summer Programs Regulation (43 240) Special Education Regulations (43 243 to 43 243.6) Early Childhood Assistance Programs Grade K 3 (43 267) Academic Assistance Regulations Grades 4 12 (43 268) VI. Student Records 1. Each school shall have an appropriate means of reporting academic achievement to parents. 2. The district shall maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education. A record of all dropouts shall be filed by school, grade, and sex. The superintendent shall verify the accuracy of the enrollment attendance, membership by category, and dropout reports submitted to the Office of Finance, State Department of Education. VII. Emergency Closings Full days missed because of weather or other circumstances must be made up. Early dismissal days shall be reported to the Director, Office of Organizational Development. HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997. 1English/Language Arts shall include reading, writing, listening and speaking. 2Environmental Education is required as an integral part of science, social studies, and health. 3Health and Safety shall include components as outlined in the Comprehensive Health Education Act 4Students who are physically or mentally unable to take the physical education course provided for the regular student shall take a suitably modified course in physical education. (Section 59 29 80, Code of Laws, 1976, as amended.) 5Visual and Performing Arts shall include, but not be limited to, music and art. 6Foreign Language as a separate course is recommended but not required. If a separate course is not offered, foreign languages should be incorporated in the basic curriculum. *A teacher of children with disabilities in the resource or itinerant model shall be certified or have a permit in the area of handicapping condition in which the majority are classified, or be certified in area of handicapping condition in which the teacher is teaching and successfully complete six semester hours annually toward certification in the area in which the majority of students are classified. Pupils participating in self contained programs shall be of the same category of disability. The teacher must be certified or hold an out of field permit in the area of handicapping condition of the pupi served.
1,131	43-232 Defined Program 6 8	State	Each school district board of trustees shall ensure quality schooling by providing a rigorous, relevant curriculum for all students. Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work toge to ensure that students are prepared to achieve these standards. I. Basic Program/Curriculum for Grades 6 8 Instruction in the subject areas shall be scheduled for each student for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis. The subjects shall include, but not be limited to: A. Subject Areas Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six h including lunch, or its equivalent weekly. A school which includes any combination of grades 5 8 when housed with grades 7 or 8 may elect for all of the combination of grades 5 8 to meet, on a subject by subject basis, the minimum instruct times or the minimum curriculum requirements for either grades 4 5 or grades 6 8, unless otherwise prohibited by law. B. High School Credit When approved by the principal and the parents, a student promoted to the seventh or eighth grade may take units of ninth grade or higher work for high school credit. C. Alcohol and Drugs Through special instruction, schools shall provide age appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades 6 through 8. D. Guidance Program/School to Work Initiative 1. A comprehensive guidance program, including career development, is required in schools having any combination of grades 6 8. 2. Each school district shall offer a range of mentoring opportunities for students beginning no later than the seventh grade. Students participating in any of the work based programs shall have the written permission of their parents or legal guardians in order to engage in such experiences. Adult supervision shall be provided for mentoring opportunities. 3. Curriculum activities consisting of educational opportunities, career information resources and career development programs shall be included in subject areas for Grades 6 8. 4. Beginning in Grade 6, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall prepare a plan for a variety of career options in which the studen an interest. 5. In Grade 7, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall revise career planning records in which the student has an interest. 6. In Grade 8, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall review and revise the career planning record. The record shall include a hig school course of study based on a major plan and an alternate plan for career options in which the student has an interest and the postsecondary programs of study related to achieving a career goal. E. Library/Media Program

Legal Standards

1,132	43-234 Defined Program, Grades 9 12 and Graduation Requirements	State	Each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. Each school district must offer a standards based academic curriculum organized around a career cluster system that provides students with individualized education choices. I. Requirements for Earning a South Carolina High School Diploma A. The student must earn a total of twenty four units of credit as follows: Unit Requirements English language arts 4.0 mathematics 4.0 science 3.0 U.S. History and Constitution 1.0 economics 0.5 U.S. Government 0.5 other social studies 1.0 physical education or Junior ROTC 1.0 computer science (including keyboarding) 1.0 foreign language or career and technology education 1.0 electives 7.0 24.0 total B. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American institutio ideals. This instruction must be given for a period of at least one year or its equivalent, either within the required course U.S. History and Constitution or within another course. (For specific regulatio regarding the end of course test for U.S. History and Constitution, see R 43 262.4, End of Course Tests.) C. The student must pass a high school credit course in science in which an end of course examination is administered. D. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school prog do not satisfy this requirement. E. The student must pass both parts of the South Carolina high school exit examination in addition to earning the required number of prescribed units. (For specific regulations regarding the exit examination, see R 43 262, Assessment Program.)
1,133	43-234 continued…	State	English language arts: English 1, 2, 3, 4 Mathematics: Algebra 1, Mathematics for the Technologies 1, 2, 3, 4* Algebra 2, Geometry Pre calculus, Calculus Discrete Mathematics*, Probability and Statistics Science: Physical Science Earth Science* Biology 1, Biology 2*, Applied Biology 1, 2* Chemistry 1, Chemistry 2*, Chemistry for the Technologies Physics, Physics for the Technologies 1, 2* Social Studies: U.S. History and Constitution U.S. Government Economics World History and World Geography B. Career Clusters School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio Video Technology, and Communications sixteen state clusters are the same as the sixteen federal clusters: Agriculture, Food, and Natural Resources Architecture and Construction Arts, Audio Video Technology, and Communications Business, Management, and Administration Education and Training Finance Government and Public Administration

Legal Standards

1,134	43-234 continued…	State	VII. Reporting Requirements A. High School Completers 1. Each school issuing the state high school diploma must submit to the State Superintendent of Education on or before May 1 the following data on its previous year's completers: (a) the number of the school's completers who entered the freshman class of a postsecondary institution either in South Carolina or out of state and on whom such an institution has sent the school first term transcript or summary grade report, (b) a breakdown of all postsecondary courses that this group of completers passed during their term, (c) a breakdown of all postsecondary courses that this group failed during their first term, (d) a breakdown of all postsecondary courses for which this group received a grade of "no credit" during their first term, and (e) the number of the school's completers who did not enter a postsecondary institution but who instead chose a postsecondary alternative such as employment or military service or for whom no information is available. 2. Each school must use the official form to submit the required data on its previous year's completers. B. Career and Technology Education Completers Each district must survey all its high school graduates who are identified as career and technology education completers to determine their placement status with regard to employment, postsecond education, and military service. A career and technology education completer is a student with an assigned Classification of Instructional Programs (CIP) code who has earned at least four units of cre CATE courses leading to a career goal. The district must conduct the survey ten months after graduation each year and must submit the results annually to the SCDE for the purpose of federal and state accountability requirements. C. Student Records 1. Each school must have an appropriate means of reporting academic achievement to parents. 2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the SCDE . 3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his her name, grade, race, sex, date of birth, free/reduced meals status, English proficiency status, and migrant status. 4. Each district superintendent must verify the accuracy of the student enrollment, attendance, membership by category, and dropout reports submitted to the SCDE's Office of Finance. 5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. Section 1232(g)). D. Course Records for Students 1. Each district superintendent must verify the accuracy of course records for students. 2. The name and code number of every course that each student takes must be entered into the student data collection system active master scheduler at the time the student takes the course. Cours may not be added to the student's course history (transcript) without first being entered into the scheduler. 3. Courses offered in nontraditional settings such as online courses, courses offered in conjunction with a college or technical college (i.e., dual credit), and courses offered by the school through the
1,135	43-236 Career or Technology Centers/Comprehensive High Schools	State	Career or Technology Centers/Comprehensive High Schools Career or technology centers and/or comprehensive high schools shall, based on local needs, offer a variety of courses that will constitute a career major. These career majors are contained in the clu defined and communicated to school districts by the Office of Career and Technology Education in conjunction with federal and state funding for career and technology courses and programs. School districts will offer in high schools and/or career or technology centers a full complement of courses within a minimum of two career clusters to enable students to complete at least four Carne units in an approved sequence of Career and Technology Education coursework leading to a career goal. HISTORY: Amended by State Register Volume 21, Issue No. 7, eff July 25, 1997; State Register Volume 27, Issue No. 2, eff February 28, 2003.

Legal Standards

1,136	43-237.1 Adult Education Program	State	A. Adult Education Program The program of adult education is provided for adults who want to acquire a basic education, to prepare for a high school equivalency test, to develop literacy skills, to obtain the knowledge and skill necessary for employment and self sufficiency, or to complete the requirements for a state high school diploma. Enrollment in the program of adult education for a state high school diploma shall be limited to adults who are residents in South Carolina. B. Basic Education Program The curriculum of an adult basic education program shall include organized and systematic instruction in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills. Each adult education program shall provide instruction at the various levels as defined in the National Reporting System for Adult Education (NRS). Cooperation with other agencies and programs is needed in order for public education to provide for the adult population's variety of needs. A school district with the written approval of the Office o Adult Education may contract with another school district in South Carolina for the operation of the adult program. Diploma programs must have written approval from the Office of Adult Education C. Adult Education Facilities (1) Buildings shall be adequate in size and arrangement. (2) Buildings shall be kept clean and comfortable. (3) Each room shall be designed and equipped to serve specific purposes. Adequate lighting, ventilation, and heating shall be provided in all utilized areas. (4) All operating adult school facilities shall comply with the safety regulations prescribed by the State Fire Marshal and with the sanitation and health regulations prescribed by the State Board of He D. Health Certificates All personnel shall be screened for tuberculosis as required by (S.C. Code Ann. Sections 44 29 150, 160 (1976)). Guidelines for screening of school employees for tuberculosis are available in all coun health departments. E. In Service Education Each adult education director shall develop and implement an organized in service education program for professional personnel. Staff members should be involved in the planning and evaluation o these activities, which should focus on the problems, needs, purposes, and goals of the adult education program. A copy of the in service education plan shall be made available to the adult education supervisor upon request. F. Length of School Term Each approved adult education high school diploma course shall include a minimum of sixty (60) hours of instruction for each unit of credit (exclusive of registration, exams, issuing materials, etc.), the course is offered via the virtual school program or via an approved proficiency based system. G. Supervision of Instruction Supervision and improvement of the adult education instructional program is the direct responsibility of the adult education director. H. Allocations to School Districts
1,137	43-238 Health Education Requirements	State	The Comprehensive Health Education (CHE) Act of 1988 (59 32 5) requires that public school health instruction be planned, age appropriate, and sequential. The CHE Act further requires that, at leas time during the four years of grades 9 12, each student shall receive a program of instruction in comprehensive health education to include the following subjects: community health consumer health environmental health growth and development nutritional health personal health prevention and control of diseases and disorders safety and accident prevention substance use and abuse dental health mental and emotional health reproductive health) a minimum of 750 minutes of pregnancy prevention) instruction is required for sexually transmitted diseases*) these three together. family life (option in grades 9–12) * Instruction in sexually transmitted diseases (STDs) includes AIDS education and must be taught within the reproductive health, family life, or pregnancy prevention education components or it mu presented as a separate component (59–32–30(E)). A school program shall provide instruction in Comprehensive Health Education from one or more of the following: 1. Each student shall receive instruction in a comprehensive health education course for 36 weeks or a semester from the list of approved high school health courses. 2. Each student shall receive instruction in each of the comprehensive health subjects through a series of mini courses, e.g., three week short courses selected or developed by the school or district. 3. A school or district shall select or develop modular units of instruction for each of the comprehensive health education subjects and integrate them into existing required courses. 4. If options 1, 2, or 3 are not selected, a school shall develop a written plan that demonstrates that all students shall receive instruction in the required comprehensive health subjects within existing courses before graduation. This plan must be submitted to the Division of Curriculum for written approval at least six weeks prior to implementation. HISTORY: Amended by State Register Volume 16, Issue No. 7, eff July 24, 1992.

Legal Standards

1,138	43-240 Summer School Programs (Statutory Authority: 1976 Code Section Section 59 6 60(3&6), and 59 39 100)	State	A. Summer school programs are provided for the following purposes: to deliver academic assistance to students in grades three through eight under the Education Accountability Act of 1998 (EAA), t promote students in grades one through eight, or to award Carnegie units of credit toward meeting the requirements for a state high school diploma. Other school services offered during the summer not considered summer school programs under this regulation. Gifted and Talented programs are required to meet the provisions of State Board of Education Regulation 43 220, Gifted and Talented. B. Instruction offered in summer programs must meet the same rigor and standards required during the regular school year. A district summer school program must be directed by a staff member w administrative certification as a district wide program or school site program. Each school in a district wide program must designate a lead teacher. The final accreditation status of the summer scho program will be reflected in the overall district rating for the next year. (1) Qualifications of Teachers: Kindergarten, Grades 1 12: The qualifications of each teacher shall be the same as those for the regular term. (2) Organization and Administration: Kindergarten, Grades 1 8: (a) Pupil teacher ratio shall not exceed 25:1 in each classroom for grades K 5, or 30:1 in each classroom for grades 6 8. (b) For students in grades 3 8, a summer school program designed for academic assistance under the Educational Accountability Act of 1998 (EAA) will be no less than 30 instructional hours. For students in grades K, 1, and 2, not on academic plans established by EAA, the districts may determine the length of the school day and the number of days scheduled. (c) Summer school programs operated for students who are earning Carnegie units of credit must meet all the requirements established for grades 9 12. (3) Organization and Administration: Grades 9 12. (a) Pupil teacher ratio shall not exceed 30:1 in each classroom. (b) All students taking a course for one unit of credit must receive at least 120 hours of instruction in that subject area. (c) No teacher shall be assigned to teach more than one subject or one level of the same subject during one period for credit. (Exception: Two consecutive levels of coursework in the same subject a may be taught during one period if all students are repeating a course and the combined membership does not exceed 15 students.) (d) The recommended number of units of credit that a student may earn during one summer school session is two. However, a student may earn more than two credits with prior approval from the school principal. (e) There is no limit on the number of credits a student may earn in a summer program that is operated on a quarterly basis as part of a twelve month school program. HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 22, Issue No. 4, eff April 24, 1998; State Register Volume 24, Issue No. 4, eff April 28, 200 State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002.
1,139	43-241 Medical Homebound Instruction	State	I. Students who cannot attend public school because of illness, accident, or pregnancy, even with the aid of transportation, are eligible for medical homebound or hospitalized instruction. (A) A physician must certify that the student is unable to attend school but may profit from instruction given in the home or hospital. (B) Any student participating in a program of medical homebound instruction or hospitalized instruction must be approved by the district superintendent or his or her designee on standardized for provided by the State Department of Education. (C) A South Carolina school district may count in membership a pupil who is compelled to reside outside the State to receive medical services provided the teacher is certificated by the Department Education in the state where services are rendered. (D) All approved forms must be maintained by the district for documentation. II. A student is eligible for medical homebound instruction (1) on the day following his or her last day of school attendance or (2) on the first day of the regular nine month academic year of the schoo which he or she is enrolled and would otherwise be in attendance. The student remains eligible (1) until the day before he or she returns to school or (2) until the last day of the regular academic yea the school year he or she would normally be enrolled, whichever occurs first. III. The State Department of Education shall fund a maximum of five periods per week of medical homebound instruction pursuant to the Education Finance Act (EFA). (A) A day of instruction must be based on the student's individual need but may be no less than fifty minutes to qualify for state funding. (B) There is no limit to the amount of instruction that may be provided with funds other than state funds. (C) If more instruction is needed, the school district must provide the additional funds. IV. Should an approved student not be provided the medical homebound instruction that he or she is entitled to receive, the student is eligible to have the medical homebound instruction made up b district. (A) This make up may occur during the student's remaining eligibility for medical homebound instruction or may occur after the student returns to school provided the make up periods are not dur the regular school day. (B) State funding for medical homebound instruction is available until the last day of the regular school year. If the school district delays the start of services for any reason, the student is still entitle the instructional services, and the school district must make up the missed instructional periods even if the regular school year has ended and services are provided without the benefit of state fundi V. All teachers providing medical homebound instruction to students domiciled in South Carolina must hold a valid South Carolina teacher's certificate. (A) The teacher shall teach the medical homebound student or students in a room especially set aside for the period of instruction. (B) Medical homebound teachers are required to keep a weekly record of teaching services provided. HISTORY: Amended by State Register Volume 19, Issue No. 6, eff June 23, 1995; State Register Volume 27, Issue No. 6, Part I, eff June 27, 2003.

Legal Standards

1,140	43-242 Driver Training	State	A school program shall include the complete program of driver education, classroom and behind the wheel phases, and it shall be provided each semester on an elective basis for eligible students. Sch organized on grades 9 12 or 10 12 basis shall provide this program. Summer programs of driver education are permissible and recommended but may not be substituted for the regular school year program. 1. The course shall be organized on a semester basis and shall include as a minimum 30 classroom hours of instruction in driver education, 6 hours of actual behind the wheel driving, and 6 hours of actual observation. Twelve hours of simulation instruction may replace 3 hours of be hind the wheel driving. 2. Behind the wheel driving refers to actual experiences in road instruction with the student as the driver with the teacher present. Behind the wheel instruction shall include the following: a. Actual experience in driving a properly marked automobile. It is required that a dual control automobile be used. b. A minimum of 6 hours of behind the wheel practice driving with a certified driving instructor. Twelve hours of simulation instruction may replace 3 hours of behind the wheel driving. 3. The instructional materials shall be selected from the list of state adopted instructional materials list for driver education. 4. Driver education must be offered at a grade level that complies with Section 8 of the Highway Safety Act (R 521, Act No. 362 of 1965). It is recommended that the course be offered at the grade lev where most of the students have or are approaching legal driving age, which is the ninth grade. However, the course may be offered in any grade 9 12. The course shall be limited to students whose physical and mental condition gives reasonable promise of being able to pass the requirements of the State Highway Department for a driver's license. 5. The teacher must (a) hold a valid South Carolina teacher's certificate, (b) be certified to teach driver education, (c) have completed successfully a basic and advanced driver and traffic education instructor's course, (d) have a good personal driving record, (e) hold a valid South Carolina driver's license, and (f) hold a valid behind the wheel instructor permit. 6. All school districts operating driver education programs must have liability insurance as required by State Law. The Board recommends that medical expense insurance be obtained for drivers an passengers in an amount to be determined by the school district or county. HISTORY: Amended by State Register Volume 22, Issue No. 6, Part 1, eff June 26, 1998.
1,141	43-243 Special Education, Education of Students with Disabilities	State	The purpose of this regulation is to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the Individuals with Disabiliti Education Improvement Act of 2004 (IDEA) and its implementing regulation. The federal IDEA regulation is incorporated into R.43 243, Special Education, Education of Students with Disabilities, by reference. This regulation is an outline of all provisions contained in Part B of IDEA regulation. Most provisions of proposed R.43 243 are identical to the IDEA regulation. I. General A. Purposes and Applicability 1. The purposes of this part are a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs prepare them for further education, employment, and independent living; b) To ensure that the rights of children with disabilities and their parents are protected; c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and d) To assess and ensure the effectiveness of efforts to educate children with disabilities. 2. Applicability of this part to State and local agencies. a) States. This part applies to each State that receives payments under Part B of the Act, as defined in Section 300.4. b) Public agencies within the State. The provisions of this part (1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including: (i) The State educational agency (SEA). (ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA. (iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness). (iv) State and local juvenile and adult correctional facilities; and (2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B the Act. c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities (1) Referred to or placed in private schools and facilities by that public agency; or (2) Placed in private schools by their parents under the provisions of Section 300.148. B. Definitions Used in This Part 1. Act. Act means the Individuals with Disabilities Education Act, as amended. 2. Assistive technology device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used

Legal Standards

1,142	43-243 continued…	State	(C) Inappropriate types of behavior or feelings under normal circumstances. (D) A general pervasive mood of unhappiness or depression. (E) A tendency to develop physical symptoms or fears associated with personal or school problems. (ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance. (5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section. (6) Intellectual disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, adversely affects a child's educational performance. (7) Multiple disabilities means concomitant impairments (such as intellectual disability blindness or intellectual disability orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf blindness. (8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). (9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that: (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (ii) Adversely affects a child's educational performance. (10) Specific learning disability (i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest it the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia. (ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotiona disturbance, or of environmental, cultural, or economic disadvantage. (11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educat performance. (12) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not a
1,143	43-243 continued…	State	b) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or d service. 14. Free appropriate public education. Free appropriate public education or FAPE means special education and related services that a) Are provided at public expense, under public supervision and direction, and without charge; b) Meet the standards of the SEA, including the requirements of this part; c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Secs. 300.320 through 300.324. 15. Highly qualified special education teachers. a) Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also (1) Include the requirements described in paragraph (b) of this section; and (2) Include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of paragraphs (c) and (d) of this section. b) Requirements for special education teachers in general. (1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that (i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qua means that the teacher meets the certification or licensing requirements, if any, set forth in the State's public charter school law; (ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) The teacher holds at least a bachelor's degree. (2) A teacher will be considered to meet the standard in paragraph (b)(1)(i) of this section if that teacher is participating in an alternative route to special education certification program under wh (i) The teacher (A) Receives high quality professional development that is sustained, intensive, and classroom focused in order to have a positive and lasting impact on classroom instruction, before and while teaching; (B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; (C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and (D) Demonstrates satisfactory progress toward full certification as prescribed by the State; and (ii) The State ensures, through its certification and licensure process, that the provisions in paragraph (b)(2)(i) of this section are met. (3) Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirem

Legal Standards

1,144	43-243 continued…	State	b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or or communication). 26. Parent. a) Parent means (1) A biological or adoptive parent of a child; (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible f child's welfare; or (5) A surrogate parent who has been appointed in accordance with Section 300.519 or section 639(a)(5) of the Act. b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educatio decisions for the child. (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf child, then such person or persons shall be determined to be the "parent" for purposes of this section. 27. Parent training and information center. Parent training and information center means a center assisted under sections 671 or 672 of the Act. 28. Personally identifiable. Personally identifiable means information that contains a) The name of the child, the child's parent, or other family member; b) The address of the child; c) A personal identifier, such as the child's social security number or student number; or d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. 29. Public agency. Public agency includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities. 30. Related services. a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special educati and includes speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.
1,145	43-243 continued…	State	(9) Physical therapy means services provided by a qualified physical therapist. (10) Psychological services includes (i) Administering psychological and educational tests, and other assessment procedures; (ii) Interpreting assessment results; (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning; (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and beha evaluations; (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and (vi) Assisting in developing positive behavioral intervention strategies. (11) Recreation includes (i) Assessment of leisure function; (ii) Therapeutic recreation services; (iii) Recreation programs in schools and community agencies; and (iv) Leisure education. (12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achi independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocat rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq. (13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person. (14) Social work services in schools includes (i) Preparing a social or developmental history on a child with a disability; (ii) Group and individual counseling with the child and family; (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and (v) Assisting in developing positive behavioral intervention strategies. (15) Speech language pathology services includes (i) Identification of children with speech or language impairments; (ii) Diagnosis and appraisal of specific speech or language impairments;

1,146	43-243 continued…	State	(5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career n requiring a baccalaureate or advanced degree. 36. State. State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas. 37. State educational agency. State educational agency or SEA means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary scho and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law. 38. Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education related settings, and i extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with Secs. 300.114 through 300.116. 39. Transition services. a) Transition services means a coordinated set of activities for a child with a disability that (1) Is designed to be within a results oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from sc to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, indepen living, or community participation; (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post school adult living objectives; and (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit special education. 40. Universal design. Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002. 41. Ward of the State. a) General. Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is (1) A foster child; (2) A ward of the State; or (3) In the custody of a public child welfare agency. b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in Section 300.30.
1,147	43-243 continued…	State	b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. c) Consistent with Section 300.323(c), each public agency must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying fo special education and related services to the child is being determined. 2. Residential and alternative residence placements. a) If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non medical care and room board, must be at no cost to the parents of the child. b) If a child with a disability is placed by a public entity for therapeutic reasons in a public or private residential program, the responsibility for providing a FAPE to that child shall rest with the LEA wherein the residence is located. This includes children with disabilities who reside in alternative residences (such as foster homes, group homes, orphanages, residential treatment facilities, state operated healthcare facilities and state operated facilities for the treatment of mental illness or chemical dependence) that are located within the LEA. This does not apply to children residing in hospitals, emergency shelters, special schools, child care institutions, or private healthcare settings that are funded through other provisions and acts. 3. Assistive technology. a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Secs. 300.5 and 300.6, respectively, are made available to child with a disability if required as a part of the child's (1) Special education under Section 300.36; (2) Related services under Section 300.34; or (3) Supplementary aids and services under Secs. 300.38 and 300.114(a)(2)(ii). b) On a case by case basis, the use of school purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to devices in order to receive FAPE. 4. Extended school year services. a) General. (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section. (2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with Secs. 300.320 through 300.324, that the services are necessary the provision of FAPE to the child. (3) In implementing the requirements of this section, a public agency may not (i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type, amount, or duration of those services. b) Definition. As used in this section, the term extended school year services means special education and related services that (1) Are provided to a child with a disability

Legal Standards

1,148	43-243 continued…	State	D. Least Restrictive Environment (LRE) 1. LRE requirements. a) General. (1) Except as provided in Section 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the Sta meet the LRE requirements of this section and Secs. 300.115 through 300.120. (2) Each public agency must ensure that (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that edu in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. b) Additional requirement State funding mechanism (1) General. (i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and (ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP. (2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will re the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph. 2. Continuum of alternative placements. a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. b) The continuum required in paragraph (a) of this section must (1) Include the alternative placements listed in the definition of special education under Section 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruc in hospitals and institutions); and (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. 3. Placements. In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that a) The placement decision (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (2) Is made in conformity with the LRE provisions of this subpart, including Secs. 300.114 through 300.118; b) The child's placement (1) Is determined at least annually;
1,149	43-243 continued…	State	a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary scho located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with Section 300.137, unless the Secretary has arranged for services to those children under the by pass provisions Secs. 300.190 through 300.198. b) Services plan for parentally placed private school children with disabilities. In accordance with paragraph (a) of this section and Secs. 300.137 through 300.139, a services plan must be developed implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally placed private school children covered under Secs. 300.130 throug 300.144: (1) The number of children evaluated; (2) The number of children determined to be children with disabilities; and (3) The number of children served. 4. Expenditures. a) Formula. To meet the requirement of Section 300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally placed p school children with disabilities: (1) For children between the ages of 3 and 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabi between the ages of 3 and 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction between the ages of 3 and 21. (2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally placed private school child with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five. (ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in Section 300.13. (3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds LEA must obligate the remaining funds for special education and related services (including direct services) to parentally placed private school children with disabilities during a carry over period of additional year. b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under Section 300.134, must conduct a thorough and complete child find process to determine the number of parentally placed childr with disabilities attending private schools located in the LEA.

Legal Standards

1,150	43-243 continued…	State	a) No individual right to special education and related services. No parentally placed private school child with a disability has an individual right to receive some or all of the special education and rel services that the child would receive if enrolled in a public school. b) Decisions. (1) Decisions about the services that will be provided to parentally placed private school children with disabilities under Secs. 300.130 through 300.144 must be made in accordance with paragrap of this section and Section 300.134(c). (2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities. c) Services plan for each child served under Secs. 300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Section 300.138(b); and (2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the reli or other private school, including individual or conference telephone calls. 9. Equitable services provided. a) General. (1) The services provided to parentally placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public sch except that private elementary school and secondary school teachers who are providing equitable services to parentally placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of Section 300.18. (2) Parentally placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. b) Services provided in accordance with a services plan. (1) Each parentally placed private school child with a disability who has been designated to receive services under Section 300.132 must have a services plan that describes the specific special educ and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Secs. 300.134 and 300.137, it will make available to parentally placed private school children with disabilities. (2) The services plan must, to the extent appropriate (i) Meet the requirements of Section 300.320, or for a child ages three through five, meet the requirements of Section 300.323(b) with respect to the services provided; and (ii) Be developed, reviewed, and revised consistent with Secs. 300.321 through 300.324. c) Provision of equitable services. (1) The provision of services pursuant to this section and Secs. 300.139 through 300.143 must be provided: (i) By employees of a public agency; or (ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.
1,151	43-243 continued…	State	a) A public agency must control and administer the funds used to provide special education and related services under Secs. 300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act. b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program. c) The public agency must ensure that the equipment and supplies placed in a private school (1) Are used only for Part B purposes; and (2) Can be removed from the private school without remodeling the private school facility. d) The public agency must remove equipment and supplies from a private school if (1) The equipment and supplies are no longer needed for Part B purposes; or (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes. e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities. H. Children With Disabilities in Private Schools Placed or Referred by Public Agencies 1. Applicability of Secs. 300.146 through 300.147. Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility b public agency as a means of providing special education and related services. 2. Responsibility of SEA. Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency a) Is provided special education and related services (1) In conformance with an IEP that meets the requirements of Secs. 300.320 through 300.325; and (2) At no cost to the parents; b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part; and c) Has all of the rights of a child with a disability who is served by a public agency. 3. Implementation by SEA. In implementing Section 300.146, the SEA must: a) Monitor compliance through procedures such as written reports, on site visits, and parent questionnaires; b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them. I. Children With Disabilities Enrolled by Their Parents in Private Schools When FAPE Is at Issue 1. Placement of children by parents when FAPE is at issue. a) General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency r FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with Secs. 300.131 through 300.144.

Legal Standards

1,152	43-243 continued…	State	2. SEA implementation of procedural safeguards. The SEA (and any agency assigned responsibility pursuant to Section 300.149(d)) must have in effect procedures to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for the children with disabilities served by that public agency. K. State Complaint Procedures 1. Adoption of State complaint procedures. a) General. Each SEA must adopt written procedures for (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of Section 300.153 by providing for the filing of a complai with the SEA; and (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under Secs. 300.151 through 300.153. b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, the SEA, pursuant to its general supervisory authority u Part B of the Act, must address (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) Appropriate future provision of services for all children with disabilities. 2. Minimum State complaint procedures. a) Time limit; minimum procedures. Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under Section 300.153 to (1) Carry out an independent on site investigation, if the SEA determines that an investigation is necessary; (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum (i) At the discretion of the public agency, a proposal to resolve the complaint; and (ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with Section 300.506; (4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains (i) Findings of fact and conclusions; and (ii) The reasons for the SEA's final decision. b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of this section also must (1) Permit an extension of the time limit under paragraph (a) of this section only if (i) Exceptional circumstances exist with respect to a particular complaint; or (ii) The parent and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute
1,153	43-243 continued…	State	(3) Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism. (4) Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph (b)(1) of this section. b) Obligation of noneducational public agencies. (1)(i) If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this sect provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in Section 300.5 relating to assistive technology devices, S 300.6 relating to assistive technology services, Section 300.34 relating to related services, Section 300.41 relating to supplementary aids and services, and Section 300.42 relating to transition service that are necessary for ensuring FAPE to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangem pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section. (ii) A noneducational public agency described in paragraph (b)(1)(i) of this section may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context. (2) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph (b)(1) of this section, the LEA (or State agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or State agency is authorized to claim reimbursement for the services from noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA or State agency in accordance with the terms of the interagency agreement or ot mechanism described in paragraph (a) of this section. c) Special rule. The requirements of paragraph (a) of this section may be met through (1) State statute or regulation; (2) Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or (3) Other appropriate written methods as determined by the Chief Executive Officer of the State or designee of that officer and approved by the Secretary. d) Children with disabilities who are covered by public benefits or insurance. (1) A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph (d)(2) of this section. (2) With regard to services required to provide FAPE to an eligible child under this part, the public agency (i) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of the Act; (ii) May not require parents to incur an out of pocket expense such as the payment of a deductible or co pay amount incurred in filing a claim for services provided pursuant to this part, but pursua paragraph (g)(2) of this section, may pay the cost that the parents otherwise would be required to pay; (iii) May not use a child's benefits under a public benefits or insurance program if that use would

Legal Standards

1,154	43-243 continued…	State	h) Construction. Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public benefits or insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program. M. Additional Eligibility Requirements 1. Hearings relating to LEA eligibility. The SEA must not make any final determination that an LEA is not eligible for assistance under Part B of the Act without first giving the LEA reasonable notice a opportunity for a hearing under 34 CFR 76.401(d). 2. Personnel qualifications. a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, inclu that those personnel have the content knowledge and skills to serve children with disabilities. b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that (1) Are consistent with any State approved or State recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those perso are providing special education or related services; and (2) Ensure that related services personnel who deliver services in their discipline or profession (i) Meet the requirements of paragraph (b)(1) of this section; and (ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be to assist in the provision of special education and related services under this part to children with disabilities. c) Qualifications for special education teachers. The qualifications described in paragraph (a) of this section must ensure that each person employed as a public school special education teacher in t State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of the ESEA. d) Policy. In implementing this section, a State must adopt a policy that includes a requirement that LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personn provide special education and related services under this part to children with disabilities. e) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action o behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications w the SEA as provided for under this part. 3. Performance goals and indicators. The State must a) Have in effect established goals for the performance of children with disabilities in the State that (1) Promote the purposes of this part, as stated in Section 300.1; (2) Are the same as the State's objectives for progress by children in its definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under sectio
1,155	43-243 continued…	State	c) State level nonsupplanting. (1) Except as provided in Section 300.202, funds paid to a State under Part B of the Act must be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of the SEA or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act, and in no case to supplant those Federal, State, and funds. (2) If the State provides clear and convincing evidence that all children with disabilities have available to them FAPE, the Secretary may waive, in whole or in part, the requirements of paragraph (c of this section if the Secretary concurs with the evidence provided by the State under Section 300.164. 6. Maintenance of State financial support. a) General. A State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess o of educating those children, below the amount of that support for the preceding fiscal year. b) Reduction of funds for failure to maintain support. The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement. c) Waivers for exceptional or uncontrollable circumstances. The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determ that (1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State (2) The State meets the standard in Section 300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act. d) Subsequent years. If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the redu level of the State's support. 7. Waiver of requirement regarding supplementing and not supplanting with Part B funds. a) Except as provided under Secs. 300.202 through 300.205, funds paid to a State under Part B of the Act must be used to supplement and increase the level of Federal, State, and local funds (includi funds that are not under the direct control of SEAs or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act and in no case to supplan those Federal, State, and local funds. A State may use funds it retains under Section 300.704(a) and (b) without regard to the prohibition on supplanting other funds. b) If a State provides clear and convincing evidence that all eligible children with disabilities throughout the State have FAPE available to them, the Secretary may waive for a period of one year in w or in part the requirement under Section 300.162 (regarding State level nonsupplanting) if the Secretary concurs with the evidence provided by the State. c) If a State wishes to request a waiver under this section, it must submit to the Secretary a written request that includes (1) An assurance that FAPE is currently available, and will remain available throughout the period that a waiver would be in effect, to all eligible children with disabilities throughout the State, rega of the public agency that is responsible for providing FAPE to them. The assurance must be signed by an official who has the authority to provide that assurance as it applies to all eligible children wit disabilities in the State;

Legal Standards

1,156	43-243 continued…	State	(4) In order to meet its responsibility under paragraphs (b)(2), (b)(3), and (c) of this section to ensure that children with disabilities who need instructional materials in accessible formats are provi those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who nee those instructional materials at the same time as other children receive instructional materials. c) Preparation and delivery of files. If the SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must (1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, must enter into a written contract with the publisher of the print instructional materials to (i) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials usin NIMAS; or (ii) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (2) Provide instructional materials to blind persons or other persons with print disabilities in a timely manner. d) Assistive technology. In carrying out this section, the SEA, to the maximum extent possible, must work collaboratively with the State agency responsible for assistive technology programs. e) Definitions. (1) In this section and Section 300.210 (i) Blind persons or other persons with print disabilities means children served under this part who may qualify to receive books and other publications produced in specialized formats in accorda with the Act entitled "An Act to provide books for adult blind," approved March 3, 1931, 2 U.S.C 135a; (ii) National Instructional Materials Access Center or NIMAC means the center established pursuant to section 674(e) of the Act; (iii) National Instructional Materials Accessibility Standard or NIMAS has the meaning given the term in section 674(e)(3)(B) of the Act; (iv) Specialized formats has the meaning given the term in section 674(e)(3)(D) of the Act. (2) The definitions in paragraph (e)(1) of this section apply to each State and LEA, whether or not the State or LEA chooses to coordinate with the NIMAC. 4. Overidentification and disproportionality. The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent t inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in Section 300.8. 5. Prohibition on mandatory medication. a) General. The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controll Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under Secs. 300.300 through 300.311, or receiving services under this part. b) Rule of construction. Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education related services under Section 300.111 (related to child find).
1,157	43-243 continued…	State	b) If more than one individual is designated, the Secretary designates one of those individuals as the Chief Hearing Official of the Hearing Panel. If one individual is designated, that individual is the He Official. 4. Hearing procedures. a) As used in Secs. 300.179 through 300.184 the term party or parties means the following: (1) The SEA that requests a hearing regarding the proposed disapproval of the State's eligibility under this part. (2) The Department official who administers the program of financial assistance under this part. (3) A person, group or agency with an interest in and having relevant information about the case that has applied for and been granted leave to intervene by the Hearing Official or Hearing Panel. b) Within 15 days after receiving a request for a hearing, the Secretary designates a Hearing Official or Hearing Panel and notifies the parties. c) The Hearing Official or Hearing Panel may regulate the course of proceedings and the conduct of the parties during the proceedings. The Hearing Official or Hearing Panel takes all steps necessary conduct a fair and impartial proceeding, to avoid delay, and to maintain order, including the following: (1) The Hearing Official or Hearing Panel may hold conferences or other types of appropriate proceedings to clarify, simplify, or define the issues or to consider other matters that may aid in the disposition of the case. (2) The Hearing Official or Hearing Panel may schedule a prehearing conference with the Hearing Official or Hearing Panel and the parties. (3) Any party may request the Hearing Official or Hearing Panel to schedule a prehearing or other conference. The Hearing Official or Hearing Panel decides whether a conference is necessary and notifies all parties. (4) At a prehearing or other conference, the Hearing Official or Hearing Panel and the parties may consider subjects such as (i) Narrowing and clarifying issues; (ii) Assisting the parties in reaching agreements and stipulations; (iii) Clarifying the positions of the parties; (iv) Determining whether an evidentiary hearing or oral argument should be held; and (v) Setting dates for (A) The exchange of written documents; (B) The receipt of comments from the parties on the need for oral argument or evidentiary hearing; (C) Further proceedings before the Hearing Official or Hearing Panel (including an evidentiary hearing or oral argument, if either is scheduled); (D) Requesting the names of witnesses each party wishes to present at an evidentiary hearing and estimation of time for each presentation; or (E) Completion of the review and the initial decision of the Hearing Official or Hearing Panel. (5) A prehearing or other conference held under paragraph (b)(4) of this section may be conducted by telephone conference call. (6) At a prehearing or other conference, the parties must be prepared to discuss the subjects listed in paragraph (b)(4) of this section.

Legal Standards

1,158	43-243 continued…	State	b) The Secretary waives the requirement of section 612(a)(10)(A) of the Act and of Secs. 300.131 through 300.144 if the Secretary implements a by pass. 2. Provisions for services under a by pass. a) Before implementing a by pass, the Secretary consults with appropriate public and private school officials, including SEA officials, in the affected State, and as appropriate, LEA or other public age officials to consider matters such as (1) Any prohibition imposed by State law that results in the need for a by pass; and (2) The scope and nature of the services required by private school children with disabilities in the State, and the number of children to be served under the by pass. b) After determining that a by pass is required, the Secretary arranges for the provision of services to private school children with disabilities in the State, LEA or other public agency in a manner consistent with the requirements of section 612(a)(10)(A) of the Act and Secs. 300.131 through 300.144 by providing services through one or more agreements with appropriate parties. c) For any fiscal year that a by pass is implemented, the Secretary determines the maximum amount to be paid to the providers of services by multiplying (1) A per child amount determined by dividing the total amount received by the State under Part B of the Act for the fiscal year by the number of children with disabilities served in the prior year as reported to the Secretary under section 618 of the Act; by (2) The number of private school children with disabilities (as defined in Secs. 300.8(a) and 300.130) in the State, LEA or other public agency, as determined by the Secretary on the basis of the mo recent satisfactory data available, which may include an estimate of the number of those children with disabilities. d) The Secretary deducts from the State's allocation under Part B of the Act the amount the Secretary determines is necessary to implement a by pass and pays that amount to the provider of servic The Secretary may withhold this amount from the State's allocation pending final resolution of any investigation or complaint that could result in a determination that a by pass must be implemente 3. Notice of intent to implement a by pass. a) Before taking any final action to implement a by pass, the Secretary provides the SEA and, as appropriate, LEA or other public agency with written notice. b) In the written notice, the Secretary (1) States the reasons for the proposed by pass in sufficient detail to allow the SEA and, as appropriate, LEA or other public agency to respond; and (2) Advises the SEA and, as appropriate, LEA or other public agency that it has a specific period of time (at least 45 days) from receipt of the written notice to submit written objections to the propo by pass and that it may request in writing the opportunity for a hearing to show cause why a by pass should not be implemented. c) The Secretary sends the notice to the SEA and, as appropriate, LEA or other public agency by certified mail with return receipt requested. 4. Request to show cause. The SEA, LEA or other public agency in receipt of a notice under Section 300.192 that seeks an opportunity to show cause why a by pass should not be implemented must s a written request for a show cause hearing to the Secretary, within the specified time period in the written notice in Section 300.192(b)(2). 5. Show cause hearing. a) If a show cause hearing is requested, the Secretary (1) Notifies the SEA and affected LEA or other public agency, and other appropriate public and private school officials of the time and place for the hearing; (2) Designates a person to conduct the show cause hearing. The designee must not have had any responsibility for the matter brought for a hearing; and
1,159	43-243 continued…	State	a) Except as provided in paragraph (2)(b) of this section, the SEA must determine that an LEA complies with paragraph (1) of this section for purposes of establishing the LEA's eligibility for an awar a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per capita amount from either of the following sources as the LEA spent for that purpose from t same source for the most recent prior year for which information is available: (1) Local funds only. (2) The combination of State and local funds. b) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at lea same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available and the standard in paragraph (2)(a)(1) of this section was u to establish its compliance with this section. c) The SEA may not consider any expenditures made from funds provided by the Federal Government for which the SEA is required to account to the Federal Government or for which the LEA is required to account to the Federal Government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (1) of this section. E. Exception to maintenance of effort. Notwithstanding the restriction in Section 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following: 1. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel. 2. A decrease in the enrollment of children with disabilities. 3. The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child a) Has left the jurisdiction of the agency; b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or c) No longer needs the program of special education. 4. The termination of costly expenditures for long term purchases, such as the acquisition of equipment or the construction of school facilities. 5. The assumption of cost by the high cost fund operated by the SEA under Section 300.704(c). F. Adjustment to local fiscal efforts in certain fiscal years. 1. Amounts in excess. Notwithstanding Section 300.202(a)(2) and (b) and Section 300.203(a), and except as provided in paragraph (4) of this section and Section 300.230(e)(2), for any fiscal year fo which the allocation received by an LEA under Section 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by Section 300.203(a) by not more than 50 percent of the amount of that excess. 2. Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (1) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (1) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those acti 3. State prohibition. Notwithstanding paragraph (1) of this section, if the SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 61

Legal Standards

1,160	43-243 continued…	State	2. Modification made by an LEA or State agency. Subject to paragraph (3) of this section, policies and procedures submitted by an LEA or a State agency in accordance with this subpart remain in effe until the LEA or State agency submits to the SEA the modifications that the LEA or State agency determines are necessary. 3. Modifications required by the SEA. The SEA will require an LEA or a State agency to modify its policies and procedures, but only to the extent necessary to ensure the LEA's or State agency's comp with Part B of the Act or State law, if a) After December 3, 2004, the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the applicable provisions of the Act (or the regulations developed to carry out t Act) are amended; b) There is a new interpretation of an applicable provision of the Act by Federal or State courts; or c) There is an official finding of noncompliance with Federal or State law or regulations. P. Notification of LEA or State agency in case of ineligibility. If the SEA determines that an LEA or State agency is not eligible under Part B of the Act, then the SEA must 1. Notify the LEA or State agency of that determination; and 2. Provide the LEA or State agency with reasonable notice and an opportunity for a hearing. Q. Fiscal Sanctions. If the SEA finds that a LEA, special school, or other agency, herein referred to as an applicant, with the responsibility under state law for the provision of a FAPE to students with disabilities is failing to comply with any requirement described under Part B of the IDEA, the applicable federal or state regulations, or state policies and procedures related to the requirements of the IDEA, the SEA may impose sanctions, including the reduction, withholding, or recovery of payments made relative to the IDEA grant administered by the SEA. In accordance with Part B of the IDEA an Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations Sections 75 and 76, the SEA shall provide reasonable notice and an opportunity for a hearing pr taking any final action regarding the reduction, withholding, or recovery of payments to the applicant. 1. Hearing Issues. The SEA shall provide the applicant with notification of the right to a hearing and the procedures for a hearing if the SEA determines a) An applicant is not eligible for assistance under Part B of the IDEA; b) An applicant, for three or more consecutive years, needs intervention or substantial intervention, in implementing the requirements of Part B of the IDEA; c) An applicant is unable or unwilling to consolidate with other applicants or agencies in accordance with the IDEA; d) An applicant failed to submit an accurate and unduplicated count of the number of students with disabilities receiving special education and related services, or in the case of children enrolled by parents in private or home school programs, failed to accurately report the count of students eligible to receive special education and related services; e) An applicant is not meeting the requirements of Part B of the IDEA and the provision of a FAPE to students with disabilities and the applicant has not, or the SEA has reason to believe the applicar cannot, correct the problem within one year; or f) An applicant is not meeting any of the other federal or state requirements relative to Part B of the IDEA that allow the reduction, withholding, or recovery of funds. 2. Hearing Appeals Panel. When a school district or public agency requests a hearing, in writing, the state superintendent of education (Superintendent) shall select a three member hearing panel to conduct the proceeding. The hearing panel shall consist of at least two of the SEA's deputy superintendents or their designees, and one additional individual designated by the superintendent. 3. Hearing Procedures.
1,161	43-243 continued…	State	S. Joint establishment of eligibility. 1. General. The SEA may require an LEA to establish its eligibility jointly with another LEA if the SEA determines that the LEA will be ineligible under this subpart because the agency will not be able establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities. 2. Charter school exception. The SEA may not require a charter school that is an LEA to jointly establish its eligibility under paragraph (1) of this section unless the charter school is explicitly permit do so under the State's charter school statute. 3. Amount of payments. If the SEA requires the joint establishment of eligibility under paragraph (1) of this section, the total amount of funds made available to the affected LEAs must be equal to th of the payments that each LEA would have received under Section 300.705 if the agencies were eligible for those payments. T. Requirements for establishing eligibility. 1. Requirements for LEAs in general. LEAs that establish joint eligibility under this section must a) Adopt policies and procedures that are consistent with the State's policies and procedures under Secs. 300.101 through 300.163, and Secs. 300.165 through 300.174; and b) Be jointly responsible for implementing programs that receive assistance under Part B of the Act. 2. Requirements for educational service agencies in general. If an educational service agency is required by State law to carry out programs under Part B of the Act, the joint responsibilities given to under Part B of the Act a) Do not apply to the administration and disbursement of any payments received by that educational service agency; and b) Must be carried out only by that educational service agency. 3. Additional requirement. Notwithstanding any other provision of Secs. 300.223 through 300.224, an educational service agency must provide for the education of children with disabilities in the le restrictive environment, as required by Section 300.112. U. Early intervening services. 1. General. An LEA may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to Section 300.205, if a combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financi structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education related services, but who need additional academic and behavioral support to succeed in a general education environment. (See Appendix D for examples of how Section 300.205(d), regarding local maintenance of effort, and Section 300.226(a) affect one another.) 2. Activities. In implementing coordinated, early intervening services under this section, an LEA may carry out activities that include a) Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behaviora interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and b) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction. 3. Construction. Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability

Legal Standards

1,162	43-243 continued…	State	b) Parental consent for services. (1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special educati and related services to the child. (2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. (3) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency: (i) May not use the procedures in the Procedural Safeguards Due Process Procedures for Parents and Children section V (including the mediation procedures under Section 300.506) and the due process procedures under Section Section 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child; (ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for wh the parent refuses or fails to provide consent; and (iii) Is not required to convene an IEP team meeting or develop an IEP under Section Section 300.320 and 300.324 for the child. (4) If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and re services, the public agency: (i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with Section 300.503 before ceasing the provision of special education and related services; (ii) May not use the procedures in the Procedural Safeguards section (including the mediation procedures under Section 300.506 or the due process procedures under Section Section 300.507 thro 300.516) in order to obtain agreement or a ruling that he services may be provided to the child; (iii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; a (iv) Is not required to convene an IEP team meeting or develop an IEP under Section Section 300.320 and 300.324 for the child for further provision of special education and related services. c) Parental consent for reevaluations. (1) Subject to paragraph (c)(2) of this section, each public agency (i) Must obtain informed parental consent, in accordance with Section 300.300(a)(1), prior to conducting any reevaluation of a child with a disability. (ii) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph (a)(this section. (iii) The public agency does not violate its obligation under Section 300.111 and Secs. 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation. (2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that (i) It made reasonable efforts to obtain such consent; and (ii) The child's parent has failed to respond. d) Other consent requirements.
1,163	43-243 continued…	State	c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section. d) Requirements if additional data are not needed. (1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of' (i) That determination and the reasons for the determination; and (ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents. e) Evaluations before change in eligibility. (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with Secs. 300.304 through 300.311 before determining that the chil longer a child with a disability. (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law. (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achiev and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals. 6. Determination of eligibility. a) General. Upon completion of the administration of assessments and other evaluation measures (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in Section 300.8, in accordance with paragraph (b) of this sectio the educational needs of the child; and (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part (1) If the determinant factor for that determination is (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); (ii) Lack of appropriate instruction in math; or (iii) Limited English proficiency; and (2) If the child does not otherwise meet the eligibility criteria under Section 300.8(a). c) Procedures for determining eligibility and educational need. (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under Section 300.8, and the educational needs of the child, each public agency must (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condit

Legal Standards

1,164	43-243 continued…	State	D. Individualized Education Programs 1. Definition of individualized education program. a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with Secs. 300.320 through 300.324, and that must include (1) A statement of the child's present levels of academic achievement and functional performance, including (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; (2)(i) A statement of measurable annual goals, including academic and functional goals designed to (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child's other educational needs that result from the child's disability; (ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short term objectives; (3) A description of (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of repo cards) will be provided; (4) A statement of the special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable, to be provided to the child, or on beha the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activi and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section; (5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section; (6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assess consistent with section 612(a)(16) of the Act; and (ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why (A) The child cannot participate in the regular assessment; and (B) The particular alternate assessment selected is appropriate for the child; and (7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and
1,165	43-243 continued…	State	d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; an (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of (i) His or her specific responsibilities related to implementing the child's IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. e) IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new pub agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services compar to those described in the child's IEP from the previous public agency), until the new public agency either (1) Adopts the child's IEP from the previous public agency; or (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in Secs. 300.320 through 300.324. f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new S and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those describe the child's IEP from the previous public agency), until the new public agency (1) Conducts an evaluation pursuant to Secs. 300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in Secs. 300.320 through 300.324. g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency. E. Development of IEP 1. Development, review, and revision of IEP. a) Development of IEP: (1) General. In developing each child's IEP, the IEP Team must consider (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. (2) Consideration of special factors. The IEP Team must

Legal Standards

1,166	43-243 continued…	State	V. Procedural Safeguards Due Process Procedures for Parents and Children A. Procedural Safeguards 1. Responsibility of SEA and other public agencies. Each SEA must ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of Secs. 300.500 through 300.536. 2. Opportunity to examine records; parent participation in meetings. a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of Secs. 300.613 through 300.621, an opportunity to inspect and revi education records with respect to (1) The identification, evaluation, and educational placement of the child; and (2) The provision of FAPE to the child. b) Parent participation in meetings. (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to (i) The identification, evaluation, and educational placement of the child; and (ii) The provision of FAPE to the child. (2) Each public agency must provide notice consistent with Section 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings des in paragraph (b)(1) of this section. (3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination o service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. c) Parent involvement in placement decisions. (1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in Section 300.322(a) through (b)(1). (3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. (4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agen must have a record of its attempt to ensure their involvement. 3. Independent educational evaluation. a) General. (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.
1,167	43-243 continued…	State	(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (ii) That the parent understands the content of the notice; and (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met. 5. Procedural safeguards notice. a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to t parents (1) Upon initial referral or parent request for evaluation; (2) Upon receipt of the first State complaint under Secs. 300.151 through 300.153 and upon receipt of the first due process complaint under Section 300.507 in a school year; (3) In accordance with the discipline procedures in Section 300.530(h); and (4) Upon request by a parent. b) Internet Web site. A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists. c) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under Section 300.148, Secs. 300.151 through 300.153, Section 300.300, Se 300.502 through 300.503, Secs. 300.505 through 300.518, Section 300.520, Secs. 300.530 through 300.536 and Secs. 300.610 through 300.625 relating to (1) Independent educational evaluations; (2) Prior written notice; (3) Parental consent; (4) Access to education records; (5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including (i) The time period in which to file a complaint; (ii) The opportunity for the agency to resolve the complaint; and (iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, a relevant procedures; (6) The availability of mediation; (7) The child's placement during the pendency of any due process complaint; (8) Procedures for students who are subject to placement in an interim alternative educational setting; (9) Requirements for unilateral placement by parents of children in private schools at public expense; (10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;

Legal Standards

1,168	43-243 continued…	State	(3) A party may amend its due process complaint only if (i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to Section 300.510; or (ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins. (4) If a party files an amended due process complaint, the timelines for the resolution meeting in Section 300.510(a) and the time period to resolve in Section 300.510(b) begin again with the filing amended due process complaint. e) LEA response to a due process complaint. (1) If the LEA has not sent a prior written notice under Section 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes (i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint; (ii) A description of other options that the IEP Team considered and the reasons why those options were rejected; (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and (iv) A description of the other factors that are relevant to the agency's proposed or refused action. (2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropria f) Other party response to a due process complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint. 10. Model forms. a) Each SEA must develop model forms to assist parents and public agencies in filing a due process complaint in accordance with Secs. 300.507(a) and 300.508(a) through (c) and to assist parents a other parties in filing a State complaint under Secs. 300.151 through 300.153. However, the SEA or LEA may not require the use of the model forms. b) Parents, public agencies, and other parties may use the appropriate model form described in paragraph (a) of this section, or another form or other document, so long as the form or document th used meets, as appropriate, the content requirements in Section 300.508(b) for filing a due process complaint, or the requirements in Section 300.153(b) for filing a State complaint. 11. Resolution process. a) Resolution meeting. (1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under Section 300.511, the LEA must convene a meeting with the pa and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that (i) Includes a representative of the public agency who has decision making authority on behalf of that agency; and (ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney. (2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity resolve the dispute that is the basis for the due process complaint.
1,169	43-243 continued…	State	(2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. (3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under Secs. 300.500 through 300.536. b) Construction clause. Nothing in Secs. 300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under Section 300.514(b), if a State level appeal is available. c) Separate request for a due process hearing. Nothing in Secs. 300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate fr due process complaint already filed. d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must (1) Transmit the findings and decisions referred to in Section 300.512(a)(5) to the State advisory panel established under Section 300.167; and (2) Make those findings and decisions available to the public. 15. Finality of decision; appeal; impartial review. a) Finality of hearing decision. A decision made in a hearing conducted pursuant to Secs. 300.507 through 300.513 or Secs. 300.530 through 300.534 is final, except that any party involved in the he may appeal the decision under the provisions of paragraph (b) of this section and Section 300.516. b) Appeal of decisions; impartial review. (1) If the hearing required by Section 300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA. (2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in Section 300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties. c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must (1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under Section 300.167; and (2) Make those findings and decisions available to the public. d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under Section 300.516.

Legal Standards

1,170	43-243 continued…	State	20. Surrogate parents. a) General. Each public agency must ensure that the rights of a child are protected when (1) No parent (as defined in Section 300.30) can be identified; (2) The public agency, after reasonable efforts, cannot locate a parent; (3) The child is a ward of the State under the laws of that State; or (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11434a(6)). b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method (1) For determining whether a child needs a surrogate parent; and (2) For assigning a surrogate parent to the child. c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets requirements in paragraphs (d)(2)(i) and (e) of this section. d) Criteria for selection of surrogate parents. (1) The public agency may select a surrogate parent in any way permitted in the State Department of Education, Office of Exceptional Children's Policies and Procedures. (2) Public agencies must ensure that a person selected as a surrogate parent (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child; (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and (iii) Has knowledge and skills that ensure adequate representation of the child. e) Non employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is by the agency to serve as a surrogate parent. f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requiremen paragraph (d) of this section. g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to (1) The identification, evaluation, and educational placement of the child; and (2) The provision of FAPE to the child. h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent. 21. Transfer of parental rights at age of majority.
1,171	43-243 continued…	State	b) Authority of hearing officer. (1) A hearing officer under Section 300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section. (2) In making the determination under paragraph (b)(1) of this section, the hearing officer may (i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of Section 300.530 or that the child's beh was a manifestation of the child's disability; or (ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maint the current placement of the child is substantially likely to result in injury to the child or to others. (3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in in to the child or to others. c) Expedited due process hearing. (1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent w requirements of Secs. 300.507 and 300.508(a) through (c) and Secs. 300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section. (2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing off must make a determination within 10 school days after the hearing. (3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in Section 300.506 (i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and (ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint. (4) The decisions on expedited due process hearings are appealable consistent with Section 300.514. 4. Placement during appeals. When an appeal under Section 300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in Section A300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise. 5. Protections for children not determined eligible for special education and related services. a) General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, ma assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability b the behavior that precipitated the disciplinary action occurred. b) Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred (1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of specia education and related services; (2) The parent of the child requested an evaluation of the child pursuant to Secs. 300.300 through 300.311; or

Legal Standards

1,172	43-243 continued…	State	(1) Each State must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State performance plans. (2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects the data through State monitoring or sampling, the State must co data on those indicators for each LEA at least once during the period of the State performance plan. (3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collectio data under Part B of the Act. 3. State use of targets and reporting. a) General. Each State must use the targets established in the State's performance plan under Section 300.601 and the priority areas described in Section 300.600(d) to analyze the performance of e LEA. b) Public reporting and privacy (1) Public report. (i) Subject to paragraph (b)(1)(ii) of this section, the State must (A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan as soon as practicable but no later than 120 days following the submission of its annual performance report to the Secretary under paragraph (b)(2) of this section; and (B) Make each of the following items available through public means: the State's performance plan, under Section 300.601(a); annual performance reports, under paragraph (b)(2) of this section; the State's annual reports on the performance of each LEA located in the State, under paragraph (b)(1)(i)(A) of this section. In doing so, the State must, at a minimum, post the plan and reports on the web site, and distribute the plan and reports to the media and through public agencies. (ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report under parag (b)(1)(i)(A) of this section the most recently available performance data on each LEA, and the date the data were obtained. (2) State performance report. The State must report annually to the Secretary on the performance of the State under the State's performance plan. (3) Privacy. The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual chil or where the available data are insufficient to yield statistically reliable information. 4. Secretary's review and determination regarding State performance. a) Review. The Secretary annually reviews the State's performance report submitted pursuant to Section 300.602(b)(2). b) Determination (1) General. Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made availa the Secretary determines if the State (i) Meets the requirements and purposes of Part B of the Act; (ii) Needs assistance in implementing the requirements of Part B of the Act;
1,173	43-243 continued…	State	10. Rule of construction. Nothing in this subpart shall be construed to restrict the Secretary from utilizing any authority under GEPA, including the provisions in 34 CFR parts 76, 77, 80, and 81 to mo and enforce the requirements of the Act, including the imposition of special conditions under 34 CFR 80.12. B. Confidentiality of Information 1. Confidentiality. The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with Secs. 300.611 through 300.627. 2. Definitions. As used in Secs. 300.611 through 300.625 a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act 1974, 20 U.S.C. 1232g (FERPA)). c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act. 3. Notice to parents. a) The SEA must give notice that is adequate to fully inform parents about the requirements of Section 300.123, including (1) A description of the extent that the notice is given in the native languages of the various population groups in the State; (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (incl the sources from whom information is gathered), and the uses to be made of the information; (3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99. b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity. 4. Access rights. a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The age must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to Section 300.507 or Secs. 300.530 through 300.532, or resolution session pursuant to Section 300.510, and in no case more than 45 days after the request has been made. b) The right to inspect and review education records under this section includes (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and (3) The right to have a representative of the parent inspect and review the records.

Legal Standards

1,174	43-243 continued…	State	15. Destruction of information. a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes atte grade level completed, and year completed may be maintained without time limitation. 16. Children's rights. a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of child and type or severity of disability. b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18. c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with Section 300.520, the rights regarding educational records in 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents. 17. Enforcement. The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with Secs. 300.611 through 30 are followed and that the requirements of the Act and the regulations in this part are met. The sanctions are described in Section III. Local Education Eligibility. 18. Department use of personally identifiable information. If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that not subject to the Privacy Act of 1974, 5 U.S.C. 552a, the Secretary applies the requirements of 5 U.S.C. 552a(b)(1) and (b)(2), 552a(b)(4) through (b)(11); 552a(c) through 552a(e)(3)(B); 552a(e)(3) 552a(e)(5) through (e)(10); 552a(h); 552a(m); and 552a(n); and the regulations implementing those provisions in 34 CFR part 5b. C. Reports Program Information 1. Annual report of children served report requirement. a) The SEA must annually report to the Secretary on the information required by section 618 of the Act at the times specified by the Secretary. b) The SEA must submit the report on forms provided by the Secretary. 2. Annual report of children served information required in the report. a) For purposes of the annual report required by section 618 of the Act and Section 300.640, the State and public agencies must count and report the number of children with disabilities receiving s education and related services on any date between October 1 and December 1, inclusive, of each year. b) For the purpose of this reporting provision, a child's age is the child's actual age on the date of the child count. c) The SEA or public agency may not report a child under more than one disability category. d) If a child with a disability has more than one disability, the SEA or public agency must report that child in accordance with the following procedure: (1) If a child has only two disabilities and those disabilities are deafness and blindness, and the child is not reported as having a developmental delay, that child must be reported under the category "deaf blindness." (2) A child who has more than one disability and is not reported as having deaf blindness or as having a developmental delay must be reported under the category "multiple disabilities."
1,175	43-243 continued…	State	(ii) Data. For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary. (2) Limitations. Notwithstanding paragraph (c)(1) of this section, allocations under this section are subject to the following: (i) Preceding year allocation. No State's allocation may be less than its allocation under section 611 of the Act for the preceding fiscal year. (ii) Minimum. No State's allocation may be less than the greatest of (A) The sum of (1) The amount the State received under section 611 of the Act for fiscal year 1999; and (2) One third of one percent of the amount by which the amount appropriated under section 611(i) of the Act for the fiscal year exceeds the amount appropriated for section 611 of the Act for fisca 1999; (B) The sum of (1) The amount the State received under section 611 of the Act for the preceding fiscal year; and (2) That amount multiplied by the percentage by which the increase in the funds appropriated for section 611 of the Act from the preceding fiscal year exceeds 1.5 percent; or (C) The sum of (1) The amount the State received under section 611 of the Act for the preceding fiscal year; and (2) That amount multiplied by 90 percent of the percentage increase in the amount appropriated for section 611 of the Act from the preceding fiscal year. (iii) Maximum. Notwithstanding paragraph (c)(2)(ii) of this section, no State's allocation under paragraph (a) of this section may exceed the sum of (A) The amount the State received under section 611 of the Act for the preceding fiscal year; and (B) That amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under section 611 of the Act from the preceding fiscal year. (3) Ratable reduction. If the amount available for allocations to States under paragraph (c) of this section is insufficient to pay those allocations in full, those allocations are ratably reduced, subject paragraph (c)(2)(i) of this section. d) Decrease in funds. If the amount available for allocations to States under paragraph (a) of this section for a fiscal year is less than the amount allocated to the States under section 611 of the Act fo preceding fiscal year, those allocations are calculated as follows: (1) Amounts greater than fiscal year 1999 allocations. If the amount available for allocations under paragraph (a) of this section is greater than the amount allocated to the States for fiscal year 199 each State is allocated the sum of (i) 1999 amount. The amount the State received under section 611 of the Act for fiscal year 1999; and (ii) Remaining funds. An amount that bears the same relation to any remaining funds as the increase the State received under section 611 of the Act for the preceding fiscal year over fiscal year 199 bears to the total of all such increases for all States. (2) Amounts equal to or less than fiscal year 1999 allocations

Legal Standards

1,176	43-243 continued…	State	c) Local educational agency high cost fund. (1) In general (i) For the purpose of assisting LEAs (including a charter school that is an LEA or a consortium of LEAs) in addressing the needs of high need children with disabilities, each State has the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for other State level activities under paragraph (b)(1) of this section (A) To finance and make disbursements from the high cost fund to LEAs in accordance with paragraph (c) of this section during the first and succeeding fiscal years of the high cost fund; and (B) To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, su to paragraph (c)(2)(ii) of this section. (ii) For purposes of paragraph (c) of this section, local educational agency includes a charter school that is an LEA, or a consortium of LEAs. (2)(i) A State must not use any of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section, which are solely for disbursement to LEAs, for costs associated with establishing, supporting, and otherwise administering the fund. The State may use funds the State reserves under paragraph (a) of this section for those administrative costs. (ii) A State must not use more than 5 percent of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section for each fiscal year to support innovative and effective ways of cost shari among consortia of LEAs. (3)(i) The SEA must develop, not later than 90 days after the State reserves funds under paragraph (c)(1)(i) of this section, annually review, and amend as necessary, a State plan for the high cost fu Such State plan must (A) Establish, in consultation and coordination with representatives from LEAs, a definition of a high need child with a disability that, at a minimum (1) Addresses the financial impact a high need child with a disability has on the budget of the child's LEA; and (2) Ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 9101 of the ESEA) in that State; (B) Establish eligibility criteria for the participation of an LEA that, at a minimum, take into account the number and percentage of high need children with disabilities served by an LEA; (C) Establish criteria to ensure that placements supported by the fund are consistent with the requirements of Secs. 300.114 through 300.118; (D) Develop a funding mechanism that provides distributions each fiscal year to LEAs that meet the criteria developed by the State under paragraph(c)(3)(i)(B) of this section; (E) Establish an annual schedule by which the SEA must make its distributions from the high cost fund each fiscal year; and (F) If the State elects to reserve funds for supporting innovative and effective ways of cost sharing under paragraph (c)(1)(i)(B) of this section, describe how these funds will be used. (ii) The State must make its final State plan available to the public not less than 30 days before the beginning of the school year, including dissemination of such information on the State Web site. (4)(i) Each SEA must make all annual disbursements from the high cost fund established under paragraph (c)(1)(i) of this section in accordance with the State plan published pursuant to paragraph (c)(3) of this section. (ii) The costs associated with educating a high need child with a disability, as defined under paragraph (c)(3)(i)(A) of this section, are only those costs associated with providing direct special educ and related services to the child that are identified in that child's IEP, including the cost of room and board for a residential placement determined necessary, consistent with Section 300.114, to impl a child's IEP.
1,177	43-243 continued…	State	(3) Allocation of remaining funds. After making allocations under paragraph (b)(1) of this section, as adjusted by paragraph (b)(2) of this section, the State must (i) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LE jurisdiction; and (ii) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA. c) Reallocation of funds. (1) If the SEA determines that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under this part that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children disabilities residing in the areas served by those other LEAs. The SEA may also retain those funds to use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State level activities pursuant to Section 300.704. (2) After the SEA distributes funds under this part to an eligible LEA that is not serving any children with disabilities, as provided in paragraph (a) of this section, the SEA must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The SEA may reallocate any of those funds not obligated by the LEA to o LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs. The SEA may also retain tho funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State level activities pursuant to Section 300.704. C. Definitions that Apply to this Subpart 1. Definitions applicable to allotments, grants, and use of funds. As used in this subpart a) Freely associated States means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; b) Outlying areas means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; c) State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and d) Average per pupil expenditure in public elementary schools and secondary schools in the United States means (1) Without regard to the source of funds (i) The aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the recent preceding fiscal year for which satisfactory data are available) of all LEAs in the 50 States and the District of Columbia); plus (ii) Any direct expenditures by the State for the operation of those agencies; divided by (2) The aggregate number of children in average daily attendance to whom those agencies provided free pu education during that preceding year. D. Acquisition of Equipment and Construction or Alteration of Facilities 1. Acquisition of equipment and construction or alteration of facilities. a) General. If the Secretary determines that a program authorized under Part B of the Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construc facilities or alter existing facilities, the Secretary may allow the use of those funds for those purposes.

Legal Standards

1,178	43-243 continued…	State	2. Funds described in paragraph (1) of this section may also be used for the administration of Part C of the Act. K. Other State level activities. Each State must use any funds the State reserves under Section 300.812 and does not use for administration under Section 300.813 1. For support services (including establishing and implementing the mediation process required by section 615(e) of the Act), which may benefit children with disabilities younger than three or old than five as long as those services also benefit children with disabilities aged three through five; 2. For direct services for children eligible for services under section 619 of the Act; 3. For activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) of the Act; 4. To supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and families, but not more than one percent of the amount received by the State under section 619 of the Act for a fiscal year; 5. To provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance Part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until such children enter, or are eli under State law to enter, kindergarten; or 6. At the State's discretion, to continue service coordination or case management for families who receive services under Part C of the Act, consistent with Section 300.814(e). L. Subgrants to LEAs. Each State that receives a grant under section 619 of the Act for any fiscal year must distribute all of the grant funds that the State does not reserve under Section 300.812 to LE (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act. Effective with funds that become available on July 1, 2009, each must distribute funds to eligible LEAs that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs, even if the LEA is n serving any preschool children with disabilities. M. Allocations to LEAs. 1. Base payments. The State must first award each LEA described in Section 300.815 the amount that agency would have received under section 619 of the Act for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect. 2. Base payment adjustments. For fiscal year 1998 and beyond a) If a new LEA is created, the State must divide the base allocation determined under paragraph (1) of this section for the LEAs that would have been responsible for serving children with disabiliti now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by e the LEAs; b) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs; c) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages three through five changes, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each affected LEA; and d) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that serving any children with disabilities aged three through five years. The State must divide the base allocation determined under paragraph (1) of this section for the LEAs that would have been respo
1,179	43-243.1 Criteria for Entry into Programs of Special Education for Students with Disabilities	State	A. General Requirements These criteria for entry into programs of special education for students with disabilities will be used by all members of the multidisciplinary team, who may include school psychologists, speech lang therapists, and other persons responsible for the identification and evaluation of students with disabilities. The federal definitions for all categories of disabilities have been used, as included in the Individuals with Disabilities Act (IDEA). All examiners, however, must be appropriately credentialed or licen and should have completed training that is directly relevant to the assessment procedure being conducted. Examiners may administer supplementary measures such as curriculum based assessment gain additional information. All evaluation procedures must ensure that the following minimal requirements are met: 1. Tests and other evaluation materials used to assess a student suspected of having a disability are selected and administered so as not to be discriminatory on a racial or cultural basis and are prov and administered in the student's native language or other mode of communication unless it is clearly unfeasible to use that language or any mode of communication. 2. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and n special education, rather than measuring the student's English language skills. 3. A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the student, including information provided by the parent and informatio related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities) that may assist in detem1ining whether the st is one with a disability and what the content of the student's IEP should be. 4. Any standardized tests that are given to a student have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordanc with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, such the qualifications of the person administering the test or the method of test administration, must be included in the evaluation report. 5. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. 6. Tests are selected and administered so as best to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the facto that the test purports to measure). 7. No single procedure is used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student. 8. The student is assessed in all areas related to the suspected disability, including, if appropriate, his or her health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 9. In the assessment of each student with a disability, the methods of evaluation are sufficiently comprehensive to identify all of the student's special education and related services needs, whether o they are commonly linked to the category in which the student is suspected of having a disability. 10. Each school district/agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. 11. Each school district/agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

Legal Standards

1,180	43-243.1 continued…	State	2. Eligibility Criteria a. There is evidence that the child meets the criteria for both the Deaf/Hard of Hearing category and the Visual Impairment category. (1) a hearing loss that is 20 dB or greater at anyone frequency, either unilaterally or bilaterally, or (2) a fluctuating hearing loss, either unilaterally or bilaterally, and (3) The visual acuity with correction is 20/70 or worse in the better eye; or (4) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field o degrees or less; or (5) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or (6) There is evidence of cortical visual impairment. b. The adverse effects of the hearing and visual impairment on the child's educational performance require specialized instruction and/or related services. D. Deaf/Hard of Hearing 1. Definition Deaf means a hearing loss that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's academic o functional performance.Hard of Hearing means a hearing loss, whether permanent or fluctuating, that adversely affects a student's academic or functional performance with or without amplification, that is not included under the definition of deaf in this section. 2. Eligibility Criteria a. There is evidence that the child has (l) a hearing loss that is 20 dB or greater at anyone frequency, either unilaterally or bilaterally, or (2) a fluctuating hearing loss, either unilaterally or bilaterally. b. The adverse effects of the deafness or hard of hearing impairment on the child's educational performance require specialized instruction and/or related services. E. Developmental Delay 1. Definition A child with developmental delay is a child age 3 9 who has been identified before the age of 7 as experiencing significant developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development: and who, by reason thereof, needs special education and related services.The term significant developmental delay refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or social development to the extent t not provided with special intervention, it may adversely affect his/her educational performance in age appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage, lack of experience in age appropriate activities, lack of appropriate instruction in reading, lack of appropriate instruction in math, limited English proficiency or the child does not otherwise meet the eligibility criteria as a child with a disability.
1,181	43-243.1 continued…	State	2. Eligibility Criteria a. There is evidence that the child has a severe orthopedic impairment. b. The adverse effects of the orthopedic impairment on the child's educational performance require specialized instruction and/or related services. K. Specific Learning Disabilities 1. Definition Specific Learning disability means a disorder in one of more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. 2. Eligibility Criteria a. There is evidence that the child does not achieve adequately for his/her age or to meet state approved grade level standards in one or more of the following areas: Basic reading skills, Reading flu Reading comprehension, Mathematics calculation, Mathematics problem solving, Written expression, Oral expression, or Listening comprehension; and either (1) does not make sufficient progress to meet age or state approved grade level standards when using a process based on the child's response to scientific, research based intervention, or (2) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments. b. The child's underachievement is not due to: visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; limited Eng proficiency; or lack of appropriate instruction in reading or math. c. The adverse effects of the learning disability on the child's educational performance require specialized instruction and/or related services. L. Speech Language Impairment 1. Definition Speech Language Impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance. 2. Eligibility Criteria a. There is evidence that the child has one or more of the following impairments: (1) fluency interruption in the flow of speech characterized by an atypical rate, or rhythm in sounds, syllables, words, and phrases that significantly reduces the child's ability to participate within learning environment with or without his or her awareness of the dysfluencies or stuttering (2) articulation atypical production of phonemes characterized by substitutions, omissions, additions or distortions that impairs intelligibility in conversational speech and adversely affects acade achievement and/or functional performance in the educational setting (3) language impaired comprehension and/or use of spoken language which adversely affects written and/or other symbol systems and the child's ability to participate in the classroom environm
1,182	43-243.4. Repealed by State Register Volume 38, Issue No. 6, Doc. No. 4396, eff June 27, 2014.	State	
1,183	43-244 Interscholastic Activities	State	Kindergarten; Grades 1 6: Each school shall prohibit competitive sports of a varsity pattern with scheduled league games and championships for Grades 1 6.

Legal Standards

1,184	43-244.1 Interscholastic Activities: Academic Requirements for Participation	State	I. To participate in interscholastic activities, students in grades 9 12 must have passed at least four academic courses, including each unit the student takes that is required for graduation, with an ove passing average in the preceding semester. Academic courses must be defined as those courses of instruction for which credit toward high school graduation is given. These may be required or appro electives. A. An ineligible student shall not be allowed to participate in any interscholastic activity. B. Interscholastic activities shall be defined as all school sponsored activities for which preparation occurs outside of the regular school day. Individuals or members of groups involved in activities include out of school practice on more than one occasion weekly shall meet eligibility requirements. C. Academic course shall be defined as any approved course of instruction in the secondary curriculum, required or elective, for which one unit of credit or its equivalent is awarded on a yearly basis one half unit of credit or its equivalent is awarded on a semester basis. If more than one unit of credit is awarded on a yearly basis in a particular subject, this subject shall count as more than one aca course. (Example: A subject taught for three units of credit shall be considered the equivalent of three academic courses.) D. To be eligible in the first semester, each student must have passed four academic courses that were completed during the second semester of the previous school year. E. To be eligible in the second semester, each student in grades 9 through 12 must pass at least four academic courses during the first semester. F. Those courses specifically mandated for a high school diploma shall be considered required courses. A course may not be considered as an elective until all requirements in that subject area have met. When a student is enrolled in more than four required courses, he must pass four required courses to be eligible for interscholastic activities. When a student is enrolled in four or less required courses, he must pass each required course. G. Credit courses used for eligibility purposes must be courses that are applicable as credit toward a state high school diploma. If a student has met or is meeting all requirements for graduation and enrolled in college credit courses, these college credit courses may be used to meet eligibility requirements. H. Credits earned in a summer school approved by the State Department of Education may be applied toward first semester eligibility if all other requirements of this regulation are met. Academic deficiencies may not be made up through enrollment in correspondence courses or adult education programs. I. Each student graduating prior to 1987 and needing only 18 units for a South Carolina high school diploma shall be required to pass at least four of the following subjects when enrolled: 1. Language Arts I, II, III, IV (or Remedial English, developmental reading, or remedial reading when taken to meet language arts requirements for graduation) 2. U. S. History 3. Economics 4. Government 5. Other Social Studies (additional one unit taken to meet graduation requirements) 6. Mathematics (to meet two unit requirement for graduation). 7. Natural Science (to meet one unit requirement for graduation). 8. Physical Education or ROTC (to meet one unit requirement for graduation) J. Each student entering the ninth grade for the first time in the 1983 84 school year or graduating in 1987 or thereafter and needing 20 units for a South Carolina high school diploma shall be requir
1,185	43-246 Instruction at Place Other Than School (Statutory Authority: 1976 Code Section Section 59 5 60 and 59 65 40)	State	A parent or guardian denied permission by a district board of trustees to begin or continue a program of home instruction may appeal that decision to the State Board of Education, pursuant to Sectio 65 40 of the Code of Laws of South Carolina, 1976. When permission to operate a home instruction program is denied by a district board of trustees, the district board must notify the parent or guard writing of his/her right to appeal to the State Board of Education. The notice of appeal must be submitted, in writing, to the State Superintendent within ten days of receipt of the written denial by the district board of trustees, and the parent or guardian must notify the district superintendent of the appeal. The district superintendent shall send a copy of the record of the meeting held by the distri board of trustees to consider the home instruction application to the State Superintendent of Education. The record will be referred to the State Board of Education or its designee. The parties will be notified of the date on which the State Board of Education will review the record. The parties may subm written brief at least five (5) working days before the date set for review. The State Board of Education may invite the parties to make an oral presentation. The Chair of the State Board of Education w notify the parties in writing of the final decision of the board.

Legal Standards

1,186	43-248 Virtual Education Program	State	I. Overview of the Virtual Education Program A. The State Board of Education (SBE) is authorized under S.C. Code Ann. Sections 59 16 10 through 59 16 80 to "establish the virtual education program to ensure consistent high quality education f students of South Carolina utilizing technology delivered courses." These procedural regulations are based on that legislation. B. The virtual education legislation makes the following stipulations: 1. Any public, private, or homeschooled student legally residing in South Carolina who is twenty one years of age or younger is eligible to enroll in the virtual education program. 2. A private school or homeschooled student enrolled in the virtual education program is not entitled to receive any of the services or privileges that are available to public school students other tha right to receive an appropriate unit of credit for a completed course. 3. The virtual education program is not a school but a program; therefore, it is not authorized by statute to issue a state high school diploma. C. These regulations which are predicated on the virtual education program statute, other state statutes, and SBE regulations are subject to modification by the South Carolina Department of Educa (SCDE) only if those statutes or regulations are amended. II. Virtual Education Program Sponsorship A. Sponsor Registration 1. In order to become a virtual education sponsor, a public school district, a public school, a private school, or a homeschooling parent (statutes that apply to homeschooling are S.C. Code Ann. Sectio 65 40, 59 65 45, 59 65 46, and 59 65 47) must be registered with the virtual education program. 2. In order to be registered as a virtual education program sponsor, the school district, public school, private school, or homeschooling parent must fulfill the following requirements: a. have in place a program of studies that leads to a diploma, b. comply with the policies governing online courses established by the virtual education program, c. identify the individual(s) who will advise the student regarding courses he or she will need to earn a diploma, and d. identify the individual who will assist the student in resolving any technology issues that may arise. B. Sponsor Responsibilities 1. All registered virtual education program sponsors must fulfill the following responsibilities: a. verify that a student is a legal resident of the state of South Carolina before enrolling him or her in the virtual education program, b. update sponsor registration information, and c. respond to a student's request to enroll in a virtual education course. 2. A sponsor may forfeit its right to enroll students in the virtual education program if it fails to abide by these requirements. III. Virtual Education Program Student Enrollment A. Student Responsibilities 1. Sponsor Approval
1,187	43-248 Virtual Education Program	State	VII. Virtual Education Program Course Costs A. The SBE will determine when and if the virtual education program may charge fees and tuition. If program funds are either reduced or unavailable, the virtual education program may charge a fee students . The virtual education program may charge a fee to students so long as the fee does not exceed the per pupil cost of the program. Students eligible for free and reduced lunch will not be char B. In addition, the virtual education program may contract with districts/schools to provide a course(s) to a class of students enrolled in that course during a specific period of the school day and/or districts/schools that wish to guarantee that their students are served regardless of their priority. VIII. Virtual Education Program Instructors A. Instructor Employment 1. The SCDE is responsible for employing all virtual education program instructors. 2. Instructors may be employed either as SCDE classified staff or as SCDE contracted adjunct staff. B. Instructor Qualifications 1. A virtual education program instructor must either hold a valid teaching certificate (with attendant training, if required) in the subject area he or she is teaching or receive special approval from t SCDE on the basis of his or her credentials. 2. An in state virtual education program instructor who does not hold a valid South Carolina teaching certificate or who has not been employed by a South Carolina public school district in the last fi years must undergo a criminal records check by the South Carolina Law Enforcement Division. An out of state virtual education program instructor must undergo any criminal records check that the determines to be necessary. C. Instructor Requirements 1. Virtual education program instructors must successfully complete all virtual education program pre service and in service training requirements. 2. Training topics must include the development and organization of online courses; the technical aspects of online course delivery; the management of virtual classrooms; and the monitoring and assessment of student performance, progress, and achievement. D. Instructor Evaluation 1. Virtual education program instructors who are SCDE classified staff will be evaluated in accordance with state laws and regulations. Virtual education program instructors who are SCDE contracte adjunct staff employed as temporary employees will be evaluated on the basis of the same criteria as are SCDE classified staff. 2. Virtual education program instructors must meet all applicable Assisting, Developing, and Evaluating Professional Teaching (ADEPT) requirements. E. Instructor Loads 1. The student load for each instructor is determined by the particular course(s) the instructor is teaching. 2. The teaching load for each instructor must not exceed one hundred and fifty students at any given time. IX. Required Reports A. Sponsor Responsibility

Legal Standards

1,188	43-258.1 Advanced Placement	State	I. DEFINITION OF ADVANCED PLACEMENT COURSES Advanced Placement (AP) Courses: Courses developed by the College Board with prescribed curricula and tests for which students receive high school credit and for which students scoring at an acceptable level on the AP examination will be eligible to receive college credit from participating institutions. II. SCHOOL REQUIREMENTWS FOR ADVANCED PLACEMENT OFFERINGS All secondary schools whose organizational structure includes grades 11 or 12 shall offer an AP course(s). III. POPULATION TO BE SERVED All students enrolled in AP programs for which funding is provided under these regulations shall be required to take the College Board administered examination. IV. REQUIREMENTS FOR ADVANCED PLACEMENT TEACHERS The South Carolina Department of Education will fund and coordinate AP teacher training courses. Each teacher of an AP course shall have completed the appropriate AP three graduate hour trainin program or have successfully completed forty five hours of training provided by College Board endorsed professional development opportunities verified by the appropriate college or university. Exception 1: Newly assigned teachers of AP courses will have one calendar year to meet the AP course training requirements. Exception 2: Teachers who hold a PhD. in their subject area may have the training waived. Teachers of AP courses shall meet annually with their Professional Growth and Development Plan evaluators to discuss appropriate goal setting and/or revision. The plan may include, but is not limi College Board workshops and professional development opportunities. HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 1, eff June 27, 1997; State Register Volume 32, Issue No. 7, eff July 25, 2008.
1,189	43-259 Adult Education	State	I. The State High School Equivalency Diploma The State Board of Education (SBE) will issue a state high school equivalency diploma to eligible candidates who successfully complete a SBE approved high school equivalency test. The SBE authoriz the administration of approved high school equivalency tests by the South Carolina Department of Education (SCDE) under policies established by the SBE. A. Eligibility Requirements for Equivalency Diploma Candidates 1. Service Personnel and Veterans To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older and must be either a resident of South Carolina or a former resident whose most rec elementary or secondary school attendance was in South Carolina. 2. General Adult Population a. To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older, must not be currently enrolled in high school, and must either be a current reside South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina. b. A candidate for a state high school equivalency diploma who is seventeen or eighteen years of age must submit a “Verification of School Withdrawal” form completed by either the school principa attendance supervisor of the last South Carolina school he or she attended or from the district superintendent of the school. The “Verification of School Withdrawal” form must verify the candidate’s of birth and the date of his or her last attendance at the school. In the event that the last school he or she attended was outside South Carolina, a person seventeen or eighteen years of age may either submit a letter signed by his or her high school principal or designee verifying his or her date of birth and the date of last attendance in school or submit a letter from the superintendent of schools in district in which he or she currently resides indicating that the candidate is not enrolled in any schools within the school district. A copy of the candidate’s driver’s license, state issued identification c or birth certificate must accompany the letter. Verification letters are to be submitted with the application for testing. c. A candidate over the age of eighteen who has been enrolled in high school during the current school year must submit a “Verification of School Withdrawal” form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent. The “Verification of School Withdrawal” form must verify the candidate’s d birth and the date of his or her last attendance at the school. 3. Juvenile Offenders Certain juvenile offenders who are under the jurisdiction of the State Department of Juvenile Justice may be granted an exception to the requirement that in order to be eligible for a state high schoo equivalency diploma, a candidate must be seventeen years of age or older and not be currently enrolled in high school during the current school year. For a juvenile offender to qualify for this exception, the following criteria must be met: a. The juvenile is at least sixteen years of age. b. The juvenile is under the jurisdiction of the family court based on an adjudication of delinquent behavior and must be committed to a juvenile correctional institution or committed to participate community based alternative programs under the jurisdiction of the Department of Juvenile Justice. c. The family court certifies that it is in the best interest of the juvenile for him or her to be exempted from the public school compulsory attendance law. d. The juvenile’s enrollment in public school or completion of a community based alternative program would not be feasible upon his or her release from a juvenile correctional institution either be

Legal Standards

1,190	43-259 continued…	State	II. Adult Education: High School Diploma Program A. Graduation Requirements 1. The student must earn a total of 24 prescribed units of credit and pass the exit examination to earn a state high school diploma. The unit requirements are distributed as follows: Unit Requirements English/language arts 4.0 Mathematics 4.0 Science 3.0 U.S. History and Constitution 1.0 Economics 0.5 U.S. Government 0.5 Other social studies course(s) 1.0 Computer science (including keyboarding)* 1.0 Electives 9.0 24.0 total Keyboarding may count up to one-half unit of the computer science requirement. 2. A student may transfer credit earned in the adult education program to a secondary school to count toward the units of credit required for a state high school diploma earned through the regular course of study at a high school, if for each unit being transferred, the student has spent a minimum of 120 hours in class time in that subject at that level and the teacher was properly certified to tea course. 3. Membership in an adult education program shall be limited to individuals eighteen years of age or older who have left the elementary or secondary school, except when the local school board assi students under the age of eighteen years who are not officially in membership in a regular school. Students under eighteen may be assigned to an adult education program when they exhibit either a unusual educational need or physical, social, or economic problem that can be served more effectively by the adult education program. Schools should provide counseling regarding all alternatives available to high school students considering dropping out. No student under the age of sixteen may be assigned to the adult education program for any reason. 4. No student shall be graduated from the adult education program prior to the time that he or she would have graduated from a regular high school unless written approval is granted by the high sc principal and the SCDE's Office of Adult Education. For a student to be eligible to receive a state high school diploma, he or she must complete one semester in residence (i.e., through actual attendanc
1,191	43-260 Use and Dissemination of Test Results	State	1. The participation of local school districts in the statewide testing program is required under Section 59 20 60(7)(c) of the South Carolina Education Finance Act and the South Carolina Education Accountability Act of 1998 (Supp. 2008). 2. The South Carolina Department of Education will report statewide and school district test results in conjunction with such demographic and socio economic data as may be necessary for accurate a meaningful interpretation. 3. Test data for individuals shall be released only in a manner that is consistent with the provisions of Section 438 (Privacy Rights of Parents and Students) of the General Education Provisions Act (T of Public Law 90 247, as amended) and any other relevant legislation. 4. The State Superintendent of Education is authorized to develop and implement such administrative procedures as he/she may deem necessary and appropriate for the purposes of fulfilling the inte these policies. HISTORY: Amended by State Register Volume 23, Issue No. 6, eff June 25, 1999; State Register Volume 33, Issue No. 6, eff June 26, 2009.

Legal Standards

1,192	43-261 District and School Planning. (Statutory Authority: S.C. Code Ann. Section Section 59 5 60 (1990), 59 18 1300 (Supp. 2002), 59 18 1310 (to be codified in Supp. 2003), 59 18 1510 (Supp. 2002), 59 139 05 et seq. (Supp. 2002), and 59 20 60 (Supp. 2002), and the federal No Child Left Behind Act of 2001, 20 U.S.C. Section 6301 et seq. (2002))	State	A. Development of District Strategic Plan and School Renewal Plans 1. Each school district must develop a five year district strategic plan and each school must develop a five year school renewal plan as required by the Early Childhood Development and Academic Assistance Act of 1993 and the Education Accountability Act of 1998. District and school plans shall coordinate and align improvement initiatives. 2. New five year district and school plans shall be submitted to the State Department of Education by April 30, 2005, and every five years thereafter. Plans will become effective on July 1 of the same y The annual update of the district strategic plan must be submitted to the State Department of Education by April 30 of each year. 3. The district strategic plan includes the accountability system that directs an annual needs assessment; prioritizes the performance goals; and reports how the district supports schools, students, a families. The district strategic plan and school renewal plans must establish priorities and prioritize efforts to focus on raising student achievement levels for all students, the prevention of academic problems, and reducing the achievement gaps identified on the annual report card. It is imperative that the planning processes demonstrate a commitment to continuous improvement and respond t accountability requirements in both state and federal legislation. The plans must be developed collaboratively by a broad based group of stakeholders using a consensus process. 4. The district strategic plan, school renewal plans, and annual updates must be reviewed and approved by the local board of trustees and coordinate funding from local, state, federal, and private sou 5. Districts and schools are urged to follow the model planning process developed by the State Department of Education, although no single planning format is required for district or school plans. Whatever process is used for developing a district strategic plan and school renewal plans must include each of the following components: a. comprehensive needs assessment, b. performance goals, c. interim performance goals, d. strategies and action plans, e. evaluation of the strategies, f. evidence of comprehensive consensus building, and g. assurances. 6. Schools that use the Southern Association of Colleges and Schools (SACS) accreditation process may substitute the SACS plan for the school renewal plan provided that it includes the components through (g) listed above and described below. a. Comprehensive Needs Assessment The annual needs assessment will provide focus for planning teams to set priorities for the plan. The comprehensive needs assessment must identify targeted areas of discrepancy between the desi performance levels and the current status as indicated by available data. Any discrepancies in the following areas identified by the school and district report cards must be included in the plan: (1) achievement, (2) achievement by subgroups, (3) graduation rates, (4) attendance,
1,193	43-262 Assessment Program. (Statutory Authority: S.C. Code Ann. Section Section 59 5 60(1) (2004), 59 18 310 (2004), 59 18 320 (2004), 59 18 330 (2004), 59 18 340 (2004), 59 20 60(7)(c) (2004), 59 30 10 (2004), and 20 U.S.C. Section 6301 et seq. (2002))	State	I. STATEWIDE ASSESSMENT PROGRAM A. The Education Accountability Act of 1998 (EAA), S.C. Code Ann. Section 59 18 310 (Supp. 2008), and the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301, et seq. (2002) (NCLB) require tha State Board of Education develop or adopt a statewide assessment program in certain grades and selected content/skill areas. B. The statewide assessment program will involve testing public school students at selected grade levels and in selected content and skill areas at times specified by the South Carolina Department o Education. The grade(s) and content/skill areas to be included in the assessment program are identified by the EAA, NCLB, and State Board of Education regulations. The statewide assessment program includes Palmetto Assessment of State Standards (PASS), South Carolina Alternate Assessment (SC Alt), Exit Examination, and End of Course Tests. C. The program is funded through an annual appropriation included in the South Carolina General Appropriations Act. The request for such funding is included in the annual budget request of the Sta Superintendent of Education. Continued operation of the program is contingent upon the availability of funds. D. Responsibilities of the South Carolina Department of Education for assessments in which school districts are required to participate. 1. Supply all necessary test materials, scoring, and standard score reports at no cost to the local school districts. 2. Pay all shipping costs for the transportation of test materials and score reports between the Department, school districts, and scoring service(s). 3. Provide workshops on test administration, interpretation, and utilization for district test coordinators and other selected staff. 4. Report the statewide results of the program to the State Board of Education on an annual basis. 5. Field test, at the discretion of the State Superintendent of Education, new assessment instruments and/or procedures and recommend changes in the Statewide Assessment Program to the State B of Education, the Education Oversight Committee, and other appropriate policy making bodies. E. Responsibilities of local school districts 1. As used in these regulations, "local school district" shall mean public school districts as well as other state supported educational institutions that award state high school diplomas. 2. Participate in the statewide assessment program as required by law. 3. Designate one or more district test coordinators (DTCs) who will be the point of contact for the South Carolina Department of Education or its contractors as well as attend the workshops provide the South Carolina Department of Education. The DTC is responsible for training school test coordinators (STCs) and the distribution, receipt, storage, and return of test materials and reports. 4. Administer the tests (including field tests) in accordance with procedures and at dates and times specified by the South Carolina Department of Education. 5. Maintain a complete and accurate inventory of all state owned tests and related materials that are stored in the district. F. Students with disabilities shall be included in the assessment program in compliance with the provisions of South Carolina and federal statutes and regulations. G. The State Superintendent of Education is authorized to develop and implement such administrative procedures as he or she may deem necessary and appropriate for the purpose of implementing

Legal Standards

1,194	43-262.4 End of Course Tests	State	I. Courses Tested A. The following courses in State Board Regulation 43 234, "Defined Program, Grades 9 12," are "gateway" and "benchmark" courses. For the purposes of this regulation, however, these courses shall referred to only as "gateway" courses. 1. English/language arts: English 1 2. Mathematics: Algebra 1. After completion of Mathematics for the Technologies 2, students shall be administered the end of course examination for Algebra 1. 3. Science: Biology 1. After completion of Applied Biology 2, students shall be administered the end of course assessment for Biology 1. 4. Social Studies: United States History and Constitution 5. A course by any title for which the instructional basis is the academic standards for any of the abovementioned courses will be considered the equivalent of the appropriate abovementioned gatev course and one for which an end of course test must be administered. B. The end of course tests shall be administered to all public school students who take a gateway course for which credit can be applied toward the requirements for a high school diploma, regardless the grade in which a student takes the course. An exception is when a student takes two courses based on the same academic standards. The student would take the end of course test at the end of the course, and the test score would count as 20 percent of the final grade. If the student passes the first course, the student would not take an end of course test for the second course, and the student's fi grade would be calculated without an end of course score. The second course would not be a gateway course for that student. II. Purposes and Uses The purposes and uses of the end of course tests shall be as follows: A. The tests shall promote instruction in the specific academic standards for the courses, encourage student achievement, and document the level of students' mastery of the academic standards. B. The tests shall serve as indicators of program, school, and school district effectiveness in the manner prescribed by the Education Oversight Committee in accordance with the provisions of the Education Accountability Act of 1998 (EAA). C. The tests shall be weighted 20 percent in the determination of students' final grades in the gateway courses. The test may be used for such other purposes as the State Board of Education may determine to be appropriate and consistent with the Standards for Educational and Psychological Testing (Joint Standards) of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education. III. Content of the Tests The content of the subject area tests that are selected or developed pursuant to the provisions of this policy shall be aligned with the academic standards approved by the State Board of Education. IV. Student Performance Standards Student performance standards for the tests shall be established by the South Carolina Department of Education. V. Review of Academic Standards and End of Course Tests The academic standards for the tests shall be reviewed on a schedule that is consistent with the requirements of the EAA. Following any revisions of the academic standards, the tests will be reviewe revised as necessary to ensure their continued alignment with the standards.
1,195	43-264.1 Half Day Child Development Programs. (Statutory Authority: 1976 Code Section Section 59 5 60 and 1993 Act 135 The Early Childhood Development and Academic Assistance Act)	State	I. Legislation In order to comply with the South Carolina Education Improvement Act of 1984 and the Early Childhood Development and Academic Assistance Act of 1993 school districts may establish and provid the education of three and four year old children who have predicted significant readiness deficiencies. The legislation requires that each district will provide for at least a half day early childhood development program for four year old children. Districts have the option of serving three year old children. Each district shall provide at least one program for four year old children and may serve identified three year old children who have significant readiness deficiencies. Districts and schools shall integrate the planning and direction of the half day program with the Early Childhood Initiative. II. Plan for Enrollment A. Public Notification of Program Availability School districts shall attempt to contact parents or guardians of children who will reach age three or four on or before September 1 and who have potential for later school failure. The district shall substantial efforts to publicize the availability of the program for four year olds, and for three year olds if appropriate. B. Criteria for Enrollment Each district shall develop criteria for the enrollment of children who have predicted significant readiness deficiencies. These criteria shall include the following: 1. A screening instrument approved by the State Department of Education for use in determining each child's developmental level, 2. An entrance age requirement which specifies a child must be three if the program serves three year olds, or four years of age on or before September 1 of the applicable school year, 3. Legal birth certificate issued by the Department of Health and Environmental Control or other appropriate authorized agency, 4. South Carolina Certificate of Immunization, 5. Comprehensive Health Appraisal if deemed necessary or appropriate. III. Coordination In the event that a local advisory committee exists in a community to coordinate early childhood education and development, school districts shall consult with the committee in planning and develo services to make maximum use of resources and avoid duplication of effort. When a local advisory committee does not exist, the school district shall identify available early childhood development an education resources in order to avoid duplication of public services. This may include Headstart and other Child Development Block Grant Programs. IV. Program Description A. Organization A developmental educational program in a classroom setting shall be the major component of the program. B. Program Length The classroom program shall operate five days a week (or the equivalent) for at least 2 1/2 hours of instructional time, exclusive of breakfast, lunch and transportation. Program year will include 19 days of operation for staff (180 days service to children) subject to the same conditions for waiver of make up days as prescribed by state law. C. Staff Ratio and Group Size

Legal Standards

1,196	43-265 Parenting/Family Literacy. (Statutory Authority: S.C. Code Ann. Section Section 59 5 60(1) (1990) and 59 139 10(A)(1) (Supp. 1998))	State	I. Program Goals II. Requirements III. Program Components Family literacy uses a more holistic and integrated approach to serving families. Districts must use this approach for families requiring more intense experiences to change intergenerational patterns associated with low literacy and undereducation. The South Carolina definition is consistent with federal legislation. Family literacy is clearly and consistently defined in the Adult Education and Fam Literacy Act of 1998, Even Start, Head Start and the Reading Excellence Acts. These acts define "family literacy services" as services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities: Districts must participate in evaluation efforts coordinated by the State Department of Education. This will include tracking children of participating parents through first grade to determine the program's impact on school readiness. The evaluation should include a variety of other indicators, such as IV. Service Delivery Methods The methods for service delivery will vary in specific type, mix, and intensity according to community needs and priorities. V. Funding VI. Coordination Collaboration and coordination with other local agencies and community organizations must be integrated into all phases of program development, design, and implementation. School districts must consult with a local advisory committee to plan and develop parenting and family literacy services to maximize resources and avoid duplication of effort. This may include district early childhood, ad education, literacy, Success By 6, Head Start, Department of Social Services, and other community services. VII. Professional Development The State Department of Education will provide or coordinate activities to train parent educators in developing and implementing parenting and family literacy initiatives. Nationally validated progra and curriculum training, such as Parents As Teachers, Motheread, Parent Home Child, etc., must be included. Appropriate ongoing staff development activities must be incorporated in the district's Strategic Plan as required by Act 135. VIII. Guidelines Additional information relating to the implementation of this regulation, including service delivery methods, developmental screening instruments, and at risk factors/criteria is contained in the "Guidelines for Implementing Parenting/Family Literacy Programs," available at the State Department of Education. The State Board of Education will review and update the "Guidelines" as needed. HISTORY: Added by State Register Volume 24, Issue No. 6, eff June 23, 2000.
1,197	43-267 Early Childhood Assistance Programs Grades K 3. (Statutory Authority: 1976 Code Section 59 5 60 and 1993 Act #135, The Early Childhood Development and Academic Assistance Act)	State	I. Program Goals A. To place an emphasis on early childhood education and prevention. B. To focus the state's resources on academic success and prevention of academic problems. C. To establish the expectation that by providing extra assistance and learning time, all children will be prepared for the fourth grade. D. To promote the advancement of developmentally appropriate curriculum. E. To promote coordinated programs from preschool through grade three which are supportive of the curriculum for grades four through twelve. F. To allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance. G. To plan for accelerating the performance of students performing below their peers. II. Requirements A. Districts and schools shall develop and implement a developmentally appropriate curriculum model from pre school through grade three. If alternatives to the options listed in the guidelines are chosen for use in the Early Childhood Assistance Programs, they should be based on the needs assessment performed as a part of the district and/or school comprehensive plan and on strategies found to be effective in research. B. Schools shall establish programs of activities for assisting children and their parents with the transitions between the various levels of schooling. C. Districts and schools shall integrate the planning and direction of the half day program for four year olds with other early childhood initiatives. D. Districts and schools shall integrate the planning and direction of the parenting/family literacy program established in Section 59 1 450 with the early childhood initiatives. E. Districts and schools shall design methods of assessing the efficacy of the early childhood programs or strategies implemented. F. Districts and schools shall demonstrate coordination of the program or strategies implemented with federally funded early childhood programs. G. Districts and schools shall demonstrate the interrelationship of the various components of the early childhood initiatives for grades K 3 and the academic assistance programs for grades 4 12. H. Districts and schools shall implement a program that expands and improves early child development activities. I. Districts and schools shall implement an Early Childhood Assistance program that plans for accelerating the performance of students performing below their peers. III. Funding The General Assembly shall determine an appropriation level for the funding. A. The number of students in kindergarten through grade three who are eligible for the federal free and reduced price lunch program will generate funds at a specified add on weight. B. Funds generated shall be used to provide needed academic assistance to any student in these grades. C. Funds may be used to support other components of the early child development initiative as detailed in each district/school's comprehensive plan. D. Districts may request a waiver from the State Board of Education to use a portion of the funds generated by students in kindergarten through grade three for students in grades four through twel such a change promotes better coordination of state and federal funds. E. A portion of the funds may be used to support other components of the early childhood initiatives in order to better prepare children for entering school.

Legal Standards

1,198	43-268 Academic Assistance Programs Grades 4 12. (1976 Code Section 59 5 60 and 1993 Act #135, The Early Childhood Development and Academic Assistance Act)	State	I. Program Goals A. To focus the state's resources on academic success and prevention of academic problems. B. To establish the expectation that by providing extra assistance and learning time all students will graduate from high school with their peers. C. To allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance. D. To support students with academic difficulties in grades four through twelve so they are able to progress academically and move through school with their peers. II. Requirements A. Districts and schools shall develop and implement academic assistance programs which address alternatives to year long and pull out remediation methods of service. If alternatives to the option listed in the guidelines are chosen, they should be based on the needs assessment performed as a part of the district and/or school comprehensive plan and on strategies found to be effective in resea B. Options for methods of service and descriptions of service that are available to districts and schools are included in the "Guidelines to Academic Assistance Programs Grades 4 12". C. Districts and schools may choose to target resources in certain grade levels or areas of learning. D. Assistance may be for short, intensive periods or for longer, on going assistance as needed by each student. E. Emphasis is on providing assistance at the time of need and on accelerating the progress of students performing below their peers. F. Districts and schools shall implement a parent involvement program in grades four through eight. G. Districts and schools shall develop a system for maintaining a record of parent conferences annually that identify the date, time, and response of parent/teacher conferences. III. Funding The General Assembly shall determine an appropriation level for the funding. A. The number of students in grades 4 12 who score below minimum basic skills act standards in reading, mathematics, or writing, or their equivalent will generate funds at a specified add on weigh B. Funds generated shall be used to provide needed academic assistance to any student in these grades. C. Expenditures must adhere to definitions and guidelines established by the Office of Finance, State Department of Education, or the State Procurement code. IV. Professional Development Appropriate training to prepare teachers and administrators in the teaching techniques and strategies needed to implement the Academic Assistance Programs shall be included in the district strate plan and school renewal plans. V. Guidelines Additional information relating to the implementation of this regulation, including but not limited to: 1. Definitions of terms, 2. Explanations of program models, 3. Procedures for selecting alternative options for methods of service is contained in the "Guidelines for Implementing Academic Assistance Programs" available at the State Department of Education. The State Board of Education will review and update, if required, the
1,199	ARTICLE 20 STUDENTS 43-272 School Admission	State	A. Kindergarten and Grades 1 12: Each kindergarten and first grade pupil not previously enrolled shall submit a birth certificate or other documentation to verify a birth record in special situations a allowed by a local board of trustees. All students in grades K 12 must show evidence of compliance with Department of Health and Environmental Control rules and regulations concerning immuniza B. Preregistration for Grades 9 12: Each high school shall develop a preregistration form outlining the courses in which a student may enroll for their entire high school career. C. Preregistration for Career Centers: Each career center shall develop a preregistration form in cooperation with participating high schools which outlines the career and technology education cour students may take in Grades 9 12. HISTORY: Amended by State Register Volume 21, Issue No. 3, eff March 28, 1997; State Register Volume 38, Issue No. 6, Doc. No. 4397, eff June 27, 2014.

Legal Standards

1,200	43-272.2 State Level Resolution Process for Disputes Involving Unaccompanied Youth and Homeless Children. (Statutory Authority: 20 U.S.C. Section 7844 (Supp. 2003))	State	The federal Stewart B. McKinney Homeless Assistance Act requires that each state implement a state level process to review district level decisions regarding the enrollment of a homeless child or an unaccompanied youth. An unaccompanied youth or the parent or guardian of a homeless child may request that the state conduct a review of a school district's final decision regarding an enrollment issue. The contact person at the State Department of Education is the coordinator for the Office of Coordinator for Education of Homeless Children and Youth. Under no circumstances must resolution of a dispute delay the school enrollment of an unaccompanied youth or a homeless child. That is, during the pendency of any administrative or judicial proce regarding a dispute over the enrollment of an unaccompanied youth or homeless child, the student must continuously be enrolled in school, be provided all relevant services, and be allowed to partic fully in all school activities (as consistent with the Stewart B. McKinney Homeless Assistance Act, as amended). I. Responsibilities of the School District A. When it is determined that a dispute cannot be settled at the district level, the school district must carry out the following responsibilities in a timely manner: 1. inform the unaccompanied youth or the parent or guardian of the homeless child concerning his or her right to request that the State Department of Education review the decision of the school di 2. inform the unaccompanied youth or the parent or guardian of the homeless child that this request must be made either on the district supplied request for review form or by a telephone intervie the coordinator in the State Department of Education's Office of Coordinator for Education of Homeless Children and Youth, 3. give the unaccompanied youth or the parent or guardian of the homeless child a copy of the State Department of Education's request for review form and the contact information for the Office of Coordinator for Education of Homeless Children and Youth, and 4. inform the unaccompanied youth or the parent or guardian of the homeless child that he or she may seek the assistance of advocates or attorneys for the review. B. Once the Office of Coordinator for Education of Homeless Children and Youth has received either the completed request for review form or has conducted a full telephone interview with the youth the parent or guardian, the coordinator will send a copy of the completed form and any other relevant material to the school district. The school district must send a written response to the state and to the person filing the state review request within five business days from the date it receives the request for review form. II. Responsibilities of the Youth or the Parent or Guardian A. The unaccompanied youth or the parent or guardian of the homeless child must complete and return the request for review form to the address designated on the form or must telephone the coordinator in the Office of Coordinator for Education of Homeless Children and Youth and make an oral report on the circumstances surrounding the request for review. B. The youth or the parent or guardian either may attach to the form any additional information he or she thinks is relevant or may telephone the coordinator and provide the information orally. III. Responsibilities of the Coordinator A. The coordinator for the education of homeless children and youths will conduct all state reviews requested by unaccompanied youths or the parents or guardians of homeless children. B. The coordinator will review all written documents submitted concerning the particular dispute. The coordinator may request additional information from the parties in making his or her determination. C. The coordinator will make a final decision within ten business days of receiving the written response from the school district. The decision of the coordinator is binding and will be effective immediately.
1,201	43-273 Transfers and Withdrawals	State	Kindergarten; Grades 1 6; 7 8: Transfer of Students Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the wri request, excluding weekends and recognized state holidays. A school must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring when requested in writing by the receiving sc as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. Schools must transfer these records within ten business days upon receiving the written request from the public or private school to which the student is transferring. Schools may not withhold the transfer of records to a public or private school for fees owed by the student. Grades 9 12: Transfer of Students Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the wri request, excluding weekends and recognized state holidays. A. Accurate accounting records shall be developed and maintained for student transfers and withdrawals. Comprehensive transcripts shall be submitted directly to the receiving school when reques writing, as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. A permanent record of the transferred student be retained in the school from which the student is transferred. The school of record must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to whi student is transferring as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. Schools may not withhold the tr of records to a public or private school for fees owed by the student. B. Units earned by a student in an accredited high school of this state or in a school of another state which is accredited under the regulations of the board of education of that state, or the appropria regional accrediting agency (New England Association of Colleges and Schools, Middle States Association of Colleges and Schools, Southern Association of Colleges and Schools, North Central Associa of Colleges and Schools, Western Association of Colleges and Schools, and the Northwest Association of Colleges and Schools), will be accepted under the same value which would apply to students in school to which they transferred. C. If a student transfers from a school, which is not accredited, he or she shall be given tests to evaluate prior academic work and/or be given a tentative assignment in classes for a probationary peri HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997; State Register Volume 27, Issue No. 12, eff December 26, 2003; State Register Volume 37, Issue No. 6, eff June 28, 2013

Legal Standards

1,202	43-274 Student Attendance	State	I. Lawful and Unlawful Absences School districts must adopt policies to define and list lawful and unlawful absences. (A) Lawful absences include but are not limited to (1) absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others, (2) absences due to an illness or death in the student's immediate family, (3) absences due to a recognized religious holiday of the student's faith, and (4) absences due to activities that are approved in advance by the principal. (B) Unlawful absences include but are not limited to (1) absences of a student without the knowledge of his or her parents, or (2) absences of a student without acceptable cause with the knowledge of his or her parents. (C) Suspension is not to be counted as an unlawful absence for truancy purposes. II. Truancy The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district pri resorting to the juvenile justice system. (A) Truant A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences. (B) Habitual Truant A "habitual" truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The written intervention plan, and documentation of non compliance, must be attach the truancy petition asking for court intervention. (C) Chronic Truant A "chronic" truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a "habitual" truant, has been referred to Family Court and placed on a order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the "chronic" truant may be referre the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a writte recommendation from the school to the court on action the court should take. III. Intervention Plans (A) Each district must develop a policy relating to requirements for intervention. The district plan for improving students' attendance must be in accordance with any applicable statutes. (B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the stud
1,203	43-274.1 At Risk Students. (Statutory Authority: S.C. Code Ann. Section Section 59 5 60 (2004), 59 5 65 (2004 & Supp. 2010), and 59 59 10, et seq. (Supp. 2010))	State	I. At Risk Student Definition A. A student at risk of dropping out of school is any student who, because of his or her individual needs, requires temporary or ongoing intervention in order to achieve in school and to graduate wit meaningful options for his or her future. B. Students depending on their degree of resiliency and connectedness to caring adults in the home, in the community, and/or at school may respond differently to those things frequently cited as barriers, predictors, or indicators of being "at risk." Therefore, educators and other responsible adults working with students should consider the whole child, who might have both short term and lo term needs requiring intervention. II. At Risk Student Indicators, Predictors, and Barriers The South Carolina Education and Economic Development Act mandates the promulgation of State Board of Education regulations outlining specific objective criteria for districts to use in identifyin students who may be poorly prepared for the next level of study or who are at risk of dropping out of school. The Act calls for these criteria to include diagnostic assessments for districts to use in ord identify the strengths and weaknesses of individual students in the core academic areas. A. Poor academic performance generally, a grade point average of 2.0 or lower on a 4.0 scale in the core content areas is a significant predictor that districts must consider in identifying at risk stud Careful consideration should be given to students demonstrating declining academic performance. School districts are encouraged to carefully review a variety of assessments, including the followin diagnosing students' academic difficulties and selecting appropriate short term and long term interventions: 1. Palmetto Assessment of State Standards (PASS) test results, 2. High School Assessment Program (HSAP) test results, 3. Preliminary Scholastic Assessment Test (PSAT) or PLAN test results, 4. district or school adopted CAI (computer aided instruction) assessments, 5. end of course examination results, 6. classroom level assessments related to the state's academic standards, and 7. other district approved diagnostic assessments. B. The following are among the specific behaviors and characteristics that school districts must consider as indicators, predictors, and barriers in identifying at risk students: 1. being overage for their grade level due to retention attributable to risk factors such as a high rate of absences and truancy; 2. showing a lack of effort or interest in their academic work; 3. working an excessive number of hours per day or week; 4. having a history of discipline problems leading to suspension, expulsion, and/or probation; 5. showing or expressing feelings of being disconnected from the school environment; 6. showing evidence of physical and/or emotional abuse; 7. coming from and/or living in a disadvantaged socioeconomic environment;

Legal Standards

1,204	43-279 Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.	State	I. Expectations for Student Conduct in South Carolina Public Schools Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending public schools of the state of South Carolina. II. Previously Adopted School District Discipline Policies This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies are consistent with and contain the elements included in this regulation, may retain their local policies as adopted. III. Levels of Student Misconduct A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious. B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation. C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases. D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in school suspension. Level II misconduct includes sanctions ranging from temporary removal from cla expulsion, while Level III misconduct includes sanctions ranging from out of school suspension to appropriate action within the criminal justice system. E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation. IV. Minimum Standards A. Disorderly Conduct Level I 1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportatio vehicles, and other school sponsored activities. 2. Acts of disorderly conduct may include, but are not limited to: a. Classroom tardiness; b. Cheating on examinations or classroom assignments; c. Lying; d. Acting in a manner so as to interfere with the instructional process; e. Abusive language between or among students; f. Failure to complete assignments or carry out directions; g. Use of forged notes or excuses; h. Cutting class;
1,205	APPENDIX B Relevant State Law	State	The following code citations pertain to rule making powers of boards, suspension, expulsion, student's right to hearing, transfer, corporal punishment, regulation of clubs, and disciplinary powers of school bus drivers. 59 19 90 (3). General powers and duties of school trustees. The board of trustees shall also: (3) Promulgate rules and regulations. Promulgate rules prescribing scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils as a condition to the r of such pupils to attend the public schools of such district. The rules shall take into account the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils sha promoted notwithstanding that such rules may result in the ineligibility of pupils who fail to observe the required standards, and require the suspension or permanent dismissal of such pupils. 59 63 210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission. Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for a commission of any crime, gross misbehavior, persistent disobedience, or for violation o written rules and regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Every expelled pupil shall have the right to petition for readmission for the succeeding school year. Expulsion or suspension shall be construed to prohibit a pupil from entering the school, or school ground except for a prearranged conference with an administrator, attending any day or night school functions or riding a school bus. The provisions of this section shall not preclude enrollment and attenda in any adult or night school. 59 63 220. Suspension of pupils by administrators. Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for any one offense and for not more than th 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 schoo without the approval of the school board unless the presence of the pupil constitutes an actual threat to a class or a school or a hearing is granted within twenty four hours of the suspension. 59 63 230. Notices of suspensions; conferences with parents or guardian. When a pupil is suspended from a class or a school, the administrator shall notify, in writing, the parents or legal guardian of the pupil, giving the reason for such suspension and setting a time and p 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 o guardian may appeal the suspension to the board of trustees or to its authorized agent. 59 63 240. Expulsion for remainder of year; hearings. The board may expel for the remainder of the school year a pupil for any of the reasons listed in Section 59 63 210. If procedures for expulsion are initiated, the parents or legal guardian of the pupi 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 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 board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and decision shall be rendered within ten days 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 ma permanently expel any incorrigible pupil.

Legal Standards

1,206	ARTICLE 23 EDUCATIONAL AGENCY RELATIONS 43-300 Accreditation Criteria	State	I. Each school district shall provide the defined program approved by the State Board of Education that complies with standards prescribed for the boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education centers; summer school programs; and adult education. If a school district's defined program is evaluated as failing to com with prescribed standards, it shall be considered as offering a program that is deficient in meeting local educational needs and such failure shall be indicated in the status of the accreditation classific II. State Board of Education Approval Procedures: To be accredited by the State Board of Education, a school district or school shall obtain approval for the school district's or school's educational pro by one of the following procedures. A. Option 1. Accreditation through the South Carolina Department of Education (SCDE). Meet the standards in the defined program and all current statutes and regulations as prescribed by the State Board of Education and General Assembly determined by the SCDE through the procedures described below. With regard to special schools, the following documents contain the full text of accreditat standards adopted by the State Board of Education. The documents are on file in the Offices of the South Carolina Department of Education and the South Carolina Legislative Council: Defined Minimum Program for the John de la Howe School Defined Minimum Program for the South Carolina School for the Deaf and the Blind Defined Minimum Program for the South Carolina Wil Lou Gray Opportunity School Defined Minimum Program for the South Carolina Department of Juvenile Justice B. Option 2. Accreditation through an Accrediting Entity Accepted by Higher Education. Submit documentation to the State Board of Education that the district and schools meet all accreditation standards and are considered fully accredited by an accrediting entity accepted by higher education (i.e., AdvancED/Southern Association of Colleges and Schools (SACS)). Use of an accrediting entity other than AdvancED will require approval by the State Board of Education. All deficiencies identified through desk or on site monitoring must be resolved prior to the district or school utilizing Opti If district's or school's accreditation rating becomes less than fully accredited when utilizing Option 2, the district or school will automatically be reviewed by the South Carolina Department of Educa Option 1 procedures. A list of schools and/or districts selecting Option 2 for accreditation will be included in the SCDE's Annual Report of the Accreditation of School Districts in South Carolina to the Board of Education. III. Option 1 accreditation procedures for each school district or school not submitting documentation of Option 2 accreditation: A. On or before October 15, data assurances documenting the compliance of standards for boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education; summer school programs; and adult education will be submitted to the South Carolina Department of Education. B. The South Carolina Department of Education will process the accreditation data and identify existing deficiencies for the following educational units: (1) Boards of Trustees, (2) District Operations Elementary Grades, (4) Middle Grades, (5) Secondary Grades, (6) Summer School Programs, (7) Career and Technology Education, and (8) Adult Education. Accreditation data will also be collected annually through desk and on site monitoring of selected schools and districts. The listings of deficiencies will be reviewed by South Carolina Department of Education staff and results of the prelimi analysis indicating existing deficiencies will be provided to districts and schools for verification. C. The preliminary analysis data shall result in the SCDE assigning one of the following accreditation preliminary classifications no later than February 1: Accredited/All Clear indicates that a district or school is in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly.
1,207	43-302 Palmetto Gold and Silver Awards Program. (Statutory Authority: 1976 Code Section Section 59 5 60, 59 18 1100)	State	A. Program Implementation The Palmetto Gold and Silver Awards Program is established to recognize and reward schools for academic achievement. Awards will be established for schools attaining high levels of absolute performance and for schools attaining high rates of improvement. The program shall be operated by the State Department of Education in accordance with program criteria established by the Divisio Accountability of the Education Oversight Committee. B. Expenditure of Award Funds Award funds are to be used to improve and/or maintain exceptional student academic performance according to the school's renewal plan. Funds may be utilized for professional development supp Allowable costs include equipment, materials and supplies, contractual services, substitutes, and travel. Specific guidelines for the expenditure of award funds will be provided to each school receivi award. An expenditure report specifying the manner in which those monies were expended must be submitted to the Department of Education at the conclusion of the grant period. HISTORY: Amended by State Register Volume 27, Issue No. 3, eff March 28, 2003.

Legal Standards

1,208	43-303 Flexibility Through Deregulation Program. (Statutory Authority: S.C. Code Ann. Section Section 59 18 1110 and 59 18 1120 (Supp. 2002))	State	I. Program Implementation The Education Accountability Act, S.C. Code Ann. Section Section 59 8 1110 and 59 18 1120 (2002), provide for the recognition of schools based on student performance. Schools that continually rec recognition are rewarded by exemptions from regulations and statutes (59 18 1110). Special provisions also allow exemptions from some regulations or statutes to other schools (59 18 1120). The State Department of Education (SDE) will operate the program in accordance with program guidelines developed by the State Board of Education (SBE) in consultation with the Education Overs Committee (EOC). The guidelines shall include eligibility criteria, operation procedures, related monitoring activities, reporting requirements, and state statutes and regulations exempted under the program. Approved program guidelines will be made available by the SDE upon request. The SBE may revise program guidelines on an annual basis in consultation with the EOC. Current guidelines w posted on the SDE Web site. Schools deregulated under former flexibility through deregulation statute, S.C. Code Ann. Section 59 18 15 (repealed), and former State Board of Education Regulation 43 303 (amended) must re qua for flexibility status under these regulations. II. Eligibility Criteria A. Eligibility for flexibility begins in February 2005. B. A school may be eligible in one of three ways. Special conditions apply to each type of eligibility. 1. Criteria for Deregulated Schools Each of the following criteria must be met during the three year period prior to the school year in which the school is given flexibility status. a. The school has twice been a recipient of either a Palmetto Gold or Silver Award. b. The school has met annual improvement standards for subgroups of students in reading and mathematics. c. The school must have exhibited no recurring accreditation deficiencies. 2. Criteria for Unsatisfactory Schools An unsatisfactory school may be given flexibility status when each of the following conditions are met: a. The statutes or regulations exempted must deal with the core academic areas. b. The External Review Team (ERT) recommends specific regulations and statutes for flexibility to the SBE in the ERT report. c. If recommended by the ERT, the school plan must be amended to explain how the exemption will improve school and student performance. 3. Criteria for Schools through School Plans Schools may receive flexibility status when each of the following conditions are met: a. The school has met annual improvement standards for subgroups of students in reading and mathematics. b. Amendments to the school renewal plan must explain why exemptions are expected to improve the academic performance of the students. c. The plan meets the approval by the SBE. III. Stability of School Grade Organization
1,209	43-307 Alignment of Assessment and Accountability Elements with the No Child Left Behind Act.	State	I. The reauthorization of the Elementary and Secondary Education Act of 2001, Public Law 107 110, also known as the No Child Left Behind Act, requires each state to align its assessment and accountability elements with the measures mandated by federal law. The following steps are taken to align the elements of the Education Accountability Act of 1998 with those of the No Child Left Be Act. A. Assessment System 1. The assessment system, as mandated by the Education Accountability Act and further specified in the State Accountability Workbook, required by the No Child Left Behind Act, applies to all publi schools and districts in the state and holds all students to the same academic achievement criteria and performance standards. 2. The annual school, district, and state report cards, as mandated by the Education Accountability Act and as further specified in the State Accountability Workbook, will include the data required b No Child Left Behind Act. B. Accountability System 1. Adequate Yearly Progress. This measure is calculated as specified in the State Accountability Workbook and is included as a measure of accountability and progress of the public schools. Adequat yearly progress will be reported on the front of the Education Accountability Act mandated report card. 2. Subgroups for Accountability. The subgroups identified for measuring the progress on adequate yearly progress are: economically disadvantaged students, major racial and ethnic groups, studen with disabilities, and students with limited English proficiency. All students in the school are considered to be an additional subgroup. The definitions of the subgroups are specified in the South Caro Department of Education Test Administration Manual and the No Child Left Behind Act. 3. Other Indicators of Performance. Attendance is the additional required indicator for elementary and middle schools. This indicator's threshold and adequate yearly progress criteria are specified State Accountability Workbook. For high school, the additional indicator is required to be graduation rate. This indicator's threshold and adequate yearly progress criteria are specified in the State Accountability Workbook. II. The Elementary and Secondary Education Act of 2001, Public Law 107 110, also known as the No Child Left Behind Act, requires schools and districts not meeting adequate yearly progress for two consecutive years to move into needs improvement status and for Title I schools missing adequate yearly progress more than two consecutive years to progress through the levels of consequences specified in federal law. III. The State Board of Education authorizes the South Carolina Department of Education to develop and amend the State Accountability Workbook as necessary to meet USDE approval. HISTORY: Added by State Register Volume 27, Issue No. 6, Part 1, eff June 27, 2003.

Legal Standards

1,210	ARTICLE 25 TEACHER TRAINING PROGRAMS IN MATHEMATICS, SCIENCE AND COMPUTER EDUCATION 43-500. Repealed by State Register Volume 38, Issue No. 6, Doc. No. 4405, eff June 27, 2014.	State	
1,211	ARTICLE 26 CHARTER SCHOOLS 43-601 Procedures and Standards for Review of Charter School Applications	State	I. DEFINITIONS (A) A "charter school" means a public, nonreligious, nonhome based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charte School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which gra charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools. (B) "Applicant" means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Bo Trustees, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The appli also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation. (C) "Sponsor" means the South Carolina Public Charter School District Board of Trustees; the local school board of trustees in which the charter school is to be located, as provided by law; a public institution of higher learning, as defined in Section 59 103 5; or an independent institution of higher learning, as defined in Section 59 113 50, from which the charter school applicant requested its c and which granted approval for the charter school's existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school's local educat agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a ma consistent with LEA obligations under applicable federal, state, and local law. (D) "Charter committee" means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After th election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved. (E) "Certified teacher" means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sect 59 27 10 and 59 25 115. (F) "Noncertified teacher" means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or universit meets the qualifications outlined in Section 59 25 115. (G) "Charter school contract" means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each to the contract. (H) "Resident public school" means the school, other than a charter school, within whose attendance boundaries the charter school student's custodial parent or legal guardian resides." (I) "Local school district" means any school district in the state except the South Carolina Public Charter School District and does not include special school districts. (J) "Scholastic year" means the year that begins on the first day of July of each year and ends on the thirtieth day of June following. II. APPLICATIONS TO BE CONSIDERED BY THE CHARTER SCHOOL ADVISORY COMMITTEE (A) Review of Applications All charter school applications must be reviewed by the Charter School Advisory Committee to determine compliance with the standards established below. The applications submitted to the Advis Committee must demonstrate compliance with each standard. If the Advisory Committee determines that the application meets the standards set forth in this regulation, it must forward the applicat

Legal Standards

1,212	43-601 continued…	State	(1) The goals and objectives must be clearly stated and must provide enough detail to indicate specific outcomes. (2) The student population must be identified by grade level, unique educational needs, and projected enrollment. A converted charter school must offer the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion and may also provide additional grades and further educational offerings. (3) The educational goals must reflect the school's mission statement. (4) Strategies to accomplish the educational goals must be included. (5) The school calendar must be at least 180 instructional days. (6) Academic standards must identify what students will achieve at each grade level and must meet or exceed the South Carolina curriculum standards, as adopted by the State Board of Education. A correlation or other documentation must be included or process identified to ensure that the school will provide an instructional program that meets or exceeds the academic standards. (7) If the charter school plans to offer the South Carolina State High School Diploma, the application must set forth the method for meeting the state requirements for the High School Diploma, inclu but not limited to, course unit requirements, seat time for Carnegie Units, as applicable, and passage of the required examinations. (8) Provisions must be included for determining if all students are achieving or attaining the standards, including the methods by which student performance information will be gathered and monitored. (9) The application must include an explanation as to how the school will comply with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. (E) Student Assessment The application must include a description of the charter school's plan for evaluating pupil achievement and progress toward accomplishment of the school's achievement standards. The school's evaluation plan must include state mandated assessments and other assessments as well as the timeline for meeting these standards and the procedures to be taken if pupil achievement falls below t standards. (1) Methods for evaluating pupil achievement at each grade level must be specified. These methods must include but should not be limited to the state assessments. (2) The timeline must identify the expected yearly progress toward meeting the school's long term performance goals. The expected yearly progress must meet or exceed the expectation of the fede accountability system recognized by the U.S. Department of Education. (3) Provisions must be included to address the needs of students who do not perform at acceptable levels of proficiency in the statewide assessment program. (F) Budget and Accounting System The application must include a plan for the charter school that is economically sound and in compliance with state and federal requirements: (1) A budget for the term of the charter must be included. The charter school must use the same budget codes as are required of school districts. The budget must be based on documented State Department of Education estimated revenues in accordance with the allocations in S.C. Code Ann. Section 59 40 140(A) (C). If the budget includes funds acquired through grants, the application must present evidence that the funds, including federal public charter school start up grants, are likely to be received, and the terms of the projected grants must be explained. Anticipated expenditures mu include all costs associated with initial implementation and continued operation, including but not limited to instructional and support costs for:
1,213	43-601 continued…	State	(K) Facilities and Equipment The application must include a description of the building, facilities, and equipment and an explanation as to how they will be obtained: (1) Facilities Identified in Application (a) If a facility suitable for use by the charter school is identified at the time of application, the application must provide the following information with regard to the facility that the charter school intends to occupy: (i) the address of the facility; (ii) a description of the facility; (iii) a floor plan of the facility, including a notation of its size in square footage; (iv) the name and address of the owner of the facility; and (v) a copy of the proposed lease or rental agreement if the facility will be leased or rented. (b) If the facility that the charter school will occupy is being used as a public school at the time of application, the application must specify the name and location of that school and must include documentation setting forth the specific days and times during which the charter school is authorized to use that facility. (c) The application must either demonstrate that the proposed facility is in compliance with requirements set forth in the South Carolina School Facility Planning and Construction Guide for charte school occupancy or must provide a description of that facility and must demonstrate that it will meet the requirements: (i) A certificate of occupancy or a letter from the Office of School Facilities stating that the facility meets the appropriate codes is adequate to show compliance with this standard with regard to sch facilities. (ii) If a certificate of occupancy is not issued or cannot be obtained at the time of application, the application must provide evidence that the charter school committee is working with an architect and/or the Office of School Facilities to correct any deficiencies in the facility. (2) Facilities Not Identified in Application If the charter school has not identified a suitable facility, the application must specify a plan for obtaining such a facility and must include (a) a description of the facility needs, (b) a statement as to whether an existing facility will be remodeled or a new facility will be built, and (c) a schedule for completing or obtaining a suitable facility and, if applicable, a description of and timeline for any plan to raise funds for completing or obtaining the facility. (3) The application must include a description of the equipment that will be used to support the proposed curriculum and an explanation as to how the equipment will be obtained. (L) Employee Relations The application must explain the relationship that will exist between the charter school and its employees, including evaluation procedures: (1) The application must include a description of the process that will be used to advertise for, select, and employ instructional staff and other employees. (2) The procedure for the evaluation of teachers of the charter school must be outlined in the application.

Legal Standards

1,214	43-601 continued…	State	V. CONDITIONAL CHARTERS The local school board may grant a conditional charter, instead of a full charter, to an applicant whose application meets the standards as determined by the Advisory Committee only if one or more following conditions exists: a charter school has not yet secured its space and been issued a certificate of occupancy by the Office of School Facilities, secured its equipment, facilities, and/or personn The conditional approval must be in writing and outline the specific conditions that must be met for approval and must include the specific date by which the conditions need to be met in order to se approval. The local school board must make a determination as to whether the charter applicant has met the conditions of the conditional approval on or before the date specified in the conditional approval. Failure to make a ruling by the date outlined in the conditional charter shall be deemed approved. VI. ADVERSE IMPACT ON STUDENTS A local school board of trustees may deny an application if the charter school would adversely affect the other students in the district. (A) The local school board of trustees must demonstrate adverse impact on students. The impact must be specific and must have a negative effect on students. If the local school board of trustees fin that the charter school would adversely affect other students of the district, the written explanation of the reasons for denial required by Section 59 40 70(C) must describe detrimental effects upon students of the district. (B) If the district is claiming an adverse impact based upon the redirection of funding to the charter school, the district must demonstrate that the funds being redirected to the charter school will ha direct negative impact on students. (1) The district must show options it has considered in an effort to reduce the adverse financial impact of the charter school. (2) The district has considered the net fiscal impact of the charter school, including the fiscal benefits that the charter school may bring to the district. VII. FEDERAL CHARTER SCHOOL REQUIREMENTS (A) Annual Audits Each authorized charter school in the State must have an annual, independent audit conducted by a qualified auditing or accounting firm and must file the audit annually with the school's authorize public chartering agency. (B) Academic Achievement (1) Each authorized charter school in the State operates under a legally binding charter and performance contract between itself and the school's authorized public charter agency that demonstrates improved student academic achievement. (2) Charter schools must provide evidence of improved student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA. Authorizers must use increases i student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter. Eac authorizer and charter school must enter into a contractual agreement stating that student performance of all students described in Section 1111(b)(2)(C)(v) of the ESEA is the most important factor when determining to renew or revoke a school's charter. VIII. GUIDELINES The South Carolina Department of Education may issue guidelines to assist charter schools in complying with federal legislation, including, but not limited to, the Elementary and Secondary Educatio
1,215	Title 2: Grants and Agreements PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS	Federal	

Legal Standards

1,216	Subpart B—General Provisions §200.100 Purpose	Federal	(a)(1) This part establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities, as described in §200.101 Applicability. Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in §§200.102 Exceptions and 200.210 Information contained in a Federal award, or unless specificall required by Federal statute, regulation, or Executive Order. (2) This part provides the basis for a systematic and periodic collection and uniform submission by Federal agencies of information on all Federal financial assistance programs to the Office of Management and Budget (OMB). It also establishes Federal policies related to the delivery of this information to the public, including through the use of electronic media. It prescribes the manner in General Services Administration (GSA), OMB, and Federal agencies that administer Federal financial assistance programs are to carry out their statutory responsibilities under the Federal Program Information Act (31 U.S.C. 6101-6106). (b) Administrative requirements. Subparts B through D of this part set forth the uniform administrative requirements for grant and cooperative agreements, including the requirements for Federal awarding agency management of Federal grant programs before the Federal award has been made, and the requirements Federal awarding agencies may impose on non-Federal entities in the Feder award. (c) Cost Principles. Subpart E—Cost Principles of this part establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal Government participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by statute. (d) Single Audit Requirements and Audit Follow-up. Subpart F—Audit Requirements of this part is issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards. These provisions also provide the policies and procedures Federal awarding agencies and pass-through entities when using the results of these audits. (e) For OMB guidance to Federal awarding agencies on Challenges and Prizes, please see M-10-11 Guidance on the Use of Challenges and Prizes to Promote Open Government, issued March 8, 2010, c successor.
1,217	§200.101 Applicability	Federal	(a) General applicability to Federal agencies. The requirements established in this part apply to Federal agencies that make Federal awards to non-Federal entities. These requirements are applicable costs related to Federal awards. (b)(1) Applicability to different types of Federal awards. The following table describes what portions of this part apply to which types of Federal awards. The terms and conditions of Federal awards (including this part) flow down to subawards to subrecipients unless a particular section of this part or the terms and conditions of the Federal award specifically indicate otherwise. This means that Federal entities must comply with requirements in this part regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award. Pass-through entities must comply with the requirements described in Subpart D—Post Federal Award Requirements of this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards, but not any requirements in this part directed towards Federal awarding agencies unless the requirements of this part or the terms and conditions of the Federal award indicate otherwise. eCFR graphic er19de14.000.gif View or download PDF (2) Federal award of cost-reimbursement contract under the FAR to a non-Federal entity. When a non-Federal entity is awarded a cost-reimbursement contract, only Subpart D—Post Federal Award Requirements of this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards (in addition to any FAR related requirements for subaward monitoring) Subpart E—Cost Principles of this part and Subpart F—Audit Requirements of this part are incorporated by reference into the contract. However, when the Cost Accounting Standards (CAS) are appl to the contract, they take precedence over the requirements of this part except for Subpart F—Audit Requirements of this part when they are in conflict. In addition, costs that are made unallowable 10 U.S.C. 2324(e) and 41 U.S.C. 4304(a) as described in the FAR subpart 31.2 and subpart 31.603 are always unallowable. For requirements other than those covered in Subpart D—Post Federal Awa Requirements of this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards, Subpart E—Cost Principles of this part and Subpart F—Audit Requirem of this part, the terms of the contract and the FAR apply. (3) With the exception of Subpart F—Audit Requirements of this part, which is required by the Single Audit Act, in any circumstances where the provisions of Federal statutes or regulations differ fr the provisions of this part, the provision of the Federal statutes or regulations govern. This includes, for agreements with Indian tribes, the provisions of the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended, 25 U.S.C 450-458ddd-2. (c) Federal awarding agencies may apply subparts A through E of this part to for-profit entities, foreign public entities, or foreign organizations, except where the Federal awarding agency determine the application of these subparts would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government.

Legal Standards

1,218	§200.102 Exceptions	Federal	(a) With the exception of Subpart F—Audit Requirements of this part, OMB may allow exceptions for classes of Federal awards or non-Federal entities subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part will be permitted only in unusual circumstances. Exceptions classes of Federal awards or non-Federal entities will be published on the OMB Web site at www.whitehouse.gov/omb. (b) Exceptions on a case-by-case basis for individual non-Federal entities may be authorized by the Federal awarding agency or cognizant agency for indirect costs, except where otherwise required l law or where OMB or other approval is expressly required by this part. (c) The Federal awarding agency may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB, or when, required by Federal statutes or regulations, except for the requirements in Subpart F—Audit Requirements of this part. A Federal awarding agency may apply less restrictive requirements when making fixed amount awards as def in Subpart A—Acronyms and Definitions of this part, except for those requirements imposed by statute or in Subpart F—Audit Requirements of this part. (d) On a case-by-case basis, OMB will approve new strategies for Federal awards when proposed by the Federal awarding agency in accordance with OMB guidance (such as M-13-17) to develop additional evidence relevant to addressing important policy challenges or to promote cost-effectiveness in and across Federal programs. Proposals may draw on the innovative program designs discu in M-13-17 to expand or improve the use of effective practices in delivering Federal financial assistance while also encouraging innovation in service delivery. Proposals submitted to OMB in accorda with M-13-17 may include requests to waive requirements other than those in Subpart F—Audit Requirements of this part.
1,219	§200.103 Authorities	Federal	This part is issued under the following authorities. (a) Subpart B—General Provisions of this part through Subpart D—Post Federal Award Requirements of this part are authorized under 31 U.S.C. 503 (the Chief Financial Officers Act, Functions of the Deputy Director for Management), 31 U.S.C. 1111 (Improving Economy and Efficiency of the United States Government), 41 U.S.C. 1101-1131 (the Office of Federal Procurement Policy Act), Reorganization Plan No. 2 of 1970, and Executive Order 11541 ("Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the Preside the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507), as well as The Federal Program Information Act (Public Law 95-220 and Public Law 98-169, as amended, codified at 31 U.S.C. 6101-6106). (b) Subpart E—Cost Principles of this part is authorized under the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1101-1 the Chief Financial Officers Act of 1990 (31 U.S.C. 503-504); Reorganization Plan No. 2 of 1970; and Executive Order No. 11541, "Prescribing the Duties of the Office of Management and Budget and th Domestic Policy Council in the Executive Office of the President." (c) Subpart F—Audit Requirements of this part is authorized under the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507).
1,220	§200.104 Supersession	Federal	As described in §200.110 Effective/applicability date, this part supersedes the following OMB guidance documents and regulations under Title 2 of the Code of Federal Regulations: (a) A-21, "Cost Principles for Educational Institutions" (2 CFR part 220); (b) A-87, "Cost Principles for State, Local and Indian Tribal Governments" (2 CFR part 225) and also Federal Register notice 51 FR 552 (January 6, 1986); (c) A-89, "Federal Domestic Assistance Program Information"; (d) A-102, "Grant Awards and Cooperative Agreements with State and Local Governments"; (e) A-110, "Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" (codified at 2 CFR 215); (f) A-122, "Cost Principles for Non-Profit Organizations" (2 CFR part 230); (g) A-133, "Audits of States, Local Governments and Non-Profit Organizations "; and (h) Those sections of A-50 related to audits performed under Subpart F—Audit Requirements of this part. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75882, Dec. 19, 2014]
1,221	§200.105 Effect on other issuances	Federal	For Federal awards subject to this part, all administrative requirements, program manuals, handbooks and other non-regulatory materials that are inconsistent with the requirements of this part mu superseded upon implementation of this part by the Federal agency, except to the extent they are required by statute or authorized in accordance with the provisions in §200.102 Exceptions.

Legal Standards

1,222	§200.106 Agency implementation	Federal	The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in this part. Federal agencies making Federal awards to non-Federal entities must implement language in the Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards of this part through Subpart F—Audit Requirements of this part in codified regulations unless different provisions are required by Federal statute or are approved by OMB.
1,223	§200.107 OMB responsibilities	Federal	OMB will review Federal agency regulations and implementation of this part, and will provide interpretations of policy requirements and assistance to ensure effective and efficient implementation. A exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.
1,224	§200.108 Inquiries	Federal	Inquiries concerning this part may be directed to the Office of Federal Financial Management Office of Management and Budget, in Washington, DC. Non-Federal entities' inquiries should be addresse the Federal awarding agency, cognizant agency for indirect costs, cognizant or oversight agency for audit, or pass-through entity as appropriate.
1,225	§200.109 Review date	Federal	OMB will review this part at least every five years after December 26, 2013.
1,226	§200.110 Effective/applicability date	Federal	(a) The standards set forth in this part which affect administration of Federal awards issued by Federal awarding agencies become effective once implemented by Federal awarding agencies or when future amendment to this part becomes final. Federal awarding agencies must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB. For the procurement standards in §§200.317-200.326, non-Federal entities may continue to comply with procurement standards in previous OMB guidance (superseded by this part as described in §200.104) for one additional fiscal year after this part goes into effect. If a non-Federal entity chooses to us previous procurement standards for an additional fiscal year before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procureme policies. (b) The standards set forth in Subpart F—Audit Requirements of this part and any other standards which apply directly to Federal agencies will be effective December 26, 2013 and will apply to audi fiscal years beginning on or after December 26, 2014.
1,227	§200.111 English language	Federal	(a) All Federal financial assistance announcements and Federal award information must be in the English language. Applications must be submitted in the English language and must be in the terms o dollars. If the Federal awarding agency receives applications in another currency, the Federal awarding agency will evaluate the application by converting the foreign currency to United States curren using the date specified for receipt of the application. (b) Non-Federal entities may translate the Federal award and other documents into another language. In the event of inconsistency between any terms and conditions of the Federal award and any translation into another language, the English language meaning will control. Where a significant portion of the non-Federal entity's employees who are working on the Federal award are not fluent i English, the non-Federal entity must provide the Federal award in English and the language(s) with which employees are more familiar.
1,228	§200.112 Conflict of interest	Federal	The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding a or pass-through entity in accordance with applicable Federal awarding agency policy.
1,229	§200.113 Mandatory disclosures	Federal	The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law invol fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §200.338 Remedies for noncompliance including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321).
1,230	Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards §200.200 Purpose	Federal	(a) Sections 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts through 200.208 Certifications and representations prescribe instructions and pre-award matters to be used in the announcement and application process. (b) Use of §§200.203 Notices of funding opportunities, 200.204 Federal awarding agency review of merit of proposals, 200.205 Federal awarding agency review of risk posed by applicants, and 200.2 Specific conditions, is required only for competitive Federal awards, but may also be used by the Federal awarding agency for non-competitive awards where appropriate or where required by Feder statute.

Legal Standards

1,231	§200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	Federal	(a) The Federal awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or contract) in accordance wi Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08). (b) Fixed Amount Awards. In addition to the options described in paragraph (a) of this section, Federal awarding agencies, or pass-through entities as permitted in §200.332 Fixed amount subawards use fixed amount awards (see §200.45 Fixed amount awards) to which the following conditions apply: (1) The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. The Federal awarding agency or pass-through entity may use fixed amount awards if th project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award based on a reasonable estimate of actual cost. Payments are based on meetin specific requirements of the Federal award. Accountability is based on performance and results. Except in the case of termination before completion of the Federal award, there is no governmental re of the actual costs incurred by the non-Federal entity in performance of the award. Some of the ways in which the Federal award may be paid include, but are not limited to: (i) In several partial payments, the amount of each agreed upon in advance, and the "milestone" or event triggering the payment also agreed upon in advance, and set forth in the Federal award; (ii) On a unit price basis, for a defined unit or units, at a defined price or prices, agreed to in advance of performance of the Federal award and set forth in the Federal award; or, (iii) In one payment at Federal award completion. (2) A fixed amount award cannot be used in programs which require mandatory cost sharing or match. (3) The non-Federal entity must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed or the level of effor expended. If the required level of activity or effort was not carried out, the amount of the Federal award must be adjusted. (4) Periodic reports may be established for each Federal award. (5) Changes in principal investigator, project leader, project partner, or scope of effort must receive the prior written approval of the Federal awarding agency or pass-through entity.
1,232	§200.202 Requirement to provide public notice of Federal financial assistance programs	Federal	(a) The Federal awarding agency must notify the public of Federal programs in the Catalog of Federal Domestic Assistance (CFDA), maintained by the General Services Administration (GSA). (1) The CFDA, or any OMB-designated replacement, is the single, authoritative, governmentwide comprehensive source of Federal financial assistance program information produced by the executiv branch of the Federal Government. (2) The information that the Federal awarding agency must submit to GSA for approval by OMB is listed in paragraph (b) of this section. GSA must prescribe the format for the submission. (3) The Federal awarding agency may not award Federal financial assistance without assigning it to a program that has been included in the CFDA as required in this section unless there are exigent circumstances requiring otherwise, such as timing requirements imposed by statute. (b) For each program that awards discretionary Federal awards, non-discretionary Federal awards, loans, insurance, or any other type of Federal financial assistance, the Federal awarding agency mu submit the following information to GSA: (1) Program Description, Purpose, Goals and Measurement. A brief summary of the statutory or regulatory requirements of the program and its intended outcome. Where appropriate, the Program Description, Purpose, Goals, and Measurement should align with the strategic goals and objectives within the Federal awarding agency's performance plan and should support the Federal awarding agency's performance measurement, management, and reporting as required by Part 6 of OMB Circular A-11; (2) Identification of whether the program makes Federal awards on a discretionary basis or the Federal awards are prescribed by Federal statute, such as in the case of formula grants. (3) Projected total amount of funds available for the program. Estimates based on previous year funding are acceptable if current appropriations are not available at the time of the submission; (4) Anticipated Source of Available Funds: The statutory authority for funding the program and, to the extent possible, agency, sub-agency, or, if known, the specific program unit that will issue the Fe awards, and associated funding identifier (e.g., Treasury Account Symbol(s)); (5) General Eligibility Requirements: The statutory, regulatory or other eligibility factors or considerations that determine the applicant's qualification for Federal awards under the program (e.g., typ non-Federal entity); and (6) Applicability of Single Audit Requirements as required by Subpart F—Audit Requirements of this part.

Legal Standards

1,233	§200.203 Notices of funding opportunities	Federal	For competitive grants and cooperative agreements, the Federal awarding agency must announce specific funding opportunities by providing the following information in a public notice: (a) Summary Information in Notices of Funding Opportunities. The Federal awarding agency must display the following information posted on the OMB-designated governmentwide Web site for find and applying for Federal financial assistance, in a location preceding the full text of the announcement: (1) Federal Awarding Agency Name; (2) Funding Opportunity Title; (3) Announcement Type (whether the funding opportunity is the initial announcement of this funding opportunity or a modification of a previously announced opportunity); (4) Funding Opportunity Number (required, if applicable). If the Federal awarding agency has assigned or will assign a number to the funding opportunity announcement, this number must be provi (5) Catalog of Federal Financial Assistance (CFDA) Number(s); (6) Key Dates. Key dates include due dates for applications or Executive Order 12372 submissions, as well as for any letters of intent or pre-applications. For any announcement issued before a progr application materials are available, key dates also include the date on which those materials will be released; and any other additional information, as deemed applicable by the relevant Federal awar agency. (b) The Federal awarding agency must generally make all funding opportunities available for application for at least 60 calendar days. The Federal awarding agency may make a determination to hav less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances require as determined by the Federal awardin agency head or delegate. (c) Full Text of Funding Opportunities. The Federal awarding agency must include the following information in the full text of each funding opportunity. For specific instructions on the content requi this section, refer to Appendix I to Part 200—Full Text of Notice of Funding Opportunity to this part. (1) Full programmatic description of the funding opportunity.
1,234	§200.204 Federal awarding agency review of merit of proposals	Federal	For competitive grants or cooperative agreements, unless prohibited by Federal statute, the Federal awarding agency must design and execute a merit review process for applications. This process m be described or incorporated by reference in the applicable funding opportunity (see Appendix I to this part, Full text of the Funding Opportunity.) See also §200.203 Notices of funding opportunities

Legal Standards

1,235	§200.205 Federal awarding agency review of risk posed by applicants	Federal	(a) Prior to making a Federal award, the Federal awarding agency is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 note to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information, such as SAM Exclusions and "Do Not Pay". See also suspension and debarment requirements at 2 CFR part 180 as well as individual Federal agency suspension and debarment regulations in title 2 of the Code of Federal Regulations. (b) In addition, for competitive grants or cooperative agreements, the Federal awarding agency must have in place a framework for evaluating the risks posed by applicants before they receive Feder awards. This evaluation may incorporate results of the evaluation of the applicant's eligibility or the quality of its application. If the Federal awarding agency determines that a Federal award will be r special conditions that correspond to the degree of risk assessed may be applied to the Federal award. Criteria to be evaluated must be described in the announcement of funding opportunity describ §200.203 Notices of funding opportunities. (c) In evaluating risks posed by applicants, the Federal awarding agency may use a risk-based approach and may consider any items such as the following: (1) Financial stability; (2) Quality of management systems and ability to meet the management standards prescribed in this part; (3) History of performance. The applicant's record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards; (4) Reports and findings from audits performed under Subpart F—Audit Requirements of this part or the reports and findings of any other available audits; and (5) The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities. (d) In addition to this review, the Federal awarding agency must comply with the guidelines on governmentwide suspension and debarment in 2 CFR part 180, and must require non-Federal entities comply with these provisions. These provisions restrict Federal awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.
1,236	§200.206 Standard application requirements	Federal	(a) Paperwork clearances. The Federal awarding agency may only use application information collections approved by OMB under the Paperwork Reduction Act of 1995 and OMB's implementing regulations in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. Consistent with these requirements, OMB will authorize additional information collections only on a limited basis. (b) If applicable, the Federal awarding agency may inform applicants and recipients that they do not need to provide certain information otherwise required by the relevant information collection.

Legal Standards

1,237	§200.207 Specific conditions	Federal	(a) The Federal awarding agency or pass-through entity may impose additional specific award conditions as needed, in accordance with paragraphs (b) and (c) of this section, under the following circumstances: (1) Based on the criteria set forth in §200.205 Federal awarding agency review of risk posed by applicants; (2) When an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award; (3) When an applicant or recipient fails to meet expected performance goals as described in §200.210 Information contained in a Federal award; or (4) When an applicant or recipient is not otherwise responsible. (b) These additional Federal award conditions may include items such as the following: (1) Requiring payments as reimbursements rather than advance payments; (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance; (3) Requiring additional, more detailed financial reports; (4) Requiring additional project monitoring; (5) Requiring the non-Federal entity to obtain technical or management assistance; or (6) Establishing additional prior approvals. (c) The Federal awarding agency or pass-through entity must notify the applicant or non-Federal entity as to: (1) The nature of the additional requirements;
1,238	§200.208 Certifications and representations	Federal	Unless prohibited by Federal statutes or regulations, each Federal awarding agency or pass-through entity is authorized to require the non-Federal entity to submit certifications and representations required by Federal statutes, or regulations on an annual basis. Submission may be required more frequently if the non-Federal entity fails to meet a requirement of a Federal award.
1,239	§200.209 Pre-award costs	Federal	For requirements on costs incurred by the applicant prior to the start date of the period of performance of the Federal award, see §200.458 Pre-award costs.

Legal Standards

1,240	§200.210 Information contained in a Federal award	Federal	A Federal award must include the following information: (a) General Federal Award Information. The Federal awarding agency must include the following general Federal award information in each Federal award: (1) Recipient name (which must match the name associated with its unique entity identifier as defined at 2 CFR 25.315); (2) Recipient's unique entity identifier; (3) Unique Federal Award Identification Number (FAIN); (4) Federal Award Date (see §200.39 Federal award date); (5) Period of Performance Start and End Date; (6) Amount of Federal Funds Obligated by this action; (7) Total Amount of Federal Funds Obligated; (8) Total Amount of the Federal Award; (9) Budget Approved by the Federal Awarding Agency; (10) Total Approved Cost Sharing or Matching, where applicable; (11) Federal award project description, (to comply with statutory requirements (e.g., FFATA)); (12) Name of Federal awarding agency and contact information for awarding official,
1,241	§200.211 Public access to Federal award information	Federal	(a) In accordance with statutory requirements for Federal spending transparency (e.g., FFATA), except as noted in this section, for applicable Federal awards the Federal awarding agency must annou all Federal awards publicly and publish the required information on a publicly available OMB-designated governmentwide Web site (at time of publication, www.USAspending.gov). (b) Nothing in this section may be construed as requiring the publication of information otherwise exempt under the Freedom of Information Act (5 U.S.C 552), or controlled unclassified information pursuant to Executive Order 13556.
1,242	§200.212 Suspension and debarment	Federal	Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.
1,243	Subpart D—Post Federal Award Requirements Standards for Financial and Program Management §200.300 Statutory and national policy requirements	Federal	(a) The Federal awarding agency must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accor with U.S. statutory and public policy requirements: including, but not limited to, those protecting public welfare, the environment, and prohibiting discrimination. The Federal awarding agency must communicate to the non-Federal entity all relevant public policy requirements, including those in general appropriations provisions, and incorporate them either directly or by reference in the terms conditions of the Federal award. (b) The non-Federal entity is responsible for complying with all requirements of the Federal award. For all Federal awards, this includes the provisions of FFATA, which includes requirements on executive compensation, and also requirements implementing the Act for the non-Federal entity at 2 CFR part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration a CFR part 170 Reporting Subaward and Executive Compensation Information. See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U 4304 and 4310.
1,244	§200.301 Performance measurement	Federal	The Federal awarding agency must require the recipient to use OMB-approved standard information collections when providing financial and performance information. As appropriate and in accord with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data to performance accomplishments of the Federal award. Also, in accorda with above mentioned standard information collections, and when applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance should be measured in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices. The Federal awarding agency should provide recipients with clear performance goals, indicators, and milestones as described in §200.210 Information contained in a Federal award. Performance reporting frequency and content should be established to not only allow the Federal awarding agency to understand the recipient progress but also to facilitate identifica of promising practices among recipients and build the evidence upon which the Federal awarding agency's program and performance decisions are made.

Legal Standards

1,245	§200.302 Financial management	Federal	(a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the oth non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficie permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been u according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also §200.450 Lobbying. (b) The financial management system of each non-Federal entity must provide for the following (see also §§200.333 Retention requirements for records, 200.334 Requests for transfer of records, 20 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records): (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must incl as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any. (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§200.327 Financial reporting and 200.328 Monitoring and reporting program performance. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basi recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand. (3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligatio unobligated balances, assets, expenditures, income and interest and be supported by source documentation. (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See §200.303 Internal controls. (5) Comparison of expenditures with budget amounts for each Federal award. (6) Written procedures to implement the requirements of §200.305 Payment. (7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.
1,246	§200.303 Internal controls	Federal	The non-Federal entity must: (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards. (c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards. (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings. (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.
1,247	§200.304 Bonds	Federal	The Federal awarding agency may include a provision on bonding, insurance, or both in the following circumstances: (a) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the Federal awarding agency, at its discretion, may require adequate bonding and insura the bonding and insurance requirements of the non-Federal entity are not deemed adequate to protect the interest of the Federal Government. (b) The Federal awarding agency may require adequate fidelity bond coverage where the non-Federal entity lacks sufficient coverage to protect the Federal Government's interest. (c) Where bonds are required in the situations described above, the bonds must be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR Part 223 "Surety Companies Doing Business with the United States."

Legal Standards

1,248	§200.305 Payment	Federal	(a) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 "Rules and Procedures for Efficient Federal-State Funds Transfers" and 4A-2000 Overall Disbursing Rules for All Federal Agencies. (b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also §200.302 Fina management paragraph (b)(6). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved standard governmentwide information collection requests request payment. (1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a n Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program o project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions. (2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient. (i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208. (ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like whe electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r). (3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per §200.207 Specific conditions, or the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished thro private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through e must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper. (4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the n Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding
1,249	§200.306 Cost sharing or matching	Federal	(a) Under Federal research proposals, voluntary committed cost sharing is not expected. It cannot be used as a factor during the merit review of applications or proposals, but may be considered if it both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity. Criteria for considering voluntary committed cost sharing and any other program polic factors that may be used to determine who may receive a Federal award must be explicitly described in the notice of funding opportunity. See also §§200.414 Indirect (F&A) costs, 200.203 Notices of funding opportunities, and Appendix I to Part 200—Full Text of Notice of Funding Opportunity. (b) For all Federal awards, any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the non-Federal entity's cost sha or matching when such contributions meet all of the following criteria: (1) Are verifiable from the non-Federal entity's records; (2) Are not included as contributions for any other Federal award; (3) Are necessary and reasonable for accomplishment of project or program objectives; (4) Are allowable under Subpart E—Cost Principles of this part; (5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such pr can be applied to matching or cost sharing requirements of other Federal programs; (6) Are provided for in the approved budget when required by the Federal awarding agency; and (7) Conform to other provisions of this part, as applicable. (c) Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the non-Federal entity' approved negotiated indirect cost rate. (d) Values for non-Federal entity contributions of services and property must be established in accordance with the cost principles in Subpart E—Cost Principles. If a Federal awarding agency author

Legal Standards

1,250	§200.307 Program income	Federal	(a) General. Non-Federal entities are encouraged to earn income to defray program costs where appropriate. (b) Cost of generating program income. If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determ program income, provided these costs have not been charged to the Federal award. (c) Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity are not program income unless the revenues are specifically identified in t Federal award or Federal awarding agency regulations as program income. (d) Property. Proceeds from the sale of real property, equipment, or supplies are not program income; such proceeds will be handled in accordance with the requirements of Subpart D—Post Federal Award Requirements of this part, Property Standards §§200.311 Real property, 200.313 Equipment, and 200.314 Supplies, or as specifically identified in Federal statutes, regulations, or the terms an conditions of the Federal award. (e) Use of program income. If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, paragraph (e)(1) of this section must apply. For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply. In specifying alternatives to paragraphs (e)(1) and (2) of this section, the Federal awar agency may distinguish between income earned by the recipient and income earned by subrecipients and between the sources, kinds, or amounts of income. When the Federal awarding agency autho the approaches in paragraphs (e)(2) and (3) of this section, program income in excess of any amounts specified must also be deducted from expenditures. (1) Deduction. Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal award agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project. (2) Addition. With prior approval of the Federal awarding agency (except for IHEs and nonprofit research institutions, as described in paragraph (e) of this section) program income may be added to Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award. (3) Cost sharing or matching. With prior approval of the Federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount Federal award remains the same.
1,251	§200.308 Revision of budget and program plans	Federal	(a) The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. It may include either the Federal and non-Federal share (see §200.43 Federal share) or only the Federal share, depending upon Federal awarding agency requirements. It must be related to performance for program evaluation purposes whe appropriate. (b) Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance with this section. (c) For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for one or more of the following program or budget-related reasons: (1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval). (2) Change in a key person specified in the application or the Federal award. (3) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator. (4) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with Subpart E—Cost Principles of this part or 45 CFR part 75 Appendix IX, "Princ for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable. (5) The transfer of funds budgeted for participant support costs as defined in §200.75 Participant support costs to other categories of expense. (6) Unless described in the application and funded in the approved Federal awards, the subawarding, transferring or contracting out of any work under a Federal award, including fixed amount suba as described in §200.332 Fixed amount subawards. This provision does not apply to the acquisition of supplies, material, equipment or general support services. (7) Changes in the approved cost-sharing or matching provided by the non-Federal entity. No other prior approval requirements for specific items may be imposed unless an exception has been appr by OMB. See also §§200.102 Exceptions and 200.407 Prior written approval (prior approval). (8) The need arises for additional Federal funds to complete the project.
1,252	§200.309 Period of performance	Federal	A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance (except as described in §200.461 Publication and printing costs) and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.

Legal Standards

1,253	Property Standards §200.310 Insurance coverage	Federal	The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by t non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.
1,254	§200.311 Real property	Federal	(a) Title. Subject to the obligations and conditions set forth in this section, title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity. (b) Use. Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, durin which time the non-Federal entity must not dispose of or encumber its title or other interests. (c) Disposition. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives: (1) Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participa in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the non-Federal entity is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property. (2) Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the non-Federal entity is directed to sell property, sales procedures must be followed provide for competition to the extent practicable and result in the highest possible return. (3) Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The non-Federal entity is entitled to be paid an amount calculated by apply the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.
1,255	§200.312 Federally-owned and exempt property	Federal	(a) Title to federally-owned property remains vested in the Federal Government. The non-Federal entity must submit annually an inventory listing of federally-owned property in its custody to the Fe awarding agency. Upon completion of the Federal award or when the property is no longer needed, the non-Federal entity must report the property to the Federal awarding agency for further Federa agency utilization. (b) If the Federal awarding agency has no further need for the property, it must declare the property excess and report it for disposal to the appropriate Federal disposal authority, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (i)) to donate research equipment to educational and non-profit organizations in accordance with Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century."). The Federa awarding agency must issue appropriate instructions to the non-Federal entity. (c) Exempt federally-owned property means property acquired under a Federal award where the Federal awarding agency has chosen to vest title to the property to the non-Federal entity without fu obligation to the Federal Government, based upon the explicit terms and conditions of the Federal award. The Federal awarding agency may exercise this option when statutory authority exists. Abse statutory authority and specific terms and conditions of the Federal award, title to exempt federally-owned property acquired under the Federal award remains with the Federal Government.

Legal Standards

1,256	§200.313 Equipment	Federal	See also §200.439 Equipment and other capital expenditures. (a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a condit title. Title must vest in the non-Federal entity subject to the following conditions: (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project. (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity. (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section. (b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs through (e) of this section. (c) Use. (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supporte the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, th equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority: (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems. (2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs cur or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.
1,257	§200.314 Supplies	Federal	See also §200.453 Materials and supplies costs, including costs of computing devices. (a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion o project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, comp the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See §200.313 Equipment, paragraph (e)(2) for the calculation methodol (b) As long as the Federal Government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

Legal Standards

1,258	§200.315 Intangible property	Federal	(a) Title to intangible property (see §200.59 Intangible property) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for t originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of th intangible property must occur in accordance with the provisions in §200.313 Equipment paragraph (e). (b) The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserv royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. (c) The non-Federal entity is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR Part 401, "F to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements." (d) The Federal Government has the right to: (1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and (2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. (e) Freedom of Information Act (FOIA). (1) In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government i developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so th they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federa awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)). (2) Published research findings means when: (i) Research findings are published in a peer-reviewed scientific or technical journal; or
1,259	§200.316 Property trust relationship	Federal	Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.
1,260	Procurement Standards §200.317 Procurements by states	Federal	When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

Legal Standards

1,261	§200.318 General procurement standards	Federal	(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part. (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Su conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neith solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of cond covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entit unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to e into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineeri a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
1,262	§200.319 Competition	Federal	(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performan eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to: (1) Placing unreasonable requirements on firms in order for them to qualify to do business; (2) Requiring unnecessary experience and excessive bonding; (3) Noncompetitive pricing practices between firms or between affiliated companies; (4) Noncompetitive contracts to consultants that are on retainer contracts; (5) Organizational conflicts of interest; (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and (7) Any arbitrary action in the procurement process. (b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation o or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of th project, to compete for the contract. (c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations: (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain fe which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those mini essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or

Legal Standards

1,263	§200.320 Methods of procurement to be followed	Federal	The non-Federal entity must use one of the following methods of procurement. (a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without solicitin competitive quotations if the non-Federal entity considers the price to be reasonable. (b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do n cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. (c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming w the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of th section apply. (1) In order for sealed bidding to be feasible, the following conditions should be present: (i) A complete, adequate, and realistic specification or purchase description is available; (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. (2) If sealed bids are used, the following requirements apply: (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised; (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
1,264	§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.	Federal	(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; anc (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
1,265	§200.322 Procurement of recovered materials	Federal	A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resourc Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that conta highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quanti acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Legal Standards

1,266	§200.323 Contract cost and price	Federal	(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establ fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowa for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles. (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.
1,267	§200.324 Federal awarding agency or pass-through entity review	Federal	(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the ti the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awardin agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase. (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for propos invitations for bids, or independent cost estimates, when: (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part; (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product; (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold. (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement system comply with the standards of this part. (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in or for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis; (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedur Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulati or standards as being in compliance with these requirements and have its system available for review.
1,268	§200.325 Bonding requirements	Federal	For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding polic requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows: (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrur accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contract obligations under such contract. (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all per supplying labor and material in the execution of the work provided for in the contract.

Legal Standards

1,269	§200.326 Contract provisions	Federal	For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding polic requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows: (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrur accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contract obligations under such contract. (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all per supplying labor and material in the execution of the work provided for in the contract.
1,270	Performance and Financial Monitoring and Reporting §200.327 Financial reporting	Federal	Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by th terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.
1,271	§200.328 Monitoring and reporting program performance	Federal	(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activ under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities. (b) Non-construction performance reports. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progres reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site). (1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effe monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be du calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date any performance report. (2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB: (i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of th (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement. (ii) The reasons why established goals were not met, if appropriate. (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs. (c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.
1,272	§200.329 Reporting on real property	Federal	The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal Government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding ag or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting perio a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

Legal Standards

1,273	Subrecipient Monitoring and Management §200.330 Subrecipient and contractor determinations	Federal	The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pa through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section. (a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristi which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity: (1) Determines who is eligible to receive what Federal assistance; (2) Has its performance measured in relation to whether objectives of a Federal program were met; (3) Has responsibility for programmatic decision making; (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of t pass-through entity. (b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds: (1) Provides the goods and services within normal business operations; (2) Provides similar goods or services to many different purchasers; (3) Normally operates in a competitive environment;
1,274	§200.331 Requirements for pass-through entities	Federal	All pass-through entities must: (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, inc the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award subaward. Required information includes: (1) Federal Award Identification. (i) Subrecipient name (which must match the name associated with its unique entity identifier); (ii) Subrecipient's unique entity identifier; (iii) Federal Award Identification Number (FAIN); (iv) Federal Award Date (see §200.39 Federal award date); (v) Subaward Period of Performance Start and End Date; (vi) Amount of Federal Funds Obligated by this action; (vii) Total Amount of Federal Funds Obligated to the subrecipient; (viii) Total Amount of the Federal Award; (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA); (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,
1,275	§200.332 Fixed amount subawards	Federal	With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

Legal Standards

1,276	Record Retention and Access §200.333 Retention requirements for records	Federal	Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submis of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to th Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon no Federal entities. The only exceptions are the following: (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolv and final action taken. (b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through enti extend the retention period. (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition. (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity. (e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requireme the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned. (f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates). (1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of t rate, then the 3-year retention period for its supporting records starts from the date of such submission. (2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
1,277	§200.334 Requests for transfer of records	Federal	The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in c to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.
1,278	§200.335 Methods for collection, transmission and storage of information	Federal	In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity shou whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency o through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awardi agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. W original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.
1,279	§200.336 Access to records	Federal	(a) Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representat must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents. (b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the of the Federal awarding agency or delegate. (c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-thr entities must not impose any other access requirements upon non-Federal entities.

Legal Standards

1,280	§200.337 Restrictions on public access to records	Federal	No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for protected person identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freed Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315 Intangible property. Unless required by Federal, state, local, an tribal statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applic exemptions.
1,281	Remedies for Noncompliance §200.338 Remedies for noncompliance	Federal	If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional condition Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances: (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity. (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance. (c) Wholly or partly suspend or terminate the Federal award. (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding initiated by a Federal awarding agency). (e) Withhold further Federal awards for the project or program. (f) Take other remedies that may be legally available.
1,282	§200.339 Termination	Federal	(a) The Federal award may be terminated in whole or in part as follows: (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award; (2) By the Federal awarding agency or pass-through entity for cause; (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effectiv date and, in the case of partial termination, the portion to be terminated; or (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the cas partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion o Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entir (b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.
1,283	§200.340 Notification of termination requirement	Federal	(a) The Federal agency or pass-through entity must provide to the non-Federal entity a notice of termination. (b) If the Federal award is terminated for the non-Federal entity's failure to comply with the Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state tha termination decision may be considered in evaluating future applications received from the non-Federal entity. (c) Upon termination of a Federal award, the Federal awarding agency must provide the information required under FFATA to the Federal Web site established to fulfill the requirements of FFATA, a update or notify any other relevant governmentwide systems or entities of any indications of poor performance as required by 41 U.S.C. 417b and 31 U.S.C. 3321 and implementing guidance at 2 CFR 77 (forthcoming at time of publication). See also the requirements for Suspension and Debarment at 2 CFR part 180.
1,284	§200.341 Opportunities to object, hearings and appeals	Federal	Upon taking any remedy for non-compliance, the Federal awarding agency must provide the non-Federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the Federal awarding agency. The Federal awarding agency or pass-through entity must comply any requirements for hearings, appeals or other administrative proceedings to which the non-Federal entity is entitled under any statute or regulation applicable to the action involved.

Legal Standards

1,285	§200.342 Effects of suspension and termination	Federal	Costs to the non-Federal entity resulting from obligations incurred by the non-Federal entity during a suspension or after termination of a Federal award or subaward are not allowable unless the Fe awarding agency or pass-through entity expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if (a) The costs result from obligations which were properly incurred by the non-Federal entity before the effective date of suspension or termination, are not in anticipation of it; and (b) The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.
1,286	Closeout §200.343 Closeout	Federal	The Federal awarding agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have be completed by the non-Federal entity. This section specifies the actions the non-Federal entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance. (a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and cond of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity. (b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calenda after the end date of the period of performance as specified in the terms and conditions of the Federal award. (c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for allowable reimbursable costs under the Federal award being closed out. (d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that are not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A-129 and see §200.345 Collection of amounts due, for requirements regarding unreturned amounts that become delinc debts. (e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Fede share of costs after closeout reports are received. (f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property. (g) The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.
1,287	Post-Closeout Adjustments and Continuing Responsibilities §200.344 Post-closeout adjustments and continuing responsibilities	Federal	(a) The closeout of a Federal award does not affect any of the following: (1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through ent must make any cost disallowance determination and notify the non-Federal entity within the record retention period. (2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments. (3) Audit requirements in Subpart F—Audit Requirements of this part. (4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §§200.310 Insurance Coverage through 200.316 Property trust relationship. (5) Records retention as required in Subpart D—Post Federal Award Requirements of this part, §§200.333 Retention requirements for records through 200.337 Restrictions on public access to recor (b) After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section, including those for property management as applicable, are consi and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

Legal Standards

1,288	Collection of Amounts Due §200.345 Collection of amounts due	Federal	(a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal Government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by: (1) Making an administrative offset against other requests for reimbursements; (2) Withholding advance payments otherwise due to the non-Federal entity; or (3) Other action permitted by Federal statute. (b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.
1,289	Subpart E—Cost Principles General Provisions §200.400 Policy guide	Federal	The application of these cost principles is based on the fundamental premises that: (a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices. (b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Feder award. (c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award. (d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the n Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charg the Federal award. (e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying thes accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, reasonableness and equity of such treatments should be fully considered. See §200.56 Indirect (facilities & administrative (F&A)) costs. (f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the complet Federal awards for research must be recognized in the application of these principles. (g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award. See also §200.30 Program income.

Legal Standards

1,290	§200.401 Application	Federal	(a) General. These principles must be used in determining the allowable costs of work performed by the non-Federal entity under Federal awards. These principles also must be used by the non-Fede entity as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to: (1) Arrangements under which Federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuitio rates and fees. (2) For IHEs, capitation awards, which are awards based on case counts or number of beneficiaries according to the terms and conditions of the Federal award. (3) Fixed amount awards. See also Subpart A—Acronyms and Definitions, §§200.45 Fixed amount awards and 200.201 Use of grant agreements (including fixed amount awards), cooperative agreem and contracts. (4) Federal awards to hospitals (see Appendix IX to Part 200—Hospital Cost Principles). (5) Other awards under which the non-Federal entity is not required to account to the Federal Government for actual costs incurred. (b) Federal Contract. Where a Federal contract awarded to a non-Federal entity is subject to the Cost Accounting Standards (CAS), it incorporates the applicable CAS clauses, Standards, and CAS administration requirements per the 48 CFR Chapter 99 and 48 CFR part 30 (FAR Part 30). CAS applies directly to the CAS-covered contract and the Cost Accounting Standards at 48 CFR parts 9904 9905 takes precedence over the cost principles in this Subpart E—Cost Principles of this part with respect to the allocation of costs. When a contract with a non-Federal entity is subject to full CAS coverage, the allowability of certain costs under the cost principles will be affected by the allocation provisions of the Cost Accounting Standards (e.g., CAS 414—48 CFR 9904.414, Cost of Money as a Element of the Cost of Facilities Capital, and CAS 417—48 CFR 9904.417, Cost of Money as an Element of the Cost of Capital Assets Under Construction), apply rather the allowability provisions of §200.449 Interest. In complying with those requirements, the non-Federal entity's application of cost accounting practices for estimating, accumulating, and reporting costs for other Federal awards other cost objectives under the CAS-covered contract still must be consistent with its cost accounting practices for the CAS-covered contracts. In all cases, only one set of accounting records needs to maintained for the allocation of costs by the non-Federal entity. (c) Exemptions. Some nonprofit organizations, because of their size and nature of operations, can be considered to be similar to for-profit entities for purpose of applicability of cost principles. Such nonprofit organizations must operate under Federal cost principles applicable to for-profit entities located at 48 CFR 31.2. A listing of these organizations is contained in Appendix VIII to Part 200—Nonprofit Organizations Exempted From Subpart E—Cost Principles of this part. Other organizations, as approved by the cognizant agency for indirect costs, may be added from time to time.
1,291	Basic Considerations §200.402 Composition of costs	Federal	Total cost. The total cost of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits.
1,292	§200.403 Factors affecting allowability of costs	Federal	Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards: (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles. (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items. (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity. (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Fe award as an indirect cost. (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part. (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b). (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Legal Standards

1,293	§200.404 Reasonable costs	Federal	A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur th cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be g to: (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award. (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and condition the Federal award. (c) Market prices for comparable goods or services for the geographic area. (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or members the public at large, and the Federal Government. (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.
1,294	§200.405 Allocable costs	Federal	(a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with rela benefits received. This standard is met if the cost: (1) Is incurred specifically for the Federal award; (2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and (3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart. (b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appro allocation of indirect costs. (c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions impo by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards. (d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects b on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifica authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for th purpose for which it was originally required. See also §§200.310 Insurance coverage through 200.316 Property trust relationship and 200.439 Equipment and other capital expenditures. (e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with C takes precedence over the allocation provisions in this part.
1,295	§200.406 Applicable credits	Federal	(a) Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the Federal award as direct or indirect (F&A) costs. Examp such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the ex that such credits accruing to or received by the non-Federal entity relate to allowable costs, they must be credited to the Federal award either as a cost reduction or cash refund, as appropriate. (b) In some instances, the amounts received from the Federal Government to finance activities or service operations of the non-Federal entity should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) must be recognized in determining the rates or amounts to be charged to the Feder award. (See §§200.436 Depreciation and 200.468 Specialized service facilities, for areas of potential application in the matter of Federal financing of activities.)

Legal Standards

1,296	§200.407 Prior written approval (prior approval)	Federal	Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonabl or nonallocability, the non-Federal entity may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of the incurrence of special or unus costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in the following sections of this part: (a) §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b)(5); (b) §200.306 Cost sharing or matching; (c) §200.307 Program income; (d) §200.308 Revision of budget and program plans; (e) §200.311 Real property; (f) §200.313 Equipment; (g) §200.332 Fixed amount subawards; (h) §200.413 Direct costs, paragraph (c); (i) §200.430 Compensation—personal services, paragraph (h); (j) §200.431 Compensation—fringe benefits; (k) §200.438 Entertainment costs; (l) §200.439 Equipment and other capital expenditures;
1,297	§200.408 Limitation on allowance of costs	Federal	The Federal award may be subject to statutory requirements that limit the allowability of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this part, the amount not recoverable under the Federal award may not be charged to the Federal award.
1,298	§200.409 Special considerations	Federal	In addition to the basic considerations regarding the allowability of costs highlighted in this subtitle, other subtitles in this part describe special considerations and requirements applicable to states, governments, Indian tribes, and IHEs. In addition, certain provisions among the items of cost in this subpart, are only applicable to certain types of non-Federal entities, as specified in the following sections: (a) Direct and Indirect (F&A) Costs (§§200.412 Classification of costs through 200.415 Required certifications) of this subpart; (b) Special Considerations for States, Local Governments and Indian Tribes (§§200.416 Cost allocation plans and indirect cost proposals and 200.417 Interagency service) of this subpart; and (c) Special Considerations for Institutions of Higher Education (§§200.418 Costs incurred by states and local governments and 200.419 Cost accounting standards and disclosure statement) of this subpart.
1,299	§200.410 Collection of unallowable costs	Federal	Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation direc otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Legal Standards

1,300	§200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs	Federal	(a) Negotiated indirect (F&A) cost rates based on a proposal later found to have included costs that: (1) Are unallowable as specified by Federal statutes, regulations or the terms and conditions of a Federal award; or (2) Are unallowable because they are not allocable to the Federal award(s), must be adjusted, or a refund must be made, in accordance with the requirements of this section. These adjustments or ref are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation. The adjustments or refunds will be made regardless of the type of rate nego (predetermined, final, fixed, or provisional). (b) For rates covering a future fiscal year of the non-Federal entity, the unallowable costs will be removed from the indirect (F&A) cost pools and the rates appropriately adjusted. (c) For rates covering a past period, the Federal share of the unallowable costs will be computed for each year involved and a cash refund (including interest chargeable in accordance with applicable regulations) will be made to the Federal Government. If cash refunds are made for past periods covered by provisional or fixed rates, appropriate adjustments will be made when the rates are finalize avoid duplicate recovery of the unallowable costs by the Federal Government. (d) For rates covering the current period, either a rate adjustment or a refund, as described in paragraphs (b) and (c) of this section, must be required by the cognizant agency for indirect costs. The c of method must be at the discretion of the cognizant agency for indirect costs, based on its judgment as to which method would be most practical. (e) The amount or proportion of unallowable costs included in each year's rate will be assumed to be the same as the amount or proportion of unallowable costs included in the base year proposal us establish the rate.
1,301	Direct and Indirect (F&A) Costs §200.412 Classification of costs	Federal	There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indi with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a di or an indirect (F&A) cost in order to avoid possible double-charging of Federal awards. Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in this sub
1,302	§200.413 Direct costs	Federal	(a) General. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (costs. See also §200.405 Allocable costs. (b) Application to Federal awards. Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A costs of Federal awards. Typical costs charged directly to a Federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and oth items of expense incurred for the Federal award. If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also include extraordinary utility consumpt the cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations. (c) The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs. Direct charging of these costs may be appropriate only if all of the following conditions are met: (1) Administrative or clerical services are integral to a project or activity; (2) Individuals involved can be specifically identified with the project or activity; (3) Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency; and (4) The costs are not also recovered as indirect costs. (d) Minor items. Any direct cost of minor amount may be treated as an indirect (F&A) cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to a Federal and non-Federal cost objectives. (e) The costs of certain activities are not allowable as charges to Federal awards. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they noneth must be treated as direct costs for purposes of determining indirect (F&A) cost rates and be allocated their equitable share of the non-Federal entity's indirect costs if they represent activities which: (1) Include the salaries of personnel, (2) Occupy space, and

Legal Standards

1,303	§200.414 Indirect (F&A) costs	Federal	(a) Facilities and Administration Classification. For major IHEs and major nonprofit organizations, indirect (F&A) costs must be classified within two broad categories: "Facilities" and "Administratio "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). For nonprofit organizations, library expenses are included in the "Administration" category; for institutions of higher education, they are included in the "Facilities" category. Major IHEs are defined as those required to use the Standard Format for Submission as n in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) paragraph C. 11. Major nonprofit organizations a those which receive more than $10 million dollars in direct Federal funding. (b) Diversity of nonprofit organizations. Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of cost which may be classifie indirect (F&A) cost in all situations. Identification with a Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A costs of Federal awards. However, typical examples of indirect (F&A) cost for many nonprofit organizations may include depreciation on buildings and equipment, the costs of operating and maintai facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting. (c) Federal Agency Acceptance of Negotiated Indirect Cost Rates. (See also §200.306 Cost sharing or matching.) (1) The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Fede award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification as described in paragraph (c)(3) of t section. (2) The Federal awarding agency head or delegate must notify OMB of any approved deviations. (3) The Federal awarding agency must implement, and make publicly available, the policies, procedures and general decision making criteria that their programs will follow to seek and justify deviati from negotiated rates. (4) As required under §200.203 Notices of funding opportunities, the Federal awarding agency must include in the notice of funding opportunity the policies relating to indirect cost rate reimbursem matching, or cost share as approved under paragraph (e)(1) of this section. As appropriate, the Federal agency should incorporate discussion of these policies into Federal awarding agency outreach activities with non-Federal entities prior to the posting of a notice of funding opportunity.
1,304	§200.415 Required certifications	Federal	Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers reques payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows: "By signing this report, I certify to th of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and condit of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)." (b) Certification of cost allocation plan or indirect (F&A) cost rate proposal. Each cost allocation plan or indirect (F&A) cost rate proposal must comply with the following: (1) A proposal to establish a cost allocation plan or an indirect (F&A) cost rate, whether submitted to a Federal cognizant agency for indirect costs or maintained on file by the non-Federal entity, mus certified by the non-Federal entity using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices III through VII, and Appendix IX. The certificate must be signed behalf of the non-Federal entity by an individual at a level no lower than vice president or chief financial officer of the non-Federal entity that submits the proposal. (2) Unless the non-Federal entity has elected the option under §200.414 Indirect (F&A) costs, paragraph (f), the Federal Government may either disallow all indirect (F&A) costs or unilaterally establ such a plan or rate when the non-Federal entity fails to submit a certified proposal for establishing such a plan or rate in accordance with the requirements. Such a plan or rate may be based upon auc historical data or such other data that have been furnished to the cognizant agency for indirect costs and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because the non-Federal entity failed to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed. (c) Certifications by non-profit organizations as appropriate that they did not meet the definition of a major nonprofit organization as defined in §200.414 Indirect (F&A) costs, paragraph (a). (d) See also §200.450 Lobbying for another required certification.

Legal Standards

1,305	Special Considerations for States, Local Governments and Indian Tribes §200.416 Cost allocation plans and indirect cost proposals	Federal	(a) For states, local governments and Indian tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Sin Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process. (b) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include: (1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (2) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs. (c) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices and VI to this part.
1,306	§200.417 Interagency service	Federal	The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indir costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200—State/Local Government and Indian Tr Wide Central Service Cost Allocation Plans.
1,307	Special Considerations for Institutions of Higher Education §200.418 Costs incurred by states and local governments	Federal	Costs incurred or paid by a state or local government on behalf of its IHEs for fringe benefit programs, such as pension costs and FICA and any other costs specifically incurred on behalf of, and in dire benefit to, the IHEs, are allowable costs of such IHEs whether or not these costs are recorded in the accounting records of the institutions, subject to the following: (a) The costs meet the requirements of §§200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs, of this subpart; (b) The costs are properly supported by approved cost allocation plans in accordance with applicable Federal cost accounting principles in this part; and (c) The costs are not otherwise borne directly or indirectly by the Federal Government.
1,308	§200.419 Cost accounting standards and disclosure statement	Federal	(a) An IHE that receives aggregate Federal awards totaling $50 million or more in Federal awards subject to this part in its most recently completed fiscal year must comply with the Cost Accounting Standards Board's cost accounting standards located at 48 CFR 9905.501, 9905.502, 9905.505, and 9905.506. CAS-covered contracts awarded to the IHEs are subject to the CAS requirements at 48 C 9900 through 9999 and 48 CFR part 30 (FAR Part 30). (b) Disclosure statement. An IHE that receives aggregate Federal awards totaling $50 million or more subject to this part during its most recently completed fiscal year must disclose their cost accou practices by filing a Disclosure Statement (DS-2), which is reproduced in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Hig Education (IHEs). With the approval of the cognizant agency for indirect costs, an IHE may meet the DS-2 submission by submitting the DS-2 for each business unit that received $50 million or more Federal awards. (1) The DS-2 must be submitted to the cognizant agency for indirect costs with a copy to the IHE's cognizant agency for audit. (2) An IHE is responsible for maintaining an accurate DS-2 and complying with disclosed cost accounting practices. An IHE must file amendments to the DS-2 to the cognizant agency for indirect cost months in advance of a disclosed practice being changed to comply with a new or modified standard, or when a practice is changed for other reasons. An IHE may proceed with implementing the cha only if it has not been notified by the Federal cognizant agency for indirect costs that either a longer period will be needed for review or there are concerns with the potential change within the six mo period. Amendments of a DS-2 may be submitted at any time. Resubmission of a complete, updated DS-2 is discouraged except when there are extensive changes to disclosed practices. (3) Cost and funding adjustments. Cost adjustments must be made by the cognizant agency for indirect costs if an IHE fails to comply with the cost policies in this part or fails to consistently follow its established or disclosed cost accounting practices when estimating, accumulating or reporting the costs of Federal awards, and the aggregate cost impact on Federal awards is material. The cost adjustment must normally be made on an aggregate basis for all affected Federal awards through an adjustment of the IHE's future F&A costs rates or other means considered appropriate by the cog agency for indirect costs. Under the terms of CAS covered contracts, adjustments in the amount of funding provided may also be required when the estimated proposal costs were not determined in accordance with established cost accounting practices. (4) Overpayments. Excess amounts paid in the aggregate by the Federal Government under Federal awards due to a noncompliant cost accounting practice used to estimate, accumulate, or report cos must be credited or refunded, as deemed appropriate by the cognizant agency for indirect costs. Interest applicable to the excess amounts paid in the aggregate during the period of noncompliance m also be determined and collected in accordance with applicable Federal agency regulations. (5) Compliant cost accounting practice changes. Changes from one compliant cost accounting practice to another compliant practice that are approved by the cognizant agency for indirect costs may require cost adjustments if the change has a material effect on Federal awards and the changes are deemed appropriate by the cognizant agency for indirect costs.

Legal Standards

1,309	General Provisions for Selected Items of Cost §200.420 Considerations for selected items of cost	Federal	This section provides principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to the requirements of Subtitle II. Basic Considerations of this subpart. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply th either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles descri in §§200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the Federal award governs. Criteria outlined in §200.403 Factors affecting allowability of costs must be applied in determining allowability. See also §200.102 Exceptions.
1,310	§200.421 Advertising and public relations	Federal	(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like. (b) The only allowable advertising costs are those which are solely for: (1) The recruitment of personnel required by the non-Federal entity for performance of a Federal award (See also §200.463 Recruiting costs); (2) The procurement of goods and services for the performance of a Federal award; (3) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when non-Federal entities are reimbursed for disposal costs at a predetermined amount; or (4) Program outreach and other specific purposes necessary to meet the requirements of the Federal award. (c) The term "public relations" includes community relations and means those activities dedicated to maintaining the image of the non-Federal entity or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public. (d) The only allowable public relations costs are: (1) Costs specifically required by the Federal award; (2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered necessary part of the outreach effort for the Federal award); or (3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the pub informed on matters of public concern, such as notices of funding opportunities, financial matters, etc. (e) Unallowable advertising and public relations costs include the following:
1,311	§200.422 Advisory councils	Federal	Costs incurred by advisory councils or committees are unallowable unless authorized by statute, the Federal awarding agency or as an indirect cost where allocable to Federal awards. See §200.444 General costs of government, applicable to states, local governments and Indian tribes.
1,312	§200.423 Alcoholic beverages	Federal	Costs of alcoholic beverages are unallowable.
1,313	§200.424 Alumni/ae activities	Federal	Costs incurred by IHEs for, or in support of, alumni/ae activities are unallowable.

Legal Standards

1,314	§200.425 Audit services	Federal	(a) A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable: (1) Any costs when audits required by the Single Audit Act and Subpart F—Audit Requirements of this part have not been conducted or have been conducted but not in accordance therewith; and (2) Any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act and Subpart F—Audit Requirements of this part because its expenditures u Federal awards are less than $750,000 during the non-Federal entity's fiscal year. (b) The costs of a financial statement audit of a non-Federal entity that does not currently have a Federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost pro (c) Pass-through entities may charge Federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with Subpart D—Post Federal Award Requiremen this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed Amount Subawards) who are exempted from the requirements of the Single Audit Act and Subpart F—Audit Requirements of this part. This cost is allowable only if the agreed-upon-procedures engagements are: (1) Conducted in accordance with GAGAS attestation standards; (2) Paid for and arranged by the pass-through entity; and (3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.
1,315	§200.426 Bad debts	Federal	Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related colle costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable. See also §200.428 Collections of improper payments.
1,316	§200.427 Bonding costs	Federal	(a) Bonding costs arise when the Federal awarding agency requires assurance against financial loss to itself or others by reason of the act or default of the non-Federal entity. They arise also in instan where the non-Federal entity requires similar assurance, including: bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials. (b) Costs of bonding required pursuant to the terms and conditions of the Federal award are allowable. (c) Costs of bonding required by the non-Federal entity in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.
1,317	§200.428 Collections of improper payments	Federal	The costs incurred by a non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate. Amounts collected may be used by the non-Federal entity in accordance with cash management standards set forth in §200.305 Payment.
1,318	§200.429 Commencement and convocation costs	Federal	For IHEs, costs incurred for commencements and convocations are unallowable, except as provided for in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph (B)(9) Student Administration and Services, as student activity costs.

Legal Standards

1,319	§200.430 Compensation—personal services	Federal	(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Cos compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees: (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities; (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable. (b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activitie the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved. (c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal enti wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Fede entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Governm may require that the effort of professional staff working on Federal awards be allocated between: (1) Non-Federal entity activities, and (2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest ter and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis. (d) Unallowable costs. (1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensati (2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation su to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may a
1,320	§200.431 Compensation—fringe benefits	Federal	(a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, th costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity. (b) Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick lea holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met: (1) They are provided under established written leave policies; (2) The costs are equitably allocated to all related activities, including Federal awards; and, (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees. (i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires c terminates employment are allowable in the year of payment. (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting allowable leave costs are the lesser of the amount accrued or funded. (c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated i §200.447 Insurance and indemnification); pension plan costs (see paragraph (i) of this section); and other similar benefits are allowable, provided such benefits are granted under established writte policies. Such benefits, must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the non-Federal entity's accounting practices. (d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the non-Federal entity demonstrates that costs in relationsh salaries and wages do not differ significantly for different groups of employees.

Legal Standards

1,321	§200.432 Conferences	Federal	A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is nece and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As nee the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference co are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The Federal awarding agency may authorize exceptions where appropriate for programs including In tribes, children, and the elderly. See also §§200.438 Entertainment costs, 200.456 Participant support costs, 200.474 Travel costs, and 200.475 Trustees.
1,322	§200.433 Contingency provisions	Federal	(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the Federal awarding agency) which is associated w possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included. (b) It is permissible for contingency amounts other than those excluded in paragraph (a) of this section to be explicitly included in budget estimates, to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the Federal award, and accepted by the Fed awarding agency. As such, contingency amounts are to be included in the Federal award. In order for actual costs incurred to be allowable, they must comply with the cost principles and other requirements in this part (see also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of Subpart D of this part and 200.403 Factors affecting allowability costs); be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the non-Federal entity's records. (c) Payments made by the Federal awarding agency to the non-Federal entity's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certain to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in §§200.431 Compensation—fringe benefits regarding self-insurance, pensions, severance and post retirement health costs and 200.447 Insurance and indemnification.
1,323	§200.434 Contributions and donations	Federal	(a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable. (b) The value of services and property donated to the non-Federal entity may not be charged to the Federal award either as a direct or indirect (F&A) cost. The value of donated services and property be used to meet cost sharing or matching requirements (see §200.306 Cost sharing or matching). Depreciation on donated assets is permitted in accordance with §200.436 Depreciation, as long as th donated property is not counted towards cost sharing or matching requirements. (c) Services donated or volunteered to the non-Federal entity may be furnished to a non-Federal entity by professional and technical personnel, consultants, and other skilled and unskilled labor. The of these services may not be charged to the Federal award either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of §200.306 Cost sharing or matching. (d) To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services. (e) The following provisions apply to nonprofit organizations. The value of services donated to the nonprofit organization utilized in the performance of a direct cost activity must be considered in th determination of the non-Federal entity's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist: (1) The aggregate value of the services is material; (2) The services are supported by a significant amount of the indirect costs incurred by the non-Federal entity; (i) In those instances where there is no basis for determining the fair market value of the services rendered, the non-Federal entity and the cognizant agency for indirect costs must negotiate an appropriate allocation of indirect cost to the services. (ii) Where donated services directly benefit a project supported by the Federal award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indir costs may be reimbursed under the Federal award or used to meet cost sharing or matching requirements. (f) Fair market value of donated services must be computed as described in §200.306 Cost sharing or matching. (g) Personal Property and Use of Space.

Legal Standards

1,324	§200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	Federal	(a) Definitions for the purposes of this section. (1) Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a plea, including a conviction due to a plea of nolo conten (2) Costs include the services of in-house or private counsel, accountants, consultants, or others engaged to assist the non-Federal entity before, during, and after commencement of a judicial or administrative proceeding, that bear a direct relationship to the proceeding. (3) Fraud means: (i) Acts of fraud or corruption or attempts to defraud the Federal Government or to corrupt its agents, (ii) Acts that constitute a cause for debarment or suspension (as specified in agency regulations), and (iii) Acts which violate the False Claims Act (31 U.S.C. 3729-3732) or the Anti-kickback Act (41 U.S.C. 1320a-7b(b)). (4) Penalty does not include restitution, reimbursement, or compensatory damages. (5) Proceeding includes an investigation. (b) Costs. (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Fede Government, a state, local government, or foreign government, or joined by the Federal Government (including a proceeding under the False Claims Act), against the non-Federal entity, (or commenc third parties or a current or former employee of the non-Federal entity who submits a whistleblower complaint of reprisal in accordance with 10 U.S.C. 2409 or 41 U.S.C. 4712), are not allowable if th proceeding: (i) Relates to a violation of, or failure to comply with, a Federal, state, local or foreign statute, regulation or the terms and conditions of the Federal award, by the non-Federal entity (including its agen and employees); and (ii) Results in any of the following dispositions:
1,325	§200.436 Depreciation	Federal	(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The non-Federal entity may be compensated for the use of its buildings, capital improvemen equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the non-Federal entity's activities, and properly allocated to Federal awards. Such compensation must be made by computing depreciation. (b) The allocation for depreciation must be made in accordance with Appendices III through IX. (c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the non-Federal entit third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For the purpose of compu depreciation, the acquisition cost will exclude: (1) The cost of land; (2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it is presently located; (3) Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity where law or agreement prohibits recovery; and (4) Any asset acquired solely for the performance of a non-Federal award. (d) When computing depreciation charges, the following must be observed: (1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved. (2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of c evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amo for indirect (F&A) rate purposes must be the same methods used by the non-Federal entity for its financial statements.

Legal Standards

1,326	§200.437 Employee health and welfare costs	Federal	a) Costs incurred in accordance with the non-Federal entity's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee perform are allowable. (b) Such costs will be equitably apportioned to all activities of the non-Federal entity. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations. (c) Losses resulting from operating food services are allowable only if the non-Federal entity's objective is to operate such services on a break-even basis. Losses sustained because of operating objec other than the above are allowable only: (1) Where the non-Federal entity can demonstrate unusual circumstances; and (2) With the approval of the cognizant agency for indirect costs.
1,327	§200.438 Entertainment costs	Federal	Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.
1,328	§200.439 Equipment and other capital expenditures	Federal	(a) See §§200.13 Capital expenditures, 200.33 Equipment, 200.89 Special purpose equipment, 200.48 General purpose equipment, 200.2 Acquisition cost, and 200.12 Capital assets. (b) The following rules of allowability must apply to equipment and other capital expenditures: (1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity. (2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5,000 or more have the prior written approval of the Federal awarding ag or pass-through entity. (3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval Federal awarding agency, or pass-through entity. See §200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465 Renta costs of real property and equipment. (4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwis determined appropriate and negotiated with the Federal awarding agency. (5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipm by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost. (6) Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allov (7) Equipment and other capital expenditures are unallowable as indirect costs. See §200.436 Depreciation.
1,329	§200.440 Exchange rates	Federal	(a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding. Prior approval of exchange rate fluctuations is required only when the change results in t need for additional Federal funding, or the increased costs result in the need to significantly reduce the scope of the project. The Federal awarding agency must however ensure that adequate funds a available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act. (b) The non-Federal entity is required to make reviews of local currency gains to determine the need for additional federal funding before the expiration date of the Federal award. Subsequent adjustments for currency increases may be allowable only when the non-Federal entity provides the Federal awarding agency with adequate source documentation from a commonly used source in at the time the expense was made, and to the extent that sufficient Federal funds are available.
1,330	§200.441 Fines, penalties, damages and other settlements	Federal	Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency. See also §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

Legal Standards

1,331	§200.442 Fund raising and investment management costs	Federal	(a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. Proposal costs are covered i §200.460 Proposal costs. (b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insuran other funds which include Federal participation allowed by this part. (c) Costs related to the physical custody and control of monies and securities are allowable. (d) Both allowable and unallowable fund raising and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in §200.413 Direct costs.
1,332	§200.443 Gains and losses on disposition of depreciable assets	Federal	(a) Gains and losses on the sale, retirement, or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which t property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and undepreciated basis of the property. (b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions: (1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under §§200.436 Depreciation and 200.439 Equipment and other capital expenditures. (2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item. (3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in §200.447 Insurance and indemnification. (4) Compensation for the use of the property was provided through use allowances in lieu of depreciation. (5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis. (c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section, e.g., land, must be excluded in computing Federal awar costs. (d) When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with §§200.310 Insurance Coverage through 200.316 Pr trust relationship.
1,333	§200.444 General costs of government	Federal	(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in §200.474 Travel costs). Unallowable costs include: (1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe; (2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction; (3) Costs of the judicial branch of a government; (4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities Attorney General as described in §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements); and (5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation. (b) For Indian tribes and Councils of Governments (COGs) (see §200.64 Local government), up to 50% of salaries and expenses directly attributable to managing and operating Federal programs by t chief executive and his or her staff can be included in the indirect cost calculation without documentation.

Legal Standards

1,334	§200.445 Goods or services for personal use	Federal	(a) Costs of goods or services for personal use of the non-Federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees. (b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.
1,335	§200.446 Idle facilities and idle capacity	Federal	(a) As used in this section the following terms have the meanings set forth in this section: (1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the non-F entity. (2) Idle facilities means completely unused facilities that are excess to the non-Federal entity's current needs. (3) Idle capacity means the unused capacity of partially used facilities. It is the difference between: (i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and othe normal delays and; (ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved. (4) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation. These costs could include the costs o public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load, e.g., consolidated data centers. (b) The costs of idle facilities are unallowable except to the extent that: (1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or (2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reason period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities. (c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided tha capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by use on other Federal aw

Legal Standards

1,336	§200.447 Insurance and indemnification	Federal	(a) Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable. (b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations: (1) Types and extent and cost of coverage are in accordance with the non-Federal entity's policy and sound business practice. (2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the Federal awarding agency specifically required or approved such costs. (3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees. (4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see §200.431 Compensation—fringe benefits). The cost of such insurance when the non-Federal entity is identified as the beneficiary is unallowable. (5) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the non-Federal entity's materials or workmanship are unallowable. (6) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of Federal research programs only to the extent that the Federal research programs involve human subjec training of participants in research techniques. Medical liability insurance costs must be treated as a direct cost and must be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance. (c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award. Howe costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable. (d) Contributions to a reserve for certain self-insurance programs including workers' compensation, unemployment compensation, and severance pay are allowable subject to the following provision (1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provisio known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability.
1,337	§200.448 Intellectual property	Federal	(a) Patent costs. (1) The following costs related to securing patents and copyrights are allowable: (i) Costs of preparing disclosures, reports, and other documents required by the Federal award, and of searching the art to the extent necessary to make such disclosures; (ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the Fe Government to be conveyed to the Federal Government; and (iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements (See also §200.459 Professional service costs). (2) The following costs related to securing patents and copyrights are unallowable: (i) Costs of preparing disclosures, reports, and other documents, and of searching the art to make disclosures not required by the Federal award; (ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the Federal award does not require conveying title or a royalty-free l to the Federal Government. (b) Royalties and other costs for use of patents and copyrights. (1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necess for the proper performance of the Federal award are allowable unless: (i) The Federal Government already has a license or the right to free use of the patent or copyright. (ii) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid. (iii) The patent or copyright is considered to be unenforceable. (iv) The patent or copyright is expired.

Legal Standards

1,338	§200.449 Interest	Federal	(a) General. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-Federal entity's own funds, however represented, are unallowable. Financing co (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section. (b)(1) Capital assets is defined as noted in §200.12 Capital assets. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP. (2) For non-Federal entity fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to portion of the project costs capitalized in accordance with GAAP is allowable. (c) Conditions for all non-Federal entities. (1) The non-Federal entity uses the capital assets in support of Federal awards; (2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the non-Federal entity from an unrelated (arm's length) third party. (3) The non-Federal entity obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate availabl such a transaction. (4) The non-Federal entity limits claims for Federal reimbursement of interest costs to the least expensive alternative. For example, a capital lease may be determined less costly than purchasing thro debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used. (5) The non-Federal entity expenses or capitalizes allowable interest cost in accordance with GAAP. (6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expens capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable. (7) The following conditions must apply to debt arrangements over $1 million to purchase or construct facilities, unless the non-Federal entity makes an initial equity contribution to the purchase of percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the non-Federal entity for the acquisition of facilities prior to occupancy. (i) The non-Federal entity must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used fo Federal awards.
1,339	§200.450 Lobbying	Federal	(a) The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, "New Restrictions on Lobbying" published a FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Governmentwide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996). (b) Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to giv consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter. (c) In addition to the above, the following restrictions are applicable to nonprofit organizations and IHEs: (1) Costs associated with the following activities are unallowable: (i) Attempts to influence the outcomes of any Federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity; (ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections in the United States; (iii) Any attempt to influence: (A)The introduction of Federal or state legislation; (B) The enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influenc state or local officials to engage in similar lobbying activity); (C) The enactment or modification of any pending Federal or state legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or
1,340	§200.451 Losses on other awards or contracts	Federal	Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the non-Federal entity's contributed portion by reason of cost-sha agreements or any under-recoveries through negotiation of flat amounts for indirect (F&A) costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to an award or contract is unallowable. All losses are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs.

Legal Standards

1,341	§200.452 Maintenance and repair costs	Federal	Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) w neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures (see §200.439 Equipment and other capital expenditures). The costs are only allowable to the extent not paid through rental or other agreements.
1,342	§200.453 Materials and supplies costs, including costs of computing devices	Federal	(a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable. (b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms must be charged at their actual net cost under a recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs. (c) Materials and supplies used for the performance of a Federal award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that a essential and allocable, but not solely dedicated, to the performance of a Federal award. (d) Where federally-donated or furnished materials are used in performing the Federal award, such materials will be used without charge.
1,343	§200.454 Memberships, subscriptions, and professional activity costs	Federal	(a) Costs of the non-Federal entity's membership in business, technical, and professional organizations are allowable. (b) Costs of the non-Federal entity's subscriptions to business, professional, and technical periodicals are allowable. (c) Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity. (d) Costs of membership in any country club or social or dining club or organization are unallowable. (e) Costs of membership in organizations whose primary purpose is lobbying are unallowable. See also §200.450 Lobbying.
1,344	§200.455 Organization costs	Federal	Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Fede entity in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the Federal awarding agency.
1,345	§200.456 Participant support costs	Federal	Participant support costs as defined in §200.75 Participant support costs are allowable with the prior approval of the Federal awarding agency.
1,346	§200.457 Plant and security costs	Federal	Necessary and reasonable expenses incurred for protection and security of facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants. Capital expenditures for plant se purposes are subject to §200.439 Equipment and other capital expenditures.
1,347	§200.458 Pre-award costs	Federal	Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for eff and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.

Legal Standards

1,348	§200.459 Professional service costs	Federal	(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-Federal e are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. In addition, le and related services are limited under §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements. (b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant: (1) The nature and scope of the service rendered in relation to the service required. (2) The necessity of contracting for the service, considering the non-Federal entity's capability in the particular area. (3) The past pattern of such costs, particularly in the years prior to Federal awards. (4) The impact of Federal awards on the non-Federal entity's business (i.e., what new problems have arisen). (5) Whether the proportion of Federal work to the non-Federal entity's total business is such as to influence the non-Federal entity in favor of incurring the cost, particularly where the services rende are not of a continuing nature and have little relationship to work under Federal awards. (6) Whether the service can be performed more economically by direct employment rather than contracting. (7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities. (8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions). (c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.
1,349	§200.460 Proposal costs	Federal	Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Fed entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-Federal entity. No proposal costs of past accounting periods will be allocable to the current period.
1,350	§200.461 Publication and printing costs	Federal	(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they shou allocated as indirect costs to all benefiting activities of the non-Federal entity. (b) Page charges for professional journal publications are allowable where: (1) The publications report work supported by the Federal Government; and (2) The charges are levied impartially on all items published by the journal, whether or not under a Federal award. (3) The non-Federal entity may charge the Federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of th Federal award.
1,351	§200.462 Rearrangement and reconversion costs	Federal	(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a Federal awa allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity. (b) Costs incurred in the restoration or rehabilitation of the non-Federal entity's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less c related to normal wear and tear, are allowable.

Legal Standards

1,352	§200.463 Recruiting costs	Federal	(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, ope costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruitin personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs ar incurred pursuant to the non-Federal entity's standard recruitment program. Where the non-Federal entity uses employment agencies, costs not in excess of standard commercial rates for such servi are allowable. (b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness or do not conform with the established practices non-Federal entity, are unallowable. (c) Where relocation costs incurred incident to recruitment of a new employee have been funded in whole or in part to a Federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity will be required to refund or credit the Federal share of such relocation costs to the Federal Government. See also §200.464 Relocation costs of employees. (d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a Federal award. For these costs to be directly charged to a Federal award, they must: (1) Be critical and necessary for the conduct of the project; (2) Be allowable under the applicable cost principles; (3) Be consistent with the non-Federal entity's cost accounting practices and non-Federal entity policy; and (4) Meet the definition of "direct cost" as described in the applicable cost principles.
1,353	§200.464 Relocation costs of employees	Federal	(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitn of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that: (1) The move is for the benefit of the employer. (2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer. (3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses. (b) Allowable relocation costs for current employees are limited to the following: (1) The costs of transportation of the employee, members of his or her immediate family and his household, and personal effects to the new location. (2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 calend days. (3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in (4), are limited to 8 per cent of t sales price of the employee's former home. (4) The continuing costs of ownership (for up to six months) of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings ar grounds (exclusive of fixing-up expenses), utilities, taxes, and property insurance. (5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of canceling an unexpired lease, transportation of personal property, and purchasing insurance against of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental. (c) Allowable relocation costs for new employees are limited to those described in paragraphs (b)(1) and (2) of this section. When relocation costs incurred incident to the recruitment of new employ have been charged to a Federal award and the employee resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity must refund or credit the Federal Government for its share of the cost. However, the costs of travel to an overseas location must be considered travel costs in accordance with §200.474 Travel costs, and not this §200.464 Relocation c

Legal Standards

1,354	§200.465 Rental costs of real property and equipment	Federal	(a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available. (b) Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed had the non-Federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance. (c) Rental costs under "less-than-arm's-length" leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between: (1) Divisions of the non-Federal entity; (2) The non-Federal entity under common control through common officers, directors, or members; and (3) The non-Federal entity and a director, trustee, officer, or key employee of the non-Federal entity or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the non-Federal entity may establish a separate corporation for the sole purpose of owning property and leasing it back to the no Federal entity. (4) Family members include one party with any of the following relationships to another party: (i) Spouse, and parents thereof; (ii) Children, and spouses thereof; (iii) Parents, and spouses thereof; (iv) Siblings, and spouses thereof;
1,355	§200.466 Scholarships and student aid costs	Federal	(a) Costs of scholarships, fellowships, and other programs of student aid at IHEs are allowable only when the purpose of the Federal award is to provide training to selected participants and the charg approved by the Federal awarding agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided th (1) The individual is conducting activities necessary to the Federal award; (2) Tuition remission and other support are provided in accordance with established policy of the IHE and consistently provided in a like manner to students in return for similar activities conducted under Federal awards as well as other activities; and (3) During the academic period, the student is enrolled in an advanced degree program at a non-Federal entity or affiliated institution and the activities of the student in relation to the Federal award related to the degree program; (4) The tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work; and (5) It is the IHE's practice to similarly compensate students under Federal awards as well as other activities. (b) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages must be subject to the reporting requirements in §200.430 Compensation—pe services, and must be treated as direct or indirect cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis. See also §200.431 Compensation—fringe benefits.
1,356	§200.467 Selling and marketing costs	Federal	Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under §200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

Legal Standards

1,357	§200.468 Specialized service facilities	Federal	(a) The costs of services provided by highly complex or specialized facilities operated by the non-Federal entity, such as computing facilities, wind tunnels, and reactors are allowable, provided the ch for the services meet the conditions of either paragraphs (b) or (c) of this section, and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under §200.406 Applicable credits. (b) The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that: (1) Does not discriminate between activities under Federal awards and other activities of the non-Federal entity, including usage by the non-Federal entity for internal purposes, and (2) Is designed to recover only the aggregate costs of the services. The costs of each service must consist normally of both its direct costs and its allocable share of all indirect (F&A) costs. Rates must adjusted at least biennially, and must take into consideration over/under applied costs of the previous period(s). (c) Where the costs incurred for a service are not material, they may be allocated as indirect (F&A) costs. (d) Under some extraordinary circumstances, where it is in the best interest of the Federal Government and the non-Federal entity to establish alternative costing arrangements, such arrangements n be worked out with the Federal cognizant agency for indirect costs.
1,358	§200.469 Student activity costs	Federal	Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the Federal award.
1,359	§200.470 Taxes (including Value Added Tax).	Federal	(a) For states, local governments and Indian tribes: (1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportiona affect Federal programs. (2) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable. (3) This provision does not restrict the authority of the Federal awarding agency to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable would require an inordinate amount of effort, the cognizant agency for indirect costs may accept a reasonable approximation thereof. (b) For nonprofit organizations and IHEs: (1) In general, taxes which the non-Federal entity is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for: (i) Taxes from which exemptions are available to the non-Federal entity directly or which are available to the non-Federal entity based on an exemption afforded the Federal Government and, in the l case, when the Federal awarding agency makes available the necessary exemption certificates, (ii) Special assessments on land which represent capital improvements, and (iii) Federal income taxes. (2) Any refund of taxes, and any payment to the non-Federal entity of interest thereon, which were allowed as Federal award costs, will be credited either as a cost reduction or cash refund, as approp to the Federal Government. However, any interest actually paid or credited to an non-Federal entity incident to a refund of tax, interest, and penalty will be paid or credited to the Federal Governmen to the extent that such interest accrued over the period during which the non-Federal entity has been reimbursed by the Federal Government for the taxes, interest, and penalties. (c) Value Added Tax (VAT) Foreign taxes charged for the purchase of goods or services that a non-Federal entity is legally required to pay in country is an allowable expense under Federal awards. Fo tax refunds or applicable credits under Federal awards refer to receipts, or reduction of expenditures, which operate to offset or reduce expense items that are allocable to Federal awards as direct or

Legal Standards

1,360	§200.471 Termination costs	Federal	Termination of a Federal award generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the Federal award not been terminated. Cos principles covering these items are set forth in this section. They are to be used in conjunction with the other provisions of this part in termination situations. (a) The cost of items reasonably usable on the non-Federal entity's other work must not be allowable unless the non-Federal entity submits evidence that it would not retain such items at cost withou sustaining a loss. In deciding whether such items are reasonably usable on other work of the non-Federal entity, the Federal awarding agency should consider the non-Federal entity's plans and orde current and scheduled activity. Contemporaneous purchases of common items by the non-Federal entity must be regarded as evidence that such items are reasonably usable on the non-Federal entit other work. Any acceptance of common items as allocable to the terminated portion of the Federal award must be limited to the extent that the quantities of such items on hand, in transit, and on ord in excess of the reasonable quantitative requirements of other work. (b) If in a particular case, despite all reasonable efforts by the non-Federal entity, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this part, except that any such costs continuing after termination due to the negligent or willful failure of the non-Federal entity to discontinue such costs be unallowable. (c) Loss of useful value of special tooling, machinery, and equipment is generally allowable if: (1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the non-Federal entity, (2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the Federal awarding agency (see also §200.313 Equipment, paragraph (d), and (3) The loss of useful value for any one terminated Federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of Federal award bears to the entire terminated Federal award and other Federal awards for which the special tooling, machinery, or equipment was acquired. (d) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated Federal award less the residual value o leases, if: (1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the Federal award and such further period as may be reasonable, and (2) The non-Federal entity makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased propert
1,361	§200.472 Training and education costs	Federal	The cost of training and education provided for employee development is allowable.
1,362	§200.473 Transportation costs	Federal	Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identi with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate indirect (F&A) cost accounts if the non-Federal entity follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursab under the terms and conditions of the Federal award, should be treated as a direct cost.

Legal Standards

1,363	§200.474 Travel costs	Federal	(a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Fe entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award. (b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. In add if these costs are charged directly to the Federal award documentation must justify that: (1) Participation of the individual is necessary to the Federal award; and (2) The costs are reasonable and consistent with non-Federal entity's established travel policy. (c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that (i) The costs are a direct result of the individual's travel for the Federal award; (ii) The costs are consistent with the non-Federal entity's documented travel policy for all entity travel; and (iii) Are only temporary during the travel period. (2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also §200.432 Conferences. (d) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 C 31.205-46(a)).
1,364	§200.475 Trustees	Federal	Travel and subsistence costs of trustees (or directors) at IHEs and nonprofit organizations are allowable. See also §200.474 Travel costs.
1,365	Subpart F—Audit Requirements General §200.500 Purpose	Federal	This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.
1,366	Audits §200.501 Audit requirements	Federal	(a) Audit required. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that y in accordance with the provisions of this part. (b) Single audit. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Sc audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section. (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-spec audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-th entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit. (d) Exemption when Federal awards expended are less than $750,000. A non-Federal entity that expends less than $750,000 during the non-Federal entity's fiscal year in Federal awards is exempt fr Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal ag pass-through entity, and Government Accountability Office (GAO). (e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this par (f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor. (g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and servic comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the audite responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance Federal statutes, regulations, and the terms and conditions of Federal awards. (h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-p

Legal Standards

1,367	§200.502 Basis for determining Federal awards expended	Federal	(a) Determining Federal awards expended. The determination of when a Federal award is expended must be based on when the activity related to the Federal award occurs. Generally, the activity per to events that require the non-Federal entity to comply with Federal statutes, regulations, and the terms and conditions of Federal awards, such as: expenditure/expense transactions associated with awards including grants, cost-reimbursement contracts under the FAR, compacts with Indian Tribes, cooperative agreements, and direct appropriations; the disbursement of funds to subrecipients; use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or use of food commodit the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and the period when insurance is in force. (b) Loan and loan guarantees (loans). Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines must be used to calculate the value of Federal awards expende under loan programs, except as noted in paragraphs (c) and (d) of this section: (1) Value of new loans made or received during the audit period; plus (2) Beginning of the audit period balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus (3) Any interest subsidy, cash, or administrative cost allowance received. (c) Loan and loan guarantees (loans) at IHEs. When loans are made to students of an IHE but the IHE does not make the loans, then only the value of loans made during the audit period must be consi Federal awards expended in that audit period. The balance of loans for previous audit periods is not included as Federal awards expended because the lender accounts for the prior balances. (d) Prior loan and loan guarantees (loans). Loans, the proceeds of which were received and expended in prior years, are not considered Federal awards expended under this part when the Federal sta regulations, and the terms and conditions of Federal awards pertaining to such loans impose no continuing compliance requirements other than to repay the loans. (e) Endowment funds. The cumulative balance of Federal awards for endowment funds that are federally restricted are considered Federal awards expended in each audit period in which the funds a still restricted. (f) Free rent. Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of a Federal award to carry out a Federal program must be included in determining Federal awards expended and subject to audit under this part. (g) Valuing non-cash assistance. Federal non-cash assistance, such as free rent, food commodities, donated property, or donated surplus property, must be valued at fair market value at the time of re
1,368	§200.503 Relation to other audit requirements	Federal	(a) An audit conducted in accordance with this part must be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal statute or regul To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal statute or regulation, a Federal agency must rely upon and use t information. (b) Notwithstanding subsection (a), a Federal agency, Inspectors General, or GAO may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal stat regulation. The provisions of this part do not authorize any non-Federal entity to constrain, in any manner, such Federal agency from carrying out or arranging for such additional audits, except that t Federal agency must plan such audits to not be duplicative of other audits of Federal awards. Prior to commencing such an audit, the Federal agency or pass-through entity must review the FAC for re audits submitted by the non-Federal entity, and to the extent such audits meet a Federal agency or pass-through entity's needs, the Federal agency or pass-through entity must rely upon and use such audits. Any additional audits must be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed, by other auditors. (c) The provisions of this part do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal a Inspector General or other Federal official. For example, requirements that may be applicable under the FAR or CAS and the terms and conditions of a cost-reimbursement contract may include addit applicable audits to be conducted or arranged for by Federal agencies. (d) Federal agency to pay for additional audits. A Federal agency that conducts or arranges for additional audits must, consistent with other applicable Federal statutes and regulations, arrange for fu the full cost of such additional audits. (e) Request for a program to be audited as a major program. A Federal awarding agency may request that an auditee have a particular Federal program audited as a major program in lieu of the Fede awarding agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 calendar days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such a request by informing the Federal awarding agency whether the program would otherwise be audited as a major progra using the risk-based audit approach described in §200.518 Major program determination and, if not, the estimated incremental cost. The Federal awarding agency must then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal awarding agency request, and the Federal awarding age agrees to pay the full incremental costs, then the auditee must have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

Legal Standards

1,369	§200.504 Frequency of audits	Federal	Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part must be performed annually. Any biennial audit must cover both years with the biennial period. (a) A state, local government, or Indian tribe that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its aud pursuant to this part biennially. This requirement must still be in effect for the biennial period. (b) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.
1,370	§200.505 Sanctions	Federal	In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities must take appropriate action as provided in §200. Remedies for noncompliance.
1,371	§200.506 Audit costs	Federal	See §200.425 Audit services.
1,372	§200.507 Program-specific audits	Federal	(a) Program-specific audit guide available. In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal controls, compliance requirements, suggested audit procedures, and audit reporting requirements. A listing of current program-specific audit guides can be found in the compliance supplement beginning with the 2014 supplement including Federal awarding agency contact information and a Web site where a copy of the guide can be obtained. When a current program-specific audit guide is available, the auditor m follow GAGAS and the guide when performing a program-specific audit. (b) Program-specific audit guide not available. (1) When a current program-specific audit guide is not available, the auditee and auditor must have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit. (2) The auditee must prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe th significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of §200.511 Audit findings follow-up, paragraph (b), and a corrective action plan consistent with the requirements of §200.511 Audit findings follow-up, paragraph (c). (3) The auditor must: (i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS; (ii) Obtain an understanding of internal controls and perform tests of internal controls over the Federal program consistent with the requirements of §200.514 Scope of audit, paragraph (c) for a maj program; (iii) Perform procedures to determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that could have a direct and material effec the Federal program consistent with the requirements of §200.514 Scope of audit, paragraph (d) for a major program; (iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with the requirements §200.511 Audit findings follow-up, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of an prior audit finding; and (v) Report any audit findings consistent with the requirements of §200.516 Audit findings.
1,373	Auditees §200.508 Auditee responsibilities	Federal	The auditee must: (a) Procure or otherwise arrange for the audit required by this part in accordance with §200.509 Auditor selection, and ensure it is properly performed and submitted when due in accordance with §200.512 Report submission. (b) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with §200.510 Financial statements. (c) Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with §200.511 Aud findings follow-up, paragraph (b) and §200.511 Audit findings follow-up, paragraph (c), respectively. (d) Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this part.

Legal Standards

1,374	§200.509 Auditor selection	Federal	(a) Auditor procurement. In procuring audit services, the auditee must follow the procurement standards prescribed by the Procurement Standards in §§200.317 Procurement by states through 20.3 Contract provisions of Subpart D- Post Federal Award Requirements of this part or the FAR (48 CFR part 42), as applicable. When procuring audit services, the objective is to obtain high-quality audi requesting proposals for audit services, the objectives and scope of the audit must be made clear and the non-Federal entity must request a copy of the audit organization's peer review report which auditor is required to provide under GAGAS. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availa of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever possible, the auditee must make positive efforts to utilize s businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in §200.321 Contracting with small and minority businesses, women's business enterprise labor surplus area firms, or the FAR (48 CFR part 42), as applicable. (b) Restriction on auditor preparing indirect cost proposals. An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this p when the indirect costs recovered by the auditee during the prior year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost alloca plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. (c) Use of Federal auditors. Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.
1,375	§200.510 Financial statements	Federal	(a) Financial statements. The auditee must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fisca audited. The financial statements must be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, non-Federal entity-wide financial statements also include departments, agencies, and other organizational units that have separate audits in accordance with §200.514 Scope of audit, paragraph (a) and prepare separate financial statements. (b) Schedule of expenditures of Federal awards. The auditee must also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements which must include the total Federal awards expended as determined in accordance with §200.502 Basis for determining Federal awards expended. While not required, the auditee may choose to provide inform requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple Federal award years, the auditee may list the amount of Federal awards expended for each Federal award year separately. At a minimum, the schedule must: (1) List individual Federal programs by Federal agency. For a cluster of programs, provide the cluster name, list individual Federal programs within the cluster of programs, and provide the applicabl Federal agency name. For R&D, total Federal awards expended must be shown either by individual Federal award or by Federal agency and major subdivision within the Federal agency. For example, National Institutes of Health is a major subdivision in the Department of Health and Human Services. (2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity must be included. (3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available. For a cluster of progra also provide the total for the cluster. (4) Include the total amount provided to subrecipients from each Federal program. (5) For loan or loan guarantee programs described in §200.502 Basis for determining Federal awards expended, paragraph (b), identify in the notes to the schedule the balances outstanding at the en the audit period. This is in addition to including the total Federal awards expended for loan or loan guarantee programs in the schedule. (6) Include notes that describe that significant accounting policies used in preparing the schedule, and note whether or not the auditee elected to use the 10% de minimis cost rate as covered in §200 Indirect (F&A) costs.

Legal Standards

1,376	§200.511 Audit findings follow-up	Federal	(a) General. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee must prepare a summary schedule of prior audit findings. The auditee must also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan must include the reference numbers the auditor assigns to audit findings under §200.516 Audit findings, paragraph (c). Since the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred. The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements which are required to be reported in accordance with GAGAS. (b) Summary schedule of prior audit findings. The summary schedule of prior audit findings must report the status of all audit findings included in the prior audit's schedule of findings and questione costs. The summary schedule must also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with parag (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(3) of this section. (1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken. (2) When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action, and any part corrective action taken. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule must provide an explanation. (3) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred: (i) Two years have passed since the audit report in which the finding occurred was submitted to the FAC; (ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and (iii) A management decision was not issued. (c) Corrective action plan. At the completion of the audit, the auditee must prepare, in a document separate from the auditor's findings described in §200.516 Audit findings, a corrective action plan t address each audit finding included in the current year auditor's reports. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the correctiv action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an
1,377	§200.512 Report submission	Federal	(a) General. (1) The audit must be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section must be submitte within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporti package is due the next business day. (2) Unless restricted by Federal statutes or regulations, the auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting pa do not include protected personally identifiable information. (b) Data Collection. The FAC is the repository of record for Subpart F—Audit Requirements of this part reporting packages and the data collection form. All Federal agencies, pass-through entities an others interested in a reporting package and data collection form must obtain it by accessing the FAC. (1) The auditee must submit required data elements described in Appendix X to Part 200—Data Collection Form (Form SF-SAC), which state whether the audit was completed in accordance with this and provides information about the auditee, its Federal programs, and the results of the audit. The data must include information available from the audit required by this part that is necessary for Fe agencies to use the audit to ensure integrity for Federal programs. The data elements and format must be approved by OMB, available from the FAC, and include collections of information from the reporting package described in paragraph (c) of this section. A senior level representative of the auditee (e.g., state controller, director of finance, chief executive officer, or chief financial officer) mus a statement to be included as part of the data collection that says that the auditee complied with the requirements of this part, the data were prepared in accordance with this part (and the instructio accompanying the form), the reporting package does not include protected personally identifiable information, the information included in its entirety is accurate and complete, and that the FAC is authorized to make the reporting package and the form publicly available on a Web site. (2) Exception for Indian Tribes and Tribal Organizations. An auditee that is an Indian tribe or a tribal organization (as defined in the Indian Self-Determination, Education and Assistance Act (ISDEAA U.S.C. 450b(l)) may opt not to authorize the FAC to make the reporting package publicly available on a Web site, by excluding the authorization for the FAC publication in the statement described in paragraph (b)(1) of this section. If this option is exercised, the auditee becomes responsible for submitting the reporting package directly to any pass-through entities through which it has received a Federal award and to pass-through entities for which the summary schedule of prior audit findings reported the status of any findings related to Federal awards that the pass-through entity provided Unless restricted by Federal statute or regulation, if the auditee opts not to authorize publication, it must make copies of the reporting package available for public inspection. (3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor must complete the applicable data elements of the data collection form. The auditor sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, tha form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of the form is limited to the collection of information prescribed by OMB.

Legal Standards

1,378	Federal Agencies §200.513 Responsibilities	Federal	(a)(1) Cognizant agency for audit responsibilities. A non-Federal entity expending more than $50 million a year in Federal awards must have a cognizant agency for audit. The designated cognizant ag for audit must be the Federal awarding agency that provides the predominant amount of direct funding to a non-Federal entity unless OMB designates a specific cognizant agency for audit. (2) To provide for continuity of cognizance, the determination of the predominant amount of direct funding must be based upon direct Federal awards expended in the non-Federal entity's fiscal yea ending in 2009, 2014, 2019 and every fifth year thereafter. For example, audit cognizance for periods ending in 2011 through 2015 will be determined based on Federal awards expended in 2009. (3) Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency tha provides substantial funding and agrees to be the cognizant agency for audit. Within 30 calendar days after any reassignment, both the old and the new cognizant agency for audit must provide notic the change to the FAC, the auditee, and, if known, the auditor. The cognizant agency for audit must: (i) Provide technical audit advice and liaison assistance to auditees and auditors. (ii) Obtain or conduct quality control reviews on selected audits made by non-Federal auditors, and provide the results to other interested organizations. Cooperate and provide support to the Feder agency designated by OMB to lead a governmentwide project to determine the quality of single audits by providing a statistically reliable estimate of the extent that single audits conform to applicabl requirements, standards, and procedures; and to make recommendations to address noted audit quality issues, including recommendations for any changes to applicable requirements, standards an procedures indicated by the results of the project. This governmentwide audit quality project must be performed once every 6 years beginning in 2018 or at such other interval as determined by OM the results must be public. (iii) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor required by GAGAS or statutes and regulat (iv) Advise the community of independent auditors of any noteworthy or important factual trends related to the quality of audits stemming from quality control reviews. Significant problems or qual issues consistently identified through quality control reviews of audit reports must be referred to appropriate state licensing agencies and professional bodies. (v) Advise the auditor, Federal awarding agencies, and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When adv of deficiencies, the auditee must work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit must notify the auditor, the auditee, and applicable Fed awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors must be referred to appropriate state licensing agencies and professional bodies for disciplinary action.
1,379	Auditors §200.514 Scope of audit	Federal	(a) General. The audit must be conducted in accordance with GAGAS. The audit must cover the entire operations of the auditee, or, at the option of the auditee, such audit must include a series of audi that cover departments, agencies, and other organizational units that expended or otherwise administered Federal awards during such audit period, provided that each such audit must encompass th financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which must be considered to be a non-Federal entity. The financ statements and schedule of expenditures of Federal awards must be for the same audit period. (b) Financial statements. The auditor must determine whether the financial statements of the auditee are presented fairly in all material respects in accordance with generally accepted accounting principles. The auditor must also determine whether the schedule of expenditures of Federal awards is stated fairly in all material respects in relation to the auditee's financial statements as a whole. (c) Internal control. (1) The compliance supplement provides guidance on internal controls over Federal programs based upon the guidance in Standards for Internal Control in the Federal Governm issued by the Comptroller General of the United States and the Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). (2) In addition to the requirements of GAGAS, the auditor must perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk of noncompliance for major programs. (3) Except as provided in paragraph (c)(4) of this section, the auditor must: (i) Plan the testing of internal control over compliance for major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and (ii) Perform testing of internal control as planned in paragraph (c)(3)(i) of this section. (4) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(3) of this section are not required for those compliance requirements. However, the auditor must report a significant deficiency or material weakness in accordanc §200.516 Audit findings, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control. (d) Compliance. (1) In addition to the requirements of GAGAS, the auditor must determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Feder awards that may have a direct and material effect on each of its major programs.

Legal Standards

1,380	§200.515 Audit reporting	Federal	The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that audit was conducted in accordance with this part and include the following: (a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinio disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole. (b) A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effec the financial statements. This report must describe the scope of testing of internal control and compliance and the results of the tests, and, where applicable, it will refer to the separate schedule of fir and questioned costs described in paragraph (d) of this section. (c) A report on compliance for each major program and a report on internal control over compliance. This report must describe the scope of testing of internal control over compliance, include an op or disclaimer of opinion as to whether the auditee complied with Federal statutes, regulations, and the terms and conditions of Federal awards which could have a direct and material effect on each m program and refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section. (d) A schedule of findings and questioned costs which must include the following three components: (1) A summary of the auditor's results, which must include: (i) The type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaim opinion); (ii) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements; (iii) A statement as to whether the audit disclosed any noncompliance that is material to the financial statements of the auditee; (iv) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control over major programs were disclosed by the audit; (v) The type of report the auditor issued on compliance for major programs (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);
1,381	§200.516 Audit findings	Federal	(a) Audit findings reported. The auditor must report the following as audit findings in a schedule of findings and questioned costs: (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program ident in the Compliance Supplement. (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement. (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evalua the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identif (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs. (4) Known questioned costs that are greater than $25,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to per audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program that is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program that is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $25,000, then the auditor must report this as an audit finding. (5) The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported as audit fin in the schedule of findings and questioned costs for Federal awards. (6) Known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph do not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's reports under the direct reporting requirements of GAGAS. (7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with §200.511 Audit findings follow-

Legal Standards

1,382	§200.517 Audit documentation	Federal	(a) Retention of audit documentation. The auditor must retain audit documentation and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period. When the auditor aware that the Federal agency, pass-through entity, or auditee is contesting an audit finding, the auditor must contact the parties contesting the audit finding for guidance prior to destruction of the a documentation and reports. (b) Access to audit documentation. Audit documentation must be made available upon request to the cognizant or oversight agency for audit or its designee, cognizant agency for indirect cost, a Fede agency, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to audit documentation includes the right of Federal agencies to obtain copies of audit documentation, as is reasonable and necessary.
1,383	§200.518 Major program determination	Federal	(a) General. The auditor must use a risk-based approach to determine which Federal programs are major programs. This risk-based approach must include consideration of: current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (h) of this section must be followed. (b) Step one.(1) The auditor must identify the larger Federal programs, which must be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended du the audit period exceeding the levels outlined in the table in this paragraph (b)(1): Total Federal awards expended Type A/B threshold Equal to or exceed $750,000 but less than or equal to $25 million $750,000. Exceed $25 million but less than or equal to $100 million Total Federal awards expended times .03. Exceed $100 million but less than or equal to $1 billion $3 million. Exceed $1 billion but less than or equal to $10 billion Total Federal awards expended times .003. Exceed $10 billion but less than or equal to $20 billion $30 million. Exceed $20 billion Total Federal awards expended times .0015. (2) Federal programs not labeled Type A under paragraph (b)(1) of this section must be labeled Type B programs. (3) The inclusion of large loan and loan guarantees (loans) must not result in the exclusion of other programs as Type A programs. When a Federal program providing loans exceeds four times the lar non-loan program it is considered a large loan program, and the auditor must consider this Federal program as a Type A program and exclude its values in determining other Type A programs. This recalculation of the Type A program is performed after removing the total of all large loan programs. For the purposes of this paragraph a program is only considered to be a Federal program providi loans if the value of Federal awards expended for loans within the program comprises fifty percent or more of the total Federal awards expended for the program. A cluster of programs is treated as c program and the value of Federal awards expended under a loan program is determined as described in §200.502 Basis for determining Federal awards expended. (4) For biennial audits permitted under §200.504 Frequency of audits, the determination of Type A and Type B programs must be based upon the Federal awards expended during the two-year perio (c) Step two. (1) The auditor must identify Type A programs which are low-risk. In making this determination, the auditor must consider whether the requirements in §200.519 Criteria for Federal program risk paragraph (c), the results of audit follow-up, or any changes in personnel or systems affecting the program indicate significantly increased risk and preclude the program from being low For a Type A program to be considered low-risk, it must have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a bie audit), and, in the most recent audit period, the program must have not had:

Legal Standards

1,384	§200.519 Criteria for Federal program risk	Federal	(a) General. The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring that could be material to the Federal program. The auditor must consider cri such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program wit auditee management and the Federal agency or pass-through entity. (b) Current and prior audit experience. (1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to Federal statutes, regulations, and the terms and conditions of Federal awards and the competence and experience of pers who administer the Federal programs. (i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor must consider whether weaknesses are is in a single operating unit (e.g., one college campus) or pervasive throughout the entity. (ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk. (2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected. (3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings. (c) Oversight exercised by Federal agencies and pass-through entities. (1) Oversight exercised by Federal agencies or pass-through entities could be used to assess risk. For example, recent monitori other reviews performed by an oversight entity that disclosed no significant problems would indicate lower risk, whereas monitoring that disclosed significant problems would indicate higher risk. (2) Federal agencies, with the concurrence of OMB, may identify Federal programs that are higher risk. OMB will provide this identification in the compliance supplement. (d) Inherent risk of the Federal program. (1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primar involving staff payroll costs may have high risk for noncompliance with requirements of §200.430 Compensation—personal services, but otherwise be at low risk. (2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an establis program with time-tested regulations. Also, significant changes in Federal programs, statutes, regulations, or the terms and conditions of Federal awards may increase risk.
1,385	§200.520 Criteria for a low-risk auditee	Federal	An auditee that meets all of the following conditions for each of the preceding two audit periods must qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with §200 Major program determination. (a) Single audits were performed on an annual basis in accordance with the provisions of this Subpart, including submitting the data collection form and the reporting package to the FAC within the timeframe specified in §200.512 Report submission. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee. (b) The auditor's opinion on whether the financial statements were prepared in accordance with GAAP, or a basis of accounting required by state law, and the auditor's in relation to opinion on the schedule of expenditures of Federal awards were unmodified. (c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. (d) The auditor did not report a substantial doubt about the auditee's ability to continue as a going concern. (e) None of the Federal programs had audit findings from any of the following in either of the preceding two audit periods in which they were classified as Type A programs: (1) Internal control deficiencies that were identified as material weaknesses in the auditor's report on internal control for major programs as required under §200.515 Audit reporting, paragraph (c) (2) A modified opinion on a major program in the auditor's report on major programs as required under §200.515 Audit reporting, paragraph (c); or (3) Known or likely questioned costs that exceeded five percent of the total Federal awards expended for a Type A program during the audit period.

Legal Standards

1,386	Management Decisions §200.521 Management decision	Federal	(a) General. The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee. While not required, the Federal agency or pass-through entity may also issue a management decision on findings relating to the financial statements which are required to be reported in accordance with GAGAS. (b) Federal agency. As provided in §200.513 Responsibilities, paragraph (a)(7), the cognizant agency for audit must be responsible for coordinating a management decision for audit findings that affe programs of more than one Federal agency. As provided in §200.513 Responsibilities, paragraph (c)(3), a Federal awarding agency is responsible for issuing a management decision for findings that to Federal awards it makes to non-Federal entities. (c) Pass-through entity. As provided in §200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit find that relate to Federal awards it makes to subrecipients. (d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report. (e) Reference numbers. Management decisions must include the reference numbers the auditor assigned to each audit finding in accordance with §200.516 Audit findings paragraph (c).
1,387	Appendix I to Part 200—Full Text of Notice of Funding Opportunity	Federal	The full text of the notice of funding opportunity is organized in sections. The required format outlined in this appendix indicates immediately following the title of each section whether that section required in every announcement or is a Federal awarding agency option. The format is designed so that similar types of information will appear in the same sections in announcements of different Fe funding opportunities. Toward that end, there is text in each of the following sections to describe the types of information that a Federal awarding agency would include in that section of an actual announcement. A Federal awarding agency that wishes to include information that the format does not specifically discuss may address that subject in whatever section(s) is most appropriate. For example, if a Fede awarding agency chooses to address performance goals in the announcement, it might do so in the funding opportunity description, the application content, or the reporting requirements. Similarly, when this format calls for a type of information to be in a particular section, a Federal awarding agency wishing to address that subject in other sections may elect to repeat the information those sections or use cross references between the sections (there should be hyperlinks for cross-references in any electronic versions of the announcement). For example, a Federal awarding agency want to include Section A information about the types of non-Federal entities who are eligible to apply. The format specifies a standard location for that information in Section C.1 but does not preclu repeating the information in Section A or creating a cross reference between Section A and C.1, as long as a potential applicant can find the information quickly and easily from the standard location. The sections of the full text of the announcement are described in the following paragraphs. A. Program Description—Required This section contains the full program description of the funding opportunity. It may be as long as needed to adequately communicate to potential applicants the areas in which funding may be provi describes the Federal awarding agency's funding priorities or the technical or focus areas in which the Federal awarding agency intends to provide assistance. As appropriate, it may include any prog history (e.g., whether this is a new program or a new or changed area of program emphasis). This section may communicate indicators of successful projects (e.g., if the program encourages collabora efforts) and may include examples of projects that have been funded previously. This section also may include other information the Federal awarding agency deems necessary, and must at a minimu include citations for authorizing statutes and regulations for the funding opportunity. B. Federal Award Information—Required This section provides sufficient information to help an applicant make an informed decision about whether to submit a proposal. Relevant information could include the total amount of funding that Federal awarding agency expects to award through the announcement; the anticipated number of Federal awards; the expected amounts of individual Federal awards (which may be a range); the am of funding per Federal award, on average, experienced in previous years; and the anticipated start dates and periods of performance for new Federal awards. This section also should address whethe applications for renewal or supplementation of existing projects are eligible to compete with applications for new Federal awards.

Legal Standards

1,388	Appendix I to Part 200—Full Text of Notice of Funding Opportunity continued...	Federal	D. Application and Submission Information 1. Address to Request Application Package—Required. Potential applicants must be told how to get application forms, kits, or other materials needed to apply (if this announcement contains everyth needed, this section need only say so). An Internet address where the materials can be accessed is acceptable. However, since high-speed Internet access is not yet universally available for downloadi documents, and applicants may have additional accessibility requirements, there also should be a way for potential applicants to request paper copies of materials, such as a U.S. Postal Service mailin address, telephone or FAX number, Telephone Device for the Deaf (TDD), Text Telephone (TTY) number, and/or Federal Information Relay Service (FIRS) number. 2. Content and Form of Application Submission—Required. This section must identify the required content of an application and the forms or formats that an applicant must use to submit it. If any requirements are stated elsewhere because they are general requirements that apply to multiple programs or funding opportunities, this section should refer to where those requirements may be fo This section also should include required forms or formats as part of the announcement or state where the applicant may obtain them. This section should specifically address content and form or format requirements for: i. Pre-applications, letters of intent, or white papers required or encouraged (see Section D.4), including any limitations on the number of pages or other formatting requirements similar to those for applications. ii. The application as a whole. For all submissions, this would include any limitations on the number of pages, font size and typeface, margins, paper size, number of copies, and sequence or assembly requirements. If electronic submission is permitted or required, this could include special requirements for formatting or signatures. iii. Component pieces of the application (e.g., if all copies of the application must bear original signatures on the face page or the program narrative may not exceed 10 pages). This includes any pieces may be submitted separately by third parties (e.g., references or letters confirming commitments from third parties that will be contributing a portion of any required cost sharing). iv. Information that successful applicants must submit after notification of intent to make a Federal award, but prior to a Federal award. This could include evidence of compliance with requirements relating to human subjects or information needed to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4370h). 3. Unique entity identifier and System for Award Management (SAM)—Required. This paragraph must state clearly that each applicant (unless the applicant is an individual or Federal awarding agency that is excepted from those requirements under 2 CFR §25.110(b) or (c), or has exception approved by the Federal awarding agency under 2 CFR §25.110(d)) is required to: (i) Be registered in SAM before submitting its application; (ii) provide a a valid unique entity identifier in
1,389	Appendix I to Part 200—Full Text of Notice of Funding Opportunity continued...	Federal	E. Application Review Information 1. Criteria—Required. This section must address the criteria that the Federal awarding agency will use to evaluate applications. This includes the merit and other review criteria that evaluators will u judge applications, including any statutory, regulatory, or other preferences (e.g., minority status or Native American tribal preferences) that will be applied in the review process. These criteria are distinct from eligibility criteria that are addressed before an application is accepted for review and any program policy or other factors that are applied during the selection process, after the review process is completed. The intent is to make the application process transparent so applicants can make informed decisions when preparing their applications to maximize fairness of the process. The announcement should clearly describe all criteria, including any sub-criteria. If criteria vary in importance, the announcement should specify the relative percentages, weights, or other means used to distinguish among them. For statutory, regulatory, or other preferences, the announcement should provide a detailed explanation of those preferences with an explicit indication of their effect (e.g., whether they result in additional points being assigned). If an applicant's proposed cost sharing will be considered in the review process (as opposed to being an eligibility criterion described in Section C.2), the announcement must specifically address how will be considered (e.g., to assign a certain number of additional points to applicants who offer cost sharing, or to break ties among applications with equivalent scores after evaluation against all othe factors). If cost sharing will not be considered in the evaluation, the announcement should say so, so that there is no ambiguity for potential applicants. Vague statements that cost sharing is encourag without clarification as to what that means, are unhelpful to applicants. It also is important that the announcement be clear about any restrictions on the types of cost (e.g., in-kind contributions) that acceptable as cost sharing. 2. Review and Selection Process—Required. This section may vary in the level of detail provided. The announcement must list any program policy or other factors or elements, other than merit criter that the selecting official may use in selecting applications for Federal award (e.g., geographical dispersion, program balance, or diversity). The Federal awarding agency may also include other appro details. For example, this section may indicate who is responsible for evaluation against the merit criteria (e.g., peers external to the Federal awarding agency or Federal awarding agency personnel) and/or who makes the final selections for Federal awards. If there is a multi-phase review process (e.g., an external panel advising internal Federal awarding agency personnel who make final recommendations to the deciding official), the announcement may describe the phases. It also may include: the number of people on an evaluation panel and how it operates, the way reviewers are selected, reviewer qualifications, and the way that conflicts of interest are avoided. With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, each Federal awarding agency is responsible for compliance with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d). In addition, if the Federal awarding agency permits applicants to nominate suggested reviewers of their applications or suggest those they feel may be inappropriate due to a conflict of interest, that information should be included in this section. 3. Anticipated Announcement and Federal Award Dates—Optional. This section is intended to provide applicants with information they can use for planning purposes. If there is a single application deadline followed by the simultaneous review of all applications, the Federal awarding agency can include in this section information about the anticipated dates for announcing or notifying successf

Legal Standards

1,390	Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards	Federal	In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the follo as applicable. (A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defe Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract term and provide for such sanctions and penalties as appropriate. (B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Co p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must inc provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicab Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must pla copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance o wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Cop "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or i by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, comple or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal award agency. (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, e contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provide
1,391	Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)	Federal	A. General This appendix provides criteria for identifying and computing indirect (or indirect (F&A)) rates at IHEs (institutions). Indirect (F&A) costs are those that are incurred for common or joint objectives therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. See subsection B.1, Definition of Facilities and Administration, for a discussion of the components of indirect (F&A) costs. 1. Major Functions of an Institution Refers to instruction, organized research, other sponsored activities and other institutional activities as defined in this section: a. Instruction means the teaching and training activities of an institution. Except for research training as provided in subsection b, this term includes all teaching and training activities, whether they offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school divisio an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research. (1) Sponsored instruction and training means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may considered a major function even though an institution's accounting treatment may include it in the instruction function. (2) Departmental research means research, development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental res for purposes of this document, is not considered as a major function, but as a part of the instruction function of the institution. (3) Only mandatory cost sharing or cost sharing specifically committed in the project budget must be included in the organized research base for computing the indirect (F&A) cost rate or reflected i allocation of indirect costs. Salary costs above statutory limits are not considered cost sharing. b. Organized research means all research and development activities of an institution that are separately budgeted and accounted for. It includes: (1) Sponsored research means all research and development activities that are sponsored by Federal and non-Federal agencies and organizations. This term includes activities involving the training individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. (2) University research means all research and development activities that are separately budgeted and accounted for by the institution under an internal application of institutional funds. University

Legal Standards

1,392	Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) continued...	Federal	B. Identification and Assignment of Indirect (F&A) Costs 1. Definition of Facilities and Administration See §200.414 Indirect (F&A) costs which provides the basis for these indirect cost requirements. 2. Depreciation a. The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with §200 Depreciation. b. In the absence of the alternatives provided for in Section A.2.d, Selection of distribution method, the expenses included in this category must be allocated in the following manner: (1) Depreciation on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, must be assigned to that function. (2) Depreciation on buildings used for more than one function, and on capital improvements and equipment used in such buildings, must be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas such as hallways, stairwells, and rest rooms. (3) Depreciation on buildings, capital improvements and equipment related to space (e.g., individual rooms, laboratories) used jointly by more than one function (as determined by the users of the sp must be treated as follows. The cost of each jointly used unit of space must be allocated to benefitting functions on the basis of: (a) The employee full-time equivalents (FTEs) or salaries and wages of those individual functions benefitting from the use of that space; or (b) Institution-wide employee FTEs or salaries and wages applicable to the benefitting major functions (see Section A.1) of the institution. (4) Depreciation on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, must be allocated to user categories of stud and employees on a full-time equivalent basis. The amount allocated to the student category must be assigned to the instruction function of the institution. The amount allocated to the employee cate must be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions. 3. Interest Interest on debt associated with certain buildings, equipment and capital improvements, as defined in §200.449 Interest, must be classified as an expenditure under the category Facilities. These cost
1,393	Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) continued...	Federal	7. Sponsored Projects Administration a. The expenses under this heading are limited to those incurred by a separate organization(s) established primarily to administer sponsored projects, including such functions as grant and contract administration (Federal and non-Federal), special security, purchasing, personnel, administration, and editing and publishing of research and other reports. They include the salaries and expenses of head of such organization, assistants, and immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the organization, such as stock rooms, shops, and the like. This category also includes an allocable share of fringe benefit costs, general administration and general expenses, operation and maintenance expenses, and depreciation. Approp adjustments will be made for services provided to other functions or organizations. b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated to the major functions of the institution under which the sponsored projects conducted on the basis of the modified total cost of sponsored projects. c. An appropriate adjustment must be made to eliminate any duplicate charges to Federal awards when this category includes similar or identical activities as those included in the general administra and general expense category or other indirect (F&A) cost items, such as accounting, procurement, or personnel administration. 8. Library Expenses a. The expenses under this heading are those that have been incurred for the operation of the library, including the cost of books and library materials purchased for the library, less any items of libra income that qualify as applicable credits under §200.406 Applicable credits. The library expense category should also include the fringe benefits applicable to the salaries and wages included therein, appropriate share of general administration and general expense, operation and maintenance expense, and depreciation. Costs incurred in the purchases of rare books (museum-type books) with no to Federal awards should not be allocated to them. b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated first on the basis of primary categories of users, including students, professi employees, and other users. (1) The student category must consist of full-time equivalent students enrolled at the institution, regardless of whether they earn credits toward a degree or certificate. (2) The professional employee category must consist of all faculty members and other professional employees of the institution, on a full-time equivalent basis. This category may also include post- doctorate fellows and graduate students. (3) The other users category must consist of a reasonable factor as determined by institutional records to account for all other users of library facilities.

Legal Standards

1,394	Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) continued...	Federal	6. Provisional and Final Rates for Indirect (F&A) Costs Where the cognizant agency for indirect costs determines that cost experience and other pertinent facts do not justify the use of predetermined rates, or a fixed rate with a carry-forward, or if the par cannot agree on an equitable rate, a provisional rate must be established. To prevent substantial overpayment or underpayment, the provisional rate may be adjusted by the cognizant agency for indi costs during the institution's fiscal year. Predetermined or fixed rates may replace provisional rates at any time prior to the close of the institution's fiscal year. If a provisional rate is not replaced by predetermined or fixed rate prior to the end of the institution's fiscal year, a final rate will be established and upward or downward adjustments will be made based on the actual allowable costs incu for the period involved. 7. Fixed Rates for the Life of the Sponsored Agreement Except as provided in paragraph (c)(1) of §200.414 Indirect (F&A) costs, Federal agencies must use the negotiated rates, must paragraph (b)(1) for indirect (F&A) costs in effect at the time of the init award throughout the life of the Federal award. Award levels for Federal awards may not be adjusted in future years as a result of changes in negotiated rates. "Negotiated rates" per the rate agreeme include final, fixed, and predetermined rates and exclude provisional rates. "Life" for the purpose of this subsection means each competitive segment of a project. A competitive segment is a period of approved by the Federal awarding agency at the time of the Federal award. If negotiated rate agreements do not extend through the life of the Federal award at the time of the initial award, then the negotiated rate for the last year of the Federal award must be extended through the end of the life of the Federal award. b. Except as provided in §200.414 Indirect (F&A) costs, when an educational institution does not have a negotiated rate with the Federal Government at the time of an award (because the educationa institution is a new recipient or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award must be adjusted once a rate is negotiated and approved by the cogni agency for indirect costs. 8. Limitation on Reimbursement of Administrative Costs a. Notwithstanding the provisions of subsection C.1.a, the administrative costs charged to Federal awards awarded or amended (including continuation and renewal awards) with effective dates begi on or after the start of the institution's first fiscal year which begins on or after October 1, 1991, must be limited to 26% of modified total direct costs (as defined in subsection 2) for the total of Gener Administration and General Expenses, Departmental Administration, Sponsored Projects Administration, and Student Administration and Services (including their allocable share of depreciation, int costs, operation and maintenance expenses, and fringe benefits costs, as provided by Section B, Identification and assignment of indirect (F&A) costs, and all other types of expenditures not listed specifically under one of the subcategories of facilities in Section B. b. Institutions should not change their accounting or cost allocation methods if the effect is to change the charging of a particular type of cost from F&A to direct, or to reclassify costs, or increase allocations from the administrative pools identified in paragraph B.1 of this Appendix to the other F&A cost pools or fringe benefits. Cognizant agencies for indirect cost are authorized to allow chang where an institution's charging practices are at variance with acceptable practices followed by a substantial majority of other institutions.
1,395	Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) continued...	Federal	E. Documentation Requirements The standard format for documentation requirements for indirect (indirect (F&A)) rate proposals for claiming costs under the regular method is available on the OMB Web site here: http://www.whitehouse.gov/omb/grants_forms. F. Certification 1. Certification of Charges To assure that expenditures for Federal awards are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers request payment under the agreements will include a certification, signed by an authorized official of the university, which reads "By signing this report, I certify to the best of my knowledge and belief that th report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and intent set forth in the award documents. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code, Title 18, Sect 1001 and Title 31, Sections 3729-3733 and 3801-3812)". 2. Certification of Indirect (F&A) Costs a. Policy. Cognizant agencies must not accept a proposed indirect cost rate unless such costs have been certified by the educational institution using the Certificate of indirect (F&A) Costs set forth in subsection F.2.c b. The certificate must be signed on behalf of the institution by the chief financial officer or an individual designated by an individual at a level no lower than vice president or chief financial officer. An indirect (F&A) cost rate is not binding upon the Federal Government if the most recent required proposal from the institution has not been certified. Where it is necessary to establish indirect (F& cost rates, and the institution has not submitted a certified proposal for establishing such rates in accordance with the requirements of this section, the Federal Government must unilaterally establis such rates. Such rates may be based upon audited historical data or such other data that have been furnished to the cognizant agency for indirect costs and for which it can be demonstrated that all unallowable costs have been excluded. When indirect (F&A) cost rates are unilaterally established by the Federal Government because of failure of the institution to submit a certified proposal for establishing such rates in accordance with this section, the rates established will be set at a level low enough to ensure that potentially unallowable costs will not be reimbursed. c. Certificate. The certificate required by this section must be in the following form: Certificate of Indirect (F&A) Costs This is to certify that to the best of my knowledge and belief:

Legal Standards

1,396	Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations	Federal	A. General 1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct cost of minor amounts may be treated a indirect costs under the conditions described in §200.413 Direct costs paragraph (d) of this Part. After direct costs have been determined and assigned directly to awards or other work as appropriat indirect costs are those remaining to be allocated to benefitting cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in lik circumstances, has been assigned to a Federal award as a direct cost. "Major nonprofit organizations" are defined in §200.414 Indirect (F&A) costs. See indirect cost rate reporting requirements in sections B.2.e and B.3.g of this Appendix. B. Allocation of Indirect Costs and Determination of Indirect Cost Rates 1. General a. If a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures, as described in section B.2 of this Appendix. b. If an organization has several major functions which benefit from its indirect costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitting functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual Federal awards and other activities included in that function by means of an indirect cost rate(s). c. The determination of what constitutes an organization's major functions will depend on its purpose in being; the types of services it renders to the public, its clients, and its members; and the amou effort it devotes to such activities as fundraising, public information and membership activities. d. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in section B.2 through B.5 of this Appendix. e. The base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to work performed in that period. The base period normally should coincide with the organization's fiscal year but, in any event, must be so selected as to avoid inequities in the allocation of the costs. 2. Simplified Allocation Method a. Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (i) separating the organization's t
1,397	Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations Continued...	Federal	3. Multiple Allocation Base Method a. General. Where an organization's indirect costs benefit its major functions in varying degrees, indirect costs must be accumulated into separate cost groupings, as described in subparagraph b. Eac grouping must then be allocated individually to benefitting functions by means of a base which best measures the relative benefits. The default allocation bases by cost pool are described in section B this Appendix. b. Identification of indirect costs. Cost groupings must be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping must cons a pool of expenses that are of like character in terms of functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The groupings ar classified within the two broad categories: "Facilities" and "Administration," as described in section A.3 of this Appendix. The indirect cost pools are defined as follows: (1) Depreciation. The expenses under this heading are the portion of the costs of the organization's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with §200.436 Depreciation. (2) Interest. Interest on debt associated with certain buildings, equipment and capital improvements are computed in accordance with §200.449 Interest. (3) Operation and maintenance expenses. The expenses under this heading are those that have been incurred for the administration, operation, maintenance, preservation, and protection of the organization's physical plant. They include expenses normally incurred for such items as: janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipme care of grounds; maintenance and operation of buildings and other plant facilities; security; earthquake and disaster preparedness; environmental safety; hazardous waste disposal; property, liability other insurance relating to property; space and capital leasing; facility planning and management; and central receiving. The operation and maintenance expenses category must also include its alloc share of fringe benefit costs, depreciation, and interest costs. (4) General administration and general expenses. The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization ar other expenses of a general nature which do not relate solely to any major function of the organization. This category must also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of this category include central offices, such as the director's office, the office of finance, business services, budget and planning, pers safety and risk management, general counsel, management information systems, and library costs. In developing this cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or indirect costs. For exa salaries of technical staff, project supplies, project publication, telephone toll charges, computer costs, travel costs, and specialized services costs must be treated as direct costs wherever identifiable particular program. The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate as described in

Legal Standards

1,398	Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations Continued...	Federal	5. Special Indirect Cost Rates In some instances, a single indirect cost rate for all activities of an organization or for each major function of the organization may not be appropriate, since it would not take into account those differ factors which may substantially affect the indirect costs applicable to a particular segment of work. For this purpose, a particular segment of work may be that performed under a single Federal awar may consist of work under a group of Federal awards performed in a common environment. These factors may include the physical location of the work, the level of administrative support required, nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. When a particular segmer work is performed in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to such work. Th separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided it is determined t the rate differs significantly from that which would have been obtained under sections B.2, B.3, and B.4 of this Appendix, and (ii) the volume of work to which the rate would apply is material. C. Negotiation and Approval of Indirect Cost Rates 1. Definitions As used in this section, the following terms have the meanings set forth in this section: a. Cognizant agency for indirect costs means the Federal agency responsible for negotiating and approving indirect cost rates for a nonprofit organization on behalf of all Federal agencies. b. Predetermined rate means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred d the period. A predetermined rate is not subject to adjustment. c. Fixed rate means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered rate is carried forward as an adjustment to the rate computation of a subsequent period. d. Final rate means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment. e. Provisional rate or billing rate means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on Federal awar pending the establishment of a final rate for the period. f. Indirect cost proposal means the documentation prepared by an organization to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate.
1,399	Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans	Federal	A. General 1. Most governmental units provide certain services, such as motor pools, computer centers, purchasing, accounting, etc., to operating agencies on a centralized basis. Since federally-supported awar performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consist basis. The central service cost allocation plan provides that process. All costs and other data used to distribute the costs included in the plan should be supported by formal accounting and other reco that will support the propriety of the costs assigned to Federal awards. 2. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled “A Guide for State, Local and Indi Tribal Governments: Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government.” A copy of this brochure may be obtai from the HHS Cost Allocation Services or at their Web site at https://rates.psc.gov. B. Definitions 1. Agency or operating agency means an organizational unit or sub-division within a governmental unit that is responsible for the performance or administration of Federal awards or activities of the governmental unit. 2. Allocated central services means central services that benefit operating agencies but are not billed to the agencies on a fee-for-service or similar basis. These costs are allocated to benefitted agenci some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc. 3. Billed central services means central services that are billed to benefitted agencies or programs on an individual fee-for-service or similar basis. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits. 4. Cognizant agency for indirect costs is defined in §200.19 Cognizant agency for indirect costs of this Part. The determination of cognizant agency for indirect costs for states and local governments i described in section F.1, Negotiation and Approval of Central Service Plans. 5. Major local government means local government that receives more than $100 million in direct Federal awards subject to this Part. C. Scope of the Central Service Cost Allocation Plans The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in s E. Costs of central services omitted from the plan will not be reimbursed.

Legal Standards

1,400	Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans Continued...	Federal	F. Negotiation and Approval of Central Service Plans 1. Federal Cognizant Agency for Indirect Costs Assignments for Cost Negotiation In general, unless different arrangements are agreed to by the concerned Federal agencies, for central service cost allocation plans, the cognizant agency responsible for review and approval is the Fe agency with the largest dollar value of total Federal awards with a governmental unit. For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the Federal agenc with the largest dollar value of direct Federal awards with a governmental unit or component, as appropriate. Once designated as the cognizant agency for indirect costs, the Federal agency must rem so for a period of five years. In addition, the following Federal agencies continue to be responsible for the indicated governmental entities: Department of Health and Human Services—Public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries health districts. Department of the Interior—Indian tribal governments, territorial governments, and state and local park and recreational districts. Department of Labor—State and local labor departments. Department of Education—School districts and state and local education agencies. Department of Agriculture—State and local agriculture departments. Department of Transportation—State and local airport and port authorities and transit districts. Department of Commerce—State and local economic development districts. Department of Housing and Urban Development—State and local housing and development districts. Environmental Protection Agency—State and local water and sewer districts. 2. Review All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the cognizant agency for indirect costs on a timely basis. The cogniz
1,401	Appendix VI to Part 200—Public Assistance Cost Allocation Plans	Federal	A. General Federally-financed programs administered by state public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. A administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Appendix extends these requirements to all Federal awarding agencies whose programs are administered by a state public assistance agency. Major federally-financed programs typically administered by state public assistance agencies include: Temp Aid to Needy Families (TANF), Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant. B. Definitions 1. State public assistance agency means a state agency administering or supervising the administration of one or more public assistance programs operated by the state as identified in Subpart E of 4 Part 95. For the purpose of this Appendix, these programs include all programs administered by the state public assistance agency. 2. State public assistance agency costs means all costs incurred by, or allocable to, the state public assistance agency, except expenditures for financial assistance, medical contractor payments, food stamps, and payments for services and goods provided directly to program recipients. C. Policy State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Su E of 45 CFR Part 95. The plan will include all programs administered by the state public assistance agency. Where a letter of approval or disapproval is transmitted to a state public assistance agency accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Appendix (except for the requirement for certification) summarize the provisions Subpart E of 45 CFR Part 95. D. Submission, Documentation, and Approval of Public Assistance Cost Allocation Plans 1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval. 2. Under the coordination process outlined in section E, Review of Implementation of Approved Plans, affected Federal agencies will review all new plans and plan amendments and provide comment appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the calendar quarter following the event that required the amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency for indirect costs acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the state public assistance agency and w inform the state agency of the action taken on the plan or plan amendment.

Legal Standards

1,402	Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals	Federal	A. General 1. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objectiv without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefitted cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has bee assigned to a Federal award as a direct cost. 2. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distrib through the central service cost allocation plan (as described in Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans) and not otherwise tre as direct costs. 3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental uni claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for States and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government. copy of this brochure may be obtained from the HHS Cost Allocation Services or at their Web site at https://rates.psc.gov. 4. Because of the diverse characteristics and accounting practices of governmental units, the types of costs which may be classified as indirect costs cannot be specified in all situations. However, typi examples of indirect costs may include certain state/local-wide central service costs, general administration of the non-Federal entity accounting and personnel services performed within the non-Fe entity, depreciation on buildings and equipment, the costs of operating and maintaining facilities. 5. This Appendix does not apply to state public assistance agencies. These agencies should refer instead to Appendix VI to Part 200—Public Assistance Cost Allocation Plans. B. Definitions 1. Base means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect c to individual Federal awards. The direct cost base selected should result in each Federal award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs. 2. Base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to activities performed in that period. The base period normally should coincide with the governmental unit's fiscal year, but in any event, must be so selected as to avoid inequities in the allocation of costs.
1,403	Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals Continued...	Federal	4. Special Indirect Cost Rates a. In some instances, a single indirect cost rate for all activities of a non-Federal entity or for each major function of the agency may not be appropriate. It may not take into account those different fac which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative suppor required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular Federal award is carried out in an environmen which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that Federal award. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided that: (1) The rate differs significantly from th which would have been developed under paragraphs (C)(2) and (C)(3) of this Appendix, and (2) the Federal award to which the rate would apply is material in amount. b. Where Federal statutes restrict the reimbursement of certain indirect costs, it may be necessary to develop a special rate for the affected Federal award. Where a "restricted rate" is required, the sa procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement. D. Submission and Documentation of Proposals 1. Submission of Indirect Cost Rate Proposals a. All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in §200.333 Retention Requirements for Records. b. A governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs. Other governmental department or agency must develop an indirect cost proposal in accordance with the requirements of this Part and maintain the proposal and related supporting documentation for au These governmental departments or agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency for indirect costs. Where a non-Federa entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient's indirect costs. c. Each Indian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to the Department of the Interior (its cognizant agency for indirect costs). d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizan agency for indirect costs. If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

Legal Standards

1,404	Appendix VIII to Part 200—Nonprofit Organizations Exempted From Subpart E—Cost Principles of Part 200	Federal	1. Advance Technology Institute (ATI), Charleston, South Carolina 2. Aerospace Corporation, El Segundo, California 3. American Institutes of Research (AIR), Washington, DC 4. Argonne National Laboratory, Chicago, Illinois 5. Atomic Casualty Commission, Washington, DC 6. Battelle Memorial Institute, Headquartered in Columbus, Ohio 7. Brookhaven National Laboratory, Upton, New York 8. Charles Stark Draper Laboratory, Incorporated, Cambridge, Massachusetts 9. CNA Corporation (CNAC), Alexandria, Virginia 10. Environmental Institute of Michigan, Ann Arbor, Michigan 11. Georgia Institute of Technology/Georgia Tech Applied Research Corporation/Georgia Tech Research Institute, Atlanta, Georgia 12. Hanford Environmental Health Foundation, Richland, Washington 13. IIT Research Institute, Chicago, Illinois 14. Institute of Gas Technology, Chicago, Illinois
1,405	Appendix IX to Part 200—Hospital Cost Principles	Federal	Based on initial feedback, OMB proposes to establish a review process to consider existing hospital cost determine how best to update and align them with this Part. Until such time as revised guidan proposed and implemented for hospitals, the existing principles located at 45 CFR Part 75 Appendix E, entitled "Principles for Determining Cost Applicable to Research and Development Under Grant Contracts with Hospitals," remain in effect.
1,406	Appendix X to Part 200—Data Collection Form (Form SF-SAC)	Federal	The Data Collection Form SF-SAC is available on the FAC Web site.
1,407	Appendix XI to Part 200—Compliance Supplement	Federal	The compliance supplement is available on the OMB Web site: (e.g. for 2013 here http://www.whitehouse.gov/omb/circulars/)
1,408	PART 200—TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED	Federal	

Legal Standards

1,409	Subpart A—Improving Basic Programs Operated by Local Educational Agencies Standards and Assessments §200.1 State responsibilities for developing challenging academic standards.	Federal	(a) Academic standards in general. A State must develop challenging academic content and student academic achievement standards that will be used by the State, its local educational agencies (LEAs and its schools to carry out subpart A of this part. These academic standards must— (1) Be the same academic content and academic achievement standards that the State applies to all public schools and public school students in the State, including the public schools and public scho students served under subpart A of this part, except as provided in paragraphs (d) and (e) of this section, which apply only to the State's academic achievement standards; (2) Include the same knowledge and skills expected of all students and the same levels of achievement expected of all students, except as provided in paragraphs (d) and (e) of this section; and (3) Include at least mathematics, reading/language arts, and, beginning in the 2005-2006 school year, science, and may include other subjects determined by the State. (b) Academic content standards. (1) The challenging academic content standards required under paragraph (a) of this section must— (i) Specify what all students are expected to know and be able to do; (ii) Contain coherent and rigorous content; and (iii) Encourage the teaching of advanced skills. (2) A State's academic content standards may— (i) Be grade specific; or, (ii) Cover more than one grade if grade-level content expectations are provided for each of grades 3 through 8. (3) At the high school level, the academic content standards must define the knowledge and skills that all high school students are expected to know and be able to do in at least reading/language arts mathematics, and, beginning in the 2005-06 school year, science, irrespective of course titles or years completed. (c) Academic achievement standards. (1) The challenging student academic achievement standards required under paragraph (a) of this section must—
1,410	§200.2 State responsibilities for assessment	Federal	(a)(1) Each State, in consultation with its LEAs, must implement a system of high-quality, yearly student academic assessments that includes, at a minimum, academic assessments in mathematics, reading/language arts and, beginning in the 2007-08 school year, science. (2)(i) The State may also measure the achievement of students in other academic subjects in which the State has adopted challenging academic content and student academic achievement standards. (ii) If a State has developed assessments in other subjects for all students, the State must include students participating under subpart A of this part in those assessments. (b) The assessment system required under this section must meet the following requirements: (1) Be the same assessment system used to measure the achievement of all students in accordance with §200.3 or §200.4. (2) Be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities and students with limited English proficiency. (3)(i) Be aligned with the State's challenging academic content and student academic achievement standards; and (ii) Provide coherent information about student attainment of those standards. (4)(i) Be valid and reliable for the purposes for which the assessment system is used; and (ii) Be consistent with relevant, nationally recognized professional and technical standards. (5) Be supported by evidence (which the Secretary will provide, upon request, consistent with applicable federal laws governing the disclosure of information) from test publishers or other relevant sources that the assessment system is— (i) Of adequate technical quality for each purpose required under the Act; and (ii) Consistent with the requirements of this section.

Legal Standards

1,411	§200.3 Designing State Academic Assessment Systems	Federal	(a)(1) For each grade and subject assessed, a State's academic assessment system must— (i) Address the depth and breadth of the State's academic content standards under §200.1(b); (ii) Be valid, reliable, and of high technical quality; (iii) Express student results in terms of the State's student academic achievement standards; and (iv) Be designed to provide a coherent system across grades and subjects. (2) A State may include in its academic assessment system under §200.2 either or both— (i) Criterion-referenced assessments; and (ii) Assessments that yield national norms, provided that, if the State uses only assessments referenced against national norms at a particular grade, those assessments— (A) Are augmented with additional items as necessary to measure accurately the depth and breadth of the State's academic content standards; and (B) Express student results in terms of the State's student academic achievement standards. (b) A State that includes a combination of assessments as described in paragraph (a)(2) of this section, or a combination of State and local assessments, in its State assessment system must demonstr its State plan that the system has a rational and coherent design that— (1) Identifies the assessments to be used; (2) Indicates the relative contribution of each assessment towards— (i) Ensuring alignment with the State's academic content standards; and
1,412	§200.4 State law exception	Federal	(a) If a State provides satisfactory evidence to the Secretary that neither the State educational agency (SEA) nor any other State government official, agency, or entity has sufficient authority under Sta law to adopt academic content standards, student academic achievement standards, and academic assessments applicable to all students enrolled in the State's public schools, the State may meet the requirements under §§200.1 and 200.2 by— (1) Adopting academic standards and academic assessments that meet the requirements of §§200.1 and 200.2 on a Statewide basis and limiting their applicability to students served under subpart A this part; or (2) Adopting and implementing policies that ensure that each LEA in the State that receives funds under subpart A of this part will adopt academic standards and academic assessments aligned with standards that— (i) Meet the requirements in §§200.1 and 200.2; and (ii) Are applicable to all students served by the LEA. (b) A State that qualifies under paragraph (a) of this section must— (1) Establish technical criteria for evaluating whether each LEA's— (i) Academic content and student academic achievement standards meet the requirements in §200.1; and (ii) Academic assessments meet the requirements in §200.2, particularly regarding validity and reliability, technical quality, alignment with the LEA's academic standards, and inclusion of all student the grades assessed; (2) Review and approve each LEA's academic standards and academic assessments to ensure that they— (i) Meet or exceed the State's technical criteria; and (ii) For purposes of this section—

Legal Standards

1,413	§200.5 Timeline for assessments	Federal	(a) Reading/language arts and mathematics. (1) Through the 2004-2005 school year, a State must administer the assessments required under §200.2 at least once during— (i) Grades 3 through 5; (ii) Grades 6 through 9; and (iii) Grades 10 through 12. (2) Except as provided in paragraph (a)(3) of this section, beginning no later than the 2005-2006 school year, a State must administer both the reading/language arts and mathematics assessments required under §200.2— (i) In each of grades 3 through 8; and (ii) At least once in grades 10 through 12. (3) The Secretary may extend, for one additional year, the timeline in paragraph (a)(2) of this section if a State demonstrates that— (i) Full implementation is not possible due to exceptional or uncontrollable circumstances such as— (A) A natural disaster; or (B) A precipitous and unforeseen decline in the financial resources of the State; and (ii) The State can complete implementation within the additional one-year period. (b) Science. Beginning no later than the 2007-2008 school year, the science assessments required under §200.2 must be administered at least once during— (1) Grades 3 through 5;
1,414	§200.6 Inclusion of all students	Federal	A State's academic assessment system required under §200.2 must provide for the participation of all students in the grades assessed in accordance with this section. (a) Students eligible under IDEA and Section 504—(1) Appropriate accommodations. (i) A State's academic assessment system must provide— (A) For each student with a disability, as defined under section 602(3) of the IDEA, appropriate accommodations that the student's IEP team determines are necessary to measure the academic achievement of the student relative to the State's academic content and academic achievement standards for the grade in which the student is enrolled, consistent with §200.1(b)(2), (b)(3), and (c); a (B) For each student covered under section 504 of the Rehabilitation Act of 1973, as amended (Section 504), appropriate accommodations that the student's placement team determines are necessar measure the academic achievement of the student relative to the State's academic content and academic achievement standards for the grade in which the student is enrolled, consistent with §200.1((b)(3), and (c). (ii) A State must— (A) Develop, disseminate information on, and promote the use of appropriate accommodations to increase the number of students with disabilities who are tested against academic achievement star for the grade in which a student is enrolled; and (B) Ensure that regular and special education teachers and other appropriate staff know how to administer assessments, including making appropriate use of accommodations, for students with disabilities and students covered under Section 504. (2) Alternate assessments. (i) The State's academic assessment system must provide for one or more alternate assessments for a child with a disability as defined under section 602(3) of the Individu with Disabilities Education Act (IDEA) whom the child's IEP team determines cannot participate in all or part of the State assessments under paragraph (a)(1) of this section, even with appropriate accommodations. (ii)(A) Alternate assessments must yield results for the grade in which the student is enrolled in at least reading/language arts, mathematics, and, beginning in the 2007-2008 school year, science, ex as provided in the following paragraph. (B) For students with the most significant cognitive disabilities, alternate assessments may yield results that measure the achievement of those students relative to the alternate academic achieveme standards the State has defined under §200.1(d).

Legal Standards

1,415	§200.7 Disaggregation of data	Federal	(a) Statistically reliable information. (1) A State may not use disaggregated data for one or more subgroups under §200.2(b)(10) to report achievement results under section 1111(h) of the Act or to identify schools in need of improvement, corrective action, or restructuring under section 1116 of the Act if the number of students in those subgroups is insufficient to yield statistically reliable information. (2)(i) Based on sound statistical methodology, each State must determine the minimum number of students sufficient to— (A) Yield statistically reliable information for each purpose for which disaggregated data are used; and (B) Ensure that, to the maximum extent practicable, all student subgroups in §200.13(b)(7)(ii) (economically disadvantaged students; students from major racial and ethnic groups; students with disabilities as defined in section 9101(5) of the Act; and students with limited English proficiency as defined in section 9101(25) of the Act) are included, particularly at the school level, for purposes making accountability determinations. (ii) Each State must revise its Consolidated State Application Accountability Workbook under section 1111 of the Act to include— (A) An explanation of how the State's minimum group size meets the requirements of paragraph (a)(2)(i) of this section; (B) An explanation of how other components of the State's definition of adequate yearly progress (AYP), in addition to the State's minimum group size, interact to affect the statistical reliability of the and to ensure the maximum inclusion of all students and student subgroups in §200.13(b)(7)(ii); and (C) Information regarding the number and percentage of students and student subgroups in §200.13(b)(7)(ii) excluded from school-level accountability determinations. (iii) Each State must submit a revised Consolidated State Application Accountability Workbook in accordance with paragraph (a)(2)(ii) of this section to the Department for technical assistance and p review under the process established by the Secretary under section 1111(e)(2) of the Act in time for any changes to be in effect for AYP determinations based on school year 2009-2010 assessment results. (iv) Beginning with AYP decisions that are based on the assessments administered in the 2007-08 school year, a State may not establish a different minimum number of students under paragraph (a) of this section for separate subgroups under §200.13(b)(7)(ii) or for the school as a whole.
1,416	§200.8 Assessment reports	Federal	(a) Student reports. A State's academic assessment system must produce individual student interpretive, descriptive, and diagnostic reports that— (1)(i) Include information regarding achievement on the academic assessments under §200.2 measured against the State's student academic achievement standards; and (ii) Help parents, teachers, and principals to understand and address the specific academic needs of students; and (2) Are provided to parents, teachers, and principals— (i) As soon as is practicable after the assessment is given; (ii) In an understandable and uniform format, including an alternative format (e.g., Braille or large print) upon request; and (iii) To the extent practicable, in a language that parents can understand. (b) Itemized score analyses for LEAs and schools. (1) A State's academic assessment system must produce and report to LEAs and schools itemized score analyses, consistent with §200.2(b)(4), so th parents, teachers, principals, and administrators can interpret and address the specific academic needs of students. (2) The requirement to report itemized score analyses in paragraph (b)(1) of this section does not require the release of test items.
1,417	§200.9 Deferral of assessments	Federal	(a) A State may defer the start or suspend the administration of the assessments required under §200.2 that were not required prior to January 8, 2002 for one year for each year for which the amoun appropriated for State assessment grants under section 6113(a)(2) of the Act is less than the trigger amount in section 1111(b)(3)(D) of the Act. (b) A State may not cease the development of the assessments referred to in paragraph (a) of this section even if sufficient funds are not appropriated under section 6113(a)(2) of the Act.

Legal Standards

1,418	§200.10 Applicability of a State's academic assessments to private schools and private school students.	Federal	(a) Nothing in §200.1 or §200.2 requires a private school, including a private school whose students receive services under subpart A of this part, to participate in a State's academic assessment syste (b)(1) If an LEA provides services to eligible private school students under subpart A of this part, the LEA must, through timely consultation with appropriate private school officials, determine how services to eligible private school students will be academically assessed and how the results of that assessment will be used to improve those services. (2) The assessments referred to in paragraph (b)(1) of this section may be the State's academic assessments under §200.2 or other appropriate academic assessments.
1,419	Participation in National Assessment of Educational Progress (NAEP) §200.11 Participation in NAEP	Federal	(a) State participation. Beginning in the 2002-2003 school year, each State that receives funds under subpart A of this part must participate in biennial State academic assessments of fourth and eight grade reading and mathematics under the State National Assessment of Educational Progress (NAEP), if the Department pays the costs of administering those assessments. (b) Local participation. In accordance with section 1112(b)(1)(F) of the Elementary and Secondary Education Act of 1965 (ESEA), and notwithstanding section 411(d)(1) of the National Education Statistics Act of 1994, an LEA that receives funds under subpart A of this part must participate, if selected, in the State-NAEP assessments referred to in paragraph (a) of this section. (c) Report cards. Each State and LEA must report on its annual State and LEA report card, respectively, the most recent available academic achievement results in grades four and eight on the State's reading and mathematics assessments under paragraph (a) of this section. The report cards must include— (1) The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup described in §200.13(b)(7)(ii); and (2) The participation rates for students with disabilities and for limited English proficient students.
1,420	State Accountability System §200.12 Single State accountability system	Federal	(a)(1) Each State must demonstrate in its State plan that the State has developed and is implementing, beginning with the 2002-2003 school year, a single, statewide accountability system. (2) The State's accountability system must be effective in ensuring that all public elementary and secondary schools and LEAs in the State make AYP as defined in §§200.13 through 200.20. (b) The State's accountability system must— (1) Be based on the State's academic standards under §200.1, academic assessments under §200.2, and other academic indicators under §200.19; (2) Take into account the achievement of all public elementary and secondary school students; (3) Be the same accountability system the State uses for all public elementary and secondary schools and all LEAs in the State; and (4) Include sanctions and rewards that the State will use to hold public elementary and secondary schools and LEAs accountable for student achievement and for making AYP, except that the State is required to subject schools and LEAs not participating under subpart A of this part to the requirements of section 1116 of the ESEA.

Legal Standards

1,421	Adequate Yearly Progress (AYP) §200.13 Adequate yearly progress in general	Federal	(a) Each State must demonstrate in its State plan what constitutes AYP of the State and of all public schools and LEAs in the State— (1) Toward enabling all public school students to meet the State's student academic achievement standards; while (2) Working toward the goal of narrowing the achievement gaps in the State, its LEAs, and its public schools. (b) A State must define adequate yearly progress, in accordance with §§200.14 through 200.20, in a manner that— (1) Applies the same high standards of academic achievement to all public school students in the State, except as provided in paragraph (c) of this section; (2) Is statistically valid and reliable; (3) Results in continuous and substantial academic improvement for all students; (4) Measures the progress of all public schools, LEAs, and the State based primarily on the State's academic assessment system under §200.2; (5) Measures progress separately for reading/language arts and for mathematics; (6) Is the same for all public schools and LEAs in the State; and (7) Consistent with §200.7, applies the same annual measurable objectives under §200.18 separately to each of the following: (i) All public school students. (ii) Students in each of the following subgroups: (A) Economically disadvantaged students.
1,422	Appendix to §200.13—When May a State or LEA Exceed the 1% and 2% Caps?	Federal	The following table provides a summary of the circumstances in which a State or LEA may exceed the 1% and 2% caps described in §200.13. When May a State or LEA Exceed the 1% and 2% Caps? Alternate academic achievement standards—1% cap Modified academic achievement standards—2% cap Alternate and modified academic achievement standards—3% State Not permitted Only if State is below 1% cap, but cannot exceed 3% Not permitted. LEA Only if granted an exception by the SEA Only if LEA is below 1% cap, but cannot exceed 3% Only if granted an exception to the 1% cap by the SEA, and only by the amount of the exception.
1,423	§200.14 Components of Adequate Yearly Progress	Federal	A State's definition of AYP must include all of the following: (a) A timeline in accordance with §200.15. (b) Starting points in accordance with §200.16. (c) Intermediate goals in accordance with §200.17. (d) Annual measurable objectives in accordance with §200.18. (e) Other academic indicators in accordance with §200.19.
1,424	§200.15 Timeline	Federal	(a) Each State must establish a timeline for making AYP that ensures that, not later than the 2013-2014 school year, all students in each group described in §200.13(b)(7) will meet or exceed the Stat proficient level of academic achievement. (b) Notwithstanding subsequent changes a State may make to its academic assessment system or its definition of AYP under §§200.13 through 200.20, the State may not extend its timeline for all stu to reach proficiency beyond the 2013-2014 school year.

Legal Standards

1,425	§200.16 Starting points	Federal	(a) Using data from the 2001-2002 school year, each State must establish starting points in reading/language arts and in mathematics for measuring the percentage of students meeting or exceeding State's proficient level of academic achievement. (b) Each starting point must be based, at a minimum, on the higher of the following percentages of students at the proficient level: (1) The percentage in the State of proficient students in the lowest-achieving subgroup of students under §200.13(b)(7)(ii). (2) The percentage of proficient students in the school that represents 20 percent of the State's total enrollment among all schools ranked by the percentage of students at the proficient level. The Sta must determine this percentage as follows: (i) Rank each school in the State according to the percentage of proficient students in the school. (ii) Determine 20 percent of the total enrollment in all schools in the State. (iii) Beginning with the lowest-ranked school, add the number of students enrolled in each school until reaching the school that represents 20 percent of the State's total enrollment among all schools (iv) Identify the percentage of proficient students in the school identified in paragraph (iii). (c)(1) Except as permitted under paragraph (c)(2) of this section, each starting point must be the same throughout the State for each school, each LEA, and each group of students under §200.13(b)(7 (2) A State may use the procedures under paragraph (b) of this section to establish separate starting points by grade span.
1,426	§200.17 Intermediate goals	Federal	Each State must establish intermediate goals that increase in equal increments over the period covered by the timeline under §200.15 as follows: (a) The first incremental increase must take effect not later than the 2004-2005 school year. (b) Each following incremental increase must occur in not more than three years.
1,427	§200.18 Annual measurable objectives	Federal	(a) Each State must establish annual measurable objectives that— (1) Identify for each year a minimum percentage of students that must meet or exceed the proficient level of academic achievement on the State's academic assessments; and (2) Ensure that all students meet or exceed the State's proficient level of academic achievement within the timeline under §200.15. (b) The State's annual measurable objectives— (1) Must be the same throughout the State for each school, each LEA, and each group of students under §200.13(b)(7); and (2) May be the same for more than one year, consistent with the State's intermediate goals under §200.17.

Legal Standards

1,428	§200.19 Other academic indicators	Federal	(a) Elementary and middle schools—(1) Choice of indicator. To determine AYP, consistent with §200.14(e), each State must use at least one other academic indicator for public elementary schools ar least one other academic indicator for public middle schools, such as those in paragraph (c) of this section. (2) Goals. A State may, but is not required to, increase the goals of its other academic indicators over the course of the timeline under §200.15. (3) Reporting. A State and its LEAs must report under section 1111(h) of the Act (annual report cards) performance on the academic indicators for elementary and middle schools at the school, LEA, State levels in the aggregate and disaggregated by each subgroup described in §200.13(b)(7)(ii). (4) Determining AYP. A State— (i) Must disaggregate its other academic indicators for elementary and middle schools by each subgroup described in §200.13(b)(7)(ii) for purposes of determining AYP under §200.20(b)(2) ("safe harbor") and as required under section 1111(b)(2)(C)(vii) of the Act (additional academic indicators under paragraph (c) of this section); but (ii) Need not disaggregate those indicators for determin AYP under §200.20(a)(1)(ii) (meeting the State's annual measurable objectives). (b) High schools—(1) Graduation rate. Consistent with paragraphs (b)(4) and (b)(5) of this section regarding reporting and determining AYP, respectively, each State must calculate a graduation rate defined as follows, for all public high schools in the State: (i)(A) A State must calculate a "four-year adjusted cohort graduation rate," defined as the number of students who graduate in four years with a regular high school diploma divided by the number of students who form the adjusted cohort for that graduating class. (B) For those high schools that start after grade nine, the cohort must be calculated based on the earliest high school grade. (ii) The term "adjusted cohort" means the students who enter grade 9 (or the earliest high school grade) and any students who transfer into the cohort in grades 9 through 12 minus any students rem from the cohort. (A) The term "students who transfer into the cohort" means the students who enroll after the beginning of the entering cohort's first year in high school, up to and including in grade 12. (B) To remove a student from the cohort, a school or LEA must confirm in writing that the student transferred out, emigrated to another country, or is deceased.
1,429	§200.21 Adequate yearly progress of a State	Federal	For each State that receives funds under subpart A of this part and under subpart 1 of part A of Title III of the ESEA, the Secretary must, beginning with the 2004-2005 school year, annually review wl the State has— (a)(1) Made AYP as defined by the State in accordance with §§200.13 through 200.20 for each group of students in §200.13(b)(7); and (2) Met its annual measurable achievement objectives under section 3122(a) of the ESEA relating to the development and attainment of English proficiency by limited English proficient students. (b) A State must include all students who were enrolled in schools in the State for a full academic year in reporting on the yearly progress of the State.

Legal Standards

1,430	§200.22 National Technical Advisory Council	Federal	(a) To provide advice to the Department on technical issues related to the design and implementation of standards, assessments, and accountability systems, the Secretary shall establish a National Technical Advisory Council (hereafter referred to as the "National TAC"), which shall be governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92-463, as amended; 5 U.S. App.). (b)(1) The members of the National TAC must include persons who have knowledge of and expertise in the design and implementation of educational standards, assessments, and accountability syst for all students, including students with disabilities and limited English proficient students, and experts with technical knowledge related to statistics and psychometrics. (2) The National TAC shall be composed of 10 to 20 members who may meet as a whole or in committees, as the Secretary may determine. (3) The Secretary shall, through a notice published in the Federal Register— (i) Solicit nominations from the public for members of the National TAC; and (ii) Publish the list of members, once selected. (4) The Secretary shall screen nominees for membership on the National TAC for potential conflicts of interest to prevent, to the extent possible, such conflicts, or the appearance thereof, in the Natio TAC's performance of its responsibilities under this section. (c) The Secretary shall use the National TAC to provide its expert opinions on matters that arise during the State Plan review process. (d) The Secretary shall prescribe and publish the rules of procedure for the National TAC.
1,431	§§200.23-200.24 [Reserved]	Federal	
1,432	Schoolwide Programs §200.25 Schoolwide programs in general	Federal	(a) Purpose. (1) The purpose of a schoolwide program is to improve academic achievement throughout a school so that all students, particularly the lowest-achieving students, demonstrate proficien related to the State's academic standards under §200.1. (2) The improved achievement is to result from improving the entire educational program of the school. (b) Eligibility. (1) A school may operate a schoolwide program if— (i) The school's LEA determines that the school serves an eligible attendance area or is a participating school under section 1113 of the ESEA; and (ii) For the initial year of the schoolwide program— (A) The school serves a school attendance area in which not less than 40 percent of the children are from low-income families; or (B) Not less than 40 percent of the children enrolled in the school are from low-income families. (2) In determining the percentage of children from low-income families under paragraph (b)(1)(ii) of this section, the LEA may use a measure of poverty that is different from the measure or measur poverty used by the LEA to identify and rank school attendance areas for eligibility and participation under subpart A of this part. (c) Participating students and services. A school operating a schoolwide program is not required to— (1) Identify particular children as eligible to participate; or (2) As required under section 1120A(b) of the ESEA, provide services that supplement, and do not supplant, the services participating children would otherwise receive if they were not participating program under subpart A of this part. (d) Supplemental funds. A school operating a schoolwide program must use funds available under subpart A of this part and under any other Federal program included under paragraph (e) of this se and §200.29 only to supplement the total amount of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for that school, including funds needed to prov services that are required by law for children with disabilities and children with limited English proficiency.

Legal Standards

1,433	§200.26 Core elements of a schoolwide program	Federal	(a) Comprehensive needs assessment. (1) A school operating a schoolwide program must conduct a comprehensive needs assessment of the entire school that— (i) Is based on academic achievement information about all students in the school, including all groups under §200.13(b)(7) and migratory children as defined in section 1309(2) of the ESEA, relative the State's academic standards under §200.1 to— (A) Help the school understand the subjects and skills for which teaching and learning need to be improved; and (B) Identify the specific academic needs of students and groups of students who are not yet achieving the State's academic standards; and (ii) Assesses the needs of the school relative to each of the components of the schoolwide program under §200.28. (2) The comprehensive needs assessment must be developed with the participation of individuals who will carry out the schoolwide program plan. (3) The school must document how it conducted the needs assessment, the results it obtained, and the conclusions it drew from those results. (b) Comprehensive plan. Using data from the comprehensive needs assessment under paragraph (a) of this section, a school that wishes to operate a schoolwide program must develop a comprehens plan, in accordance with §200.27, that describes how the school will improve academic achievement throughout the school, but particularly for those students furthest away from demonstrating proficiency, so that all students demonstrate at least proficiency on the State's academic standards. (c) Evaluation. A school operating a schoolwide program must— (1) Annually evaluate the implementation of, and results achieved by, the schoolwide program, using data from the State's annual assessments and other indicators of academic achievement; (2) Determine whether the schoolwide program has been effective in increasing the achievement of students in meeting the State's academic standards, particularly for those students who had been furthest from achieving the standards; and (3) Revise the plan, as necessary, based on the results of the evaluation, to ensure continuous improvement of students in the schoolwide program.
1,434	§200.27 Development of a schoolwide program plan	Federal	(a)(1) A school operating a schoolwide program must develop a comprehensive plan to improve teaching and learning throughout the school. (2) The school must develop the comprehensive plan in consultation with the LEA and its school support team or other technical assistance provider under section 1117 of the ESEA. (3) The comprehensive plan must— (i) Describe how the school will carry out each of the components under §200.28; (ii) Describe how the school will use resources under subpart A of this part and from other sources to carry out the components under §200.28; and (iii) Include a list of State and local programs and other Federal programs under §200.29 that the school will consolidate in the schoolwide program. (b)(1) The school must develop the comprehensive plan, including the comprehensive needs assessment, over a one-year period unless— (i) The LEA, after considering the recommendations of its technical assistance providers under section 1117 of the ESEA, determines that less time is needed to develop and implement the schoolwid program; or (ii) The school was operating a schoolwide program on or before January 7, 2002, in which case the school may continue to operate its program, but must amend its existing plan to reflect the provisi of §§200.25 through 200.29 during the 2002-2003 school year. (2) The school must develop the comprehensive plan with the involvement of parents, consistent with the requirements of section 1118 of the ESEA, and other members of the community to be serv and individuals who will carry out the plan, including— (i) Teachers, principals, and administrators, including administrators of programs described in other parts of Title I of the ESEA; (ii) If appropriate, pupil services personnel, technical assistance providers, and other school staff; and (iii) If the plan relates to a secondary school, students from the school.

Legal Standards

1,435	§200.28 Schoolwide program components	Federal	A schoolwide program must include the following components: (a) Schoolwide reform strategies. The schoolwide program must incorporate reform strategies in the overall instructional program. Those strategies must— (1) Provide opportunities for all students to meet the State's proficient and advanced levels of student academic achievement; (2)(i) Address the needs of all students in the school, particularly the needs of low-achieving students and those at risk of not meeting the State's student academic achievement standards who are members of the target population of any program included in the schoolwide program; and (ii) Address how the school will determine if those needs have been met; (3) Use effective methods and instructional practices that are based on scientifically based research, as defined in section 9101 of the ESEA, and that— (i) Strengthen the core academic program; (ii) Provide an enriched and accelerated curriculum; (iii) Increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities; (iv) Include strategies for meeting the educational needs of historically underserved populations; and (v) Are consistent with, and are designed to implement, State and local improvement plans, if any. (b) Instruction by highly qualified teachers. A schoolwide program must ensure instruction by highly qualified teachers and provide ongoing professional development. The schoolwide program mus (1) Include strategies to attract highly qualified teachers, as defined in §200.56; (2)(i) Provide high-quality and ongoing professional development in accordance with sections 1119 and 9101(34) of the ESEA for teachers, principals, paraprofessionals and, if appropriate, pupil ser
1,436	§200.29 Consolidation of funds in a schoolwide program	Federal	(a)(1) In addition to funds under subpart A of this part, a school may consolidate and use in its schoolwide program Federal funds from any program administered by the Secretary that is included in most recent notice published for this purpose in the Federal Register. (2) For purposes of §§200.25 through 200.29, the authority to consolidate funds from other Federal programs also applies to services provided to the school with those funds. (b)(1) Except as provided in paragraphs (b)(2) and (c) of this section, a school that consolidates and uses in a schoolwide program funds from any other Federal program administered by the Secreta (i) Is not required to meet the statutory or regulatory requirements of that program applicable at the school level; but (ii) Must meet the intent and purposes of that program to ensure that the needs of the intended beneficiaries of that program are addressed. (2) A school that chooses to consolidate funds from other Federal programs must meet the requirements of those programs relating to— (i) Health; (ii) Safety; (iii) Civil rights; (iv) Student and parental participation and involvement; (v) Services to private school children; (vi) Maintenance of effort; (vii) Comparability of services; (viii) Use of Federal funds to supplement, not supplant non-Federal funds in accordance with §200.25(d); and

Legal Standards

1,437	LEA and School Improvement §200.30 Local review	Federal	(a) Each LEA receiving funds under subpart A of this part must use the results of the State assessment system described in §200.2 to review annually the progress of each school served under subpar this part to determine whether the school is making AYP in accordance with §200.20. (b)(1) In reviewing the progress of an elementary or secondary school operating a targeted assistance program, an LEA may choose to review the progress of only the students in the school who are served, or are eligible for services, under subpart A of this part. (2) The LEA may exercise the option under paragraph (b)(1) of this section so long as the students selected for services under the targeted assistance program are those with the greatest need for sp assistance, consistent with the requirements of section 1115 of the ESEA. (c)(1) To determine whether schools served under subpart A of this part are making AYP, an LEA also may use any additional academic assessments or any other academic indicators described in the LEA's plan. (2)(i) The LEA may use these assessments and indicators— (A) To identify additional schools for school improvement or in need of corrective action or restructuring; and (B) To permit a school to make AYP if, in accordance with §200.20(b), the school also reduces the percentage of a student group not meeting the State's proficient level of academic achievement by at 10 percent. (ii) The LEA may not, with the exception described in paragraph (c)(2)(i)(B) of this section, use these assessments and indicators to reduce the number of, or change the identity of, the schools that w otherwise be identified for school improvement, corrective action, or restructuring if the LEA did not use these additional indicators. (d) The LEA must publicize and disseminate the results of its annual progress review to parents, teachers, principals, schools, and the community. (e) The LEA must review the effectiveness of actions and activities that schools are carrying out under subpart A of this part with respect to parental involvement, professional development, and othe activities assisted under subpart A of this part.
1,438	§200.31 Opportunity to review school-level data	Federal	(a) Before identifying a school for school improvement, corrective action, or restructuring, an LEA must provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based. (b)(1) If the principal of a school that an LEA proposes to identify for school improvement, corrective action, or restructuring believes, or a majority of the parents of the students enrolled in the scho believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the LEA. (2) The LEA must consider the evidence referred to in paragraph (b)(1) of this section before making a final determination. (c) The LEA must make public a final determination of the status of the school with respect to identification not later than 30 days after it provides the school with the opportunity to review the data which the proposed identification is based.

Legal Standards

1,439	§200.32 Identification for school improvement	Federal	(a)(1)(i) An LEA must identify for school improvement any elementary or secondary school served under subpart A of this part that fails, for two consecutive years, to make AYP as defined under §§2 through 200.20. (ii) In identifying schools for improvement, an LEA— (A) May base identification on whether a school did not make AYP because it did not meet the annual measurable objectives for the same subject or meet the same other academic indicator for two consecutive years; but (B) May not limit identification to those schools that did not make AYP only because they did not meet the annual measurable objectives for the same subject or meet the same other academic indicat the same subgroup under §200.13(b)(7)(ii) for two consecutive years. (2) The LEA must make the identification described in paragraph (a)(1) of this section before the beginning of the school year following the year in which the LEA administered the assessments that resulted in the school's failure to make AYP for a second consecutive year. (b)(1) An LEA must treat any school that was in the first year of school improvement status on January 7, 2002 as a school that is in the first year of school improvement under §200.39 for the 2002-2 school year. (2) Not later than the first day of the 2002-2003 school year, the LEA must, in accordance with §200.44, provide public school choice to all students in the school. (c)(1) An LEA must treat any school that was identified for school improvement for two or more consecutive years on January 7, 2002 as a school that is in its second year of school improvement und §200.39 for the 2002-2003 school year. (2) Not later than the first day of the 2002-2003 school year, the LEA must— (i) In accordance with §200.44, provide public school choice to all students in the school; and (ii) In accordance with §200.45, make available supplemental educational services to eligible students who remain in the school.
1,440	§200.33 Identification for corrective action	Federal	(a) If a school served by an LEA under subpart A of this part fails to make AYP by the end of the second full school year after the LEA has identified the school for improvement under §200.32(a) or (b by the end of the first full school year after the LEA has identified the school for improvement under §200.32(c), the LEA must identify the school for corrective action under §200.42. (b) If a school was subject to corrective action on January 7, 2002, the LEA must— (1) Treat the school as a school identified for corrective action under §200.42 for the 2002-2003 school year; and (2) Not later than the first day of the 2002-2003 school year— (i) In accordance with §200.44, provide public school choice to all students in the school; (ii) In accordance with §200.45, make available supplemental educational services to eligible students who remain in the school; and (iii) Take corrective action under §200.42. (c) An LEA may remove from corrective action a school otherwise subject to the requirements of paragraphs (a) or (b) of this section if, on the basis of assessments administered by the LEA during th 2001-2002 school year, the school makes AYP for a second consecutive year.
1,441	§200.34 Identification for restructuring	Federal	(a) If a school continues to fail to make AYP after one full school year of corrective action under §200.42, the LEA must prepare a restructuring plan for the school and make arrangements to impleme plan. (b) If the school continues to fail to make AYP, the LEA must implement the restructuring plan no later than the beginning of the school year following the year in which the LEA developed the restructuring plan under paragraph (a) of this section.

Legal Standards

1,442	§200.35 Delay and removal	Federal	(a) Delay. (1) An LEA may delay, for a period not to exceed one year, implementation of requirements under the second year of school improvement, under corrective action, or under restructuring if (i) The school makes AYP for one year; or (ii) The school's failure to make AYP is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the LEA or s (2) The LEA may not take into account a period of delay under paragraph (a) of this section in determining the number of consecutive years of the school's failure to make AYP. (3) Except as provided in paragraph (b) of this section, the LEA must subject the school to further actions as if the delay never occurred. (b) Removal. If any school identified for school improvement, corrective action, or restructuring makes AYP for two consecutive school years, the LEA may not, for the succeeding school year— (1) Subject the school to the requirements of school improvement, corrective action, or restructuring; or (2) Identify the school for improvement.
1,443	§200.36 Communication with parents	Federal	(a) Throughout the school improvement process, the State, LEA, or school must communicate with the parents of each child attending the school. (b) The State, LEA, or school must ensure that, regardless of the method or media used, it provides the information required by §§200.37 and 200.38 to parents— (1) In an understandable and uniform format, including alternative formats upon request; and (2) To the extent practicable, in a language that parents can understand. (c) The State, LEA, or school must provide information to parents— (1) Directly, through such means as regular mail or e-mail, except that if a State does not have access to individual student addresses, it may provide information to the LEA or school for distribution parents; and (2) Through broader means of dissemination such as the Internet, the media, and public agencies serving the student population and their families. (d) All communications must respect the privacy of students and their families.

Legal Standards

1,444	§200.37 Notice of identification for improvement, corrective action, or restructuring	Federal	(a) If an LEA identifies a school for improvement or subjects the school to corrective action or restructuring, the LEA must, consistent with the requirements of §200.36, promptly notify the parent or parents of each child enrolled in the school of this identification. (b) The notice referred to in paragraph (a) of this section must include the following: (1) An explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary and secondary schools served by the LEA and the SEA involv (2) The reasons for the identification. (3) An explanation of how parents can become involved in addressing the academic issues that led to identification. (4)(i) An explanation of the parents' option to transfer their child to another public school, including the provision of transportation to the new school, in accordance with §200.44. (ii) The explanation of the parents' option to transfer must include, at a minimum, information on the academic achievement of the school or schools to which the child may transfer. (iii) The explanation may include other information on the school or schools to which the child may transfer, such as— (A) A description of any special academic programs or facilities; (B) The availability of before- and after-school programs; (C) The professional qualifications of teachers in the core academic subjects; and (D) A description of parental involvement opportunities. (iv) The explanation of the available school choices must be made sufficiently in advance of, but no later than 14 calendar days before, the start of the school year so that parents have adequate time t exercise their choice option before the school year begins.
1,445	§200.38 Information about action taken	Federal	(a) An LEA must publish and disseminate to the parents of each student enrolled in the school, consistent with the requirements of §200.36, and to the public information regarding any action taken school and the LEA to address the problems that led to the LEA's identification of the school for improvement, corrective action, or restructuring. (b) The information referred to in paragraph (a) of this section must include the following: (1) An explanation of what the school is doing to address the problem of low achievement. (2) An explanation of what the LEA or SEA is doing to help the school address the problem of low achievement. (3) If applicable, a description of specific corrective actions or restructuring plans.

Legal Standards

1,446	§200.39 Responsibilities resulting from identification for school improvement	Federal	(a) If an LEA identifies a school for school improvement under §200.32— (1) The LEA must— (i) Not later than the first day of the school year following identification, with the exception described in §200.32(f), provide all students enrolled in the school with the option to transfer, in accordan with §200.44, to another public school served by the LEA; and (ii) Ensure that the school receives technical assistance in accordance with §200.40; and (2) The school must develop or revise a school improvement plan in accordance with §200.41. (b) If a school fails to make AYP by the end of the first full school year after the LEA has identified it for improvement under §200.32, the LEA must— (1) Continue to provide all students enrolled in the school with the option to transfer, in accordance with §200.44, to another public school served by the LEA; (2) Continue to ensure that the school receives technical assistance in accordance with §200.40; and (3) Make available supplemental educational services in accordance with §200.45. (c)(1) Except as provided in paragraph (c)(2) of this section, the LEA must prominently display on its Web site, in a timely manner to ensure that parents have current information, the following information regarding the LEA's implementation of the public school choice and supplemental educational services requirements of the Act and this part: (i) Beginning with data from the 2007-2008 school year and for each subsequent school year, the number of students who were eligible for and the number of students who participated in public sch choice. (ii) Beginning with data from the 2007-2008 school year and for each subsequent school year, the number of students who were eligible for and the number of students who participated in suppleme educational services.
1,447	§200.40 Technical assistance	Federal	(a) An LEA that identifies a school for improvement under §200.32 must ensure that the school receives technical assistance as the school develops and implements its improvement plan under §200 and throughout the plan's duration. (b) The LEA may arrange for the technical assistance to be provided by one or more of the following: (1) The LEA through the statewide system of school support and recognition described under section 1117 of the ESEA. (2) The SEA. (3) An institution of higher education that is in full compliance with all of the reporting provisions of Title II of the Higher Education Act of 1965. (4) A private not-for-profit organization, a private for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement. (c) The technical assistance must include the following: (1) Assistance in analyzing data from the State assessment system, and other examples of student work, to identify and develop solutions to problems in— (i) Instruction; (ii) Implementing the requirements for parental involvement and professional development under this subpart; and (iii) Implementing the school plan, including LEA- and school-level responsibilities under the plan. (2) Assistance in identifying and implementing professional development and instructional strategies and methods that have proved effective, through scientifically based research, in addressing the specific instructional issues that caused the LEA to identify the school for improvement. (3) Assistance in analyzing and revising the school's budget so that the school allocates its resources more effectively to the activities most likely to—

Legal Standards

1,448	§200.41 School improvement plan	Federal	(a)(1) Not later than three months after an LEA has identified a school for improvement under §200.32, the school must develop or revise a school improvement plan for approval by the LEA. (2) The school must consult with parents, school staff, the LEA, and outside experts in developing or revising its school improvement plan. (b) The school improvement plan must cover a 2-year period. (c) The school improvement plan must— (1) Specify the responsibilities of the school, the LEA, and the SEA serving the school under the plan, including the technical assistance to be provided by the LEA under §200.40; (2)(i) Incorporate strategies, grounded in scientifically based research, that will strengthen instruction in the core academic subjects at the school and address the specific academic issues that cause LEA to identify the school for improvement; and (ii) May include a strategy for implementing a comprehensive school reform model described in section 1606 of the ESEA; (3) With regard to the school's core academic subjects, adopt policies and practices most likely to ensure that all groups of students described in §200.13(b)(7) and enrolled in the school will meet th State's proficient level of achievement, as measured by the State's assessment system, not later than the 2013-2014 school year; (4) Establish measurable goals that— (i) Address the specific reasons for the school's failure to make adequate progress; and (ii) Promote, for each group of students described in §200.13(b)(7) and enrolled in the school, continuous and substantial progress that ensures that all these groups meet the State's annual measura objectives described in §200.18; (5) Provide an assurance that the school will spend not less than 10 percent of the allocation it receives under subpart A of this part for each year that the school is in school improvement status, for t purpose of providing high-quality professional development to the school's teachers, principal, and, as appropriate, other instructional staff, consistent with section 9101(34) of the ESEA, that—
1,449	§200.41 School improvement plan	Federal	(a) Definition. “Corrective action” means action by an LEA that— (1) Substantially and directly responds to— (i) The consistent academic failure of a school that led the LEA to identify the school for corrective action; and (ii) Any underlying staffing, curriculum, or other problems in the school; (2) Is designed to increase substantially the likelihood that each group of students described in §200.13(b)(7) and enrolled in the school will meet or exceed the State's proficient levels of achievemen measured by the State assessment system; and (3) Is consistent with State law. (b) Requirements. If an LEA identifies a school for corrective action, in accordance with §200.33, the LEA must do the following: (1) Continue to provide all students enrolled in the school with the option to transfer to another public school in accordance with §200.44. (2) Continue to ensure that the school receives technical assistance consistent with the requirements of §200.40. (3) Make available supplemental educational services in accordance with §200.45. (4) Take at least one of the following corrective actions: (i) Replace the school staff who are relevant to the school's failure to make AYP. (ii) Institute and fully implement a new curriculum, including the provision of appropriate professional development for all relevant staff, that— (A) Is grounded in scientifically based research; and

Legal Standards

1,450	§200.42 Corrective action	Federal	(a) Definition. "Restructuring" means a major reorganization of a school's governance arrangement by an LEA that— (1) Makes fundamental reforms to improve student academic achievement in the school; (2) Has substantial promise of enabling the school to make AYP as defined under §§200.13 through 200.20; (3) Is consistent with State law; (4) Is significantly more rigorous and comprehensive than the corrective action that the LEA implemented in the school under §200.42, unless the school has begun to implement one of the options i paragraph (b)(3) of this section as a corrective action; and (5) Addresses the reasons why the school was identified for restructuring in order to enable the school to exit restructuring as soon as possible. (b) Requirements. If the LEA identifies a school for restructuring in accordance with §200.34, the LEA must do the following: (1) Continue to provide all students enrolled in the school with the option to transfer to another public school in accordance with §200.44. (2) Make available supplemental educational services in accordance with §200.45. (3) Prepare a plan to carry out one of the following alternative governance arrangements: (i) Reopen the school as a public charter school. (ii) Replace all or most of the school staff (which may include, but may not be limited to, replacing the principal) who are relevant to the school's failure to make AYP. (iii) Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the school as a public school. (iv) Turn the operation of the school over to the SEA, if permitted under State law and agreed to by the State.
1,451	§200.43 Restructuring	Federal	(a) Requirements. (1) In the case of a school identified for school improvement under §200.32, for corrective action under §200.33, or for restructuring under §200.34, the LEA must provide all stude enrolled in the school with the option to transfer to another public school served by the LEA. (2) The LEA must offer this option, through the notice required in §200.37, so that students may transfer in the school year following the school year in which the LEA administered the assessments t resulted in its identification of the school for improvement, corrective action, or restructuring. (3) The schools to which students may transfer under paragraph (a)(1) of this section— (i) May not include schools that— (A) The LEA has identified for improvement under §200.32, corrective action under §200.33, or restructuring under §200.34; or (B) Are persistently dangerous as determined by the State; and (ii) May include one or more public charter schools. (4) If more than one school meets the requirements of paragraph (a)(3) of this section, the LEA must— (i) Provide to parents of students eligible to transfer under paragraph (a)(1) of this section a choice of more than one such school; and (ii) Take into account the parents' preferences among the choices offered under paragraph (a)(4)(i) of this section. (5) The LEA must offer the option to transfer described in this section unless it is prohibited by State law in accordance with paragraph (b) of this section. (6) Except as described in §§200.32(d) and 200.33(c), if a school was in school improvement or subject to corrective action before January 8, 2002, the State must ensure that the LEA provides a publ school choice option in accordance with paragraph (a)(1) of this section not later than the first day of the 2002-2003 school year. (b) Limitation on State law prohibition. An LEA may invoke the State law prohibition on choice described in paragraph (a)(5) of this section only if the State law prohibits choice through restrictions

Legal Standards

1,452	§200.44 Public school choice	Federal	(a) Definition. "Supplemental educational services" means tutoring and other supplemental academic enrichment services that are— (1) In addition to instruction provided during the school day; (2) Specifically designed to— (i) Increase the academic achievement of eligible students as measured by the State's assessment system; and (ii) Enable these children to attain proficiency in meeting State academic achievement standards; and (3) Of high quality and research-based. (b) Eligibility. (1) Only students from low-income families are eligible for supplemental educational services. (2) The LEA must determine family income on the same basis that the LEA uses to make allocations to schools under subpart A of this part. (c) Requirement. (1) If an LEA identifies a school for a second year of improvement under §200.32, corrective action under §200.33, or restructuring under §200.34, the LEA must arrange, consistent paragraph (d) of this section, for each eligible student in the school to receive supplemental educational services from a State-approved provider selected by the student's parents. (2) Except as described in §§200.32(d) and 200.33(c), if a school was in school improvement status for two or more consecutive school years or subject to corrective action on January 7, 2002, the St must ensure that the LEA makes available, consistent with paragraph (d) of this section, supplemental educational services to all eligible students not later than the first day of the 2002-2003 school (3) The LEA must, consistent with §200.48, continue to make available supplemental educational services to eligible students until the end of the school year in which the LEA is making those service available. (4)(i) At the request of an LEA, the SEA may waive, in whole or in part, the requirement that the LEA make available supplemental educational services if the SEA determines that— (A) None of the providers of those services on the list approved by the SEA under §200.47 makes those services available in the area served by the LEA or within a reasonable distance of that area; an
1,453	§200.45 Supplemental educational services	Federal	(a) If an LEA is required to make available supplemental educational services under §200.39(b)(3), §200.42(b)(3), or §200.43(b)(2), the LEA must do the following: (1) Provide the annual notice to parents described in §200.37(b)(5). (2) If requested, assist parents in choosing a provider from the list of approved providers maintained by the SEA. (3) Apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all eligible students whose parents request services consistent wit §200.45. (4) Ensure that eligible students with disabilities under IDEA and students covered under Section 504 receive appropriate supplemental educational services and accommodations in the provision o those services. (5) Ensure that eligible students who have limited English proficiency receive appropriate supplemental educational services and language assistance in the provision of those services. (6) Not disclose to the public, without the written permission of the student's parents, the identity of any student who is eligible for, or receiving, supplemental educational services. (b)(1) In addition to meeting the requirements in paragraph (a) of this section, the LEA must enter into an agreement with each provider selected by a parent or parents. (2) The agreement must— (i) Require the LEA to develop, in consultation with the parents and the provider, a statement that includes— (A) Specific achievement goals for the student; (B) A description of how the student's progress will be measured; and (C) A timetable for improving achievement;

Legal Standards

1,454	§200.46 LEA responsibilities for supplemental educational services	Federal	(a) If one or more LEAs in a State are required to make available supplemental educational services under §200.39(b)(3), §200.42(b)(3), or §200.43(b)(2), the SEA for that State must do the following (1)(i) In consultation with affected LEAs, parents, teachers, and other interested members of the public, promote participation by as many providers as possible. (ii) This promotion must include— (A) Annual notice to potential providers of— (1) The opportunity to provide supplemental educational services; and (2) Procedures for obtaining the SEA's approval to be a provider of those services; and (B) Posting on the SEA's Web site, for each LEA— (1) The amount equal to 20 percent of the LEA's Title I, Part A allocation available for choice-related transportation and supplemental educational services, as required in §200.48(a)(2); and (2) The per-child amount for supplemental educational services calculated under §200.48(c)(1). (2) Consistent with paragraph (b) of this section, develop and apply to potential providers objective criteria. (3)(i) Maintain by LEA an updated list of approved providers, including any technology-based or distance-learning providers, from which parents may select; and (ii) Indicate on the list those providers that are able to serve students with disabilities or limited English proficient students. (4) Consistent with paragraph (c) of this section, develop, implement, and publicly report on standards and techniques for— (i) Monitoring the quality and effectiveness of the services offered by each approved provider;
1,455	§200.47 SEA responsibilities for supplemental educational services	Federal	(a) Amounts required. (1) To pay for choice-related transportation and supplemental educational services required under section 1116 of the ESEA, an LEA may use— (i) Funds allocated under subpart A of this part; (ii) Funds, where allowable, from other Federal education programs; and (iii) State, local, or private resources. (2) Unless a lesser amount is needed, the LEA must spend an amount equal to 20 percent of its allocation under subpart A of this part ("20 percent obligation") to— (i) Provide, or pay for, transportation of students exercising a choice option under §200.44; (ii) Satisfy all requests for supplemental educational services under §200.45; or (iii) Pay for both paragraph (a)(2)(i) and (ii) of this section, except that— (A) The LEA must spend a minimum of an amount equal to 5 percent of its allocation under subpart A of this part on transportation under paragraph (a)(2)(i) of this section and an amount equal to 5 percent of its allocation under subpart A of this part for supplemental educational services under paragraph (a)(2)(ii) of this section, unless lesser amounts are needed to meet the requirements of §§200.44 and 200.45; (B) Except as provided in paragraph (a)(2)(iii)(C) of this section, the LEA may not include costs for administration or transportation incurred in providing supplemental educational services, or administrative costs associated with the provision of public school choice options under §200.44, in the amounts required under paragraph (a)(2) of this section; and (C) The LEA may count in the amount the LEA is required to spend under paragraph (a) of this section its costs for outreach and assistance to parents concerning their choice to transfer their child or request supplemental educational services, up to an amount equal to 0.2 percent of its allocation under subpart 2 of part A of Title I of the Act. (3) If the amount specified in paragraph (a)(2) of this section is insufficient to pay all choice-related transportation costs, or to meet the demand for supplemental educational services, the LEA may m available any additional needed funds from Federal, State, or local sources.

Legal Standards

1,456	§200.48 Funding for choice-related transportation and supplemental educational services	Federal	(a) Transition requirements for public school choice and supplemental educational services. (1) Except as described in §§200.32(d) and 200.33(c), if a school was in school improvement or subject to corrective action on January 7, 2002, the SEA must ensure that the LEA for that school provides public school choice in accordance with §200.44 not later than the first day of the 2002-2003 school y (2) Except as described in §§200.32(d) and 200.33(c), if a school was in school improvement status for two or more consecutive school years or subject to corrective action on January 7, 2002, the SE must ensure that the LEA for that school makes available supplemental educational services in accordance with §200.45 not later than the first day of the 2002-2003 school year. (b) State reservation of funds for school improvement. (1) In accordance with §200.100(a), an SEA must reserve 2 percent of the amount it receives under this part for fiscal years 2002 and 2003, and percent of the amount it receives under this part for fiscal years 2004 through 2007, to— (i) Support local school improvement activities; (ii) Provide technical assistance to schools identified for improvement, corrective action, or restructuring; and (iii) Provide technical assistance to LEAs that the SEA has identified for improvement or corrective action in accordance with §200.50. (2) Of the amount it reserves under paragraph (b)(1) of this section, the SEA must— (i) Allocate not less than 95 percent directly to LEAs serving schools identified for improvement, corrective action, and restructuring to support improvement activities; or (ii) With the approval of the LEA, directly provide for these improvement activities or arrange to provide them through such entities as school support teams or educational service agencies. (3) In providing assistance to LEAs under paragraph (b)(2) of this section, the SEA must give priority to LEAs that— (i) Serve the lowest-achieving schools; (ii) Demonstrate the greatest need for this assistance; and (iii) Demonstrate the strongest commitment to ensuring that this assistance will be used to enable the lowest-achieving schools to meet the progress goals in the school improvement plans under §2
1,457	§200.49 SEA responsibilities for school improvement, corrective action, and restructuring	Federal	(a) State review. (1) An SEA must annually review the progress of each LEA in its State that receives funds under subpart A of this part to determine whether— (i) The LEA's schools served under this part are making AYP, as defined under §§200.13 through 200.20, toward meeting the State's student academic achievement standards; and (ii) The LEA is carrying out its responsibilities under this part with respect to school improvement, technical assistance, parental involvement, and professional development. (2) In reviewing the progress of an LEA, the SEA may, in the case of targeted assistance schools served by the LEA, consider the progress only of the students served or eligible for services under this subpart, provided the students selected for services in such schools are those with the greatest need for special assistance, consistent with the requirements of section 1115 of the ESEA. (b) Rewards. If an LEA has exceeded AYP as defined under §§200.13 through 200.20 for two consecutive years, the SEA may— (1) Reserve funds in accordance with §200.100(c); and (2) Make rewards of the kinds described under section 1117 of the ESEA. (c) Opportunity for review of LEA-level data. (1) Before identifying an LEA for improvement or corrective action, the SEA must provide the LEA with an opportunity to review the data, including acad assessment data, on which the SEA has based the proposed identification. (2)(i) If the LEA believes that the proposed identification is in error for statistical or other substantive reasons, the LEA may provide supporting evidence to the SEA. (ii) The SEA must consider the evidence before making a final determination not later than 30 days after it has provided the LEA with the opportunity to review the data under paragraph (c)(1) of thi section. (d) Identification for improvement. (1)(i) The SEA must identify for improvement an LEA that, for two consecutive years, including the period immediately before January 8, 2002, fails to make AYP a defined in the SEA's plan under section 1111(b)(2) of the ESEA. (ii) In identifying LEAs for improvement, an SEA—

Legal Standards

1,458	§200.50 SEA review of LEA progress	Federal	(a) In general. (1) An SEA must— (i) Communicate with parents throughout the review of an LEA under §200.50; and (ii) Ensure that, regardless of the method or media used, it provides information to parents— (A) In an understandable and uniform format, including alternative formats upon request; and (B) To the extent practicable, in a language that parents can understand. (2) The SEA must provide information to the parents of each student enrolled in a school served by the LEA— (i) Directly, through such means as regular mail or e-mail, except that if an SEA does not have access to individual student addresses, it may provide information to the LEA or school for distribution t parents; and (ii) Through broader means of dissemination such as the Internet, the media, and public agencies serving the student population and their families. (3) All communications must respect the privacy of students and their families. (b) Results of review. The SEA must promptly publicize and disseminate to the LEAs, teachers and other staff, the parents of each student enrolled in a school served by the LEA, students, and the community the results of its review under §200.50, including statistically sound disaggregated results in accordance with §§200.2 and 200.7. (c) Identification for improvement or corrective action. If the SEA identifies an LEA for improvement or subjects the LEA to corrective action, the SEA must promptly provide to the parents of each st enrolled in a school served by the LEA— (1) The reasons for the identification; and (2) An explanation of how parents can participate in improving the LEA.
1,459	§200.51 Notice of SEA action	Federal	(a) Improvement plan. (1) Not later than 3 months after an SEA has identified an LEA for improvement under §200.50(d), the LEA must develop or revise an LEA improvement plan. (2) The LEA must consult with parents, school staff, and others in developing or revising its improvement plan. (3) The LEA improvement plan must— (i) Incorporate strategies, grounded in scientifically based research, that will strengthen instruction in core academic subjects in schools served by the LEA; (ii) Identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards; (iii) Address the professional development needs of the instructional staff serving the LEA by committing to spend for professional development not less than 10 percent of the funds received by the under subpart A of this part for each fiscal year in which the SEA identifies the LEA for improvement. These funds— (A) May include funds reserved by schools for professional development under §200.41(c)(5); but (B) May not include funds reserved for professional development under section 1119 of the ESEA; (iv) Include specific measurable achievement goals and targets— (A) For each of the groups of students under §200.13(b)(7); and (B) That are consistent with AYP as defined under §§200.13 through 200.20; (v) Address— (A) The fundamental teaching and learning needs in the schools of the LEA; and (B) The specific academic problems of low-achieving students, including a determination of why the LEA's previous plan failed to bring about increased student academic achievement;

Legal Standards

1,460	§200.52 LEA improvement	Federal	(a) Definition. For the purposes of this section, the term "corrective action" means action by an SEA that— (1) Substantially and directly responds to— (i) The consistent academic failure that caused the SEA to identify an LEA for corrective action; and (ii) Any underlying staffing, curriculum, or other problems in the LEA; (2) Is designed to meet the goal that each group of students described in §200.13(b)(7) and enrolled in the LEA's schools will meet or exceed the State's proficient levels of achievement as measured State assessment system; and (3) Is consistent with State law. (b) Notice and hearing. Before implementing any corrective action under paragraph (c) of this section, the SEA must provide notice and a hearing to the affected LEA—if State law provides for this no and hearing—not later than 45 days following the decision to take corrective action. (c) Requirements. If the SEA identifies an LEA for corrective action, the SEA must do the following: (1) Continue to make available technical assistance to the LEA. (2) Take at least one of the following corrective actions: (i) Defer programmatic funds or reduce administrative funds. (ii) Institute and fully implement a new curriculum based on State and local content and academic achievement standards, including the provision of appropriate professional development for all rele staff that— (A) Is grounded in scientifically based research; and
1,461	§200.53 LEA corrective action	Federal	
1,462	§200.54 [Reserved]	Federal	(a) Newly hired teachers in Title I programs. (1) An LEA must ensure that all teachers hired after the first day of the 2002-2003 school year who teach core academic subjects in a program supported funds under subpart A of this part are highly qualified as defined in §200.56. (2) For the purpose of paragraph (a)(1) of this section, a teacher teaching in a program supported with funds under subpart A of this part is— (i) A teacher in a targeted assisted school who is paid with funds under subpart A of this part; (ii) A teacher in a schoolwide program school; or (iii) A teacher employed by an LEA with funds under subpart A of this part to provide services to eligible private school students under §200.62. (b) All teachers of core academic subjects. (1) Not later than the end of the 2005-2006 school year, each State that receives funds under subpart A of this part, and each LEA in that State, must ensure all public elementary and secondary school teachers in the State who teach core academic subjects, including teachers employed by an LEA to provide services to eligible private school students unde §200.62, are highly qualified as defined in §200.56. (2) A teacher who does not teach a core academic subject—such as some vocational education teachers—is not required to meet the requirements in §200.56. (c) Definition. The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (d) Private school teachers. The requirements in this section do not apply to teachers hired by private elementary and secondary schools.

Legal Standards

1,463	Qualifications Of Teachers And Paraprofessionals §200.55 Qualifications of teachers	Federal	A teacher described in §200.55(a) and (b)(1) is a "highly qualified teacher" if the teacher meets the requirements in paragraph (a) and paragraph (b), (c), or (d) of this section. (a) In general. (1) Except as provided in paragraph (a)(3) of this section, a teacher covered under §200.55 must— (i) Have obtained full State certification as a teacher, which may include certification obtained through alternative routes to certification; or (ii)(A) Have passed the State teacher licensing examination; and (B) Hold a license to teach in the State. (2) A teacher meets the requirement in paragraph (a)(1) of this section if the teacher— (i) Has fulfilled the State's certification and licensure requirements applicable to the years of experience the teacher possesses; or (ii) Is participating in an alternative route to certification program under which— (A) The teacher— (1) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teach (2) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; (3) Assumes functions as a teacher only for a specified period of time not to exceed three years; and (4) Demonstrates satisfactory progress toward full certification as prescribed by the State; and (B) The State ensures, through its certification and licensure process, that the provisions in paragraph (a)(2)(ii) of this section are met.
1,464	§200.56 Definition of "highly qualified teacher	Federal	(a) State plan. (1) A State that receives funds under subpart A of this part must develop, as part of its State plan under section 1111 of the ESEA, a plan to ensure that all public elementary and second school teachers in the State who teach core academic subjects are highly qualified not later than the end of the 2005-2006 school year. (2) The State's plan must— (i) Establish annual measurable objectives for each LEA and school that include, at a minimum, an annual increase in the percentage of— (A) Highly qualified teachers at each LEA and school; and (B) Teachers who are receiving high-quality professional development to enable them to become highly qualified and effective classroom teachers; (ii) Describe the strategies the State will use to— (A) Help LEAs and schools meet the requirements in paragraph (a)(1) of this section; and (B) Monitor the progress of LEAs and schools in meeting these requirements; and (iii) Until the SEA fully complies with paragraph (a)(1) of this section, describe the specific steps the SEA will take to— (A) Ensure that Title I schools provide instruction by highly qualified teachers, including steps that the SEA will take to ensure that minority children and children from low-income families are not ta at higher rates than other children by inexperienced, unqualified, or out-of-field teachers; and (B) Evaluate and publicly report the progress of the SEA with respect to these steps. (3) The State's plan may include other measures that the State determines are appropriate to increase teacher qualifications. (b) Local plan. An LEA that receives funds under subpart A of this part must develop, as part of its local plan under section 1112 of the ESEA, a plan to ensure that—

Legal Standards

1,465	§200.57 Plans to increase teacher quality	Federal	(a) Applicability. (1) An LEA must ensure that each paraprofessional who is hired by the LEA and who works in a program supported with funds under subpart A of this part meets the requirements i paragraph (b) of this section and, except as provided in paragraph (e) of this section, the requirements in either paragraph (c) or (d) of this section. (2) For the purpose of this section, the term "paraprofessional"— (i) Means an individual who provides instructional support consistent with §200.59; and (ii) Does not include individuals who have only non-instructional duties (such as providing technical support for computers, providing personal care services, or performing clerical duties). (3) For the purpose of paragraph (a) of this section, a paraprofessional working in "a program supported with funds under subpart A of this part" is— (i) A paraprofessional in a targeted assisted school who is paid with funds under subpart A of this part; (ii) A paraprofessional in a schoolwide program school; or (iii) A paraprofessional employed by an LEA with funds under subpart A of this part to provide instructional support to a public school teacher covered under §200.55 who provides equitable service eligible private school students under §200.62. (b) All paraprofessionals. A paraprofessional covered under paragraph (a) of this section, regardless of the paraprofessional's hiring date, must have earned a secondary school diploma or its recogni equivalent. (c) New paraprofessionals. A paraprofessional covered under paragraph (a) of this section who is hired after January 8, 2002 must have— (1) Completed at least two years of study at an institution of higher education; (2) Obtained an associate's or higher degree; or (3)(i) Met a rigorous standard of quality, and can demonstrate—through a formal State or local academic assessment—knowledge of, and the ability to assist in instructing, as appropriate—
1,466	§200.58 Qualifications of paraprofessionals	Federal	(a) A paraprofessional covered under §200.58 may not be assigned a duty inconsistent with paragraph (b) of this section. (b) A paraprofessional covered under §200.58 may perform the following instructional support duties: (1) One-on-one tutoring for eligible students if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher. (2) Assisting in classroom management. (3) Assisting in computer instruction. (4) Conducting parent involvement activities. (5) Providing instructional support in a library or media center. (6) Acting as a translator. (7) Providing instructional support services. (c)(1) A paraprofessional may not provide instructional support to a student unless the paraprofessional is working under the direct supervision of a teacher who meets the requirements in §200.56 (2) A paraprofessional works under the direct supervision of a teacher if— (i) The teacher plans the instructional activities that the paraprofessional carries out; (ii) The teacher evaluates the achievement of the students with whom the paraprofessional is working; and (iii) The paraprofessional works in close and frequent physical proximity to the teacher.

Legal Standards

1,467	§200.59 Duties of paraprofessionals	Federal	(a)(1) Except as provided in paragraph (a)(2) of this section, an LEA must use funds it receives under subpart A of this part as follows for professional development activities to ensure that teachers a paraprofessionals meet the requirements of §§200.56 and 200.58: (i) For each of fiscal years 2002 and 2003, the LEA must use not less than 5 percent or more than 10 percent of the funds it receives under subpart A of this part. (ii) For each fiscal year after 2003, the LEA must use not less than 5 percent of the funds it receives under subpart A of this part. (2) An LEA is not required to spend the amount required in paragraph (a)(1) of this section for a given fiscal year if a lesser amount is sufficient to ensure that the LEA's teachers and paraprofessiona meet the requirements in §§200.56 and 200.58, respectively. (b) The LEA may use additional funds under subpart A of this part to support ongoing training and professional development, as defined in section 9101(34) of the ESEA, to assist teachers and paraprofessionals in carrying out activities under subpart A of this part.
1,468	§200.60 Expenditures for professional development	Federal	(a) At the beginning of each school year, an LEA that receives funds under subpart A of this part must notify the parents of each student attending a Title I school that the parents may request, and the will provide the parents on request, information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following: (1) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction. (2) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived. (3) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree. (4) Whether the child is provided services by paraprofessionals and, if so, their qualifications. (b) A school that participates under subpart A of this part must provide to each parent— (1) Information on the level of achievement of the parent's child in each of the State academic assessments required under §200.2; (2) Timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher of a core academic subject who is not highly qualified. (c) An LEA and school must provide the notice and information required under this section— (1) In a uniform and understandable format, including alternative formats upon request; and (2) To the extent practicable, in a language that parents can understand.
1,469	§200.61 Parents' right to know	Federal	(a) After timely and meaningful consultation with appropriate officials of private schools, an LEA must— (1) In accordance with §§200.62 through 200.67 and section 1120 of the ESEA, provide special educational services or other benefits under subpart A of this part, on an equitable basis and in a timely manner, to eligible children who are enrolled in private elementary and secondary schools; and (2) Ensure that teachers and families of participating private school children participate on a basis equitable to the participation of teachers and families of public school children receiving these serv in accordance with §200.65. (b)(1) Eligible private school children are children who— (i) Reside in participating public school attendance areas of the LEA, regardless of whether the private school they attend is located in the LEA; and (ii) Meet the criteria in section 1115(b) of the ESEA. (2) Among the eligible private school children, the LEA must select children to participate, consistent with §200.64. (c) The services and other benefits an LEA provides under this section must be secular, neutral and nonideological.

Legal Standards

1,470	Participation of Eligible Children in Private Schools §200.62 Responsibilities for providing services to private school children	Federal	(a) In order to have timely and meaningful consultation, an LEA must consult with appropriate officials of private schools during the design and development of the LEA's program for eligible private school children. (b) At a minimum, the LEA must consult on the following: (1) How the LEA will identify the needs of eligible private school children. (2) What services the LEA will offer to eligible private school children. (3) How and when the LEA will make decisions about the delivery of services. (4) How, where, and by whom the LEA will provide services to eligible private school children. (5) How the LEA will assess academically the services to eligible private school children in accordance with §200.10, and how the LEA will use the results of that assessment to improve Title I service (6) The size and scope of the equitable services that the LEA will provide to eligible private school children, and, consistent with §200.64, the proportion of funds that the LEA will allocate for these services. (7) The method or sources of data that the LEA will use under §200.78 to determine the number of private school children from low-income families residing in participating public school attendanc areas, including whether the LEA will extrapolate data if a survey is used. (8) The equitable services the LEA will provide to teachers and families of participating private school children. (c)(1) Consultation by the LEA must— (i) Include meetings of the LEA and appropriate officials of the private schools; and (ii) Occur before the LEA makes any decision that affects the opportunity of eligible private school children to participate in Title I programs.
1,471	§200.63 Consultation	Federal	(a) Equal expenditures. (1) Funds expended by an LEA under subpart A of this part for services for eligible private school children in the aggregate must be equal to the amount of funds generated by private school children from low-income families under paragraph (a)(2) of this section. (2) An LEA must meet this requirement as follows: (i)(A) If the LEA reserves funds under §200.77 to provide instructional and related activities for public elementary or secondary school students at the district level, the LEA must also provide from t funds, as applicable, equitable services to eligible private school children. (B) The amount of funds available to provide equitable services from the applicable reserved funds must be proportionate to the number of private school children from low-income families residing participating public school attendance areas. (ii) The LEA must reserve the funds generated by private school children under §200.78 and, in consultation with appropriate officials of the private schools, may— (A) Combine those amounts, along with funds under paragraph (a)(2)(i) of this section, if appropriate, to create a pool of funds from which the LEA provides equitable services to eligible private scho children, in the aggregate, in greatest need of those services; or (B) Provide equitable services to eligible children in each private school with the funds generated by children from low-income families under §200.78 who attend that private school. (b) Services on an equitable basis. (1) The services that an LEA provides to eligible private school children must be equitable in comparison to the services and other benefits that the LEA provides to public school children participating under subpart A of this part. (2) Services are equitable if the LEA— (i) Addresses and assesses the specific needs and educational progress of eligible private school children on a comparable basis as public school children; (ii) Meets the equal expenditure requirements under paragraph (a) of section; and (iii) Provides private school children with an opportunity to participate that—

Legal Standards

1,472	§200.64 Factors for determining equitable participation of private school children	Federal	(a)(1) From applicable funds reserved for parent involvement and professional development under §200.77, an LEA shall ensure that teachers and families of participating private school children participate on an equitable basis in professional development and parent involvement activities, respectively. (2) The amount of funds available to provide equitable services from the applicable reserved funds must be proportionate to the number of private school children from low-income families residing participating public school attendance areas. (b) After consultation with appropriate officials of the private schools, the LEA must conduct professional development and parent involvement activities for the teachers and families of participating private school children either— (1) In conjunction with the LEA's professional development and parent involvement activities; or (2) Independently. (c) Private school teachers are not covered by the requirements in §200.56.
1,473	§200.65 Determining equitable participation of teachers and families of participating private school children	Federal	(a) An LEA must use funds under subpart A of this part to provide services that supplement, and in no case supplant, the services that would, in the absence of Title I services, be available to participa private school children. (b)(1) The LEA must use funds under subpart A of this part to meet the special educational needs of participating private school children. (2) The LEA may not use funds under subpart A of this part for— (i) The needs of the private school; or (ii) The general needs of children in the private school.
1,474	§200.66 Requirements to ensure that funds do not benefit a private school	Federal	(a) The LEA must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the LEA acquires with funds under subpart A of this part for the benefit of eligible private school children. (b) The LEA may place equipment and supplies in a private school for the period of time needed for the program. (c) The LEA must ensure that the equipment and supplies placed in a private school— (1) Are used only for Title I purposes; and (2) Can be removed from the private school without remodeling the private school facility. (d) The LEA must remove equipment and supplies from a private school if— (1) The LEA no longer needs the equipment and supplies to provide Title I services; or (2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than Title I purposes. (e) The LEA may not use funds under subpart A of this part for repairs, minor remodeling, or construction of private school facilities.
1,475	§200.67 Requirements concerning property, equipment, and supplies for the benefit of private school children	Federal	

Legal Standards

1,476	§§200.68-200.69 [Reserved]	Federal	(a) The Secretary allocates basic grants, concentration grants, targeted grants, and education finance incentive grants, through SEAs, to each eligible LEA for which the Bureau of the Census has provi data on the number of children from low-income families residing in the school attendance areas of the LEA (hereinafter referred to as the "Census list"). (b) In establishing eligibility and allocating funds under paragraph (a) of this section, the Secretary counts children ages 5 to 17, inclusive (hereinafter referred to as "formula children")— (1) From families below the poverty level based on the most recent satisfactory data available from the Bureau of the Census; (2) From families above the poverty level receiving assistance under the Temporary Assistance for Needy Families program under Title IV of the Social Security Act; (3) Being supported in foster homes with public funds; and (4) Residing in local institutions for neglected children. (c) Except as provided in §§200.72, 200.75, and 200.100, an SEA may not change the Secretary's allocation to any LEA that serves an area with a total census population of at least 20,000 persons. (d) In accordance with §200.74, an SEA may use an alternative method, approved by the Secretary, to distribute the State's share of basic grants, concentration grants, targeted grants, and education finance incentive grants to LEAs that serve an area with a total census population of less than 20,000 persons.
1,477	Allocations to LEAS §200.70 Allocation of funds to LEAs in general	Federal	(a) Basic grants. An LEA is eligible for a basic grant if the number of formula children is— (1) At least 10; and (2) Greater than two percent of the LEA's total population ages 5 to 17 years, inclusive. (b) Concentration grants. An LEA is eligible for a concentration grant if— (1) The LEA is eligible for a basic grant under paragraph (a) of this section; and (2) The number of formula children exceeds— (i) 6,500; or (ii) 15 percent of the LEA's total population ages 5 to 17 years, inclusive. (c) Targeted grants. An LEA is eligible for a targeted grant if the number of formula children is— (1) At least 10; and (2) At least five percent of the LEA's total population ages 5 to 17 years, inclusive. (d) Education finance incentive grants. An LEA is eligible for an education finance incentive grant if the number of formula children is— (1) At least 10; and (2) At least five percent of the LEA's total population ages 5 to 17 years, inclusive.
1,478	§200.71 LEA eligibility	Federal	(a) General. For each LEA not on the Census list (hereinafter referred to as a "new" LEA), an SEA must determine the number of formula children and the number of children ages 5 to 17, inclusive, in LEA. (b) Determining LEA eligibility. An SEA must determine basic grant, concentration grant, targeted grant, and education finance incentive grant eligibility for each new LEA and re-determine eligibility the LEAs on the Census list, as appropriate, based on the number of formula children and children ages 5 to 17, inclusive, determined in paragraph (a) of this section. (c) Adjusting LEA allocations. An SEA must adjust the LEA allocations calculated by the Secretary to determine allocations for eligible new LEAs based on the number of formula children determined paragraph (a) of this section.

Legal Standards

1,479	§200.72 Procedures for adjusting allocations determined by the Secretary to account for eligible LEAs not on the Census list	Federal	(a) General. (1) Except as authorized under paragraph (c) of this section and §200.100(d)(2), an SEA may not reduce the allocation of an eligible LEA below the hold-harmless amounts established un paragraph (a)(4) of this section. (2) The hold-harmless protection limits the maximum reduction of an LEA's allocation compared to the LEA's allocation for the preceding year. (3) Except as provided in §200.100(d), an SEA must apply the hold-harmless requirement separately for basic grants, concentration grants, targeted grants, and education finance incentive grants as described in paragraph (a)(4) of this section. (4) Under section 1122(c) of the ESEA, the hold-harmless percentage varies based on the LEA's proportion of formula children, as shown in the following table: LEA's number of formula children ages 5 to 17, inclusive, as a percentage of its total population of children ages 5 to 17, inclusive Hold-harmless percentage Applicable grant formulas (i) 30% or more (ii) 15% or more but less than 30% (iii) Less than 15% 95 90 85 Basic Grants, Concentration Grants, Targeted Grants, and Education Finance Incentive Grants. (b) Targeted grants and education finance incentive grants. The number of formula children used to determine the hold-harmless percentage is the number before applying the weights described in section 1125 and section 1125A of the ESEA. (c) Adjustment for insufficient funds. If the amounts made available to the State are insufficient to pay the full amount that each LEA is eligible to receive under paragraph (a)(4) of this section, the SE must ratably reduce the allocations for all LEAs in the State to the amount available. (d) Eligibility for hold-harmless protection. (1) An LEA must meet the eligibility requirements for a basic grant, targeted grant, or education finance incentive grant under §200.71 in order for the applicable hold-harmless provision to apply. (2) An LEA not meeting the eligibility requirements for a concentration grant under §200.71 must be paid its hold-harmless amount for four consecutive years.
1,480	§200.73 Applicable hold-harmless provisions	Federal	(a) For eligible LEAs serving an area with a total census population of less than 20,000 persons (hereinafter referred to as “small LEAs”), an SEA may apply to the Secretary to use an alternative metho distribute basic grant, concentration grant, targeted grant, and education finance incentive grant funds. (b) In its application, the SEA must— (1) Identify the alternative data it proposes to use; and (2) Assure that it has established a procedure through which a small LEA that is dissatisfied with the determination of its grant may appeal directly to the Secretary. (c) The SEA must base its alternative method on population data that best reflect the current distribution of children from low-income families among the State's small LEAs and use the same poverty measure consistently for small LEAs across the State for all Title I, part A programs. (d) Based on the alternative poverty data selected, the SEA must— (1) Re-determine eligibility of its small LEAs for basic grants, concentration grants, targeted grants, and education finance incentive grants in accordance with §200.71; (2) Calculate allocations for small LEAs in accordance with the provisions of sections 1124, 1124A, 1125, and 1125A of the ESEA, as applicable; and (3) Ensure that each LEA receives the hold-harmless amount to which it is entitled under §200.73. (e) The amount of funds available for redistribution under each formula is the separate amount determined by the Secretary under sections 1124, 1124A, 1125, and 1125A of the ESEA for eligible sm LEAs after the SEA has made the adjustments required under §200.72(c). (f) If the amount available for redistribution to small LEAs under an alternative method is not sufficient to satisfy applicable hold-harmless requirements, the SEA must ratably reduce all eligible sma LEAs to the amount available.

Legal Standards

1,481	§200.74 Use of an alternative method to distribute grants to LEAs with fewer than 20,000 total residents	Federal	(a) In a State in which the number of formula children is less than 0.25 percent of the national total on January 8, 2002 (hereinafter referred to as a "small State"), an SEA may either— (1) Allocate concentration grants among eligible LEAs in the State in accordance with §§200.72 through 200.74, as applicable; or (2) Without regard to the allocations determined by the Secretary— (i) Identify those LEAs in which the number or percentage of formula children exceeds the statewide average number or percentage of those children; and (ii) Allocate concentration grant funds, consistent with §200.73, among the LEAs identified in paragraph (a)(2)(i) of this section based on the number of formula children in each of those LEAs. (b) If the SEA in a small State uses an alternative method under §200.74, the SEA must use the poverty data approved under the alternative method to identify those LEAs with numbers or percentage formula children that exceed the statewide average number or percentage of those children for the State as a whole.
1,482	§200.75 Special procedures for allocating concentration grant funds in small States	Federal	
1,483	§200.76 [Reserved]	Federal	Before allocating funds in accordance with §200.78, an LEA must reserve funds as are reasonable and necessary to— (a) Provide services comparable to those provided to children in participating school attendance areas and schools to serve— (1) Homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where homeless children may liv (2) Children in local institutions for neglected children; and (3) If appropriate— (i) Children in local institutions for delinquent children; and (ii) Neglected and delinquent children in community-day school programs; (b) Provide, where appropriate under section 1113(c)(4) of the ESEA, financial incentives and rewards to teachers who serve students in Title I schools identified for school improvement, corrective action, and restructuring for the purpose of attracting and retaining qualified and effective teachers; (c) Meet the requirements for choice-related transportation and supplemental educational services in §200.48, unless the LEA meets these requirements with non-Title I funds; (d) Address the professional development needs of instructional staff, including— (1) Professional development requirements under §200.52(a)(3)(iii) if the LEA has been identified for improvement or corrective action; and (2) Professional development expenditure requirements under §200.60; (e) Meet the requirements for parental involvement in section 1118(a)(3) of the ESEA; (f) Administer programs for public and private school children under this part, including special capital expenses, if any, incurred in providing services to eligible private school children, such as—

Legal Standards

1,484	Procedures for the Within-District Allocation of LEA Program Funds §200.77 Reservation of funds by an LEA	Federal	(a)(1) An LEA must allocate funds under subpart A of this part to school attendance areas and schools, identified as eligible and selected to participate under section 1113(a) or (b) of the ESEA, in ran order on the basis of the total number of children from low-income families in each area or school. (2)(i) In calculating the total number of children from low-income families, the LEA must include children from low-income families who attend private schools. (ii) To obtain a count of private school children, the LEA may— (A) Use the same poverty data the LEA uses to count public school children; (B)(1) Use comparable poverty data from a survey of families of private school students that, to the extent possible, protects the families' identity; and (2) Extrapolate data from the survey based on a representative sample if complete actual data are unavailable; (C) Use comparable poverty data from a different source, such as scholarship applications; (D) Apply the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area; or (E) Use an equated measure of low income correlated with the measure of low income used to count public school children. (iii) An LEA may count private school children from low-income families every year or every two years. (iv) After timely and meaningful consultation in accordance with §200.63, the LEA shall have the final authority in determining the method used to calculate the number of private school children fro low-income families; (3) If an LEA ranks its school attendance areas and schools by grade span groupings, the LEA may determine the percentage of children from low-income families in the LEA as a whole or for each gra span grouping. (b)(1) Except as provided in paragraphs (b)(2) and (d) of this section, an LEA must allocate to each participating school attendance area or school an amount for each low-income child that is at least
1,485	§200.78 Allocation of funds to school attendance areas and schools	Federal	(a) For the purpose of determining compliance with the supplement not supplant requirement in section 1120A(b) and the comparability requirement in section 1120A(c) of the ESEA, a grantee or subgrantee under subpart A of this part may exclude supplemental State and local funds spent in any school attendance area or school for programs that meet the intent and purposes of Title I. (b) A program meets the intent and purposes of Title I if the program either— (1)(i) Is implemented in a school in which the percentage of children from low-income families is at least 40 percent; (ii) Is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the State's challenging academic achievement standards that all students are expected to meet; (iii) Is designed to meet the educational needs of all students in the school, particularly the needs of students who are failing, or most at risk of failing, to meet the State's challenging student academi achievement standards; and (iv) Uses the State's assessment system under §200.2 to review the effectiveness of the program; or (2)(i) Serves only students who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards; (ii) Provides supplementary services designed to meet the special educational needs of the students who are participating in the program to support their achievement toward meeting the State's stu academic achievement standards; and (iii) Uses the State's assessment system under §200.2 to review the effectiveness of the program. (c) The conditions in paragraph (b) of this section also apply to supplemental State and local funds expended under section 1113(b)(1)(D) and 1113(c)(2)(B) of the ESEA.
1,486	Fiscal Requirements §200.79 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations	Federal	Eligible participants under the Migrant Education Even Start Program (MEES) must meet the definitions of a migratory child, a migratory agricultural worker, or a migratory fisher in §200.81.

Legal Standards

1,487	Subpart B—Even Start Family Literacy Program §200.80 Migrant Education Even Start Program definition	Federal	The following definitions apply to programs and projects operated under subpart C of this part: (a) Agricultural work means the production or initial processing of crops, dairy products, poultry, or livestock, as well as the cultivation or harvesting of trees. It consists of work performed for wages personal subsistence. (b) Fishing work means the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages or personal subsisten (c) In order to obtain, when used to describe why a worker moved, means that one of the purposes of the move is to seek or obtain qualifying work. (1) If a worker states that a purpose of the move was to seek any type of employment, i.e., the worker moved with no specific intent to find work in a particular job, the worker is deemed to have mov with a purpose of obtaining qualifying work if the worker obtains qualifying work soon after the move. (2) Notwithstanding the introductory text of this paragraph (c), a worker who did not obtain qualifying work soon after a move may be considered to have moved in order to obtain qualifying work c the worker states that at least one purpose of the move was specifically to seek the qualifying work, and— (i) The worker is found to have a prior history of moves to obtain qualifying work; or (ii) There is other credible evidence that the worker actively sought qualifying work soon after the move but, for reasons beyond the worker's control, the work was not available. (d) Migratory agricultural worker means a person who, in the preceding 36 months, has moved, as defined in paragraph (g), from one school district to another, or from one administrative area to an within a State that is comprised of a single school district, in order to obtain temporary employment or seasonal employment in agricultural work, including dairy work. (e) Migratory child means a child— (1) Who is a migratory agricultural worker or a migratory fisher; or (2) Who, in the preceding 36 months, in order to accompany or join a parent, spouse, or guardian who is a migratory agricultural worker or a migratory fisher—
1,488	Subpart C—Migrant Education Program §200.81 Program definitions	Federal	An SEA may use the funds available from its State Migrant Education Program (MEP) to carry out other administrative activities, beyond those allowable under §200.100(b)(4), that are unique to the including those that are the same or similar to administrative activities performed by LEAs in the State under subpart A of this part. These activities include but are not limited to— (a) Statewide identification and recruitment of eligible migratory children; (b) Interstate and intrastate coordination of the State MEP and its local projects with other relevant programs and local projects in the State and in other States; (c) Procedures for providing for educational continuity for migratory children through the timely transfer of educational and health records, beyond that required generally by State and local agencie (d) Collecting and using information for accurate distribution of subgrant funds; (e) Development of a statewide needs assessment and a comprehensive State plan for MEP service delivery; (f) Supervision of instructional and support staff; (g) Establishment and implementation of a State parent advisory council; and (h) Conducting an evaluation of the effectiveness of the State MEP.

Legal Standards

1,489	§200.82 Use of program funds for unique program function costs	Federal	(a) An SEA that receives a grant of MEP funds must develop and update a written comprehensive State plan (based on a current statewide needs assessment that, at a minimum, has the following components: (1) Performance targets. The plan must specify— (i) Performance targets that the State has adopted for all children in reading and mathematics achievement, high school graduation, and the number of school dropouts, as well as the State's perform targets, if any, for school readiness; and (ii) Any other performance targets that the State has identified for migratory children. (2) Needs assessment. The plan must include an identification and assessment of— (i) The unique educational needs of migratory children that result from the children's migratory lifestyle; and (ii) Other needs of migratory students that must be met in order for migratory children to participate effectively in school. (3) Measurable program outcomes. The plan must include the measurable program outcomes (i.e., objectives) that a State's migrant education program will produce to meet the identified unique nee migratory children and help migratory children achieve the State's performance targets identified in paragraph (a)(1) of this section. (4) Service delivery. The plan must describe the strategies that the SEA will pursue on a statewide basis to achieve the measurable program outcomes in paragraph (a)(3) of this section by addressing (i) The unique educational needs of migratory children consistent with paragraph (a)(2)(i) of this section; and (ii) Other needs of migratory children consistent with paragraph (a)(2)(ii) of this section. (5) Evaluation. The plan must describe how the State will evaluate the effectiveness of its program. (b) The SEA must develop its comprehensive State plan in consultation with the State parent advisory council or, for SEAs not operating programs for one school year in duration, in consultation with
1,490	§200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery	Federal	Each SEA must determine the effectiveness of its program through a written evaluation that measures the implementation and results achieved by the program against the State's performance target §200.83(a)(1), particularly for those students who have priority for service as defined in section 1304(d) of the ESEA.
1,491	§200.84 Responsibilities of SEAs for evaluating the effectiveness of the MEP	Federal	While the specific school improvement requirements of section 1116 of the ESEA do not apply to the MEP, SEAs and local operating agencies receiving MEP funds must use the results of the evaluatio carried out under §200.84 to improve the services provided to migratory children.
1,492	§200.85 Responsibilities of SEAs and operating agencies for improving services to migratory children	Federal	Funds available under part C of Title I of the ESEA may be used in a schoolwide program subject to the requirements of §200.29(c)(1).
1,493	§200.86 Use of MEP funds in schoolwide projects	Federal	An SEA and its operating agencies must conduct programs and projects under subpart C of this part in a manner consistent with the basic requirements of section 9501 of the ESEA.

Legal Standards

1,494	§200.87 Responsibilities for participation of children in private schools	Federal	(a) For purposes of determining compliance with the comparability requirement in section 1120A(c) and the supplement, not supplant requirement in section 1120A(b) of the ESEA, a grantee or subgrantee under part C of Title I may exclude supplemental State and local funds expended in any school attendance area or school for carrying out special programs that meet the intent and purpos part C of Title I. (b) Before funds for a State and local program may be excluded for purposes of these requirements, the SEA must make an advance written determination that the program meets the intent and purp of part C of Title I. (c) A program meets the intent and purposes of part C of Title I if it meets the following requirements: (1) The program is specifically designed to meet the unique educational needs of migratory children, as defined in section 1309 of the ESEA. (2) The program is based on performance targets related to educational achievement that are similar to those used in programs funded under part C of Title I of the ESEA, and is evaluated in a manne consistent with those program targets. (3) The grantee or subgrantee keeps, and provides access to, records that ensure the correctness and verification of these requirements. (4) The grantee monitors program performance to ensure that these requirements are met
1,495	§200.88 Exclusion of supplemental State and local funds from supplement, not supplant and comparability determinations	Federal	(a) Allocation of funds under the MEP for fiscal year (FY) 2006 and subsequent years. (1) For purposes of calculating the size of MEP allocations for each SEA for FY 2006 and subsequent years (as we for supplemental MEP allocations for FY 2005), the Secretary determines each SEA's FY 2002 base allocation amount under section 1303(a)(2) and (b) of the Act by applying, to the counts of eligible migratory children that the SEA submitted for 2000-2001, the defect rate that the SEA reports to the Secretary and that the Secretary accepts based on a statewide retrospective re-interviewing proc that the SEA has conducted. (2)(i) The Secretary conditions an SEA's receipt of final FY 2007 and subsequent-year MEP awards on the SEA's completion of a thorough re-documentation of the eligibility of all children (and the removal of all ineligible children) included in the State's 2007-2008 MEP child counts. (ii) To carry out this re-documentation, an SEA must examine its rolls of all currently identified migratory children and remove from the rolls all children it judges to be ineligible based on the types o problems identified in its statewide retrospective re-interviewing as causing defective eligibility determinations. (b) Responsibilities of SEAs for re-interviewing to ensure the eligibility of children under the MEP—(1) Retrospective re-interviewing. (i) As a condition for the continued receipt of MEP funds in FY and subsequent years, an SEA that received such funds in FY 2005 but did not implement a statewide re-interviewing process prior to the enactment of this regulation, as well as an SEA with a defect that is not accepted by the Secretary under paragraph (a)(1) of this section, or an SEA under a corrective action issued by the Secretary under paragraph (b)(2)(vii) or (d)(7) of this section, must, wit six months of the effective date of these regulations or as subsequently required by the Secretary,— (A) Conduct a statewide re-interviewing process consistent with paragraph (b)(1)(ii) of this section; and (B) Consistent with paragraph (b)(1)(iii) of this section, report to the Secretary on the procedures it has employed, its findings, its defect rate, and corrective actions it has taken or will take to avoid a recurrence of any problems found. (ii) At a minimum, the re-interviewing process must include— (A) Selection of a sample of identified migratory children (from the child counts of a particular year as directed by the Secretary) randomly selected on a statewide basis to allow the State to estimate statewide proportion of eligible migratory children at a 95 percent confidence level with a confidence interval of plus or minus 5 percent. (B) Use of independent re-interviewers (i.e., interviewers who are neither SEA or local operating agency staff members working to administer or operate the State MEP nor any other persons who wo on the initial eligibility determinations being tested) trained to conduct personal interviews and to understand and apply program eligibility requirements; and

Legal Standards

1,496	§200.89 MEP allocations; Re-interviewing; Eligibility documentation; and Quality control	Federal	(a) The following definitions apply to the programs authorized in part D, subparts 1 and 2 of Title I of the ESEA: Children and youth means the same as "children" as that term is defined in §200.103(a). (b) The following definitions apply to the programs authorized in part D, subpart 1 of Title I of the ESEA: Institution for delinquent children and youth means, as determined by the SEA, a public or private residential facility that is operated primarily for the care of children and youth who— (1) Have been adjudicated to be delinquent or in need of supervision; and (2) Have had an average length of stay in the institution of at least 30 days. Institution for neglected children and youth means, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and yo who— (1) Have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians; and (2) Have had an average length of stay in the institution of at least 30 days. Regular program of instruction means an educational program (not beyond grade 12) in an institution or a community day program for neglected or delinquent children that consists of classroom instruction in basic school subjects such as reading, mathematics, and vocationally oriented subjects, and that is supported by non-Federal funds. Neither the manufacture of goods within the institut nor activities related to institutional maintenance are considered classroom instruction. (c) The following definitions apply to the local agency program authorized in part D, subpart 2 of Title I of the ESEA: Immigrant children and youth and limited English proficiency have the same meanings as the term "immigrant children" is defined in section 3301 of the ESEA and the term "limited English proficien defined in section 9101 of the ESEA, except that the terms "individual" and "children and youth" used in those definitions mean "children and youth" as defined in this section.
1,497	Subpart D—Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk of Dropping Out §200.90 Program definitions	Federal	To receive an allocation under part D, subpart 1 of Title I of the ESEA, an SEA must provide the Secretary with a count of children and youth under the age of 21 enrolled in a regular program of instru operated or supported by State agencies in institutions or community day programs for neglected or delinquent children and youth and adult correctional institutions as specified in paragraphs (a) a (b) of this section. (a) Enrollment. (1) To be counted, a child or youth must be enrolled in a regular program of instruction for at least— (i) 20 hours per week if in an institution or community day program for neglected or delinquent children; or (ii) 15 hours per week if in an adult correctional institution. (2) The State agency must specify the date on which the enrollment of neglected or delinquent children is determined under paragraph (a)(1) of this section, except that the date specified must be— (i) Consistent for all institutions or community day programs operated by the State agency; and (ii) Represent a school day in the calendar year preceding the year in which funds become available. (b) Adjustment of enrollment. The SEA must adjust the enrollment for each institution or community day program served by a State agency by— (1) Multiplying the number determined in paragraph (a) of this section by the number of days per year the regular program of instruction operates; and (2) Dividing the result of paragraph (b)(1) of this section by 180. (c) Date of submission. The SEA must annually submit the data in paragraph (b) of this section no later than January 31.
1,498	§200.91 SEA counts of eligible children	Federal	

Legal Standards

1,499	§§200.92-200.99 [Reserved]	Federal	A State must reserve funds for school improvement, State administration, and State academic achievement awards as follows: (a) School improvement. (1) To carry out school improvement activities authorized under sections 1116 and 1117 of the ESEA, an SEA must first reserve— (i) Two percent from the sum of the amounts allocated to the State under section 1002(a) of the ESEA for fiscal years 2002 and 2003; and (ii) Four percent from the sum of the amounts allocated to the State under section 1002(a) of the ESEA for fiscal year 2004 and succeeding years. (2) In reserving funds under paragraph (a)(1) of this section, a State may not reduce the sum of the allocations an LEA receives under section 1002(a) of the ESEA below the sum of the allocations the received under section 1002(a) for the preceding fiscal year. (3) If funds under section 1002(a) are insufficient in a given fiscal year to implement both paragraphs (a)(1) and (2) of this section, a State is not required to reserve the full amount required under paragraph (a)(1) of this section. (b) State administration. (1) An SEA may reserve for State administrative activities authorized in sections 1004 and 1903 of the ESEA no more than the greater of— (i) One percent from each of the amounts allocated to the State or Outlying Area under section 1002(a), (c), and (d) of the ESEA; or (ii) $400,000 ($50,000 for the Outlying Areas). (2)(i) An SEA reserving $400,000 under paragraph (b)(1)(ii) of this section must reserve proportionate amounts from each of the amounts allocated to the State or Outlying Area under section 1002(but is not required to reserve proportionate amounts from section 1002(a), (c), and (d) of the ESEA. (ii) If an SEA reserves funds from the amounts allocated to the State or Outlying Area under section 1002(c) or (d) of the ESEA, the SEA may not reserve from those allocations more than the amount SEA would have reserved if it had reserved proportionate amounts from section 1002(a), (c), and (d) of the ESEA. (3) If the sum of the amounts allocated to all the States under section 1002(a), (c), and (d) of the ESEA is greater than $14,000,000,000, an SEA may not reserve more than one percent of the amount t State would receive if $14,000,000,000 had been allocated among the States under section 1002(a), (c), and (d) of the ESEA.
1,500	Subpart E—General Provisions §200.100 Reservation of funds for school improvement, State administration, and the State academic achievement awards program.	Federal	
1,501	§§200.101-200.102 [Reserved]	Federal	The following definitions apply to programs operated under this part: (a) Children means— (1) Persons up through age 21 who are entitled to a free public education through grade 12; and (2) Preschool children below the age and grade level at which the agency provides free public education. (b) Fiscal year means the Federal fiscal year—a period beginning on October 1 and ending on the following September 30—or another 12-month period normally used by the SEA for record-keeping (c) Student with a disability means child with a disability, as defined in section 602(3) of the IDEA.
1,502	§200.103 Definitions	Federal	
1,503	§§200.104-200.109 [Reserved]	Federal	

Legal Standards

1,504	Title 34: Education PART 300—ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES	Federal	The purposes of this part are— (a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs prepare them for further education, employment, and independent living; (b) To ensure that the rights of children with disabilities and their parents are protected; (c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and (d) To assess and ensure the effectiveness of efforts to educate children with disabilities.
1,505	Subpart A—General Purposes and Applicability §300.1 Purposes	Federal	(a) States. This part applies to each State that receives payments under Part B of the Act, as defined in §300.4. (b) Public agencies within the State. The provisions of this part— (1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including: (i) The State educational agency (SEA). (ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA. (iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness). (iv) State and local juvenile and adult correctional facilities; and (2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B o Act. (c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities— (1) Referred to or placed in private schools and facilities by that public agency; or (2) Placed in private schools by their parents under the provisions of §300.148.
1,506	§300.2 Applicability of this part to State and local agencies	Federal	Act means the Individuals with Disabilities Education Act, as amended.
1,507	Definitions Used in This Part §300.4 Act	Federal	Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or impro functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or impro functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

Legal Standards

1,508	§300.5 Assistive technology device	Federal	Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes— (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment; (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities; (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.
1,509	§300.6 Assistive technology service	Federal	Charter school has the meaning given the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA).
1,510	§300.7 Charter school	Federal	(a) General. (1) Child with a disability means a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic b injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. (2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.304 through 300.311, that a child has one of the disabilities identified in parag (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part. (ii) If, consistent with §300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be child with a disability under paragraph (a)(1) of this section. (b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through fiv may, subject to the conditions described in §300.111(b), include a child— (1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and (2) Who, by reason thereof, needs special education and related services. (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows: (1)(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in dai routines, and unusual responses to sensory experiences. (ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section. (iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

Legal Standards

1,511	§300.8 Child with a disability	Federal	Consent means that— (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication; (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will released and to whom; and (c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. (2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). (3) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not requ to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
1,512	§300.9 Consent	Federal	Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.
1,513	§300.10 Core academic subjects	Federal	(a) Day means calendar day unless otherwise indicated as business day or school day. (b) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in §300.148(d)(1)(ii)). (c)(1) School day means any day, including a partial day that children are in attendance at school for instructional purposes. (2) School day has the same meaning for all children in school, including children with and without disabilities.
1,514	§300.11 Day; business day; school day	Federal	Educational service agency means— (a) A regional public multiservice agency— (1) Authorized by State law to develop, manage, and provide services or programs to LEAs; (2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State; (b) Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and (c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997.
1,515	§300.12 Educational service agency	Federal	Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.
1,516	§300.13 Elementary school	Federal	Equipment means— (a) Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and (b) All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.
1,517	§300.14 Equipment	Federal	Evaluation means procedures used in accordance with §§300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related service the child needs.

Legal Standards

1,518	§300.15 Evaluation	Federal	Excess costs means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as m be appropriate, and that must be computed after deducting— (a) Amounts received— (1) Under Part B of the Act; (2) Under Part A of title I of the ESEA; and (3) Under Parts A and B of title III of the ESEA and; (b) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or d service. (See appendix A to part 300 for an example of how excess costs must be calculated.)
1,519	§300.16 Excess costs	Federal	Free appropriate public education or FAPE means special education and related services that— (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.
1,520	§300.17 Free appropriate public education	Federal	(a) Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term h qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also— (1) Include the requirements described in paragraph (b) of this section; and (2) Include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of paragraphs (c) and (d) of this section. (b) Requirements for special education teachers in general. (1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly quali requires that— (i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education tea licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified m that the teacher meets the certification or licensing requirements, if any, set forth in the State's public charter school law; (ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) The teacher holds at least a bachelor's degree. (2) A teacher will be considered to meet the standard in paragraph (b)(1)(i) of this section if that teacher is participating in an alternative route to special education certification program under whic (i) The teacher— (A) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teach (B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; (C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and
1,521	§300.18 Highly qualified special education teachers	Federal	Homeless children has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et se

Legal Standards

1,522	§300.19 Homeless children	Federal	Include means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.
1,523	§300.20 Include	Federal	(a) Indian means an individual who is a member of an Indian tribe. (b) Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.). (c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian tribe that is not listed in the Federal Register list of Ind entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.
1,524	§300.21 Indian and Indian tribe	Federal	Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§300.320 through 300.324.
1,525	§300.22 Individualized education program	Federal	Individualized education program team or IEP Team means a group of individuals described in §300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.
1,526	§300.23 Individualized education program team	Federal	Individualized family service plan or IFSP has the meaning given the term in section 636 of the Act.
1,527	§300.24 Individualized family service plan	Federal	Infant or toddler with a disability— (a) Means an individual under three years of age who needs early intervention services because the individual— (1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communic development, social or emotional development, and adaptive development; or (2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and (b) May also include, at a State's discretion— (1) At-risk infants and toddlers; and (2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to e kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include— (i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and (ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool program under section 619.
1,528	§300.25 Infant or toddler with a disability	Federal	Institution of higher education— (a) Has the meaning given the term in section 101 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021 et seq. (HEA); and (b) Also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801, et se
1,529	§300.26 Institution of higher education	Federal	Limited English proficient has the meaning given the term in section 9101(25) of the ESEA.

Legal Standards

1,530	§300.27 Limited English proficient	Federal	(a) General. Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perfo service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as a recognized in a State as an administrative agency for its public elementary schools or secondary schools. (b) Educational service agencies and other public institutions or agencies. The term includes— (1) An educational service agency, as defined in §300.12; and (2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public nonprofit charter school that is establishe an LEA under State law. (c) BIA funded schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Ind Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not ha student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.
1,531	§300.28 Local educational agency	Federal	(a) Native language, when used with respect to an individual who is limited English proficient, means the following: (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section. (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment. (b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or o communication).
1,532	§300.29 Native language	Federal	(a) Parent means— (1) A biological or adoptive parent of a child; (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for child's welfare; or (5) A surrogate parent who has been appointed in accordance with §300.519 or section 639(a)(5) of the Act. (b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educatio decisions for the child. (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the “parent” of a child or to make educational decisions on behalf of child, then such person or persons shall be determined to be the “parent” for purposes of this section.

Legal Standards

1,533	§300.30 Parent	Federal	Parent training and information center means a center assisted under sections 671 or 672 of the Act. (Authority: 20 U.S.C. 1401(25)) return arrow Back to Top §300.32 Personally identifiable. Personally identifiable means information that contains— (a) The name of the child, the child's parent, or other family member; (b) The address of the child; (c) A personal identifier, such as the child's social security number or student number; or (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
1,534	§300.31 Parent training and information center	Federal	Public agency includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivision the State that are responsible for providing education to children with disabilities.
1,535	§300.33 Public agency	Federal	(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special educatio includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. (b) Exception; services that apply to children with surgically implanted devices, including cochlear implants. (1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. (2) Nothing in paragraph (b)(1) of this section— (i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE. (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or (iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b). (c) Individual related services terms defined. The terms used in this definition are defined as follows: (1) Audiology includes— (i) Identification of children with hearing loss; (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
1,536	§300.34 Related services	Federal	Scientifically based research has the meaning given the term in section 9101(37) of the ESEA.
1,537	§300.35 Scientifically based research	Federal	Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that does not include any education beyond grade 12.
1,538	§300.36 Secondary school	Federal	Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who ha been designated to receive services, including the location of the services and any transportation necessary, consistent with §300.132, and is developed and implemented in accordance with §§300.1 through 300.139.

Legal Standards

1,539	§300.37 Services plan	Federal	Secretary means the Secretary of Education.
1,540	§300.38 Secretary	Federal	(a) General. (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including— (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) Instruction in physical education. (2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section— (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education. (b) Individual special education terms defined. The terms in this definition are defined as follows: (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a p the regular education program. (2) Physical education means— (i) The development of— (A) Physical and motor fitness; (B) Fundamental motor skills and patterns; and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
1,541	§300.39 Special education	Federal	State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas. State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.
1,542	§300.40 State	Federal	State educational agency or SEA means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, there is no such officer or agency, an officer or agency designated by the Governor or by State law.
1,543	§300.41 State educational agency	Federal	Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic set to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

Legal Standards

1,544	§300.42 Supplementary aids and services	Federal	(a) Transition services means a coordinated set of activities for a child with a disability that— (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from scho post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independe living, or community participation; (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes— (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. (b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit f special education.
1,545	§300.43 Transition services	Federal	Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002.
1,546	§300.44 Universal design	Federal	(a) General. Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is— (1) A foster child; (2) A ward of the State; or (3) In the custody of a public child welfare agency. (b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in §300.30.
1,547	§300.45 Ward of the State	Federal	A State is eligible for assistance under Part B of the Act for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensur the State meets the conditions in §§300.101 through 300.176.
1,548	Subpart B—State Eligibility General §300.100 Eligibility for assistance	Federal	(a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspe or expelled from school, as provided for in §300.530(d). (b) FAPE for children beginning at age 3. (1) Each State must ensure that— (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with §300.323(b). (2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin. (c) Children advancing from grade to grade. (1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though th child has not failed or been retained in a course or grade, and is advancing from grade to grade. (2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

Legal Standards

1,549	FAPE Requirements §300.101 Free appropriate public education (FAPE).	Federal	(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following: (1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provisi public education to children of those ages. (2)(i) Children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility— (A) Were not actually identified as being a child with a disability under §300.8; and (B) Did not have an IEP under Part B of the Act. (ii) The exception in paragraph (a)(2)(i) of this section does not apply to children with disabilities, aged 18 through 21, who— (A) Had been identified as a child with a disability under §300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or (B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under §300.8. (3)(i) Children with disabilities who have graduated from high school with a regular high school diploma. (ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma. (iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with §300.503. (iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED). (4) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.
1,550	§300.102 Limitation—exception to FAPE for certain ages	Federal	(a) Each State may use whatever State, local, Federal, and private sources of support that are available in the State to meet the requirements of this part. For example, if it is necessary to place a child disability in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement. (b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. (c) Consistent with §300.323(c), the State must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special educati and related services to the child is being determined.
1,551	Other FAPE Requirements §300.103 FAPE—methods and payments	Federal	If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room an board, must be at no cost to the parents of the child.
1,552	§300.104 Residential placement	Federal	(a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5 and 300.6, respectively, are made available to a ch with a disability if required as a part of the child's— (1) Special education under §300.36; (2) Related services under §300.34; or (3) Supplementary aids and services under §§300.38 and 300.114(a)(2)(ii). (b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to devices in order to receive FAPE.

Legal Standards

1,553	§300.105 Assistive technology	Federal	(a) General. (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section. (2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§300.320 through 300.324, that the services are necessary for th provision of FAPE to the child. (3) In implementing the requirements of this section, a public agency may not— (i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type, amount, or duration of those services. (b) Definition. As used in this section, the term extended school year services means special education and related services that— (1) Are provided to a child with a disability— (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA.
1,554	§300.106 Extended school year services	Federal	The State must ensure the following: (a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. (b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsor the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.
1,555	§300.107 Nonacademic services	Federal	The State must ensure that public agencies in the State comply with the following: (a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disab and does not provide physical education to children without disabilities in the same grades. (b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless— (1) The child is enrolled full time in a separate facility; or (2) The child needs specially designed physical education, as prescribed in the child's IEP. (c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or arrangements for those services to be provided through other public or private programs. (d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate phy education services in compliance with this section.
1,556	§300.108 Physical education	Federal	The State must have in effect policies and procedures to demonstrate that the State has established a goal of providing full educational opportunity to all children with disabilities, aged birth through and a detailed timetable for accomplishing that goal.

Legal Standards

1,557	§300.109 Full educational opportunity goal (FEOG).	Federal	The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. (Approved by the Office of Management and Budget under control number 1820-0030)
1,558	§300.110 Program options	Federal	(a) General. (1) The State must have in effect policies and procedures to ensure that— (i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services. (b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section: (1) A State that adopts a definition of developmental delay under §300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five). (2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction. (3) If an LEA uses the term developmental delay for children described in §300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State. (4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part. (c) Other children in child find. Child find also must include— (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade; and (2) Highly mobile children, including migrant children. (d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in §300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.
1,559	§300.111 Child find	Federal	The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with §§300.32 through 300.324, except as provided in §300.300(b)(3)(ii).
1,560	§300.112 Individualized education programs (IEP).	Federal	(a) Hearing aids. Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly. (b) External components of surgically implanted medical devices. (1) Subject to paragraph (b)(2) of this section, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly. (2) For a child with a surgically implanted medical device who is receiving special education and related services under this part, a public agency is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

Legal Standards

1,561	§300.113 Routine checking of hearing aids and external components of surgically implanted medical devices	Federal	(a) General. (1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the meet the LRE requirements of this section and §§300.115 through 300.120. (2) Each public agency must ensure that— (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that educat regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (b) Additional requirement—State funding mechanism—(1) General. (i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and (ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP. (2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revis funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.
1,562	Least Restrictive Environment (LRE) §300.114 LRE requirements	Federal	(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (b) The continuum required in paragraph (a) of this section must— (1) Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.
1,563	§300.115 Continuum of alternative placements	Federal	In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that— (a) The placement decision— (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (2) Is made in conformity with the LRE provisions of this subpart, including §§300.114 through 300.118; (b) The child's placement— (1) Is determined at least annually; (2) Is based on the child's IEP; and (3) Is as close as possible to the child's home; (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled; (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.
1,564	§300.116 Placements	Federal	In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, each publi agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

Legal Standards

1,565	§300.117 Nonacademic settings	Federal	Except as provided in §300.149(d) (regarding agency responsibility for general supervision of some individuals in adult prisons), an SEA must ensure that §300.114 is effectively implemented, includ necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).
1,566	§300.118 Children in public or private institutions	Federal	Each SEA must carry out activities to ensure that teachers and administrators in all public agencies— (a) Are fully informed about their responsibilities for implementing §300.114; and (b) Are provided with technical assistance and training necessary to assist them in this effort.
1,567	§300.119 Technical assistance and training activities	Federal	(a) The SEA must carry out activities to ensure that §300.114 is implemented by each public agency. (b) If there is evidence that a public agency makes placements that are inconsistent with §300.114, the SEA must— (1) Review the public agency's justification for its actions; and (2) Assist in planning and implementing any necessary corrective action.
1,568	§300.120 Monitoring activities	Federal	(a) General. The State must have procedural safeguards in effect to ensure that each public agency in the State meets the requirements of §§300.500 through 300.536. (b) Procedural safeguards identified. Children with disabilities and their parents must be afforded the procedural safeguards identified in paragraph (a) of this section.
1,569	Additional Eligibility Requirements §300.121 Procedural safeguards	Federal	Children with disabilities must be evaluated in accordance with §§300.300 through 300.311 of subpart D of this part.
1,570	§300.122 Evaluation	Federal	The State must have policies and procedures in effect to ensure that public agencies in the State comply with §§300.610 through 300.626 related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act.
1,571	§300.123 Confidentiality of personally identifiable information	Federal	The State must have in effect policies and procedures to ensure that— (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act; (b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with §300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being impleme for the child consistent with §300.101(b); and (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act.
1,572	§300.124 Transition of children from the Part C program to preschool programs	Federal	
1,573	§§300.125-300.128 [Reserved]	Federal	The State must have in effect policies and procedures that ensure that LEAs, and, if applicable, the SEA, meet the private school requirements in §§300.130 through 300.148.
1,574	Children in Private Schools §300.129 State responsibility regarding children in private schools	Federal	Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in §300.13 or secondary school in §300.36, other than children with disabilities covered under §§300.145 through 300.147.

Legal Standards

1,575	Children With Disabilities Enrolled by Their Parents in Private Schools §300.130 Definition of parentally-placed private school children with disabilities	Federal	(a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools locat the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201. (b) Child find design. The child find process must be designed to ensure— (1) The equitable participation of parentally-placed private school children; and (2) An accurate count of those children. (c) Activities. In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children. (d) Cost. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if an LEA has met its obligation under §300.133. (e) Completion period. The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with §300.301. (f) Out-of-State children. Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, includ parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.
1,576	§300.131 Child find for parentally-placed private school children with disabilities	Federal	(a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary sch located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198. (b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed a implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part (c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§300.130 through 300.144: (1) The number of children evaluated; (2) The number of children determined to be children with disabilities; and (3) The number of children served.

Legal Standards

1,577	§300.132 Provision of services for parentally-placed private school children with disabilities—basic requirement	Federal	(a) Formula. To meet the requirement of §300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private s children with disabilities: (1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of childr with disabilities in its jurisdiction aged 3 through 21. (2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school childre with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five. (ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in priv including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13. (3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, t LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period o additional year. (b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under §300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children wit disabilities attending private schools located in the LEA. (See appendix B for an example of how proportionate share is calculated). (c) Annual count of the number of parentally-placed private school children with disabilities. (1) Each LEA must— (i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with §300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and (ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.
1,578	§300.133 Expenditures	Federal	To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following: (a) Child find. The child find process, including— (1) How parentally-placed private school children suspected of having a disability can participate equitably; and (2) How parents, teachers, and private school officials will be informed of the process. (b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under §300.133(b), inclu the determination of how the proportionate share of those funds was calculated. (c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education a related services. (d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilitie including a discussion of— (1) The types of services, including direct services and alternate service delivery mechanisms; and (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and (3) How and when those decisions will be made; (e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided direc through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

Legal Standards

1,579	§300.134 Consultation	Federal	(a) When timely and meaningful consultation, as required by §300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools. (b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.
1,580	§300.135 Written affirmation	Federal	(a) General. A private school official has the right to submit a complaint to the SEA that the LEA— (1) Did not engage in consultation that was meaningful and timely; or (2) Did not give due consideration to the views of the private school official. (b) Procedure. (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisio this part; and (2) The LEA must forward the appropriate documentation to the SEA. (3)(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragra (b)(1) of this section; and (ii) The SEA must forward the appropriate documentation to the Secretary.
1,581	§300.136 Compliance	Federal	(a) No individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and re services that the child would receive if enrolled in a public school. (b) Decisions. (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§300.130 through 300.144 must be made in accordance with paragraph (c) of this section and §300.134(d). (2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities. (c) Services plan for each child served under §§300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special educ or related services from an LEA, the LEA must— (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and (2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religi or other private school, including individual or conference telephone calls.

Legal Standards

1,582	§300.137 Equitable services determined	Federal	(a) General. (1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to the highly qualified special education teacher requirements of §300.18. (2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. (b) Services provided in accordance with a services plan. (1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a ser plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§30 and 300.137, it will make available to parentally-placed private school children with disabilities. (2) The services plan must, to the extent appropriate— (i) Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and (ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324. (c) Provision of equitable services. (1) The provision of services pursuant to this section and §§300.139 through 300.143 must be provided: (i) By employees of a public agency; or (ii) Through contract by the public agency with an individual, association, agency, organization, or other entity. (2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.
1,583	§300.138 Equitable services provided	Federal	(a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law. (b) Transportation—(1) General. (i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation— (A) From the child's school or the child's home to a site other than the private school; and (B) From the service site to the private school, or to the child's home, depending on the timing of the services. (ii) LEAs are not required to provide transportation from the child's home to the private school. (2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.133.
1,584	§300.139 Location of services and transportation	Federal	(a) Due process not applicable, except for child find. (1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan. (b) Child find complaints—to be filed with the LEA in which the private school is located. (1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the chi find requirements in §300.131, including the requirements in §§300.300 through 300.311. (2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy mu forwarded to the SEA. (c) State complaints. (1) Any complaint that an SEA or LEA has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153. (2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b).

Legal Standards

1,585	§300.140 Due process complaints and State complaints	Federal	(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school. (b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meetin (1) The needs of a private school; or (2) The general needs of the students enrolled in the private school.
1,586	§300.141 Requirement that funds not benefit a private school	Federal	(a) Use of public school personnel. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities— (1) To the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities; and (2) If those services are not normally provided by the private school. (b) Use of private school personnel. An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§300.1 through 300.144 if— (1) The employee performs the services outside of his or her regular hours of duty; and (2) The employee performs the services under public supervision and control.
1,587	§300.142 Use of personnel	Federal	An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—' (a) The classes are at the same site; and (b) The classes include children enrolled in public schools and children enrolled in private schools.
1,588	§300.143 Separate classes prohibited	Federal	(a) A public agency must control and administer the funds used to provide special education and related services under §§300.137 through 300.139, and hold title to and administer materials, equipr and property purchased with those funds for the uses and purposes provided in the Act. (b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program. (c) The public agency must ensure that the equipment and supplies placed in a private school— (1) Are used only for Part B purposes; and (2) Can be removed from the private school without remodeling the private school facility. (d) The public agency must remove equipment and supplies from a private school if— (1) The equipment and supplies are no longer needed for Part B purposes; or (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes. (e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.
1,589	§300.144 Property, equipment, and supplies	Federal	Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

Legal Standards

1,590	Children With Disabilities in Private Schools Placed or Referred by Public Agencies §300.145 Applicability of §§300.146 through 300.147	Federal	Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency— (a) Is provided special education and related services— (1) In conformance with an IEP that meets the requirements of §§300.320 through 300.325; and (2) At no cost to the parents; (b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for §300.18 and §300.156(c); and (c) Has all of the rights of a child with a disability who is served by a public agency.
1,591	§300.146 Responsibility of SEA	Federal	In implementing §300.146, the SEA must— (a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires; (b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and (c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.
1,592	§300.147 Implementation by SEA	Federal	(a) General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency m FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with §§300.131 through 300.144. (b) Disagreements about FAPE. Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement subject to the due process procedures in §§300.504 through 300.520. (c) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enro child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the paren the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs. (d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied— (1) If— (i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public a of the information described in paragraph (d)(1)(i) of this section; (2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in §300.503(a)(1), of its intent to evaluate t child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or (3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents. (e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement—

Legal Standards

1,593	Children With Disabilities Enrolled by Their Parents in Private Schools When FAPE Is at Issue §300.148 Placement of children by parents when FAPE is at issue	Federal	(a) The SEA is responsible for ensuring— (1) That the requirements of this part are carried out; and (2) That each educational program for children with disabilities administered within the State, including each program administered by any other State or local agency (but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)— (i) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and (ii) Meets the educational standards of the SEA (including the requirements of this part). (3) In carrying out this part with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) are met. (b) The State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in §§300.600 through 300.602 and §§300.606 through 300.60 (c) Part B of the Act does not limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of FAPE to children with disabilities in the State. (d) Notwithstanding paragraph (a) of this section, the Governor (or another individual pursuant to State law) may assign to any public agency in the State the responsibility of ensuring that the requirements of Part B of the Act are met with respect to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons.
1,594	SEA Responsibility for General Supervision and Implementation of Procedural Safeguards §300.149 SEA responsibility for general supervision	Federal	The SEA (and any agency assigned responsibility pursuant to §300.149(d)) must have in effect procedures to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for the children with disabilities served by that public agency.
1,595	§300.150 SEA implementation of procedural safeguards	Federal	(a) General. Each SEA must adopt written procedures for— (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of §300.153 by— (i) Providing for the filing of a complaint with the SEA; and (ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under §§300.151 through 300.153. (b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority un Part B of the Act, must address— (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) Appropriate future provision of services for all children with disabilities.

Legal Standards

1,596	State Complaint Procedures §300.151 Adoption of State complaint procedures	Federal	(a) General. Each SEA must adopt written procedures for— (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of §300.153 by— (i) Providing for the filing of a complaint with the SEA; and (ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under §§300.151 through 300.153. (b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority un Part B of the Act, must address— (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) Appropriate future provision of services for all children with disabilities.
1,597	§300.152 Minimum State complaint procedures	Federal	(a) Time limit; minimum procedures. Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under §300.153 to— (1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary; (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum— (i) At the discretion of the public agency, a proposal to resolve the complaint; and (ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with §300.506; (4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains— (i) Findings of fact and conclusions; and (ii) The reasons for the SEA's final decision. (b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of this section also must— (1) Permit an extension of the time limit under paragraph (a) of this section only if— (i) Exceptional circumstances exist with respect to a particular complaint; or (ii) The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute resolution, if available in the State; and

Legal Standards

1,598	§300.153 Filing a complaint	Federal	(a) An organization or individual may file a signed written complaint under the procedures described in §§300.151 through 300.152. (b) The complaint must include— (1) A statement that a public agency has violated a requirement of Part B of the Act or of this part; (2) The facts on which the statement is based; (3) The signature and contact information for the complainant; and (4) If alleging violations with respect to a specific child— (i) The name and address of the residence of the child; (ii) The name of the school the child is attending; (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, a the name of the school the child is attending; (iv) A description of the nature of the problem of the child, including facts relating to the problem; and (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. (c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §300.151. (d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA.
1,599	Methods of Ensuring Services §300.154 Methods of ensuring services	Federal	(a) Establishing responsibility for services. The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordinati in effect between each noneducational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are n to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph (a)(3) of this section. The agreement or mechanism must include the follo (1) An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabi The financial responsibility of each noneducational public agency described in paragraph (b) of this section, including the State Medicaid agency and other public insurers of children with disabilities must precede the financial responsibility of the LEA (or the State agency responsible for developing the child's IEP). (2) The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies. (3) Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism. (4) Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of se described in paragraph (b)(1) of this section. (b) Obligation of noneducational public agencies. (1)(i) If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this section, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in §3 relating to assistive technology devices, §300.6 relating to assistive technology services, §300.34 relating to related services, §300.41 relating to supplementary aids and services, and §300.42 relatin transition services) that are necessary for ensuring FAPE to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contra other arrangement pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section. (ii) A noneducational public agency described in paragraph (b)(1)(i) of this section may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school con (2) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph (b)(1) of this section, the LEA (or State agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or State agency is authorized to claim reimbursement for the services from noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA or State agency in accordance with the terms of the interagency agreement or o mechanism described in paragraph (a) of this section.
1,600	Additional Eligibility Requirements §300.155 Hearings relating to LEA eligibility	Federal	The SEA must not make any final determination that an LEA is not eligible for assistance under Part B of the Act without first giving the LEA reasonable notice and an opportunity for a hearing under CFR 76.401(d).

Legal Standards

1,601	§300.156 Personnel qualifications	Federal	(a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, inclu that those personnel have the content knowledge and skills to serve children with disabilities. (b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that— (1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those person are providing special education or related services; and (2) Ensure that related services personnel who deliver services in their discipline or profession— (i) Meet the requirements of paragraph (b)(1) of this section; and (ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be us assist in the provision of special education and related services under this part to children with disabilities. (c) Qualifications for special education teachers. The qualifications described in paragraph (a) of this section must ensure that each person employed as a public school special education teacher in th State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of the ESEA. (d) Policy. In implementing this section, a State must adopt a policy that includes a requirement that LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personn provide special education and related services under this part to children with disabilities. (e) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action o behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications v the SEA as provided for under this part.
1,602	§300.157 Performance goals and indicators	Federal	The State must— (a) Have in effect established goals for the performance of children with disabilities in the State that— (1) Promote the purposes of this part, as stated in §300.1; (2) Are the same as the State's objectives for progress by children in its definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the ESEA, 20 U.S.C. 6311; (3) Address graduation rates and dropout rates, as well as such other factors as the State may determine; and (4) Are consistent, to the extent appropriate, with any other goals and academic standards for children established by the State; (b) Have in effect established performance indicators the State will use to assess progress toward achieving the goals described in paragraph (a) of this section, including measurable annual objective progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the ESEA, 20 U.S.C. 6311; and (c) Annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under paragraph (a) of this section, may include elements of the reports required under section 1111(h) of the ESEA.
1,603	§§300.158-300.159 [Reserved]	Federal	

Legal Standards

1,604	§300.160 Participation in assessments	Federal	(a) General. A State must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs. (b) Accommodation guidelines. (1) A State (or, in the case of a district-wide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations. (2) The State's (or, in the case of a district-wide assessment, the LEA's) guidelines must— (i) Identify only those accommodations for each assessment that do not invalidate the score; and (ii) Instruct IEP Teams to select, for each assessment, only those accommodations that do not invalidate the score. (c) Alternate assessments. (1) A State (or, in the case of a district-wide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in paragraph (a) o section. (2) For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph (c)(1) of this section must provide for alternate assessments that— (i) Are aligned with the State's challenging academic content standards and challenging student academic achievement standards; (ii) If the State has adopted modified academic achievement standards permitted in 34 CFR 200.1(e), measure the achievement of children with disabilities meeting the State's criteria under §200.1(e against those standards; and (iii) If the State has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against tho standards. (d) Explanation to IEP Teams. A State (or in the case of a district-wide assessment, an LEA) must provide IEP Teams with a clear explanation of the differences between assessments based on grade-le academic achievement standards and those based on modified or alternate academic achievement standards, including any effects of State or local policies on the student's education resulting from t
1,605	§300.161 [Reserved]	Federal	
1,606	§300.162 Supplementation of State, local, and other Federal funds	Federal	(a) Expenditures. Funds paid to a State under this part must be expended in accordance with all the provisions of this part. (b) Prohibition against commingling. (1) Funds paid to a State under this part must not be commingled with State funds. (2) The requirement in paragraph (b)(1) of this section is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of funds paid to a State under this part. Se bank accounts are not required. (See 34 CFR 76.702 (Fiscal control and fund accounting procedures).) (c) State-level nonsupplanting. (1) Except as provided in §300.203, funds paid to a State under Part B of the Act must be used to supplement the level of Federal, State, and local funds (including funds are not under the direct control of the SEA or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act, and in no case to supplant those Federal, State, and local funds. (2) If the State provides clear and convincing evidence that all children with disabilities have available to them FAPE, the Secretary may waive, in whole or in part, the requirements of paragraph (c)(1 this section if the Secretary concurs with the evidence provided by the State under §300.164.

Legal Standards

1,607	§300.163 Maintenance of State financial support	Federal	(a) General. A State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess co educating those children, below the amount of that support for the preceding fiscal year. (b) Reduction of funds for failure to maintain support. The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement. (c) Waivers for exceptional or uncontrollable circumstances. The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determi that— (1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; (2) The State meets the standard in §300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act. (d) Subsequent years. If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the redu level of the State's support.
1,608	§300.164 Waiver of requirement regarding supplementing and not supplanting with Part B funds	Federal	(a) Except as provided under §§300.202 through 300.205, funds paid to a State under Part B of the Act must be used to supplement and increase the level of Federal, State, and local funds (including f that are not under the direct control of SEAs or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act and in no case to supplant thos Federal, State, and local funds. A State may use funds it retains under §300.704(a) and (b) without regard to the prohibition on supplanting other funds. (b) If a State provides clear and convincing evidence that all eligible children with disabilities throughout the State have FAPE available to them, the Secretary may waive for a period of one year in wh or in part the requirement under §300.162 (regarding State-level nonsupplanting) if the Secretary concurs with the evidence provided by the State. (c) If a State wishes to request a waiver under this section, it must submit to the Secretary a written request that includes— (1) An assurance that FAPE is currently available, and will remain available throughout the period that a waiver would be in effect, to all eligible children with disabilities throughout the State, regard of the public agency that is responsible for providing FAPE to them. The assurance must be signed by an official who has the authority to provide that assurance as it applies to all eligible children wit disabilities in the State; (2) All evidence that the State wishes the Secretary to consider in determining whether all eligible children with disabilities have FAPE available to them, setting forth in detail— (i) The basis on which the State has concluded that FAPE is available to all eligible children in the State; and (ii) The procedures that the State will implement to ensure that FAPE remains available to all eligible children in the State, which must include— (A) The State's procedures under §300.111 for ensuring that all eligible children are identified, located and evaluated; (B) The State's procedures for monitoring public agencies to ensure that they comply with all requirements of this part; (C) The State's complaint procedures under §§300.151 through 300.153; and (D) The State's hearing procedures under §§300.511 through 300.516 and §§300.530 through 300.536; (3) A summary of all State and Federal monitoring reports, and State complaint decisions (see §§300.151 through 300.153) and hearing decisions (see §§300.511 through 300.516 and §§300.530 thr
1,609	§300.165 Public participation	Federal	(a) Prior to the adoption of any policies and procedures needed to comply with Part B of the Act (including any amendments to those policies and procedures), the State must ensure that there are pu hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (b) Before submitting a State plan under this part, a State must comply with the public participation requirements in paragraph (a) of this section and those in 20 U.S.C. 1232d(b)(7).
1,610	§300.166 Rule of construction	Federal	In complying with §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to LEAs, including funding based on student attendan enrollment, or inflation.

Legal Standards

1,611	State Advisory Panel §300.167 State advisory panel	Federal	The State must establish and maintain an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.
1,612	§300.168 Membership	Federal	(a) General. The advisory panel must consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State popul and be composed of individuals involved in, or concerned with the education of children with disabilities, including— (1) Parents of children with disabilities (ages birth through 26); (2) Individuals with disabilities; (3) Teachers; (4) Representatives of institutions of higher education that prepare special education and related services personnel; (5) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, (42 U.S.C. 11431 et seq.); (6) Administrators of programs for children with disabilities; (7) Representatives of other State agencies involved in the financing or delivery of related services to children with disabilities; (8) Representatives of private schools and public charter schools; (9) Not less than one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; (10) A representative from the State child welfare agency responsible for foster care; and (11) Representatives from the State juvenile and adult corrections agencies. (b) Special rule. A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities (ages birth through 26).
1,613	§300.169 Duties	Federal	The advisory panel must— (a) Advise the SEA of unmet needs within the State in the education of children with disabilities; (b) Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities; (c) Advise the SEA in developing evaluations and reporting on data to the Secretary under section 618 of the Act; (d) Advise the SEA in developing corrective action plans to address findings identified in Federal monitoring reports under Part B of the Act; and (e) Advise the SEA in developing and implementing policies relating to the coordination of services for children with disabilities.
1,614	Other Provisions Required for State Eligibility §300.170 Suspension and expulsion rates	Federal	(a) General. The SEA must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsion children with disabilities— (1) Among LEAs in the State; or (2) Compared to the rates for nondisabled children within those agencies. (b) Review and revision of policies. If the discrepancies described in paragraph (a) of this section are occurring, the SEA must review and, if appropriate, revise (or require the affected State agency o to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensu that these policies, procedures, and practices comply with the Act.

Legal Standards

1,615	§300.171 Annual description of use of Part B funds	Federal	(a) In order to receive a grant in any fiscal year a State must annually describe— (1) How amounts retained for State administration and State-level activities under §300.704 will be used to meet the requirements of this part; and (2) How those amounts will be allocated among the activities described in §300.704 to meet State priorities based on input from LEAs. (b) If a State's plans for use of its funds under §300.704 for the forthcoming year do not change from the prior year, the State may submit a letter to that effect to meet the requirement in paragraph (this section. (c) The provisions of this section do not apply to the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States.
1,616	§300.172 Access to instructional materials	Federal	(a) General. The State must— (1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published as appendix C to part 300, for the purposes of providing instructional materials to blind persons or other per with print disabilities, in a timely manner after publication of the NIMAS in the Federal Register on July 19, 2006 (71 FR 41084); and (2) Establish a State definition of "timely manner" for purposes of paragraphs (b)(2) and (b)(3) of this section if the State is not coordinating with the National Instructional Materials Access Center (NIMAC) or (b)(3) and (c)(2) of this section if the State is coordinating with the NIMAC. (b) Rights and responsibilities of SEA. (1) Nothing in this section shall be construed to require any SEA to coordinate with the NIMAC. (2) If an SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (3) Nothing in this section relieves an SEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but are not included under the definitio blind or other persons with print disabilities in §300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner. (4) In order to meet its responsibility under paragraphs (b)(2), (b)(3), and (c) of this section to ensure that children with disabilities who need instructional materials in accessible formats are provid those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who nee those instructional materials at the same time as other children receive instructional materials. (c) Preparation and delivery of files. If an SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must— (1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enter into a written contrac the publisher of the print instructional materials to— (i) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using t NIMAS; or
1,617	§300.173 Overidentification and disproportionality	Federal	The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in §300.8.
1,618	§300.174 Prohibition on mandatory medication	Federal	(a) General. The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controll Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under §§300.300 through 300.311, or receiving services under this part. (b) Rule of construction. Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education related services under §300.111 (related to child find).
1,619	§300.175 SEA as provider of FAPE or direct services	Federal	If the SEA provides FAPE to children with disabilities, or provides direct services to these children, the agency— (a) Must comply with any additional requirements of §§300.201 and 300.202 and §§300.206 through 300.226 as if the agency were an LEA; and (b) May use amounts that are otherwise available to the agency under Part B of the Act to serve those children without regard to §300.202(b) (relating to excess costs).

Legal Standards

1,620	§300.176 Exception for prior State plans	Federal	(a) General. If a State has on file with the Secretary policies and procedures approved by the Secretary that demonstrate that the State meets any requirement of §300.100, including any policies and procedures filed under Part B of the Act as in effect before, December 3, 2004, the Secretary considers the State to have met the requirement for purposes of receiving a grant under Part B of the Act. (b) Modifications made by a State. (1) Subject to paragraph (b)(2) of this section, policies and procedures submitted by a State in accordance with this subpart remain in effect until the State submits Secretary the modifications that the State determines necessary. (2) The provisions of this subpart apply to a modification to an application to the same extent and in the same manner that they apply to the original plan. (c) Modifications required by the Secretary. The Secretary may require a State to modify its policies and procedures, but only to the extent necessary to ensure the State's compliance with this part, if (1) After December 3, 2004, the provisions of the Act or the regulations in this part are amended; (2) There is a new interpretation of this Act by a Federal court or a State's highest court; or (3) There is an official finding of noncompliance with Federal law or regulations.
1,621	§300.177 States' sovereign immunity and positive efforts to employ and advance qualified individuals with disabilities	Federal	(a) States' sovereign immunity. (1) A State that accepts funds under this part waives its immunity under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of this part. (2) In a suit against a State for a violation of this part, remedies (including remedies both at law and in equity) are available for such a violation in the suit against any public entity other than a State. (3) Paragraphs (a)(1) and (a)(2) of this section apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990. (b) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employmen qualified individuals with disabilities in programs assisted under Part B of the Act.
1,622	Department Procedures §300.178 Determination by the Secretary that a State is eligible to receive a grant	Federal	If the Secretary determines that a State is eligible to receive a grant under Part B of the Act, the Secretary notifies the State of that determination.
1,623	§300.179 Notice and hearing before determining that a State is not eligible to receive a grant	Federal	(a) General. (1) The Secretary does not make a final determination that a State is not eligible to receive a grant under Part B of the Act until providing the State— (i) With reasonable notice; and (ii) With an opportunity for a hearing. (2) In implementing paragraph (a)(1)(i) of this section, the Secretary sends a written notice to the SEA by certified mail with return receipt requested. (b) Content of notice. In the written notice described in paragraph (a)(2) of this section, the Secretary— (1) States the basis on which the Secretary proposes to make a final determination that the State is not eligible; (2) May describe possible options for resolving the issues; (3) Advises the SEA that it may request a hearing and that the request for a hearing must be made not later than 30 days after it receives the notice of the proposed final determination that the State i eligible; and (4) Provides the SEA with information about the hearing procedures that will be followed.

Legal Standards

1,624	§300.180 Hearing official or panel	Federal	(a) If the SEA requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of this progran conduct a hearing. (b) If more than one individual is designated, the Secretary designates one of those individuals as the Chief Hearing Official of the Hearing Panel. If one individual is designated, that individual is the Hearing Official.
1,625	§300.181 Hearing procedures	Federal	(a) As used in §§300.179 through 300.184 the term party or parties means the following: (1) An SEA that requests a hearing regarding the proposed disapproval of the State's eligibility under this part. (2) The Department official who administers the program of financial assistance under this part. (3) A person, group or agency with an interest in and having relevant information about the case that has applied for and been granted leave to intervene by the Hearing Official or Hearing Panel. (b) Within 15 days after receiving a request for a hearing, the Secretary designates a Hearing Official or Hearing Panel and notifies the parties. (c) The Hearing Official or Hearing Panel may regulate the course of proceedings and the conduct of the parties during the proceedings. The Hearing Official or Hearing Panel takes all steps necessary conduct a fair and impartial proceeding, to avoid delay, and to maintain order, including the following: (1) The Hearing Official or Hearing Panel may hold conferences or other types of appropriate proceedings to clarify, simplify, or define the issues or to consider other matters that may aid in the disposition of the case. (2) The Hearing Official or Hearing Panel may schedule a prehearing conference with the Hearing Official or Hearing Panel and the parties. (3) Any party may request the Hearing Official or Hearing Panel to schedule a prehearing or other conference. The Hearing Official or Hearing Panel decides whether a conference is necessary and no all parties. (4) At a prehearing or other conference, the Hearing Official or Hearing Panel and the parties may consider subjects such as— (i) Narrowing and clarifying issues; (ii) Assisting the parties in reaching agreements and stipulations; (iii) Clarifying the positions of the parties;

Legal Standards

1,626	§300.182 Initial decision; final decision	Federal	(a) The Hearing Official or Hearing Panel prepares an initial written decision that addresses each of the points in the notice sent by the Secretary to the SEA under §300.179 including any amendment or further clarifications of the issues, under §300.181(c)(7). (b) The initial decision of a Hearing Panel is made by a majority of Panel members. (c) The Hearing Official or Hearing Panel mails, by certified mail with return receipt requested, a copy of the initial decision to each party (or to the party's counsel) and to the Secretary, with a notice stating that each party has an opportunity to submit written comments regarding the decision to the Secretary. (d) Each party may file comments and recommendations on the initial decision with the Hearing Official or Hearing Panel within 15 days of the date the party receives the Panel's decision. (e) The Hearing Official or Hearing Panel sends a copy of a party's initial comments and recommendations to the other parties by certified mail with return receipt requested. Each party may file responsive comments and recommendations with the Hearing Official or Hearing Panel within seven days of the date the party receives the initial comments and recommendations. (f) The Hearing Official or Hearing Panel forwards the parties' initial and responsive comments on the initial decision to the Secretary who reviews the initial decision and issues a final decision. (g) The initial decision of the Hearing Official or Hearing Panel becomes the final decision of the Secretary unless, within 25 days after the end of the time for receipt of written comments and recommendations, the Secretary informs the Hearing Official or Hearing Panel and the parties to a hearing in writing that the decision is being further reviewed for possible modification. (h) The Secretary rejects or modifies the initial decision of the Hearing Official or Hearing Panel if the Secretary finds that it is clearly erroneous. (i) The Secretary conducts the review based on the initial decision, the written record, the transcript of the Hearing Official's or Hearing Panel's proceedings, and written comments. (j) The Secretary may remand the matter to the Hearing Official or Hearing Panel for further proceedings. (k) Unless the Secretary remands the matter as provided in paragraph (j) of this section, the Secretary issues the final decision, with any necessary modifications, within 30 days after notifying the He Official or Hearing Panel that the initial decision is being further reviewed.
1,627	§300.183 Filing requirements	Federal	(a) Any written submission by a party under §§300.179 through 300.184 must be filed by hand delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmis for documents longer than five pages. (b) The filing date under paragraph (a) of this section is the date the document is— (1) Hand-delivered; (2) Mailed; or (3) Sent by facsimile transmission. (c) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department. (d) If a document is filed by facsimile transmission, the Secretary, the Hearing Official, or the Hearing Panel, as applicable, may require the filing of a follow-up hard copy by hand delivery or by mail w a reasonable period of time. (e) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.
1,628	§300.184 Judicial review	Federal	If a State is dissatisfied with the Secretary's final decision with respect to the eligibility of the State under section 612 of the Act, the State may, not later than 60 days after notice of that decision, file w the United States Court of Appeals for the circuit in which that State is located a petition for review of that decision. A copy of the petition must be transmitted by the clerk of the court to the Secretar Secretary then files in the court the record of the proceedings upon which the Secretary's decision was based, as provided in 28 U.S.C. 2112.
1,629	§300.185 [Reserved]	Federal	
1,630	§300.186 Assistance under other Federal programs	Federal	Part B of the Act may not be construed to permit a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the prov of FAPE for children with disabilities in the State.

Legal Standards

1,631	By-pass for Children in Private Schools §300.190 By-pass—general	Federal	(a) If, on December 2, 1983, the date of enactment of the Education of the Handicapped Act Amendments of 1983, an SEA was prohibited by law from providing for the equitable participation in spec programs of children with disabilities enrolled in private elementary schools and secondary schools as required by section 612(a)(10)(A) of the Act, or if the Secretary determines that an SEA, LEA, o other public agency has substantially failed or is unwilling to provide for such equitable participation then the Secretary shall, notwithstanding such provision of law, arrange for the provision of serv to these children through arrangements which shall be subject to the requirements of section 612(a)(10)(A) of the Act. (b) The Secretary waives the requirement of section 612(a)(10)(A) of the Act and of §§300.131 through 300.144 if the Secretary implements a by-pass.
1,632	§300.191 Provisions for services under a by-pass	Federal	(a) Before implementing a by-pass, the Secretary consults with appropriate public and private school officials, including SEA officials, in the affected State, and as appropriate, LEA or other public age officials to consider matters such as— (1) Any prohibition imposed by State law that results in the need for a by-pass; and (2) The scope and nature of the services required by private school children with disabilities in the State, and the number of children to be served under the by-pass. (b) After determining that a by-pass is required, the Secretary arranges for the provision of services to private school children with disabilities in the State, LEA or other public agency in a manner consistent with the requirements of section 612(a)(10)(A) of the Act and §§300.131 through 300.144 by providing services through one or more agreements with appropriate parties. (c) For any fiscal year that a by-pass is implemented, the Secretary determines the maximum amount to be paid to the providers of services by multiplying— (1) A per child amount determined by dividing the total amount received by the State under Part B of the Act for the fiscal year by the number of children with disabilities served in the prior year as reported to the Secretary under section 618 of the Act; by (2) The number of private school children with disabilities (as defined in §§300.8(a) and 300.130) in the State, LEA or other public agency, as determined by the Secretary on the basis of the most rec satisfactory data available, which may include an estimate of the number of those children with disabilities. (d) The Secretary deducts from the State's allocation under Part B of the Act the amount the Secretary determines is necessary to implement a by-pass and pays that amount to the provider of service Secretary may withhold this amount from the State's allocation pending final resolution of any investigation or complaint that could result in a determination that a by-pass must be implemented.
1,633	§300.192 Notice of intent to implement a by-pass	Federal	(a) Before taking any final action to implement a by-pass, the Secretary provides the SEA and, as appropriate, LEA or other public agency with written notice. (b) In the written notice, the Secretary— (1) States the reasons for the proposed by-pass in sufficient detail to allow the SEA and, as appropriate, LEA or other public agency to respond; and (2) Advises the SEA and, as appropriate, LEA or other public agency that it has a specific period of time (at least 45 days) from receipt of the written notice to submit written objections to the propose pass and that it may request in writing the opportunity for a hearing to show cause why a by-pass should not be implemented. (c) The Secretary sends the notice to the SEA and, as appropriate, LEA or other public agency by certified mail with return receipt requested.
1,634	§300.193 Request to show cause	Federal	An SEA, LEA or other public agency in receipt of a notice under §300.192 that seeks an opportunity to show cause why a by-pass should not be implemented must submit a written request for a show cause hearing to the Secretary, within the specified time period in the written notice in §300.192(b)(2).

Legal Standards

1,635	§300.194 Show cause hearing	Federal	(a) If a show cause hearing is requested, the Secretary— (1) Notifies the SEA and affected LEA or other public agency, and other appropriate public and private school officials of the time and place for the hearing; (2) Designates a person to conduct the show cause hearing. The designee must not have had any responsibility for the matter brought for a hearing; and (3) Notifies the SEA, LEA or other public agency, and representatives of private schools that they may be represented by legal counsel and submit oral or written evidence and arguments at the heari (b) At the show cause hearing, the designee considers matters such as— (1) The necessity for implementing a by-pass; (2) Possible factual errors in the written notice of intent to implement a by-pass; and (3) The objections raised by public and private school representatives. (c) The designee may regulate the course of the proceedings and the conduct of parties during the pendency of the proceedings. The designee takes all steps necessary to conduct a fair and impartial proceeding, to avoid delay, and to maintain order. (d) The designee has no authority to require or conduct discovery. (e) The designee may interpret applicable statutes and regulations, but may not waive them or rule on their validity. (f) The designee arranges for the preparation, retention, and, if appropriate, dissemination of the record of the hearing. (g) Within 10 days after the hearing, the designee— (1) Indicates that a decision will be issued on the basis of the existing record; or
1,636	§300.195 Decision	Federal	(a) The designee who conducts the show cause hearing— (1) Within 120 days after the record of a show cause hearing is closed, issues a written decision that includes a statement of findings; and (2) Submits a copy of the decision to the Secretary and sends a copy to each party by certified mail with return receipt requested. (b) Each party may submit comments and recommendations on the designee's decision to the Secretary within 30 days of the date the party receives the designee's decision. (c) The Secretary adopts, reverses, or modifies the designee's decision and notifies all parties to the show cause hearing of the Secretary's final action. That notice is sent by certified mail with return receipt requested.

Legal Standards

1,637	§300.196 Filing requirements	Federal	(a) Any written submission under §300.194 must be filed by hand-delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer th five pages. (b) The filing date under paragraph (a) of this section is the date the document is— (1) Hand-delivered; (2) Mailed; or (3) Sent by facsimile transmission. (c) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department. (d) If a document is filed by facsimile transmission, the Secretary or the hearing officer, as applicable, may require the filing of a follow-up hard copy by hand-delivery or by mail within a reasonable p of time. (e) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission. (f) A party must show a proof of mailing to establish the filing date under paragraph (b)(2) of this section as provided in 34 CFR 75.102(d).
1,638	§300.197 Judicial review	Federal	If dissatisfied with the Secretary's final action, the SEA may, within 60 days after notice of that action, file a petition for review with the United States Court of Appeals for the circuit in which the State located. The procedures for judicial review are described in section 612(f)(3) (B) through (D) of the Act.
1,639	§300.198 Continuation of a by-pass	Federal	The Secretary continues a by-pass until the Secretary determines that the SEA, LEA or other public agency will meet the requirements for providing services to private school children.
1,640	State Administration §300.199 State administration	Federal	(a) Rulemaking. Each State that receives funds under Part B of the Act must— (1) Ensure that any State rules, regulations, and policies relating to this part conform to the purposes of this part; (2) Identify in writing to LEAs located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by Part B of the Act and Federal regulation and (3) Minimize the number of rules, regulations, and policies to which the LEAs and schools located in the State are subject under Part B of the Act. (b) Support and facilitation. State rules, regulations, and policies under Part B of the Act must support and facilitate LEA and school-level system improvement designed to enable children with disab to meet the challenging State student academic achievement standards.
1,641	Subpart C—Local Educational Agency Eligibility §300.200 Condition of assistance	Federal	An LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in §§300.201 throug 300.213.
1,642	§300.201 Consistency with State policies	Federal	The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and proce established under §§300.101 through 300.163, and §§300.165 through 300.174.

Legal Standards

1,643	§300.202 Use of amounts	Federal	(a) General. Amounts provided to the LEA under Part B of the Act— (1) Must be expended in accordance with the applicable provisions of this part; (2) Must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with paragraph (b) of this section; and (3) Must be used to supplement State, local, and other Federal funds and not to supplant those funds. (b) Excess cost requirement—(1) General. (i) The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to paragraph (b)(1)(ii) of this section. (ii) The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18 20, or 21, if no local or State funds are available for nondisabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children. (2)(i) An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used. (ii) The amount described in paragraph (b)(2)(i) of this section is determined in accordance with the definition of excess costs in §300.16. That amount may not include capital outlay or debt service. (3) If two or more LEAs jointly establish eligibility in accordance with §300.223, the minimum average amount is the average of the combined minimum average amounts determined in accordance w the definition of excess costs in §300.16 in those agencies for elementary or secondary school students, as the case may be.
1,644	§300.203 Maintenance of effort	Federal	(a) General. Except as provided in §§300.204 and 300.205, funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year. (b) Standard. (1) Except as provided in paragraph (b)(2) of this section, the SEA must determine that an LEA complies with paragraph (a) of this section for purposes of establishing the LEA's eligibil an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available: (i) Local funds only. (ii) The combination of State and local funds. (2) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at leas same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available and the standard in paragraph (b)(1)(i) of this section was u establish its compliance with this section. (3) The SEA may not consider any expenditures made from funds provided by the Federal Government for which the SEA is required to account to the Federal Government or for which the LEA is req to account to the Federal Government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (a) of this section.

Legal Standards

1,645	§300.204 Exception to maintenance of effort	Federal	Notwithstanding the restriction in §300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if th reduction is attributable to any of the following: (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel. (b) A decrease in the enrollment of children with disabilities. (c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child— (1) Has left the jurisdiction of the agency; (2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or (3) No longer needs the program of special education. (d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities. (e) The assumption of cost by the high cost fund operated by the SEA under §300.704(c).
1,646	§300.205 Adjustment to local fiscal efforts in certain fiscal years	Federal	(a) Amounts in excess. Notwithstanding §300.202(a)(2) and (b) and §300.203(a), and except as provided in paragraph (d) of this section and §300.230(e)(2), for any fiscal year for which the allocatio received by an LEA under §300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by §300.203(a) by not more th percent of the amount of that excess. (b) Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activ (c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613 the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditure under paragraph (a) of this section for that fiscal year. (d) Special rule. The amount of funds expended by an LEA for early intervening services under §300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.

Legal Standards

1,647	§300.206 Schoolwide programs under title I of the ESEA	Federal	(a) General. Notwithstanding the provisions of §§300.202 and 300.203 or any other provision of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry ou schoolwide program under section 1114 of the ESEA, except that the amount used in any schoolwide program may not exceed— (1)(i) The amount received by the LEA under Part B of the Act for that fiscal year; divided by (ii) The number of children with disabilities in the jurisdiction of the LEA; and multiplied by (2) The number of children with disabilities participating in the schoolwide program. (b) Funding conditions. The funds described in paragraph (a) of this section are subject to the following conditions: (1) The funds must be considered as Federal Part B funds for purposes of the calculations required by §300.202(a)(2) and (a)(3). (2) The funds may be used without regard to the requirements of §300.202(a)(1). (c) Meeting other Part B requirements. Except as provided in paragraph (b) of this section, all other requirements of Part B of the Act must be met by an LEA using Part B funds in accordance with paragraph (a) of this section, including ensuring that children with disabilities in schoolwide program schools— (1) Receive services in accordance with a properly developed IEP; and (2) Are afforded all of the rights and services guaranteed to children with disabilities under the Act.
1,648	§300.207 Personnel development	Federal	The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of §300.156 (related to personnel qualificatio and section 2122 of the ESEA.
1,649	§300.208 Permissive use of funds	Federal	(a) Uses. Notwithstanding §§300.202, 300.203(a), and 300.162(b), funds provided to an LEA under Part B of the Act may be used for the following activities: (1) Services and aids that also benefit nondisabled children. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other educatio related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. (2) Early intervening services. To develop and implement coordinated, early intervening educational services in accordance with §300.226. (3) High cost special education and related services. To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which LEA is a part, to pay for high cost special education and related services. (b) Administrative case management. An LEA may use funds received under Part B of the Act to purchase appropriate technology for recordkeeping, data collection, and related case management act of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of those case management activities.

Legal Standards

1,650	§300.209 Treatment of charter schools and their students	Federal	(a) Rights of children with disabilities. Children with disabilities who attend public charter schools and their parents retain all rights under this part. (b) Charter schools that are public schools of the LEA. (1) In carrying out Part B of the Act and these regulations with respect to charter schools that are public schools of the LEA, the LEA must— (i) Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and (ii) Provide funds under Part B of the Act to those charter schools— (A) On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and (B) At the same time as the LEA distributes other Federal funds to the LEA's other public schools, consistent with the State's charter school law. (2) If the public charter school is a school of an LEA that receives funding under §300.705 and includes other public schools— (i) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and (ii) The LEA must meet the requirements of paragraph (b)(1) of this section. (c) Public charter schools that are LEAs. If the public charter school is an LEA, consistent with §300.28, that receives funding under §300.705, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity. (d) Public charter schools that are not an LEA or a school that is part of an LEA. (1) If the public charter school is not an LEA receiving funding under §300.705, or a school that is part of an LEA receiv funding under §300.705, the SEA is responsible for ensuring that the requirements of this part are met. (2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity. However, the SEA must maintai ultimate responsibility for ensuring compliance with this part, consistent with §300.149.
1,651	§300.210 Purchase of instructional materials	Federal	(a) General. Not later than December 3, 2006, an LEA that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials, must acquire those instructional materials in the same manner, and subject to the same conditions as an SEA under §300.172. (b) Rights of LEA. (1) Nothing in this section shall be construed to require an LEA to coordinate with the NIMAC. (2) If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the SEA that the LEA will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (3) Nothing in this section relieves an LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definitio blind or other persons with print disabilities in §300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.
1,652	§300.211 Information for SEA	Federal	The LEA must provide the SEA with information necessary to enable the SEA to carry out its duties under Part B of the Act, including, with respect to §§300.157 and 300.160, information relating to t performance of children with disabilities participating in programs carried out under Part B of the Act.
1,653	§300.212 Public information	Federal	The LEA must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part B of the Act.
1,654	§300.213 Records regarding migratory children with disabilities	Federal	The LEA must cooperate in the Secretary's efforts under section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the States, health and educational information regarding those children.
1,655	§§300.214-300.219 [Reserved]	Federal	

Legal Standards

1,656	§300.220 Exception for prior local plans	Federal	(a) General. If an LEA or a State agency described in §300.228 has on file with the SEA policies and procedures that demonstrate that the LEA or State agency meets any requirement of §300.200, incl any policies and procedures filed under Part B of the Act as in effect before December 3, 2004, the SEA must consider the LEA or State agency to have met that requirement for purposes of receiving assistance under Part B of the Act. (b) Modification made by an LEA or State agency. Subject to paragraph (c) of this section, policies and procedures submitted by an LEA or a State agency in accordance with this subpart remain in eff until the LEA or State agency submits to the SEA the modifications that the LEA or State agency determines are necessary. (c) Modifications required by the SEA. The SEA may require an LEA or a State agency to modify its policies and procedures, but only to the extent necessary to ensure the LEA's or State agency's compliance with Part B of the Act or State law, if— (1) After December 3, 2004, the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the applicable provisions of the Act (or the regulations developed to carry out t Act) are amended; (2) There is a new interpretation of an applicable provision of the Act by Federal or State courts; or (3) There is an official finding of noncompliance with Federal or State law or regulations.
1,657	§300.221 Notification of LEA or State agency in case of ineligibility	Federal	If the SEA determines that an LEA or State agency is not eligible under Part B of the Act, then the SEA must— (a) Notify the LEA or State agency of that determination; and (b) Provide the LEA or State agency with reasonable notice and an opportunity for a hearing.
1,658	§300.222 LEA and State agency compliance	Federal	(a) General. If the SEA, after reasonable notice and an opportunity for a hearing, finds that an LEA or State agency that has been determined to be eligible under this subpart is failing to comply with a requirement described in §§300.201 through 300.213, the SEA must reduce or must not provide any further payments to the LEA or State agency until the SEA is satisfied that the LEA or State agenc complying with that requirement. (b) Notice requirement. Any State agency or LEA in receipt of a notice described in paragraph (a) of this section must, by means of public notice, take the measures necessary to bring the pendency of action pursuant to this section to the attention of the public within the jurisdiction of the agency. (c) Consideration. In carrying out its responsibilities under this section, each SEA must consider any decision resulting from a hearing held under §§300.511 through 300.533 that is adverse to the LE State agency involved in the decision.
1,659	§300.223 Joint establishment of eligibility	Federal	(a) General. An SEA may require an LEA to establish its eligibility jointly with another LEA if the SEA determines that the LEA will be ineligible under this subpart because the agency will not be able t establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities. (b) Charter school exception. An SEA may not require a charter school that is an LEA to jointly establish its eligibility under paragraph (a) of this section unless the charter school is explicitly permitte do so under the State's charter school statute. (c) Amount of payments. If an SEA requires the joint establishment of eligibility under paragraph (a) of this section, the total amount of funds made available to the affected LEAs must be equal to the of the payments that each LEA would have received under §300.705 if the agencies were eligible for those payments.

Legal Standards

1,660	§300.224 Requirements for establishing eligibility	Federal	(a) Requirements for LEAs in general. LEAs that establish joint eligibility under this section must— (1) Adopt policies and procedures that are consistent with the State's policies and procedures under §§300.101 through 300.163, and §§300.165 through 300.174; and (2) Be jointly responsible for implementing programs that receive assistance under Part B of the Act. (b) Requirements for educational service agencies in general. If an educational service agency is required by State law to carry out programs under Part B of the Act, the joint responsibilities given to under Part B of the Act— (1) Do not apply to the administration and disbursement of any payments received by that educational service agency; and (2) Must be carried out only by that educational service agency. (c) Additional requirement. Notwithstanding any other provision of §§300.223 through 300.224, an educational service agency must provide for the education of children with disabilities in the least restrictive environment, as required by §300.112.
1,661	§300.225 [Reserved]	Federal	
1,662	§300.226 Early intervening services	Federal	(a) General. An LEA may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to §300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financi structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education related services, but who need additional academic and behavioral support to succeed in a general education environment. (See appendix D for examples of how §300.205(d), regarding local mainter of effort, and §300.226(a) affect one another.) (b) Activities. In implementing coordinated, early intervening services under this section, an LEA may carry out activities that include— (1) Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behaviora interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and (2) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction. (c) Construction. Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability (d) Reporting. Each LEA that develops and maintains coordinated, early intervening services under this section must annually report to the SEA on— (1) The number of children served under this section who received early intervening services; and (2) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the prece two year period. (e) Coordination with ESEA. Funds made available to carry out this section may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under th ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section.

Legal Standards

1,663	§300.227 Direct services by the SEA	Federal	(a) General. (1) An SEA must use the payments that would otherwise have been available to an LEA or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that LEA, or for whom that State agency is responsible, if the SEA determines that the LEA or State agency— (i) Has not provided the information needed to establish the eligibility of the LEA or State agency, or elected not to apply for its Part B allotment, under Part B of the Act; (ii) Is unable to establish and maintain programs of FAPE that meet the requirements of this part; (iii) Is unable or unwilling to be consolidated with one or more LEAs in order to establish and maintain the programs; or (iv) Has one or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of these children. (2) SEA administrative procedures. (i) In meeting the requirements in paragraph (a)(1) of this section, the SEA may provide special education and related services directly, by contract, or through oth arrangements. (ii) The excess cost requirements of §300.202(b) do not apply to the SEA. (b) Manner and location of education and services. The SEA may provide special education and related services under paragraph (a) of this section in the manner and at the locations (including regio State centers) as the SEA considers appropriate. The education and services must be provided in accordance with this part.
1,664	§300.228 State agency eligibility	Federal	Any State agency that desires to receive a subgrant for any fiscal year under §300.705 must demonstrate to the satisfaction of the SEA that— (a) All children with disabilities who are participating in programs and projects funded under Part B of the Act receive FAPE, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and (b) The agency meets the other conditions of this subpart that apply to LEAs.
1,665	§300.229 Disciplinary information	Federal	(a) The State may require that a public agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and tra the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled children. (b) The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. (c) If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of cu or previous disciplinary action that has been taken against the child.

Legal Standards

1,666	§300.230 SEA flexibility	Federal	(a) Adjustment to State fiscal effort in certain fiscal years. For any fiscal year for which the allotment received by a State under §300.703 exceeds the amount the State received for the previous fiscal y and if the State in school year 2003-2004 or any subsequent school year pays or reimburses all LEAs within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the SEA, notwithstanding §§300.162 through 300.163 (related to State-level nonsupplanting and maintenance of effort), and §300.175 (related to direct services by th SEA) may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess. (b) Prohibition. Notwithstanding paragraph (a) of this section, if the Secretary determines that an SEA is unable to establish, maintain, or oversee programs of FAPE that meet the requirements of thi or that the State needs assistance, intervention, or substantial intervention under §300.603, the Secretary prohibits the SEA from exercising the authority in paragraph (a) of this section. (c) Education activities. If an SEA exercises the authority under paragraph (a) of this section, the agency must use funds from State sources, in an amount equal to the amount of the reduction under paragraph (a) of this section, to support activities authorized under the ESEA, or to support need-based student or teacher higher education programs. (d) Report. For each fiscal year for which an SEA exercises the authority under paragraph (a) of this section, the SEA must report to the Secretary— (1) The amount of expenditures reduced pursuant to that paragraph; and (2) The activities that were funded pursuant to paragraph (c) of this section. (e) Limitation. (1) Notwithstanding paragraph (a) of this section, an SEA may not reduce the level of expenditures described in paragraph (a) of this section if any LEA in the State would, as a result of reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served by the LEA receive FAPE from the combination of Federal funds received under Pa of the Act and State funds received from the SEA. (2) If an SEA exercises the authority under paragraph (a) of this section, LEAs in the State may not reduce local effort under §300.205 by more than the reduction in the State funds they receive.
1,667	Subpart D—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements Parental Consent §300.300 Parental consent	Federal	(a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under §300.8 must, after provi notice consistent with §§300.503 and 300.504, obtain informed consent, consistent with §300.9, from the parent of the child before conducting the evaluation. (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services. (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. (2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if— (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child; (ii) The rights of the parents of the child have been terminated in accordance with State law; or (iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appoint the judge to represent the child. (3)(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fail respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (includi mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental con (ii) The public agency does not violate its obligation under §300.111 and §§300.301 through 300.311 if it declines to pursue the evaluation. (b) Parental consent for services. (1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the ini provision of special education and related services to the child. (2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

Legal Standards

1,668	Evaluations and Reevaluations §300.301 Initial evaluations	Federal	(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§300.304 through 300.306, before the initial provision of special education and related servic a child with a disability under this part. (b) Request for initial evaluation. Consistent with the consent requirements in §300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the is a child with a disability. (c) Procedures for initial evaluation. The initial evaluation— (1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and (2) Must consist of procedures— (i) To determine if the child is a child with a disability under §300.8; and (ii) To determine the educational needs of the child. (d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if— (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as whether the child is a child with a disability under §300.8. (e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.
1,669	§300.302 Screening for instructional purposes is not evaluation	Federal	The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for spe education and related services.
1,670	§300.303 Reevaluations	Federal	(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§300.304 through 300.311— (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or (2) If the child's parent or teacher requests a reevaluation. (b) Limitation. A reevaluation conducted under paragraph (a) of this section— (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

Legal Standards

1,671	§300.304 Evaluation procedures	Federal	(a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with §300.503, that describes any evaluation procedures the agency proposes to conduct. (b) Conduct of evaluation. In conducting the evaluation, the public agency must— (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may as determining— (i) Whether the child is a child with a disability under §300.8; and (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities); (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; ar (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. (c) Other evaluation procedures. Each public agency must ensure that— (1) Assessments and other evaluation materials used to assess a child under this part— (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; (iii) Are used for the purposes for which the assessments or measures are valid and reliable; (iv) Are administered by trained and knowledgeable personnel; and
1,672	§300.305 Additional requirements for evaluations and reevaluations	Federal	(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, m (1) Review existing evaluation data on the child, including— (i) Evaluations and information provided by the parents of the child; (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and (iii) Observations by teachers and related services providers; and (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine— (i)(A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or (B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child; (ii) The present levels of academic achievement and related developmental needs of the child; (iii)(A) Whether the child needs special education and related services; or (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. (b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting. (c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.

Legal Standards

1,673	§300.306 Determination of eligibility	Federal	(a) General. Upon completion of the administration of assessments and other evaluation measures— (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (c) of this section and the educational needs of the child; and (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. (b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part— (1) If the determinant factor for that determination is— (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); (ii) Lack of appropriate instruction in math; or (iii) Limited English proficiency; and (2) If the child does not otherwise meet the eligibility criteria under §300.8(a). (c) Procedures for determining eligibility and educational need. (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the education needs of the child, each public agency must— (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition social or cultural background, and adaptive behavior; and (ii) Ensure that information obtained from all of these sources is documented and carefully considered. (2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.320 through 300.324.
1,674	Additional Procedures for Identifying Children With Specific Learning Disabilities §300.307 Specific learning disabilities	Federal	(a) General. A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8(c)(10). In addition, the criteria adopted by the State— (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in §300.8(c)(10); (2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and (3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in §300.8(c)(10). (b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.
1,675	§300.308 Additional group members	Federal	The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.8, must be made by the child's parents and a team of qualified professionals, which must include— (a)(1) The child's regular teacher; or (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

Legal Standards

1,676	§300.309 Determining the existence of a specific learning disability	Federal	(a) The group described in §300.306 may determine that a child has a specific learning disability, as defined in §300.8(c)(10), if— (1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards: (i) Oral expression. (ii) Listening comprehension. (iii) Written expression. (iv) Basic reading skill. (v) Reading fluency skills. (vi) Reading comprehension. (vii) Mathematics calculation. (viii) Mathematics problem solving. (2)(i) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process b on the child's response to scientific, research-based intervention; or (ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determin the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with §§300.304 and 300.305; and (3) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—
1,677	§300.310 Observation	Federal	(a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavio the areas of difficulty. (b) The group described in §300.306(a)(1), in determining whether a child has a specific learning disability, must decide to— (1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or (2) Have at least one member of the group described in §300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with §300.300(a), is obtained. (c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

Legal Standards

1,678	§300.311 Specific documentation for the eligibility determination	Federal	(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in §300.306(a)(2), must contain a statement of— (1) Whether the child has a specific learning disability; (2) The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1); (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning; (4) The educationally relevant medical findings, if any; (5) Whether— (i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with §300.309(a)(1); and (ii)(A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with §300.309(a)(2)(i); or (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with §300.309(a)(2)(ii); (6) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvanta limited English proficiency on the child's achievement level; and (7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention— (i) The instructional strategies used and the student-centered data collected; and (ii) The documentation that the child's parents were notified about—
1,679	Individualized Education Programs §300.320 Definition of individualized education program	Federal	(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include— (1) A statement of the child's present levels of academic achievement and functional performance, including— (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; (2)(i) A statement of measurable annual goals, including academic and functional goals designed to— (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child's other educational needs that result from the child's disability; (ii) For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives; (3) A description of— (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided; (4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child— (i) To advance appropriately toward attaining the annual goals;

Legal Standards

1,680	§300.321 IEP Team	Federal	(a) General. The public agency must ensure that the IEP Team for each child with a disability includes— (1) The parents of the child; (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment); (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child; (4) A representative of the public agency who— (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (ii) Is knowledgeable about the general education curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency. (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section; (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (7) Whenever appropriate, the child with a disability. (b) Transition services participants. (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose o meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b). (2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered. (3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency r
1,681	§300.322 Parent participation	Federal	(a) Public agency responsibility—general. Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforde opportunity to participate, including— (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. (b) Information provided to parents. (1) The notice required under paragraph (a)(1) of this section must— (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and (ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and §300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of th Act). (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must— (i) Indicate— (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and (B) That the agency will invite the student; and (ii) Identify any other agency that will be invited to send a representative. (c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of meeting participation).

Legal Standards

1,682	§300.323 When IEPs must be in effect	Federal	(a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320. (b) IEP or IFSP for children aged three through five. (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will tu three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this sectio are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is— (i) Consistent with State policy; and (ii) Agreed to by the agency and the child's parents. (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must— (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and (ii) If the parents choose an IFSP, obtain written informed consent from the parents. (c) Initial IEPs; provision of services. Each public agency must ensure that— (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. (d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that— (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of—
1,683	Development of IEP §300.324 Development, review, and revision of IEP	Federal	(a) Development of IEP—(1) General. In developing each child's IEP, the IEP Team must consider— (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. (2) Consideration of special factors. The IEP Team must— (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavio (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP; (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writin skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Brail not appropriate for the child; (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the language and communication mode; and (v) Consider whether the child needs assistive technology devices and services. (3) Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—

Legal Standards

1,684	§300.325 Private school placements by public agencies	Federal	(a) Developing IEPs. (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for th child in accordance with §§300.320 and 300.324. (2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation b private school or facility, including individual or conference telephone calls. (b) Reviewing and revising IEPs. (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private sc or facility at the discretion of the public agency. (2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative— (i) Are involved in any decision about the child's IEP; and (ii) Agree to any proposed changes in the IEP before those changes are implemented. (c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.
1,685	§300.326 [Reserved]	Federal	
1,686	§300.327 Educational placements	Federal	Consistent with §300.501(c), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their chil
1,687	§300.328 Alternative means of meeting participation	Federal	When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.
1,688	Subpart E—Procedural Safeguards Due Process Procedures for Parents and Children §300.500 Responsibility of SEA and other public agencies	Federal	Each SEA must ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of §§300.500 through 300.536.

Legal Standards

1,689	§300.501 Opportunity to examine records; parent participation in meetings	Federal	(a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of §§300.613 through 300.621, an opportunity to inspect and review education records with respect to— (1) The identification, evaluation, and educational placement of the child; and (2) The provision of FAPE to the child. (b) Parent participation in meetings. (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to— (i) The identification, evaluation, and educational placement of the child; and (ii) The provision of FAPE to the child. (2) Each public agency must provide notice consistent with §300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section. (3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. (c) Parent involvement in placement decisions. (1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational place of the parent's child. (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in §300.322(a) through (b)(1). (3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.
1,690	§300.502 Independent educational evaluation	Federal	(a) General. (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section. (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the a criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section. (3) For the purposes of this subpart— (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.103. (b) Parent right to evaluation at public expense. (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section. (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either— (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§300.507 through 300.513 that the evaluation obtaine the parent did not meet agency criteria. (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. (4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a process hearing to defend the public evaluation.

Legal Standards

1,691	§300.503 Prior notice by the public agency; content of notice	Federal	(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency— (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (b) Content of notice. The notice required under paragraph (a) of this section must include— (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal. (c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be— (i) Written in language understandable to the general public; and (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
1,692	§300.504 Procedural safeguards notice	Federal	(a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to th parents— (1) Upon initial referral or parent request for evaluation; (2) Upon receipt of the first State complaint under §§300.151 through 300.153 and upon receipt of the first due process complaint under §300.507 in a school year; (3) In accordance with the discipline procedures in §300.530(h); and (4) Upon request by a parent. (b) Internet Web site. A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists. (c) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148, §§300.151 through 300.153, §300.300, §§300.502 through 300.503, §§300.505 through 300.518, §§300.530 through 300.536 and §§300.610 through 300.625 relating to— (1) Independent educational evaluations; (2) Prior written notice; (3) Parental consent; (4) Access to education records; (5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including— (i) The time period in which to file a complaint;
1,693	§300.505 Electronic mail	Federal	A parent of a child with a disability may elect to receive notices required by §§300.503, 300.504, and 300.508 by an electronic mail communication, if the public agency makes that option available.

Legal Standards

1,694	§300.506 Mediation	Federal	(a) General. Each public agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the of a due process complaint, to resolve disputes through a mediation process. (b) Requirements. The procedures must meet the following requirements: (1) The procedures must ensure that the mediation process— (i) Is voluntary on the part of the parties; (ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (2) A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, wi disinterested party— (i) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under se 671 or 672 of the Act; and (ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents. (3)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. (ii) The SEA must select mediators on a random, rotational, or other impartial basis. (4) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (b)(2) of this section. (5) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
1,695	§300.507 Filing a due process complaint	Federal	(a) General. (1) A parent or a public agency may file a due process complaint on any of the matters described in §300.503(a)(1) and (2) (relating to the identification, evaluation or educational placem of a child with a disability, or the provision of FAPE to the child). (2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that for the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions timeline described in §300.511(f) apply to the timeline in this section. (b) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if— (1) The parent requests the information; or (2) The parent or the agency files a due process complaint under this section.

Legal Standards

1,696	§300.508 Due process complaint	Federal	(a) General. (1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential). (2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA. (b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include— (1) The name of the child; (2) The address of the residence of the child; (3) The name of the school the child is attending; (4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, a name of the school the child is attending; (5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and (6) A proposed resolution of the problem to the extent known and available to the party at the time. (c) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section. (d) Sufficiency of complaint. (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and th other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this sect (2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due proces complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination.
1,697	§300.509 Model forms	Federal	(a) Each SEA must develop model forms to assist parents and public agencies in filing a due process complaint in accordance with §§300.507(a) and 300.508(a) through (c) and to assist parents and parties in filing a State complaint under §§300.151 through 300.153. However, the SEA or LEA may not require the use of the model forms. (b) Parents, public agencies, and other parties may use the appropriate model form described in paragraph (a) of this section, or another form or other document, so long as the form or document tha used meets, as appropriate, the content requirements in §300.508(b) for filing a due process complaint, or the requirements in §300.153(b) for filing a State complaint.

Legal Standards

1,698	§300.510 Resolution process	Federal	(a) Resolution meeting. (1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under §300.511, the LEA must convene a meet with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that— (i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and (ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney. (2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint. (3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if— (i) The parent and the LEA agree in writing to waive the meeting; or (ii) The parent and the LEA agree to use the mediation process described in §300.506. (4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting. (b) Resolution period. (1) If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing ma occur. (2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under §300.515 begins at the expiration of this 30-day period. (3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due pr complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. (4) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in §300.322(d)), the LEA ma the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.
1,699	§300.511 Impartial due process hearing	Federal	(a) General. Whenever a due process complaint is received under §300.507 or §300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the procedures in §§300.507, 300.508, and 300.510. (b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA. (c) Impartial hearing officer. (1) At a minimum, a hearing officer— (i) Must not be— (A) An employee of the SEA or the LEA that is involved in the education or care of the child; or (B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing; (ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State cou (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing o (3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons. (d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under §300.508(b), unless the other party agrees otherwise. (e) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have kno

Legal Standards

1,700	§300.512 Hearing rights	Federal	(a) General. Any party to a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534, or an appeal conducted pursuant to §300.514, has the right to— (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, except that whether parties have the righ represented by non-attorneys at due process hearings is determined under State law; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing; (4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions. (b) Additional disclosure of information. (1) At least five business days prior to a hearing conducted pursuant to §300.511(a), each party must disclose to all other parties all evaluations completed b date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. (2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of th other party. (c) Parental rights at hearings. Parents involved in hearings must be given the right to— (1) Have the child who is the subject of the hearing present; (2) Open the hearing to the public; and (3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.
1,701	§300.513 Hearing decisions	Federal	(a) Decision of hearing officer on the provision of FAPE. (1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether a child received FAPE must be based on substantiv grounds. (2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies— (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. (3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under §§300.500 through 300.536. (b) Construction clause. Nothing in §§300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under §300.514(b), State level appeal is available. (c) Separate request for a due process hearing. Nothing in §§300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from process complaint already filed. (d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must— (1) Transmit the findings and decisions referred to in §300.512(a)(5) to the State advisory panel established under §300.167; and (2) Make those findings and decisions available to the public.

Legal Standards

1,702	§300.514 Finality of decision; appeal; impartial review	Federal	(a) Finality of hearing decision. A decision made in a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534 is final, except that any party involved in the hearing m appeal the decision under the provisions of paragraph (b) of this section and §300.516. (b) Appeal of decisions; impartial review. (1) If the hearing required by §300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing m appeal to the SEA. (2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must— (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties. (c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must— (1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under §300.167; and (2) Make those findings and decisions available to the public. (d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under §300.516.
1,703	§300.515 Timelines and convenience of hearings and reviews	Federal	(a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under §300.510(b), or the adjusted time periods described in §300.510(c)— (1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties. (b) The SEA must ensure that not later than 30 days after the receipt of a request for a review— (1) A final decision is reached in the review; and (2) A copy of the decision is mailed to each of the parties. (c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party. (d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

Legal Standards

1,704	§300.516 Civil action	Federal	(a) General. Any party aggrieved by the findings and decision made under §§300.507 through 300.513 or §§300.530 through 300.534 who does not have the right to an appeal under §300.514(b), an party aggrieved by the findings and decision under §300.514(b), has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under §300.507 §§300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. (b) Time limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by that State law. (c) Additional requirements. In any action brought under paragraph (a) of this section, the court— (1) Receives the records of the administrative proceedings; (2) Hears additional evidence at the request of a party; and (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate. (d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy. (e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available und section 615 of the Act, the procedures under §§300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.
1,705	§300.517 Attorneys' fees	Federal	(a) In general. (1) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to— (i) The prevailing party who is the parent of a child with a disability; (ii) To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against th attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation. (2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005. (b) Prohibition on use of funds. (1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under section 615 of the Act and subpar this part. (2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act. (c) Award of fees. A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following: (1) Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bon multiplier may be used in calculating the fees awarded under this paragraph. (2)(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a writte offer of settlement to a parent if— (A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceedin begins;

Legal Standards

1,706	§300.518 Child's status during proceedings	Federal	(a) Except as provided in §300.533, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under §300.507, unle the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement. (b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedi (c) If the complaint involves an application for initial services under this part from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the c has turned three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B a the parent consents to the initial provision of special education and related services under §300.300(b), then the public agency must provide those special education and related services that are not dispute between the parent and the public agency. (d) If the hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, placement must be treated as an agreement between the State and the parents for purposes of paragraph (a) of this section.
1,707	§300.519 Surrogate parents	Federal	(a) General. Each public agency must ensure that the rights of a child are protected when— (1) No parent (as defined in §300.30) can be identified; (2) The public agency, after reasonable efforts, cannot locate a parent; (3) The child is a ward of the State under the laws of that State; or (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)). (b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method– (1) For determining whether a child needs a surrogate parent; and (2) For assigning a surrogate parent to the child. (c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets requirements in paragraphs (d)(2)(i) and (e) of this section. (d) Criteria for selection of surrogate parents. (1) The public agency may select a surrogate parent in any way permitted under State law. (2) Public agencies must ensure that a person selected as a surrogate parent— (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child; (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and (iii) Has knowledge and skills that ensure adequate representation of the child.
1,708	§300.520 Transfer of parental rights at age of majority	Federal	(a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determine be incompetent under State law)— (1)(i) The public agency must provide any notice required by this part to both the child and the parents; and (ii) All rights accorded to parents under Part B of the Act transfer to the child; (2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and (3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights. (b) Special rule. A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompet can be determined not to have the ability to provide informed consent with respect to the child's educational program.
1,709	§§300.521-300.529 [Reserved]	Federal	

Legal Standards

1,710	Discipline Procedures §300.530 Authority of school personnel	Federal	(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct. (b) General. (1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternati educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional remo of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.536). (2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must prov services to the extent required under paragraph (d) of this section. (c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and f same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section. (d) Services. (1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must— (i) Continue to receive educational services, as provided in §300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to pro toward meeting the goals set out in the child's IEP; and (ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. (2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting. (3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in tha school year, if it provides services to a child without disabilities who is similarly removed. (4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school day is not a change of placement under §300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in §300.101(a)
1,711	§300.531 Determination of setting	Federal	The child's IEP Team determines the interim alternative educational setting for services under §300.530(c), (d)(5), and (g).
1,712	§300.532 Appeal	Federal	(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under §§300.530 and 300.531, or the manifestation determination under §300.530(e), or an L that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is request filing a complaint pursuant to §§300.507 and 300.508(a) and (b). (b) Authority of hearing officer. (1) A hearing officer under §300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section. (2) In making the determination under paragraph (b)(1) of this section, the hearing officer may— (i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of §300.530 or that the child's behavior was manifestation of the child's disability; or (ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintain the current placement of the child is substantially likely to result in injury to the child or to others. (3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in inju the child or to others. (c) Expedited due process hearing. (1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial d process hearing consistent with the requirements of §§300.507 and 300.508(a) through (c) and §§300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section. (2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing offic must make a determination within 10 school days after the hearing. (3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in §300.506— (i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and (ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

Legal Standards

1,713	§300.533 Placement during appeals	Federal	When an appeal under §300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or unti expiration of the time period specified in §300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.
1,714	§300.534 Protections for children not determined eligible for special education and related services	Federal	(a) General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, ma assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability b the behavior that precipitated the disciplinary action occurred. (b) Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred— (1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services; (2) The parent of the child requested an evaluation of the child pursuant to §§300.300 through 300.311; or (3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agenc other supervisory personnel of the agency. (c) Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if— (1) The parent of the child— (i) Has not allowed an evaluation of the child pursuant to §§300.300 through 300.311; or (ii) Has refused services under this part; or (2) The child has been evaluated in accordance with §§300.300 through 300.311 and determined to not be a child with a disability under this part. (d) Conditions that apply if no basis of knowledge. (1) If a public agency does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) pri taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph (d)(2) of this section.
1,715	§300.535 Referral to and action by law enforcement and judicial authorities	Federal	(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judic authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. (b) Transmittal of records. (1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitte consideration by the appropriate authorities to whom the agency reports the crime. (2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.
1,716	§300.536 Change of placement because of disciplinary removals	Federal	(a) For purposes of removals of a child with a disability from the child's current educational placement under §§300.530 through 300.535, a change of placement occurs if— (1) The removal is for more than 10 consecutive school days; or (2) The child has been subjected to a series of removals that constitute a pattern— (i) Because the series of removals total more than 10 school days in a school year; (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. (b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. (2) This determination is subject to review through due process and judicial proceedings.

Legal Standards

1,717	§300.537 State enforcement mechanisms	Federal	Notwithstanding §§300.506(b)(7) and 300.510(d)(2), which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in this that would prevent the SEA from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the righ seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States.
1,718	§§300.538-300.599 [Reserved]	Federal	
1,719	Subpart F—Monitoring, Enforcement, Confidentiality, and Program Information Monitoring, Technical Assistance, and Enforcement §300.600 State monitoring and enforcement	Federal	(a) The State must— (1) Monitor the implementation of this part; (2) Make determinations annually about the performance of each LEA using the categories in §300.603(b)(1); (3) Enforce this part, consistent with §300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in §300.604(a)(1) (technical assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA), and (c)(2) (withholding f in whole or in part, by the SEA); and (4) Report annually on the performance of the State and of each LEA under this part, as provided in §300.602(b)(1)(i)(A) and (b)(2). (b) The primary focus of the State's monitoring activities must be on— (1) Improving educational results and functional outcomes for all children with disabilities; and (2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational re for children with disabilities. (c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in t priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans. (d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measu performance in those areas: (1) Provision of FAPE in the least restrictive environment. (2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in §300.43 and in 20 U.S.C.
1,720	§300.601 State performance plans and data collection	Federal	(a) General. Not later than December 3, 2005, each State must have in place a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part B of the Act, and describes how the State will improve such implementation. (1) Each State must submit the State's performance plan to the Secretary for approval in accordance with the approval process described in section 616(c) of the Act. (2) Each State must review its State performance plan at least once every six years, and submit any amendments to the Secretary. (3) As part of the State performance plan, each State must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in §300.600(d). (b) Data collection. (1) Each State must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State performance pla (2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects the data through State monitoring or sampling, the State must coll data on those indicators for each LEA at least once during the period of the State performance plan. (3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections data under Part B of the Act.

Legal Standards

1,721	§300.602 State use of targets and reporting	Federal	(a) General. Each State must use the targets established in the State's performance plan under §300.601 and the priority areas described in §300.600(d) to analyze the performance of each LEA. (b) Public reporting and privacy—(1) Public report. (i) Subject to paragraph (b)(1)(ii) of this section, the State must— (A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan as soon as practicable but no later than 120 days following the Sta submission of its annual performance report to the Secretary under paragraph (b)(2) of this section; and (B) Make each of the following items available through public means: the State's performance plan, under §300.601(a); annual performance reports, under paragraph (b)(2) of this section; and the St annual reports on the performance of each LEA located in the State, under paragraph (b)(1)(i)(A) of this section. In doing so, the State must, at a minimum, post the plan and reports on the SEA's Web and distribute the plan and reports to the media and through public agencies. (ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report under paragrap (b)(1)(i)(A) of this section the most recently available performance data on each LEA, and the date the data were obtained. (2) State performance report. The State must report annually to the Secretary on the performance of the State under the State's performance plan. (3) Privacy. The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual childre where the available data are insufficient to yield statistically reliable information.
1,722	§300.603 Secretary's review and determination regarding State performance	Federal	(a) Review. The Secretary annually reviews the State's performance report submitted pursuant to §300.602(b)(2). (b) Determination—(1) General. Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State— (i) Meets the requirements and purposes of Part B of the Act; (ii) Needs assistance in implementing the requirements of Part B of the Act; (iii) Needs intervention in implementing the requirements of Part B of the Act; or (iv) Needs substantial intervention in implementing the requirements of Part B of the Act. (2) Notice and opportunity for a hearing. (i) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hea on those determinations. (ii) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination described in paragraph (b)(1) of this section.

Legal Standards

1,723	§300.604 Enforcement	Federal	(a) Needs assistance. If the Secretary determines, for two consecutive years, that a State needs assistance under §300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretar takes one or more of the following actions: (1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, an requires the State to work with appropriate entities. Such technical assistance may include— (i) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time; (ii) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research; (iii) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and supp and (iv) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance. (2) Directs the use of State-level funds under section 611(e) of the Act on the area or areas in which the State needs assistance. (3) Identifies the State as a high-risk grantee and imposes special conditions on the State's grant under Part B of the Act. (b) Needs intervention. If the Secretary determines, for three or more consecutive years, that a State needs intervention under §300.603(b)(1)(iii) in implementing the requirements of Part B of the A the following shall apply: (1) The Secretary may take any of the actions described in paragraph (a) of this section. (2) The Secretary takes one or more of the following actions:
1,724	§300.605 Withholding funds	Federal	(a) Opportunity for hearing. Prior to withholding any funds under Part B of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the SEA involved, pursuant to the procedures in §§300.180 through 300.183. (b) Suspension. Pending the outcome of any hearing to withhold payments under paragraph (a) of this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipi obligate funds under Part B of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under Part B the Act should not be suspended. (c) Nature of withholding. (1) If the Secretary determines that it is appropriate to withhold further payments under §300.604(b)(2) or (c)(2), the Secretary may determine— (i) That the withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under §300.603(b)(1); or (ii) That the SEA must not make further payments under Part B of the Act to specified State agencies or LEAs that caused or were involved in the Secretary's determination under §300.603(b)(1). (2) Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified— (i) Payments to the State under Part B of the Act must be withheld in whole or in part; and (ii) Payments by the SEA under Part B of the Act must be limited to State agencies and LEAs whose actions did not cause or were not involved in the Secretary's determination under §300.603(b)(1), case may be.
1,725	§300.606 Public attention	Federal	Whenever a State receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to §300.604, the State must, by means of a public notice, take such actions as may necessary to notify the public within the State of the pendency of an action pursuant to §300.604, including, at a minimum, by posting the notice on the SEA's Web site and distributing the notice to th media and through public agencies.

Legal Standards

1,726	§300.607 Divided State agency responsibility	Federal	For purposes of this subpart, if responsibility for ensuring that the requirements of Part B of the Act are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the SEA pursuant to §300.149(d), and if the Secretary finds that the failure to comply substantially with the provisions of Part B Act are related to a failure by the public agency, the Secretary takes appropriate corrective action to ensure compliance with Part B of the Act, except that— (a) Any reduction or withholding of payments to the State under §300.604 must be proportionate to the total funds allotted under section 611 of the Act to the State as the number of eligible children disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the SEA; and (b) Any withholding of funds under §300.604 must be limited to the specific agency responsible for the failure to comply with Part B of the Act.
1,727	§300.608 State enforcement	Federal	(a) If an SEA determines that an LEA is not meeting the requirements of Part B of the Act, including the targets in the State's performance plan, the SEA must prohibit the LEA from reducing the LEA's maintenance of effort under §300.203 for any fiscal year. (b) Nothing in this subpart shall be construed to restrict a State from utilizing any other authority available to it to monitor and enforce the requirements of Part B of the Act.
1,728	§300.609 Rule of construction	Federal	Nothing in this subpart shall be construed to restrict the Secretary from utilizing any authority under GEPA, including the provisions in 34 CFR parts 76, 77, and 81 and 2 CFR part 200 to monitor and enforce the requirements of the Act, including the imposition of special or high-risk conditions under 2 CFR 200.207 and 3474.10.
1,729	Confidentiality of Information §300.610 Confidentiality	Federal	The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected o maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with §§300.611 through 300.627.
1,730	§300.611 Definitions	Federal	As used in §§300.611 through 300.625— (a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. (b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act o 1974, 20 U.S.C. 1232g (FERPA)). (c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.
1,731	§300.612 Notice to parents	Federal	(a) The SEA must give notice that is adequate to fully inform parents about the requirements of §300.123, including— (1) A description of the extent that the notice is given in the native languages of the various population groups in the State; (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (inclu the sources from whom information is gathered), and the uses to be made of the information; (3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; a (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99. (b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

Legal Standards

1,732	§300.613 Access rights	Federal	(a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The age must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant §300.510, and in no case more than 45 days after the request has been made. (b) The right to inspect and review education records under this section includes— (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to ins and review the records; and (3) The right to have a representative of the parent inspect and review the records. (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority und applicable State law governing such matters as guardianship, separation, and divorce.
1,733	§300.614 Record of access	Federal	Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employe the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.
1,734	§300.615 Records on more than one child	Federal	If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed o specific information.
1,735	§300.616 List of types and locations of information	Federal	Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.
1,736	§300.617 Fees	Federal	(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect a review those records. (b) A participating agency may not charge a fee to search for or to retrieve information under this part.
1,737	§300.618 Amendment of records at parent's request	Federal	(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may re the participating agency that maintains the information to amend the information. (b) The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. (c) If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.
1,738	§300.619 Opportunity for a hearing	Federal	The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy other rights of the child.
1,739	§300.620 Result of hearing	Federal	(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing. (b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of t parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. (c) Any explanation placed in the records of the child under this section must— (1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

Legal Standards

1,740	§300.621 Hearing procedures	Federal	A hearing held under §300.619 must be conducted according to the procedures in 34 CFR 99.22.
1,741	§300.622 Consent	Federal	(a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this sectio unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies fo purposes of meeting a requirement of this part. (2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with §300.321(b)(3). (3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable informatio about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.
1,742	§300.623 Safeguards	Federal	(a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §300.123 and 34 CFR part 99. (d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.
1,743	§300.624 Destruction of information	Federal	(a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. (b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes atter grade level completed, and year completed may be maintained without time limitation.
1,744	§300.625 Children's rights	Federal	(a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of t child and type or severity of disability. (b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18. (c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with §300.520, the rights regarding educational records in §§300.6 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.
1,745	§300.626 Enforcement	Federal	The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with §§300.611 through 300.625 are followed an the requirements of the Act and the regulations in this part are met.
1,746	§300.627 Department use of personally identifiable information	Federal	If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to the Privacy Act of 1974, 5 U.S.C. 552a, the Secretary applies the requirements of 5 U.S.C. 552a(b)(1) and (b)(2), 552a(b)(4) through (b)(11); 552a(c) through 552a(e)(3)(B); 552a(e)(3)(D); 552a(e)(5) through (e)(10); 552a(h); 552a(m); and 552a(n); and the regulations implementing those provisions in 34 CFR part 5b
1,747	Reports—Program Information §300.640 Annual report of children served—report requirement	Federal	(a) The SEA must annually report to the Secretary on the information required by section 618 of the Act at the times specified by the Secretary. (b) The SEA must submit the report on forms provided by the Secretary

Legal Standards

1,748	§300.641 Annual report of children served—information required in the report	Federal	(a) For purposes of the annual report required by section 618 of the Act and §300.640, the State and the Secretary of the Interior must count and report the number of children with disabilities receiv special education and related services on any date between October 1 and December 1 of each year. (b) For the purpose of this reporting provision, a child's age is the child's actual age on the date of the child count. (c) The SEA may not report a child under more than one disability category. (d) If a child with a disability has more than one disability, the SEA must report that child in accordance with the following procedure: (1) If a child has only two disabilities and those disabilities are deafness and blindness, and the child is not reported as having a developmental delay, that child must be reported under the category " blindness." (2) A child who has more than one disability and is not reported as having deaf-blindness or as having a developmental delay must be reported under the category "multiple disabilities."
1,749	§300.642 Data reporting	Federal	(a) Protection of personally identifiable data. The data described in section 618(a) of the Act and in §300.641 must be publicly reported by each State in a manner that does not result in disclosure of identifiable to individual children. (b) Sampling. The Secretary may permit States and the Secretary of the Interior to obtain data in section 618(a) of the Act through sampling.
1,750	§300.643 Annual report of children served—certification	Federal	The SEA must include in its report a certification signed by an authorized official of the agency that the information provided under §300.640 is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.
1,751	§300.644 Annual report of children served—criteria for counting children	Federal	The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that— (a) Provides them with both special education and related services that meet State standards; (b) Provides them only with special education, if a related service is not required, that meets State standards; or (c) In the case of children with disabilities enrolled by their parents in private schools, counts those children who are eligible under the Act and receive special education or related services or both th meet State standards under §§300.132 through 300.144.
1,752	§300.645 Annual report of children served—other responsibilities of the SEA	Federal	In addition to meeting the other requirements of §§300.640 through 300.644, the SEA must— (a) Establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services; (b) Set dates by which those agencies and institutions must report to the SEA to ensure that the State complies with §300.640(a); (c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made; (d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under §§300.640 through 300.644; and (e) Ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count.

Legal Standards

1,753	§300.646 Disproportionality	Federal	(a) General. Each State that receives assistance under Part B of the Act, and the Secretary of the Interior, must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to— (1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602 the Act; (2) The placement in particular educational settings of these children; and (3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions. (b) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities the placement in particular educational settings of these children, in accordance with paragraph (a) of this section, the State or the Secretary of the Interior must— (1) Provide for the review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply w the requirements of the Act. (2) Require any LEA identified under paragraph (a) of this section to reserve the maximum amount of funds under section 613(f) of the Act to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified under paragraph (a) of this section; and (3) Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph (b)(1) of this section.
1,754	Subpart G—Authorization, Allotment, Use of Funds, and Authorization of Appropriations Allotments, Grants, and Use of Funds §300.700 Grants to States	Federal	(a) Purpose of grants. The Secretary makes grants to States, outlying areas, and freely associated States (as defined in §300.717), and provides funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with Part B of the Act. (b) Maximum amount. The maximum amount of the grant a State may receive under section 611 of the Act is— (1) For fiscal years 2005 and 2006— (i) The number of children with disabilities in the State who are receiving special education and related services— (A) Aged three through five, if the State is eligible for a grant under section 619 of the Act; and (B) Aged 6 through 21; multiplied by— (ii) Forty (40) percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States (as defined in §300.717); and (2) For fiscal year 2007 and subsequent fiscal years— (i) The number of children with disabilities in the 2004-2005 school year in the State who received special education and related services— (A) Aged three through five if the State is eligible for a grant under section 619 of the Act; and (B) Aged 6 through 21; multiplied by (ii) Forty (40) percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States (as defined in §300.717); (iii) Adjusted by the rate of annual change in the sum of— (A) Eighty-five (85) percent of the State's population of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of FAPE under Par

Legal Standards

1,755	§300.701 Outlying areas, freely associated States, and the Secretary of the Interior	Federal	(a) Outlying areas and freely associated States—(1) Funds reserved. From the amount appropriated for any fiscal year under section 611(i) of the Act, the Secretary reserves not more than one perce which must be used— (i) To provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and (ii) To provide each freely associated State a grant in the amount that the freely associated State received for fiscal year 2003 under Part B of the Act, but only if the freely associated State— (A) Meets the applicable requirements of Part B of the Act that apply to States. (B) Meets the requirements in paragraph (a)(2) of this section. (2) Application. Any freely associated State that wishes to receive funds under Part B of the Act must include, in its application for assistance— (i) Information demonstrating that it will meet all conditions that apply to States under Part B of the Act. (ii) An assurance that, notwithstanding any other provision of Part B of the Act, it will use those funds only for the direct provision of special education and related services to children with disabilitie to enhance its capacity to make FAPE available to all children with disabilities; (iii) The identity of the source and amount of funds, in addition to funds under Part B of the Act, that it will make available to ensure that FAPE is available to all children with disabilities within its jurisdiction; and (iv) Such other information and assurances as the Secretary may require. (3) Special rule. The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, do not apply to funds provided to the outlying areas or to the freely associated State under Part B of the Act. (b) Secretary of the Interior. From the amount appropriated for any fiscal year under section 611(i) of the Act, the Secretary reserves 1.226 percent to provide assistance to the Secretary of the Interi accordance with §§300.707 through 300.716.
1,756	§300.702 Technical assistance	Federal	(a) In general. The Secretary may reserve not more than one-half of one percent of the amounts appropriated under Part B of the Act for each fiscal year to support technical assistance activities auth under section 616(i) of the Act. (b) Maximum amount. The maximum amount the Secretary may reserve under paragraph (a) of this section for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation as measur the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Legal Standards

1,757	§300.703 Allocations to States	Federal	(a) General. After reserving funds for technical assistance under §300.702, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under §300.701 (a) an for a fiscal year, the Secretary allocates the remaining amount among the States in accordance with paragraphs (b), (c), and (d) of this section. (b) Special rule for use of fiscal year 1999 amount. If a State received any funds under section 611 of the Act for fiscal year 1999 on the basis of children aged three through five, but does not make FA available to all children with disabilities aged three through five in the State in any subsequent fiscal year, the Secretary computes the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (c) or (d) of this section, by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children. (c) Increase in funds. If the amount available for allocations to States under paragraph (a) of this section for a fiscal year is equal to or greater than the amount allocated to the States under section 61 the Act for the preceding fiscal year, those allocations are calculated as follows: (1) Allocation of increase—(i) General. Except as provided in paragraph (c)(2) of this section, the Secretary allocates for the fiscal year— (A) To each State the amount the State received under this section for fiscal year 1999; (B) Eighty-five (85) percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for wh State ensures the availability of FAPE under Part B of the Act; and (C) Fifteen (15) percent of those remaining funds to States on the basis of the States' relative populations of children described in paragraph (c)(1)(i)(B) of this section who are living in poverty. (ii) Data. For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary. (2) Limitations. Notwithstanding paragraph (c)(1) of this section, allocations under this section are subject to the following: (i) Preceding year allocation. No State's allocation may be less than its allocation under section 611 of the Act for the preceding fiscal year. (ii) Minimum. No State's allocation may be less than the greatest of—
1,758	§300.704 State-level activities	Federal	(a) State administration. (1) For the purpose of administering Part B of the Act, including paragraph (c) of this section, section 619 of the Act, and the coordination of activities under Part B of the Act and providing technical assistance to, other programs that provide services to children with disabilities— (i) Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004 or $800,0 (adjusted in accordance with paragraph (a)(2) of this section), whichever is greater; and (ii) Each outlying area may reserve for each fiscal year not more than five percent of the amount the outlying area receives under §300.701(a) for the fiscal year or $35,000, whichever is greater. (2) For each fiscal year, beginning with fiscal year 2005, the Secretary cumulatively adjusts— (i) The maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004; and (ii) $800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of L Statistics of the Department of Labor. (3) Prior to expenditure of funds under paragraph (a) of this section, the State must certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(1 of the Act are current. (4) Funds reserved under paragraph (a)(1) of this section may be used for the administration of Part C of the Act, if the SEA is the lead agency for the State under that Part. (b) Other State-level activities. (1) States may reserve a portion of their allocations for other State-level activities. The maximum amount that a State may reserve for other State-level activities is as follows: (i) If the amount that the State sets aside for State administration under paragraph (a) of this section is greater than $850,000 and the State opts to finance a high cost fund under paragraph (c) of this section: (A) For fiscal years 2005 and 2006, 10 percent of the State's allocation under §300.703.

Legal Standards

1,759	§300.705 Subgrants to LEAs	Federal	(a) Subgrants required. Each State that receives a grant under section 611 of the Act for any fiscal year must distribute any funds the State does not reserve under §300.704 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act for use in accordance with Part B of the Act. Effective with funds that become avail on the July 1, 2009, each State must distribute funds to eligible LEAs, including public charter schools that operate as LEAs, even if the LEA is not serving any children with disabilities. (b) Allocations to LEAs. For each fiscal year for which funds are allocated to States under §300.703, each State shall allocate funds as follows: (1) Base payments. The State first must award each LEA described in paragraph (a) of this section the amount the LEA would have received under section 611 of the Act for fiscal year 1999, if the Stat distributed 75 percent of its grant for that year under section 611(d) of the Act, as that section was then in effect. (2) Base payment adjustments. For any fiscal year after 1999— (i) If a new LEA is created, the State must divide the base allocation determined under paragraph (b)(1) of this section for the LEAs that would have been responsible for serving children with disabil now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages 3 through 21, or ages 6 through 21 if a State has had its paym reduced under §300.703(b), currently provided special education by each of the LEAs; (ii) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs; (iii) If, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages 3 through 21 change, the base allocations of affected LEA must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages 3 through 21, or ages 6 through 21 if a State has had its payment reduced under §300.703 currently provided special education by each affected LEA; and (iv) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that serving any children with disabilities. The State must divide the base allocation determined under paragraph (b)(1) of this section for the LEAs that would have been responsible for serving children disabilities now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities ages 3 through 21, or ages 6 through 21 currently provided spe education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009. (3) Allocation of remaining funds. After making allocations under paragraph (b)(1) of this section, as adjusted by paragraph (b)(2) of this section, the State must—
1,760	§300.706 [Reserved]	Federal	
1,761	Secretary of the Interior §300.707 Use of amounts by Secretary of the Interior	Federal	(a) Definitions. For purposes of §§300.707 through 300.716, the following definitions apply: (1) Reservation means Indian Country as defined in 18 U.S.C. 1151. (2) Tribal governing body has the definition given that term in 25 U.S.C. 2021(19). (b) Provision of amounts for assistance. The Secretary provides amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of the payment for any fiscal year is equal percent of the amount allotted under section 611(b)(2) of the Act for that fiscal year. Of the amount described in the preceding sentence, after the Secretary of the Interior reserves funds for administration under §300.710, 80 percent must be allocated to such schools by July 1 of that fiscal year and 20 percent must be allocated to such schools by September 30 of that fiscal year. (c) Additional requirement. With respect to all other children aged 3 to 21, inclusive, on reservations, the SEA of the State in which the reservation is located must ensure that all of the requirements Part B of the Act are implemented.

Legal Standards

1,762	§300.708 Submission of information	Federal	The Secretary may provide the Secretary of the Interior amounts under §300.707 for a fiscal year only if the Secretary of the Interior submits to the Secretary information that— (a) Meets the requirements of section 612(a)(1), (3) through (9), (10)(B) through (C), (11) through (12), (14) through (16), (19), and (21) through (25) of the Act (including monitoring and evaluatio activities); (b) Meets the requirements of section 612(b) and (e) of the Act; (c) Meets the requirements of section 613(a)(1), (2)(A)(i), (7) through (9) and section 613(i) of the Act (references to LEAs in these sections must be read as references to elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior); (d) Meets the requirements of section 616 of the Act that apply to States (references to LEAs in section 616 of the Act must be read as references to elementary schools and secondary schools for Indi children operated or funded by the Secretary of the Interior). (e) Meets the requirements of this part that implement the sections of the Act listed in paragraphs (a) through (d) of this section; (f) Includes a description of how the Secretary of the Interior will coordinate the provision of services under Part B of the Act with LEAs, tribes and tribal organizations, and other private and Federal service providers; (g) Includes an assurance that there are public hearings, adequate notice of the hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local sc boards before the adoption of the policies, programs, and procedures related to the requirements described in paragraphs (a) through (d) of this section; (h) Includes an assurance that the Secretary of the Interior provides the information that the Secretary may require to comply with section 618 of the Act; (i)(1) Includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with the SEAs and LEAs and other entities to facilitate the provision of services to Indi children with disabilities residing on or near reservations. (2) The agreement must provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipr
1,763	§300.709 Public participation	Federal	In fulfilling the requirements of §300.708 the Secretary of the Interior must provide for public participation consistent with §300.165.
1,764	§300.710 Use of funds under Part B of the Act	Federal	(a) The Secretary of the Interior may reserve five percent of its payment under §300.707(b) in any fiscal year, or $500,000, whichever is greater, for administrative costs in carrying out the provision §§300.707 through 300.709, 300.711, and 300.713 through 300.716. (b) Payments to the Secretary of the Interior under §300.712 must be used in accordance with that section.
1,765	§300.711 Early intervening services	Federal	(a) The Secretary of the Interior may allow each elementary school and secondary school for Indian children operated or funded by the Secretary of the Interior to use not more than 15 percent of the amount the school receives under §300.707(b) for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinate early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade t who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment, in accordance section 613(f) of the Act. (b) Each elementary school and secondary school for Indian children operated or funded by the Secretary of the Interior that develops and maintains coordinated early intervening services in accord with section 613(f) of the Act and §300.226 must annually report to the Secretary of the Interior in accordance with section 613(f) of the Act.

Legal Standards

1,766	§300.712 Payments for education and services for Indian children with disabilities aged three through five	Federal	(a) General. With funds appropriated under section 611(i) of the Act, the Secretary makes payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged three through five on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of the payments under paragraph (b) of this section for any fiscal year is equal to 20 percent of the amount allotted under §300.701(b). (b) Distribution of funds. The Secretary of the Interior must distribute the total amount of the payment under paragraph (a) of this section by allocating to each tribe, tribal organization, or consortiu amount based on the number of children with disabilities aged three through five residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations. (c) Submission of information. To receive a payment under this section, the tribe or tribal organization must submit the figures to the Secretary of the Interior as required to determine the amounts t allocated under paragraph (b) of this section. This information must be compiled and submitted to the Secretary. (d) Use of funds. (1) The funds received by a tribe or tribal organization must be used to assist in child find, screening, and other procedures for the early identification of children aged three through parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, LEAs, and other public or private nonpr organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. (2) The tribe or tribal organization, as appropriate, must make referrals to local, State, or Federal entities for the provision of services or further diagnosis. (e) Biennial report. To be eligible to receive a grant pursuant to paragraph (a) of this section, the tribe or tribal organization must provide to the Secretary of the Interior a biennial report of activities undertaken under this section, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the two years following the year in which the report is made. The Secretary of the Interior must include a summary of this information on a biennial basis report to the Secretary required under section 611(h) of the Act. The Secretary may require any additional information from the Secretary of the Interior. (f) Prohibitions. None of the funds allocated under this section may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance
1,767	§300.713 Plan for coordination of services	Federal	(a) The Secretary of the Interior must develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. (b) The plan must provide for the coordination of services benefiting those children from whatever source, including tribes, the Indian Health Service, other BIA divisions, other Federal agencies, Stat educational agencies, and State, local, and tribal juvenile and adult correctional facilities. (c) In developing the plan, the Secretary of the Interior must consult with all interested and involved parties. (d) The plan must be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Fed agencies, and other entities. (e) The plan also must be distributed upon request to States; to SEAs, LEAs, and other agencies providing services to infants, toddlers, and children with disabilities; to tribes; and to other interested parties.

Legal Standards

1,768	§300.714 Establishment of advisory board	Federal	(a) To meet the requirements of section 612(a)(21) of the Act, the Secretary of the Interior must establish, under the BIA, an advisory board composed of individuals involved in or concerned with th education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 of the Act in States ha reservations, and other members representing the various divisions and entities of the BIA. The chairperson must be selected by the Secretary of the Interior. (b) The advisory board must— (1) Assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities; (2) Advise and assist the Secretary of the Interior in the performance of the Secretary of the Interior's responsibilities described in section 611(h) of the Act; (3) Develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency prog and activities; (4) Provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention services or educational programming for Indian infants, toddlers, and children with disabilities; and (5) Provide assistance in the preparation of information required under §300.708(h).
1,769	§300.715 Annual reports	Federal	(a) In general. The advisory board established under §300.714 must prepare and submit to the Secretary of the Interior and to Congress an annual report containing a description of the activities of t advisory board for the preceding year. (b) Availability. The Secretary of the Interior must make available to the Secretary the report described in paragraph (a) of this section.
1,770	§300.716 Applicable regulations	Federal	The Secretary of the Interior must comply with the requirements of §§300.103 through 300.108, 300.110 through 300.124, 300.145 through 300.154, 300.156 through 300.160, 300.165, 300.170 thr 300.186, 300.226, 300.300 through 300.606, 300.610 through 300.646, and 300.707 through 300.716.
1,771	Definitions that Apply to this Subpart §300.717 Definitions applicable to allotments, grants, and use of funds	Federal	As used in this subpart— (a) Freely associated States means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; (b) Outlying areas means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; (c) State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (d) Average per-pupil expenditure in public elementary schools and secondary schools in the United States means— (1) Without regard to the source of funds— (i) The aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the m recent preceding fiscal year for which satisfactory data are available) of all LEAs in the 50 States and the District of Columbia; plus (ii) Any direct expenditures by the State for the operation of those agencies; divided by (2) The aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.
1,772	Acquisition of Equipment and Construction or Alteration of Facilities §300.718 Acquisition of equipment and construction or alteration of facilities	Federal	(a) General. If the Secretary determines that a program authorized under Part B of the Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct facilities or alter existing facilities, the Secretary may allow the use of those funds for those purposes. (b) Compliance with certain regulations. Any construction of new facilities or alteration of existing facilities under paragraph (a) of this section must comply with the requirements of— (1) Appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the “Americans with Disabilities Accessibility Standards for Buildings and Facilities”); or (2) Appendix A of subpart 101-19.6 of title 41, Code of Federal Regulations (commonly known as the “Uniform Federal Accessibility Standards”).

Legal Standards

1,773	Subpart H—Preschool Grants for Children with Disabilities §300.800 In general	Federal	The Secretary provides grants under section 619 of the Act to assist States to provide special education and related services in accordance with Part B of the Act— (a) To children with disabilities aged three through five years; and (b) At a State's discretion, to two-year-old children with disabilities who will turn three during the school year.
1,774	§§300.801-300.802 [Reserved]	Federal	
1,775	§300.803 Definition of State	Federal	As used in this subpart, State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. (Authority: 20 U.S.C. 1419(i))
1,776	§300.804 Eligibility	Federal	A State is eligible for a grant under section 619 of the Act if the State— (a) Is eligible under section 612 of the Act to receive a grant under Part B of the Act; and (b) Makes FAPE available to all children with disabilities, aged three through five, residing in the State. (Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1419(b))
1,777	§300.805 [Reserved]	Federal	
1,778	§300.806 Eligibility for financial assistance	Federal	No State or LEA, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under subpart 2 or 3 of Part D of the Act that relates exclusively to progra projects, and activities pertaining to children aged three through five years, unless the State is eligible to receive a grant under section 619(b) of the Act. (Authority: 20 U.S.C. 1481(e))
1,779	§300.807 Allocations to States	Federal	The Secretary allocates the amount made available to carry out section 619 of the Act for a fiscal year among the States in accordance with §§300.808 through 300.810. (Authority: 20 U.S.C. 1419(c)(1))
1,780	§300.808 Increase in funds	Federal	If the amount available for allocation to States under §300.807 for a fiscal year is equal to or greater than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, t allocations are calculated as follows: (a) Except as provided in §300.809, the Secretary— (1) Allocates to each State the amount the State received under section 619 of the Act for fiscal year 1997; (2) Allocates 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged three through five; and (3) Allocates 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged three through five who are living in poverty. (b) For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secr (Authority: 20 U.S.C. 1419(c)(2)(A))

Legal Standards

1,781	§300.809 Limitations	Federal	(a) Notwithstanding §300.808, allocations under that section are subject to the following: (1) No State's allocation may be less than its allocation under section 619 of the Act for the preceding fiscal year. (2) No State's allocation may be less than the greatest of— (i) The sum of— (A) The amount the State received under section 619 of the Act for fiscal year 1997; and (B) One-third of one percent of the amount by which the amount appropriated under section 619(j) of the Act for the fiscal year exceeds the amount appropriated for section 619 of the Act for fiscal y 1997; (ii) The sum of— (A) The amount the State received under section 619 of the Act for the preceding fiscal year; and (B) That amount multiplied by the percentage by which the increase in the funds appropriated under section 619 of the Act from the preceding fiscal year exceeds 1.5 percent; or (iii) The sum of— (A) The amount the State received under section 619 of the Act for the preceding fiscal year; and (B) That amount multiplied by 90 percent of the percentage increase in the amount appropriated under section 619 of the Act from the preceding fiscal year. (b) Notwithstanding paragraph (a)(2) of this section, no State's allocation under §300.808 may exceed the sum of— (1) The amount the State received under section 619 of the Act for the preceding fiscal year; and
1,782	§300.810 Decrease in funds	Federal	If the amount available for allocations to States under §300.807 for a fiscal year is less than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, those allocatio are calculated as follows: (a) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State is allocated the sum of— (1) The amount the State received under section 619 of the Act for fiscal year 1997; and (2) An amount that bears the same relation to any remaining funds as the increase the State received under section 619 of the Act for the preceding fiscal year over fiscal year 1997 bears to the total o such increases for all States. (b) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State is allocated the amount the State received for fiscal year 1997, ratab reduced, if necessary. (Authority: 20 U.S.C. 1419(c)(3))
1,783	§300.811 [Reserved]	Federal	
1,784	§300.812 Reservation for State activities	Federal	(a) Each State may reserve not more than the amount described in paragraph (b) of this section for administration and other State-level activities in accordance with §§300.813 and 300.814. (b) For each fiscal year, the Secretary determines and reports to the SEA an amount that is 25 percent of the amount the State received under section 619 of the Act for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of— (1) The percentage increase, if any, from the preceding fiscal year in the State's allocation under section 619 of the Act; or (2) The rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statisti the Department of Labor. (Authority: 20 U.S.C. 1419(d)) [71 FR 46753, Aug. 14, 2006, as amended at 72 FR 61307, Oct. 30, 2007]

Legal Standards

1,785	§300.813 State administration	Federal	(a) For the purpose of administering section 619 of the Act (including the coordination of activities under Part B of the Act with, and providing technical assistance to, other programs that provide se to children with disabilities), a State may use not more than 20 percent of the maximum amount the State may reserve under §300.812 for any fiscal year. (b) Funds described in paragraph (a) of this section may also be used for the administration of Part C of the Act. (Authority: 20 U.S.C. 1419(e))
1,786	§300.814 Other State-level activities	Federal	Each State must use any funds the State reserves under §300.812 and does not use for administration under §300.813— (a) For support services (including establishing and implementing the mediation process required by section 615(e) of the Act), which may benefit children with disabilities younger than three or ol than five as long as those services also benefit children with disabilities aged three through five; (b) For direct services for children eligible for services under section 619 of the Act; (c) For activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) of the Act; (d) To supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and families, but not more than one percent of the amount received by the State under section 619 of the Act for a fiscal year; (e) To provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance Part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until such children enter, or are eli under State law to enter, kindergarten; or (f) At the State's discretion, to continue service coordination or case management for families who receive services under Part C of the Act, consistent with §300.814(e). (Authority: 20 U.S.C. 1419(f))
1,787	§300.815 Subgrants to LEAs	Federal	Each State that receives a grant under section 619 of the Act for any fiscal year must distribute all of the grant funds the State does not reserve under §300.812 to LEAs (including public charter scho that operate as LEAs) in the State that have established their eligibility under section 613 of the Act. Effective with funds that become available on July 1, 2009, each State must distribute funds to elig LEAs that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs, even if the LEA is not serving any preschool childre disabilities. (Authority: 20 U.S.C. 1419(g)(1)) [73 FR 73028, Dec. 1, 2008]

Legal Standards

1,788	§300.816 Allocations to LEAs	Federal	(a) Base payments. The State must first award each LEA described in §300.815 the amount that agency would have received under section 619 of the Act for fiscal year 1997 if the State had distribute percent of its grant for that year under section 619(c)(3), as such section was then in effect. (b) Base payment adjustments. For fiscal year 1998 and beyond— (1) If a new LEA is created, the State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving children with disabilitie now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by e the LEAs; (2) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs; (3) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages three through five changes, the base allocations of affected must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each affected LEA; and (4) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that serving any children with disabilities aged three through five years. The State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been respo for serving children with disabilities aged three through five years now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities aged thr through five years currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009. (c) Allocation of remaining funds. After making allocations under paragraph (a) of this section, the State must— (1) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA' jurisdiction; and (2) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA. (d) Use of best data. For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enro in public and private elementary and secondary schools and the numbers of children living in poverty.
1,789	§300.817 Reallocation of LEA funds	Federal	(a) If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities aged three through five years residing in the area served by the LEA with State and local funds, the S may reallocate any portion of the funds under section 619 of the Act that are not needed by that LEA to provide FAPE, to other LEAs in the State that are not adequately providing special education ar related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the exte State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to §300.812. (b) After an SEA distributes section 619 funds to an eligible LEA that is not serving any children with disabilities aged three through five years, as provided in §300.815, the SEA must determine, with reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The SEA may reallocate any of those funds not obligated by the LEA to o LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEA SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to §300.81 (Authority: 20 U.S.C. 1419(g)(2)) [73 FR 73028, Dec. 1, 2008]
1,790	§300.818 Part C of the Act inapplicable	Federal	Part C of the Act does not apply to any child with a disability receiving FAPE, in accordance with Part B of the Act, with funds received under section 619 of the Act. (Authority: 20 U.S.C. 1419(h))

Legal Standards

1,791	Appendix A to Part 300—Excess Costs Calculation	Federal	Except as otherwise provided, amounts provided to an LEA under Part B of the Act may be used only to pay the excess costs of providing special education and related services to children with disabi Excess costs are those costs for the education of an elementary school or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during t preceding school year for an elementary school or secondary school student, as may be appropriate. An LEA must spend at least the average annual per student expenditure on the education of an elementary school or secondary school child with a disability before funds under Part B of the Act are used to pay the excess costs of providing special education and related services. Section 602(8) of the Act and §300.16 require the LEA to compute the minimum average amount separately for children with disabilities in its elementary schools and for children with disabilities in secondary schools. LEAs may not compute the minimum average amount it must spend on the education of children with disabilities based on a combination of the enrollments in its elementary scho and secondary schools. The following example shows how to compute the minimum average amount an LEA must spend for the education of each of its elementary school children with disabilities under section 602(3) of t Act before it may use funds under Part B of the Act. a. First the LEA must determine the total amount of its expenditures for elementary school students from all sources—local, State, and Federal (including Part B)—in the preceding school year. Only c outlay and debt services are excluded. Example: The following is an example of a computation for children with disabilities enrolled in an LEA's elementary schools. In this example, the LEA had an average elementary school enrollment fo preceding school year of 800 (including 100 children with disabilities). The LEA spent the following amounts last year for elementary school students (including its elementary school children with disabilities): (1) From State and local tax funds $6,500,000 (2) From Federal funds 600,000 Total expenditures 7,100,000 Of this total, $60,000 was for capital outlay and debt service relating to the education of elementary school students. This must be subtracted from total expenditures. (1) Total Expenditures $7,100,0 (2) Less capital outlay and debt –60,000 Total expenditures for elementary school students less capital outlay and debt $7,040,000 b. Next, the LEA must subtract from the total expenditures amounts spent for: (1) IDEA, Part B allocation,
1,792	Appendix B to Part 300—Proportionate Share Calculation	Federal	Each LEA must expend, during the grant period, on the provision of special education and related services for the parentally-placed private school children with disabilities enrolled in private elemer schools and secondary schools located in the LEA an amount that is equal to— (1) A proportionate share of the LEA's subgrant under section 611(f) of the Act for children with disabilities aged 3 through 21. This is an amount that is the same proportion of the LEA's total subgra under section 611(f) of the Act as the number of parentally-placed private school children with disabilities aged 3 through 21 enrolled in private elementary schools and secondary schools located in LEA is to the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA aged 3 through 21; and (2) A proportionate share of the LEA's subgrant under section 619(g) of the Act for children with disabilities aged 3 through 5. This is an amount that is the same proportion of the LEA's total subgra under section 619(g) of the Act as the total number of parentally-placed private school children with disabilities aged 3 through 5 enrolled in private elementary schools located in the LEA is to the to number of children with disabilities enrolled in public and private elementary schools located in the LEA aged 3 through 5. Consistent with section 612(a)(10)(A)(i) of the Act and §300.133 of these regulations, annual expenditures for parentally-placed private school children with disabilities are calculated based on the t number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA eligible to receive special education and related services under Part B compared with the total number of eligible parentally-placed private school children with disabilities enrolled in private elementary schools located in the LEA. This ratio is used to determine the proportion of the LEA's total Part B subgrants under section 611(f) of the Act for children aged 3 through 21, and under section 619(g) of the Act for children aged 3 through 5, that is to be expended services for parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA. The following is an example of how the proportionate share is calculated: There are 300 eligible children with disabilities enrolled in the Flintstone School District and 20 eligible parentally-placed private school children with disabilities enrolled in private elementary scho and secondary schools located in the LEA for a total of 320 eligible public and private school children with disabilities (note: proportionate share for parentally-placed private school children is based total children eligible, not children served). The number of eligible parentally-placed private school children with disabilities (20) divided by the total number of eligible public and private school chi with disabilities (320) indicates that 6.25 percent of the LEA's subgrant must be spent for the group of eligible parentally-placed children with disabilities enrolled in private elementary schools and secondary schools located in the LEA. Flintstone School District receives $152,500 in Federal flow through funds. Therefore, the LEA must spend $9,531.25 on special education or related services to group of parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA. (Note: The LEA must calculate the proportionate of IDEA funds before earmarking funds for any early intervening activities in §300.226). The following outlines the calculations for the example of how the proportionate share is calculated.

Legal Standards

1,793	Appendix C to Part 300—National Instructional Materials Accessibility Standard (NIMAS)	Federal	Under sections 612(a)(23)(A) and 674(e)(4) of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004, the Secretary of Education establishes the NIMAS. Under section 674(e)(4) of the Act, the NIMAS applies to print instructional materials published after July 19, 2006. The purpose of the NIMAS is to help increase the availability and timely delivery of print instructional materials in accessible formats to blind or other persons with print disabilities in elementary and secondary schools. Technical Specifications—The Baseline Element Set The Baseline Element Set details the minimum requirement that must be delivered to fulfill the NIMAS. It is the responsibility of publishers to provide this NIMAS-conformant XML content file, a pack file (OPF), a PDF-format copy of the title page (or whichever page(s) contain(s) ISBN and copyright information), and a full set of the content's images. All of the images included within a work must b provided in a folder and placeholders entered in the relevant XML document indicating their location (all images must be included). The preferred image type is SVG, next is either PNG or JPG format. Images should be rendered in the same size/proportion as their originals at 300 dpi. Images should be named with relative path filenames in XML files (example: img id="staricon4" src="./images/U10C02/staricon4.jpg" alt="star icon"). NIMAS-conformant content must be valid to the NIMAS 1.1 [see ANSI/NISO Z39.86 2005 or subsequent revisions]. In addition, files are required to use the tags from the Baseline Element Set when su tags are appropriate. Publishers are encouraged to augment the required Baseline Element Set with tags from the Optional Element Set (elements not included in the Standard) as applicable. For the purposes of NIMAS, appropriate usage of elements, both baseline and optional, is defined by the DAISY Structure Guidelines. Files that do not follow these guidelines in the selection and application o are not conformant to this Standard. Both optional elements and appropriate structure guidelines may be located within Z39.86-2002 and Z39.86-2005 available from http://www.daisy.org/z3986/ of the most current standard is recommended. The Baseline Element Set Element Description a. Document-level tags dtbook The root element in the Digital Talking Book DTD. <dtbook>contains metadata in <head>and the contents itself in <book>. head Contains metainformation about the book but no actual content of the book itself, which is placed in <book>. book Surrounds the actual content of the document, which is divided into <frontmatter>, <bodymatter>, and <rearmatter>. <head>, which contains metadata, precedes <book>. meta Indicates metadata about the book. It is an empty element that may appear repeatedly only in <head>. For the most current usage guidelines, please refer to http://www.daisy.org/z3986/ b. Structure and Hierarchy frontmatter Usually contains <doctitle>and <docauthor>, as well as preliminary material that is often enclosed in appropriate <level>or <level1>etc. Content may include a copyright notice, a forewo
1,794	Appendix D to Part 300—Maintenance of Effort and Early Intervening Services	Federal	LEAs that seek to reduce their local maintenance of effort in accordance with §300.205(d) and use some of their Part B funds for early intervening services under §300.226 must do so with caution because the local maintenance of effort reduction provision and the authority to use Part B funds for early intervening services are interconnected. The decisions that an LEA makes about the amoun funds that it uses for one purpose affect the amount that it may use for the other. Below are examples that illustrate how §§300.205(d) and 300.226(a) affect one another. Example 1: In this example, the amount that is 15 percent of the LEA's total grant (see §300.226(a)), which is the maximum amount that the LEA may use for early intervening services (EIS), is greate the amount that may be used for local maintenance of effort (MOE) reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see §300.205(a)). Prior Year's Allocation $900 Current Year's Allocation 1,000,000. Increase 100,000. Maximum Available for MOE Reduction 50,000. Maximum Available for EIS 150,000. If the LEA chooses to set aside $150,000 for EIS, it may not reduce its MOE (MOE maximum $50,000 less $150,000 for EIS means $0 can be used for MOE). If the LEA chooses to set aside $100,000 for EIS, it may not reduce its MOE (MOE maximum $50,000 less $100,000 for EIS means $0 can be used for MOE). If the LEA chooses to set aside $50,000 for EIS, it may not reduce its MOE (MOE maximum $50,000 less $50,000 for EIS means $0 can be used for MOE). If the LEA chooses to set aside $30,000 for EIS, it may reduce its MOE by $20,000 (MOE maximum $50,000 less $30,000 for EIS means $20,000 can be used for MOE). If the LEA chooses to set aside $0 for EIS, it may reduce its MOE by $50,000 (MOE maximum $50,000 less $0 for EIS means $50,000 can be used for MOE). Example 2: In this example, the amount that is 15 percent of the LEA's total grant (see §300.226(a)), which is the maximum amount that the LEA may use for EIS, is less than the amount that may be u for MOE reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see §300.205(a)). Prior Year's Allocation $1,000,000. Current Year's Allocation 2,000,000. Increase 1,000,000. Maximum Available for MOE Reduction 500,000. Maximum Available for EIS 300,000. If the LEA chooses to use no funds for MOE, it may set aside $300,000 for EIS (EIS maximum $300,000 less $0 means $300,000 for EIS). If the LEA chooses to use $100,000 for MOE, it may set aside $200,000 for EIS (EIS maximum $300,000 less $100,000 means $200,000 for EIS).
1,795	Appendix E to Part 300—Index for IDEA—Part B Regulations (34 CFR Part 300)	Federal	

Legal Standards

1,796	Title 7: Agriculture PART 210—NATIONAL SCHOOL LUNCH PROGRAM	Federal	
1,797	Subpart A—General §210.1 General purpose and scope	Federal	(a) Purpose of the program. Section 2 of the National School Lunch Act (42 U.S.C. 1751), states: "It is declared to be the policy of Congress, as a measure of national security, to safeguard the health an being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of food and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs." Pursuant to this act, the Department prov States with general and special cash assistance and donations of foods acquired by the Department to be used to assist schools in serving nutritious lunches to children each school day. In furtheranc Program objectives, participating schools shall serve lunches that are nutritionally adequate, as set forth in these regulations, and shall to the extent practicable, ensure that participating children gai full understanding of the relationship between proper eating and good health. (b) Scope of the regulations. This part sets forth the requirements for participation in the National School Lunch and Commodity School Programs. It specifies Program responsibilities of State and lo officials in the areas of program administration, preparation and service of nutritious lunches, the sale of competitive foods, payment of funds, use of program funds, program monitoring, and reporti and recordkeeping requirements. [53 FR 29147, Aug. 2, 1988, as amended at 78 FR 39090, June 28, 2013]
1,798	§210.2 Definitions	Federal	For the purpose of this part: 7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Departm programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements. 7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for av and subawards to State and local governmental organizations under Department programs. 7 CFR part 3018 means the Department's Common Rule regarding Governmentwide New Restrictions on Lobbying. Part 3018 implements the requirements established by section 319 of the 1990 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 101-121). 7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CF part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs. 7 CFR part 3052 means the Department's regulations implementing OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations." (For availability of OMB Circulars refere in this definition, see 5 CFR 1310.3.) Act means the National School Lunch Act, as amended. Afterschool care program means a program providing organized child care services to enrolled school-age children afterschool hours for the purpose of care and supervision of children. Those progr shall be distinct from any extracurricular programs organized primarily for scholastic, cultural or athletic purposes. Applicable credits shall have the meaning established in Office of Management and Budget Circulars A-87, C(4) and A-122, Attachment A, A(5), respectively. For availability of OMB circulars reference this definition see 5 CFR 1310.3. Attendance factor means a percentage developed no less than once each school year which accounts for the difference between enrollment and attendance. The attendance factor may be developed b school food authority, subject to State agency approval, or may be developed by the State agency. In the absence of a local or State attendance factor, the school food authority shall use an attendance

Legal Standards

1,799	§210.3 Administration	Federal	(a) FNS. FNS will act on behalf of the Department in the administration of the Program. Within FNS, the CND will be responsible for Program administration. (b) States. Within the States, the responsibility for the administration of the Program in schools, as defined in §210.2, shall be in the State educational agency. If the State educational agency is unable administer the Program in public or private nonprofit residential child care institutions or nonprofit private schools, then Program administration for such schools may be assumed by FNSRO as pro in paragraph (c) of this section, or such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer such schools. Each State agency desiring to administer the Program shall enter into a written agreement with the Department for the administration of the Program in accordance with the applicable requirements of this part; parts 235 and 245 of this chapter; parts 15, 15a, 15b, 3015 and 3016 of this title; and FNS instructions. (c) FNSRO. The FNSRO will administer the Program in nonprofit private schools or public or nonprofit private residential child care institutions if the State agency is prohibited by law from disbursin Federal funds paid to such schools. In addition, the FNSRO will continue to administer the Program in those States in which nonprofit private schools or public or nonprofit private residential child ca institutions have been under continuous FNS administration since October 1, 1980, unless the administration of the Program in such schools is assumed by the State. The FNSRO will, in each State in which it administers the Program, assume all responsibilities of a State agency as set forth in this part and part 245 of this chapter as appropriate. References in this part to "State agency" include FNS as applicable, when it is the agency administering the Program. (d) School food authorities. The school food authority shall be responsible for the administration of the Program in schools. State agencies shall ensure that school food authorities administer the Pro in accordance with the applicable requirements of this part; part 245 of this chapter; parts 15, 15a, 15b, and 3016 or 3019, as applicable, of this title; and FNS instructions. [53 FR 29147, Aug. 2, 1988, as amended at 71 FR 39515, July 13, 2006]
1,800	Subpart B—Reimbursement Process for States and School Food Authorities §210.4 Cash and donated food assistance to States	Federal	(a) General. To the extent funds are available, FNS will make cash assistance available in accordance with the provisions of this section to each State agency for lunches and meal supplements served t children under the National School Lunch and Commodity School Programs. To the extent donated foods are available, FNS will provide donated food assistance to distributing agencies for each lunc served in accordance with the provisions of this part and part 250 of this chapter. (b) Assistance for the National School Lunch Program. The Secretary will make cash and/or donated food assistance available to each State agency and distributing agency, as appropriate, administer the National School Lunch Program, as follows: (1) Cash assistance will be made available to each State agency administering the National School Lunch Program as follows: (i) General: Cash assistance payments are composed of a general cash assistance payment and a performance-based cash assistance payment, authorized under section 4 of the Act, and a special cash assistance payment, authorized under section 11 of the Act. General cash assistance is provided to each State agency for all lunches served to children in accordance with the provisions of the Nationa School Lunch Program. Performance-based cash assistance is provided to each State agency for lunches served in accordance with §210.7(d). Special cash assistance is provided to each State agency lunches served under the National School Lunch Program to children determined eligible for free or reduced price lunches in accordance with part 245 of this chapter. (ii) Cash assistance for lunches. The total general cash assistance paid to each State for any fiscal year shall not exceed the lesser of amounts reported to FNS as reimbursed to school food authorities accordance with §210.5(d)(3) or the total calculated by multiplying the number of lunches reported in accordance with §210.5(d)(1) for each month of service during the fiscal year, by the applicable national average payment rate prescribed by FNS. The total performance-based cash assistance paid to each State for any fiscal year shall not exceed the lesser of amounts reported to FNS as reimbur to school food authorities in accordance with §210.5(d)(3) or the total calculated by multiplying the number of lunches reported in accordance with §210.5(d)(1) for each month of service during the fiscal year, by 6 cents for school year 2012-2013, adjusted annually thereafter as specified in paragraph (b)(1)(iii) of this section. The total special assistance paid to each State for any fiscal year shall exceed the lesser of amounts reported to FNS as reimbursed to school food authorities in accordance with §210.5(d)(3) or the total calculated by multiplying the number of free and reduced price lu reported in accordance with §210.5(d)(1) for each month of service during the fiscal year by the applicable national average payment rate prescribed by FNS. (iii) Annual adjustments. In accordance with section 11 of the Act, FNS will prescribe annual adjustments to the per meal national average payment rate (general cash assistance), the performance-ba cash assistance rate (performance-based cash assistance), and the special assistance national average payment rates (special cash assistance) which are effective on July 1 of each year. These adjustm which reflect changes in the food away from home series of the Consumer Price Index for all Urban Consumers, are annually announced by Notice in July of each year in the Federal Register. (iv) Maximum per meal rates. FNS will also establish maximum per meal rates of reimbursement within which a State may vary reimbursement rates to school food authorities. These maximum rate reimbursement are established at the same time and announced in the same Notice as the national average payment rates.

Legal Standards

1,801	§210.5 Payment process to States	Federal	(a) Grant award. FNS will specify the terms and conditions of the State agency's grant in a grant award document and will generally make payments available by means of a Letter of Credit issued in fa of the State agency. The State agency shall obtain funds for reimbursement to participating school food authorities through procedures established by FNS in accordance with 7 CFR part 3016. State agencies shall limit requests for funds to such times and amounts as will permit prompt payment of claims or authorized advances. The State agency shall disburse funds received from such requests without delay for the purpose for which drawn. FNS may, at its option, reimburse a State agency by Treasury Check. FNS will pay by Treasury Check with funds available in settlement of a valid claim payment for that claim cannot be made within the grant closeout period specified in paragraph (d) of this section. (b) Cash-in-lieu of donated foods. All Federal funds to be paid to any State in place of donated foods will be made available as provided in part 240 of this chapter. (c) Recovery of funds. FNS will recover any Federal funds made available to the State agency under this part which are in excess of obligations reported at the end of each fiscal year in accordance wit reconciliation procedures specified in paragraph (d) of this section. Such recoveries shall be reflected by a related adjustment in the State agency's Letter of Credit. (d) Substantiation and reconciliation process. Each State agency shall maintain Program records as necessary to support the reimbursement payments made to school food authorities under §§210.7 210.8 and the reports submitted to FNS under this paragraph. The State agency shall ensure such records are retained for a period of 3 years or as otherwise specified in §210.23(c). (1) Monthly report. Each State agency shall submit a final Report of School Program Operations (FNS-10) to FNS for each month. The final reports shall be limited to claims submitted in accordance v §210.8 of this part. For the month of October, the final report shall include the total number of children approved for free lunches, the total number of children approved for reduced price lunches, an total number of children enrolled in participating public schools, private schools, and residential child care institutions, respectively, as of the last day of operation in October. The final reports shall b postmarked and/or submitted no later than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not submitted within this time limit unless FNS grants an exception. Upward adjustments to a State's report shall not be made after 90 days from the month covered by the report unless authorized by FN Downward adjustments to a State's report shall always be made regardless of when it is determined that such adjustments are necessary. FNS authorization is not required for downward adjustment Any adjustments to a State's report shall be reported to FNS in accordance with procedures established by FNS. (2) Quarterly report. Each State agency administering the National School Lunch Program shall submit quarterly reports to FNS as follows: (i) Each State agency shall submit to FNS a quarterly Financial Status Report (FNS-777) on the use of Program funds. Such reports shall be postmarked and/or submitted no later than 30 days after th of each fiscal year quarter. (ii) Each State agency shall also submit a quarterly report, as specified by FNS, detailing the disbursement of performance-based cash assistance described in §210.4(b)(1). Such report shall be submi
1,802	§210.6 Use of Federal funds	Federal	General. State agencies shall use Federal funds made available under the Program to reimburse or make advance payments to school food authorities in connection with lunches and meal supplemen served in accordance with the provisions of this part; except that, with the approval of FNS, any State agency may reserve an amount up to one percent of the funds earned in any fiscal year under this for use in carrying out special developmental projects. Advance payments to school food authorities may be made at such times and in such amounts as are necessary to meet the current fiscal obliga All Federal funds paid to any State in place of donated foods shall be used as provided in part 240 of this chapter. [53 FR 29147, Aug. 2, 1988, as amended at 58 FR 42487, Aug. 10, 1993]

Legal Standards

1,803	§210.7 Reimbursement for school food authorities	Federal	(a) General. Reimbursement payments to finance nonprofit school food service operations shall be made only to school food authorities operating under a written agreement with the State agency. Su to the provisions of §210.8(c), such payments may be made for lunches and meal supplements served in accordance with provisions of this part and part 245 in the calendar month preceding the cale month in which the agreement is executed. These reimbursement payments include general cash assistance for all lunches served to children under the National School Lunch Program and special ca assistance payments for free or reduced price lunches served to children determined eligible for such benefits under the National School Lunch and Commodity School Programs. Reimbursement payments shall also be made for meal supplements served to eligible children in afterschool care programs in accordance with the rates established in §210.4(b)(3). Approval shall be in accordance w part 245 of this chapter. (b) Assignment of rates. At the beginning of each school year, State agencies shall establish the per meal rates of reimbursement for school food authorities participating in the Program. These rates c reimbursement may be assigned at levels based on financial need; except that, the rates are not to exceed the maximum rates of reimbursement established by the Secretary under §210.4(b) and are permit reimbursement for the total number of lunches in the State from funds available under §210.4. Within each school food authority, the State agency shall assign the same rate of reimbursemen general cash assistance funds for all lunches served to children under the Program. Assigned rates of reimbursement may be changed at any time by the State agency, provided that notice of any chan given to the school food authority. The total general and special cash assistance reimbursement paid to any school food authority for lunches served to children during the school year are not to exce sum of the products obtained by multiplying the total reported number of lunches, by type, served to eligible children during the school year by the applicable maximum per lunch reimbursements prescribed for the school year for each type of lunch. (c) Reimbursement limitations. To be entitled to reimbursement under this part, each school food authority shall ensure that Claims for Reimbursement are limited to the number of free, reduced pri and paid lunches and meal supplements that are served to children eligible for free, reduced price and paid lunches and meal supplements, respectively, for each day of operation. (1) Lunch count system. To ensure that the Claim for Reimbursement accurately reflects the number of lunches and meal supplements served to eligible children, the school food authority shall, at a minimum: (i) Correctly approve each child's eligibility for free and reduced price lunches and meal supplements based on the requirements prescribed under 7 CFR part 245; (ii) Maintain a system to issue benefits and to update the eligibility of children approved for free or reduced price lunches and meal supplements. The system shall: (A) Accurately reflect eligibility status as well as changes in eligibility made after the initial approval process due to verification findings, transfers, reported changes in income or household size, etc.; (B) Make the appropriate changes in eligibility after the initial approval process on a timely basis so that the mechanism the school food authority uses to identify currently eligible children provides
1,804	§210.8 Claims for reimbursement	Federal	(a) Internal controls. The school food authority shall establish internal controls which ensure the accuracy of lunch counts prior to the submission of the monthly Claim for Reimbursement. At a mini these internal controls shall include: an on-site review of the lunch counting and claiming system employed by each school within the jurisdiction of the school food authority; comparisons of daily fr reduced price and paid lunch counts against data which will assist in the identification of lunch counts in excess of the number of free, reduced price and paid lunches served each day to children elig for such lunches; and a system for following up on those lunch counts which suggest the likelihood of lunch counting problems. (1) On-site reviews. Every school year, each school food authority with more than one school shall perform no less than one on-site review of the lunch counting and claiming system employed by ea school under its jurisdiction. The on-site review shall take place prior to February 1 of each school year. Further, if the review discloses problems with a school's meal counting or claiming procedure school food authority shall: ensure that the school implements corrective action; and, within 45 days of the review, conducts a follow-up on-site review to determine that the corrective action resolve problems. Each on-site review shall ensure that the school's claim is based on the counting system authorized by the State agency under §210.7(c) of this part and that the counting system, as implemented, yields the actual number of reimbursable free, reduced price and paid lunches, respectively, served for each day of operation. (2) School food authority claims review process. Prior to the submission of a monthly Claim for Reimbursement, each school food authority shall review the lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement. The objective of this review is to ensure that monthly claims include only the number of free, reduced price and paid lun served on any day of operation to children currently eligible for such lunches. (i) Any school food authority that was found by its most recent administrative review conducted in accordance with §210.18, to have no meal counting and claiming violations may: (A) Develop internal control procedures that ensure accurate meal counts. The school food authority shall submit any internal controls developed in accordance with this paragraph to the State agen approval and, in the absence of specific disapproval from the State agency, shall implement such internal controls. The State agency shall establish procedures to promptly notify school food authorit any modifications needed to their proposed internal controls or of denial of unacceptable submissions. If the State agency disapproves the proposed internal controls of any school food authority, it reserves the right to require the school food authority to comply with the provisions of paragraph (a)(3) of this section; or (B) Comply with the requirements of paragraph (a)(3) of this section. (ii) Any school food authority that was identified in the most recent administrative review conducted in accordance with §210.18, or in any other oversight activity, as having meal counting and clain violations shall comply with the requirements in paragraph (a)(3) of this section. (3) Edit checks. (i) The following procedure shall be followed for school food authorities identified in paragraph (a)(2)(ii) of this section, by other school food authorities at State agency option, or, at

Legal Standards

1,805	Subpart C—Requirements for School Food Authority Participation §210.9 Agreement with State agency	Federal	(a) Application. An official of a school food authority shall make written application to the State agency for any school in which it desires to operate the Program. Applications shall provide the State a with sufficient information to determine eligibility. The school food authority shall also submit for approval a Free and Reduced Price Policy Statement in accordance with part 245 of this chapter. (b) Agreement. Each school food authority approved to participate in the program shall enter into a written agreement with the State agency that may be amended as necessary. Nothing in the prece sentence shall be construed to limit the ability of the State agency to suspend or terminate the agreement in accordance with §210.25. If a single State agency administers any combination of the Chil Nutrition Programs, that State agency shall provide each school food authority with a single agreement with respect to the operation of those programs. The agreement shall contain a statement to th effect that the "School Food Authority and participating schools under its jurisdiction, shall comply with all provisions of 7 CFR parts 210 and 245." This agreement shall provide that each school food authority shall, with respect to participating schools under its jurisdiction: (1) Maintain a nonprofit school food service and observe the requirements for and limitations on the use of nonprofit school food service revenues set forth in §210.14 and the limitations on any competitive school food service as set forth in §210.11; (2) Limit its net cash resources to an amount that does not exceed 3 months average expenditures for its nonprofit school food service or such other amount as may be approved in accordance with §210.19(a); (3) Maintain a financial management system as prescribed under §210.14(c); (4) Comply with the requirements of the Department's regulations regarding financial management (7 CFR part 3015 and 7 CFR part 3016, or 7 CFR part 3019, as applicable); (5) Serve lunches, during the lunch period, which meet the minimum requirements prescribed in §210.10; (6) Price the lunch as a unit; (7) Serve lunches free or at a reduced price to all children who are determined by the local educational agency to be eligible for such meals under 7 CFR part 245; (8) Claim reimbursement at the assigned rates only for reimbursable free, reduced price and paid lunches served to eligible children in accordance with 7 CFR part 210. Agree that the school food authority official signing the claim shall be responsible for reviewing and analyzing meal counts to ensure accuracy as specified in §210.8 governing claims for reimbursement. Acknowledge that failu submit accurate claims will result in the recovery of an overclaim and may result in the withholding of payments, suspension or termination of the program as specified in §210.25. Acknowledge that
1,806	§210.10 Meal requirements for lunches and requirements for afterschool snacks	Federal	(a) General requirements—(1) General nutrition requirements. Schools must offer nutritious, well-balanced, and age-appropriate meals to all the children they serve to improve their diets and safegu their health. (i) Requirements for lunch. School lunches offered to children age 5 or older must meet, at a minimum, the meal requirements in paragraph (b) of this section. Schools must follow a food-based menu planning approach and produce enough food to offer each child the quantities specified in the meal pattern established in paragraph (c) of this section for each age/grade group served in the school. addition, school lunches must meet the dietary specifications in paragraph (f) of this section. Schools offering lunches to children ages 1 to 4 and infants must meet the meal pattern requirements in paragraph (p) of this section. Schools must make potable water available and accessible without restriction to children at no charge in the place(s) where lunches are served during the meal service. (ii) Requirements for afterschool snacks. Schools offering afterschool snacks in afterschool care programs must meet the meal pattern requirements in paragraph (o) of this section. Schools must pla produce enough food to offer each child the minimum quantities under the meal pattern in paragraph (o) of this section. The component requirements for meal supplements served under the Child a Adult Care Food Program authorized under part 226 of this chapter also apply to afterschool snacks served in accordance with paragraph (o) of this section. (2) Unit pricing. Schools must price each meal as a unit. Schools need to consider participation trends in an effort to provide one reimbursable lunch and, if applicable, one reimbursable afterschool s for each child every school day. If there are leftover meals, schools may offer them to the students but cannot get Federal reimbursement for them. Schools must identify, near or at the beginning of th serving line(s), the food items that constitute the unit-priced reimbursable school meal(s). The price of a reimbursable lunch does not change if the student does not take a food item or requests smal portions. (3) Production and menu records. Schools or school food authorities, as applicable, must keep production and menu records for the meals they produce. These records must show how the meals offe contribute to the required food components and food quantities for each age/grade group every day. Labels or manufacturer specifications for food products and ingredients used to prepare school must indicate zero grams of trans fat per serving (less than 0.5 grams). Schools or school food authorities must maintain records of the latest nutritional analysis of the school menus conducted by th State agency. Production and menu records must be maintained in accordance with FNS guidance. (b) Meal requirements for school lunches. School lunches for children ages 5 and older must reflect food and nutrition requirements specified by the Secretary. Compliance with these requirements i measured as follows: (1) On a daily basis: (i) Meals offered to each age/grade group must include the food components and food quantities specified in the meal pattern in paragraph (c) of this section; (ii) Food products or ingredients used to prepare meals must contain zero grams of trans fat per serving or a minimal amount of naturally occurring trans fat; and

Legal Standards

1,807	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(c) Meal pattern for school lunches. Schools must offer the food components and quantities required in the lunch meal pattern established in the following table: Meal pattern Lunch meal pattern Grades K-5 Grades 6-8 Grades 9-12 Amount of fooda per week (minimum per day) Fruits (cups)b 21/2 (1/2) 21/2 (1/2) 5 (1) Vegetables (cups)b 33/4 (3/4) 33/4 (3/4) 5 (1) Dark greenc 1/2 1/2 1/2 Red/Orangec 3/4 3/4 11/4 Beans and peas (legumes)c 1/2 1/2 1/2 Starchyc 1/2 1/2 1/2 Otherc d 1/2 1/2 3/4 Additional Veg to Reach Totale 1e 1e 11/2e Grains (oz eq)f 8-9 (1) 8-10 (1) 10-12 (2) Meats/Meat Alternates (oz eq) 8-10 (1) 9-10 (1) 10-12 (2) Fluid milk (cups)g 5 (1) 5 (1) 5 (1) Other Specifications: Daily Amount Based on the Average for a 5-Day Week Min-max calories (kcal)h 550-650 600-700 750-850 Saturated fat (% of total calories)h <10 <10 <10 Sodium (mg)h i ≤640 ≤710 ≤740 Trans fath Nutrition label or manufacturer specifications must indicate zero grams of trans fat per serving. aFood items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup. bOne quarter-cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juic must be 100% full-strength.
1,808	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(1) Age/grade groups. Schools must plan menus for students using the following age/grade groups: Grades K-5 (ages 5-10), grades 6-8 (ages 11-13), and grades 9-12 (ages 14-18). If an unusual grade configuration in a school prevents the use of these established age/grade groups, students in grades K-5 and grades 6-8 may be offered the same food quantities at lunch provided that the calorie and sodium standards for each age/grade group are met. No customization of the established age/grade groups is allowed. (2) Food components. Schools must offer students in each age/grade group the food components specified in paragraph (c) of this section. (i) Meats/meat alternates component. Schools must offer meats/meat alternates daily as part of the lunch meal pattern. The quantity of meats/meat alternates must be the edible portion as served. T component must be served in a main dish or in a main dish and only one other food item. Schools without daily choices in this component should not serve any one meat alternate or form of meat (fo example, ground, diced, pieces) more than three times in the same week. If a portion size of this component does not meet the daily requirement for a particular age/grade group, schools may supple it with another meats/meat alternates to meet the full requirement. Schools may adjust the daily quantities of this component provided that a minimum of one ounce is offered daily to students in gr K-8 and a minimum of two ounces is offered daily to students in grades 9-12, and the total weekly requirement is met over a five-day period. (A) Enriched macaroni. Enriched macaroni with fortified protein as defined in Appendix A to this part may be used to meet part of the meats/meat alternates requirement when used as specified in Appendix A to this part. An enriched macaroni product with fortified protein as defined in Appendix A to this part may be used to meet part of the meats/meat alternates component or the grains component but may not meet both food components in the same lunch. (B) Nuts and seeds. Nuts and seeds and their butters are allowed as meat alternates in accordance with FNS guidance. Acorns, chestnuts, and coconuts may not be used because of their low protein ar iron content. Nut and seed meals or flours may be used only if they meet the requirements for Alternate Protein Products established in Appendix A to this part. Nuts or seeds may be used to meet no than one-half (50 percent) of the meats/meat alternates component with another meats/meat alternates to meet the full requirement. (C) Yogurt. Yogurt may be used to meet all or part of the meats/meat alternates component. Yogurt may be plain or flavored, unsweetened or sweetened. Noncommercial and/or non-standardized yo products, such as frozen yogurt, drinkable yogurt products, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits and/or nuts or similar products are not creditable. Four ou (weight) or 1/2 cup (volume) of yogurt equals one ounce of the meats/meat alternates requirement. (D) Tofu and soy products. Commercial tofu and soy products may be used to meet all or part of the meats/meat alternates component in accordance with FNS guidance. Noncommercial and/or non-standardized tofu and soy products are not creditable. (E) Beans and Peas (legumes). Cooked dry beans and peas (legumes) may be used to meet all or part of the meats/meat alternates component. Beans and peas (legumes) are identified in this section

Legal Standards

1,809	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(3) Fluid milk substitutes. If a school chooses to offer one or more substitutes for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide th nutrients listed in the following table. Fluid milk substitutes must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school need only offer the nor beverage(s) that it has identified as allowable fluid milk substitutes according to the following chart. Nutrient Per cup (8 fl oz) Calcium 276 mg. Protein 8 g. Vitamin A 500 IU. Vitamin D 100 IU. Magnesium 24 mg. Phosphorus 222 mg. Potassium 349 mg. Riboflavin 0.44 mg. Vitamin B-12 1.1 mcg. (4) Restrictions on the sale of fluid milk. A school participating in the Program, or a person approved by a school participating in the Program, must not directly or indirectly restrict the sale or marke of fluid milk (as identified in paragraph (d)(1) of this section) at any time or in any place on school premises or at any school-sponsored event. (e) Offer versus serve. School lunches must offer daily the five food components specified in the meal pattern in paragraph (c) of this section. Under offer versus serve, students must be allowed to de two components at lunch, except that the students must select at least 1/2 cup of either the fruit or vegetable component. Senior high schools (as defined by the State educational agency) must partic in offer versus serve. Schools below the senior high level may participate in offer versus serve at the discretion of the school food authority. (f) Dietary specifications. (1) Calories. School lunches offered to each age/grade group must meet, on average over the school week, the minimum and maximum calorie levels specified in the followin table: Calorie ranges for lunch Grades K-5 Grades 6-8 Grades 9-12
1,810	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(2) Saturated fat. School lunches offered to all age/grade groups must, on average over the school week, provide less than 10 percent of total calories from saturated fat. (3) Sodium. Schools lunches offered to each age/grade group must meet, on average over the school week, the levels of sodium specified in the following table within the established deadlines: National school lunch program Sodium reduction: Timeline & amount Age/grade group Baseline: Average current sodium levels in meals as offered1 (mg) Target 1: July 1, 2014 (SY 2014-2015) (mg) Target 2: July 1, 2017 (SY 2017-2018) (mg) Final Target: July 1, 2022 (SY 2022-2023) (mg) K-5 1,377 (elementary) ≤1,230 ≤935 ≤640 6-8 1,520 (middle) ≤1,360 ≤1,035 ≤710 9-12 1,588 (high) ≤1,420 ≤1,080 ≤740 1SNDA-III.

Legal Standards

1,811	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(4) Trans fat. Food products and ingredients used to prepare school meals must contain zero grams of trans fat (less than 0.5 grams) per serving. Schools must add the trans fat specification and requ the required documentation (nutrition label or manufacturer specifications) in their procurement contracts. Documentation for food products and food ingredients must indicate zero grams of trans per serving. Meats that contain a minimal amount of naturally-occurring trans fats are allowed in the school meal programs. (g) Compliance assistance. The State agency and school food authority must provide technical assistance and training to assist schools in planning lunches that meet the meal pattern in paragraph (c) this section and the calorie, saturated fat, sodium, and trans fat specifications established in paragraph (f) of this section. Compliance assistance may be offered during trainings, onsite visits, and/or administrative reviews. (h) State agency responsibilities for monitoring dietary specifications. (1) Calories, saturated fat and sodium. As part of the administrative review authorized under §210.18 of this chapter, State agen must conduct a weighted nutrient analysis for the school(s) selected for review to evaluate the average levels of calories, saturated fat, and sodium of the lunches offered to students in grades K and a during one week of the review period. The nutrient analysis must be conducted in accordance with the procedures established in paragraph (i)(3) of this section. If the results of the nutrient analysis indicate that the school lunches are not meeting the specifications for calories, saturated fat, and sodium specified in paragraph (f) of this section, the State agency or school food authority must prov technical assistance and require the reviewed school to take corrective action to meet the requirements. (2) Trans fat. State agencies must review product labels or manufacturer specifications to verify that the food products or ingredients used by the reviewed school(s) contain zero grams of trans fat (than 0.5 grams) per serving. (i) State agency's responsibilities for nutrient analyses. (1) Conducting the nutrient analyses. State agencies must conduct a weighted nutrient analysis of the reimbursable meals offered to children i grades K and above by a school selected for administrative review under §210.18 of this chapter. The nutrient analysis must be conducted in accordance with the procedures established in paragraph (i)(3) of this section. The purpose of the nutrient analysis is to determine the average levels of calories, saturated fat, and sodium in the meals offered over a school week within the review period. Un offered as part of a reimbursable meal, foods of minimal nutritional value (see appendix B to part 210) are not included in the nutrient analysis. (2) Software elements. (i) The Child Nutrition Database. The nutrient analysis is based on the USDA Child Nutrition Database. This database is part of the software used to do a nutrient analysis. Softw companies or others developing systems for schools may contact FNS for more information about the database. (ii) Software evaluation. FNS or an FNS designee evaluates any nutrient analysis software before it may be used in schools. FNS or its designee determines if the software, as submitted, meets the min requirements. The approval of software does not mean that FNS or USDA endorses it. The software must be able to perform a weighted average analysis after the basic data is entered. The combined analysis of the lunch and breakfast programs is not allowed.
1,812	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	Supplements for Infants Birth through 3 months 4 through 7 months 8 through 11 months Supplement (snack) 4-6 fl. oz. breastmilk1 2 or formula3 4-6 fl. oz. breastmilk1 2 or formula3 2-4 fl. oz. breastmilk1 2, formula3, or fruit juice4; 0-1/2 bread5 or 0-2 crackers5. 1It is recommended that breastmilk be served in place of formula from birth through 11 months. 2For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered with additiona breast milk offered if the infant is still hungry. 3Infant formula must be iron-fortified. 4Fruit juice must be full-strength and pasteurized. 5Bread and bread alternates must be made from whole grain or enriched meal or flour. A serving of this component must be optional. (p) Lunches for preschoolers and infants. (1) Requirements for preschooler's lunch pattern. (i) General. Until otherwise instructed by the Secretary, lunches for children ages 1 to 4 must meet the nut standards in paragraph (p)(2) of this section, the nutrient and calorie levels in paragraph (p)(3) of this section, and meal pattern in paragraph (p)(4) of this section. (ii) Unit pricing. Schools must price each meal as a unit. Schools need to consider participation trends in an effort to provide one reimbursable lunch for each child every day. If there are leftover mea schools may offer them to the students but cannot receive Federal reimbursement for them. (iii) Production and menu records. Schools must keep production and menu records for the meals they produce. These records must show how the meals contribute to the required food components quantities every day. In addition, these records must show how the lunches contribute to the nutrition standards in paragraph (p)(2) of this section and the appropriate calorie and nutrient requirem for the children served. Schools or school food authorities must maintain records of the latest nutritional analysis of the school menus conducted by the State agency.

Legal Standards

1,813	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(3) Nutrient and calorie levels. The minimum levels of nutrients and calories that lunches for preschoolers must offer are specified in the following table: Minimum Nutrient and Calorie Levels for Lunches—Traditional Food-Based Menu Planning Approach1 Nutrients and energy allowances Group II preschool ages 3-4 School week averages Energy allowances (calories) 517 Total fat (as a percentage of actual total food energy) (2) Saturated fat (as a percentage of actual total food energy) (2) RDA for protein (g) 7 RDA for calcium (mg) 267 RDA for iron (mg) 3.3 RDA for Vitamin A (RE) 150 RDA for Vitamin C (mg) 14 1Current regulations only specify minimum nutrient and calorie levels for lunches for children ages 3-4. 2The 1995 Dietary Guidelines recommend that after 2 years of age "* * * children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat." (4) Meal pattern for preschoolers' lunches. Schools must follow the traditional food-based menu planning approach to plan lunches for children ages 1-2 and ages 3-4. (i) Food components and quantities. Lunches must offer the food components and quantities specified in the following meal pattern: Traditional Food-Based Menu Planning Approach—Meal Plan for Lunches Group I ages 1-2 preschool Group II ages 3-4 preschool Food components and food items Minimum quantities
1,814	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	(ii) Meat/meat alternate component.—The quantity of the meat/meat alternate component must be the edible portion as served. If the portion size of a food item for this component is excessive, the school must reduce that portion and supplement it with another meat/meat alternate to meet the full requirement. This component must be served in a main dish or in a main dish and only one othe item. Schools without daily choices in this component should not serve any one meat alternate or form of meat (for example, ground, diced, pieces) more than three times in the same week. Schools n adjust the daily quantities of this component provided that a minimum of one ounce is offered daily and the total weekly requirement is met over a five-day period. (A) Enriched macaroni.—Enriched macaroni with fortified protein as defined in appendix A to this part may be used to meet part of the meat/meat alternate requirement when used as specified in appendix A to this part. An enriched macaroni product with fortified protein as defined in appendix A to this part may be used to meet part of the meat/meat alternate component or the grains/bread component but not as both food components in the same lunch. (B) Nuts and seeds. Nuts and seeds and their butters are allowed as meat alternates in accordance with FNS guidance. Acorns, chestnuts, and coconuts must not be used because of their low protein a iron content. Nut and seed meals or flours may be used only as allowed under appendix A to this part. Nuts or seeds may be used to meet no more than one-half of the meat/meat alternate componen another meat/meat alternate to meet the full requirement. (C) Yogurt. Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt may be plain or flavored, and unsweetened or sweetened. Noncommercial and/or non-standardize yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products are not creditable. Four ounces (weight) or 1/2 (volume) of yogurt equals one ounce of the meat/meat alternate requirement. (iii) Vegetable/fruit component. Full strength vegetable or fruit juice may be used to meet no more than one-half of the vegetable/fruit requirement. Cooked dry beans or peas may be counted as eith vegetable or as a meat alternate but not as both in the same meal. (iv) Grains/breads component. (A) Enriched or whole grains. All grains/breads must be enriched or whole grain or made with enriched or whole grain meal or flour. (B) Daily and weekly servings. The requirement for the grain/bread component is based on minimum daily servings plus total servings over a five day period. Schools serving lunch 6 or 7 days per w should increase the weekly quantity by approximately 20 percent (1/5th) for each additional day. When schools operate less than 5 days per week, they may decrease the weekly quantity by approximately 20 percent (1/5th) for each day less than five. The servings for biscuits, rolls, muffins, and other grain/bread varieties are specified in FNS guidance. (C) Minimums under the traditional food-based menu planning approach. Schools must offer daily at least one-half serving of the grain/bread component to children in Group I and at least one servi children in Group II. Schools which serve lunch at least 5 days a week shall serve a total of at least five servings of grains/breads to children in Group I and eight servings per week to children in Grou

Legal Standards

1,815	§210.10 Meal requirements for lunches and requirements for afterschool snacks continued	Federal	Lunch Pattern for Infants Birth through 3 months 4 through 7 months 8 through 11 months 4-6 fluid ounces of formula1 or breastmilk2 3 4-8 fluid ounces of formula1 or breastmilk2 3; and 0-3 tablespoons of infant cereal1 4; and 0-3 tablespoons of fruits or vegetables or both4 6-8 fluid ounces of formula1 or breastmilk2 3; and 2-4 tablespoons of infant cereal1; and/or 1-4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or 1/2-2 ounces of cheese, or 1-4 ounces (volume) of cottage cheese; or 1-4 ounces (weight) of cheese food or cheese spread; and 1-4 tablespoons of fruits or vegetables or both. 1Infant formula and dry infant cereal must be iron-fortified. 2Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served from birth through 11 months. 3For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with addition breastmilk offered if the infant is still hungry. 4A serving of this component is required only when the infant is developmentally ready to accept it. [77 FR 4143, Jan. 26, 2012, as amended at 78 FR 13448, Feb. 28, 2013; 78 FR 39090, June 28, 2013]
1,816	§210.11 Competitive food service and standards	Federal	(a) Definitions. For the purpose of this section: (1) Combination foods means products that contain two or more components representing two or more of the recommended food groups: fruit, vegetable, dairy, protein or grains. (2) Competitive food means all food and beverages other than meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 available for sale to students on the School campus during the School day. (3) Entrée item means an item that is either: (i) A combination food of meat or meat alternate and whole grain rich food; or (ii) A combination food of vegetable or fruit and meat or meat alternate; or (iii) A meat or meat alternate alone with the exception of yogurt, low-fat or reduced fat cheese, nuts, seeds and nut or seed butters, and meat snacks (such as dried beef jerky). (4) School campus means, for the purpose of competitive food standards implementation, all areas of the property under the jurisdiction of the school that are accessible to students during the schoo (5) School day means, for the purpose of competitive food standards implementation, the period from the midnight before, to 30 minutes after the end of the official school day. (b) General requirements for competitive food. (1) State and local educational agency policies. State agencies and/or local educational agencies must establish such policies and procedures as are necessary to ensure compliance with this section. State agencies and/or local educational agencies may impose additional restrictions on competitive foods, provided that they are not inconsistent w the requirements of this part. (2) Recordkeeping. The local educational agency is responsible for the maintenance of records that document compliance with the nutrition standards for all competitive food available for sale to stu in areas under its jurisdiction that are outside of the control of the school food authority responsible for the service of reimbursable school meals. In addition, the local educational agency is responsi for ensuring that organizations designated as responsible for food service at the various venues in the schools maintain records in order to ensure and document compliance with the nutrition requirements for the foods and beverages sold to students at these venues during the school day as required by this section. The school food authority is responsible for maintaining records docume compliance with these for foods sold under the auspices of the nonprofit school food service. At a minimum, records must include receipts, nutrition labels and/or product specifications for the

Legal Standards

1,817	§210.11a Competitive food services	Federal	(a) Definitions. For the purpose of this section: (1) Competitive foods means any foods sold in competition with the Program to children in food service areas during the lunch periods. (2) Food of minimal nutritional value means: (i) In the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intakes (RDI) for each of eight specified nutrients per serving; and (ii) in the case of all other foods, a food which provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than five percent of the for each of eight specified nutrients per serving. The eight nutrients to be assessed for this purpose are—protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron. All categories of f of minimal nutritional value and petitioning requirements for changing the categories are listed in appendix B of this part. (b) General. State agencies and school food authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with lunches served under the Program. Suc rules or regulations shall prohibit the sale of foods of minimal nutritional value, as listed in appendix B of this part, in the food service areas during the lunch periods. The sale of other competitive foo may, at the discretion of the State agency and school food authority, be allowed in the food service area during the lunch period only if all income from the sale of such foods accrues to the benefit of t nonprofit school food service. State agencies and school food authorities may impose additional restrictions on the sale of and income from all foods sold at any time throughout schools participating the Program. (c) Effective date. This section remains in effect through June 30, 2014. [53 FR 29147, Aug. 2, 1988, as amended at 59 FR 23614, May 6, 1994; 78 FR 13448, Feb. 28, 2013. Redesignated and amended at 78 FR 39091, 39092, June 28, 2013]
1,818	§210.12 Student, parent and community involvement	Federal	(a) General. School food authorities shall promote activities to involve students and parents in the Program. Such activities may include menu planning, enhancement of the eating environment, Prog promotion, and related student-community support activities. School food authorities are encouraged to use the school food service program to teach students about good nutrition practices and to involve the school faculty and the general community in activities to enhance the Program. (b) Food service management companies. School food authorities contracting with a food service management company shall comply with the provisions of §210.16(a) regarding the establishment o advisory board of parents, teachers and students. (c) Residential child care institutions. Residential child care institutions shall comply with the provisions of this section, to the extent possible. (d) Outreach activities. (1) To the maximum extent practicable, school food authorities must inform families about the availability breakfasts for students. Information about the School Breakfast Pro must be distributed just prior to or at the beginning of the school year. In addition, schools are encouraged to send reminders regarding the availability of the School Breakfast Program multiple time throughout the school year. (2) School food authorities must cooperate with Summer Food Service Program sponsors to distribute materials to inform families of the availability and location of free Summer Food Service Progra meals for students when school is not in session. [53 FR 29147, Aug. 2, 1988, as amended at 78 FR 13448, Feb. 28, 2013]

Legal Standards

1,819	§210.13 Facilities management	Federal	(a) Health standards. The school food authority shall ensure that food storage, preparation and service is in accordance with the sanitation and health standards established under State and local law regulations. (b) Food safety inspections. Schools shall obtain a minimum of two food safety inspections during each school year conducted by a State or local governmental agency responsible for food safety inspections. They shall post in a publicly visible location a report of the most recent inspection conducted, and provide a copy of the inspection report to a member of the public upon request. Sites participating in more than one child nutrition program shall only be required to obtain two food safety inspections per school year if the nutrition programs offered use the same facilities for the production and service of meals. (c) Food safety program. The school food authority must develop a written food safety program that covers any facility or part of a facility where food is stored, prepared, or served. The food safety program must meet the requirements in paragraph (c)(1) or paragraph (c)(2) of this section, and the requirements in §210.15(b)(5). (1) A school food authority with a food safety program based on traditional hazard analysis and critical control point (HACCP) principles must: (i) Perform a hazard analysis; (ii) Decide on critical control points; (iii) Determine the critical limits; (iv) Establish procedures to monitor critical control points; (v) Establish corrective actions; (vi) Establish verification procedures; and (vii) Establish a recordkeeping system. (2) A school food authority with a food safety program based on the process approach to HACCP must ensure that its program includes:
1,820	§210.14 Resource management	Federal	(a) Nonprofit school food service. School food authorities shall maintain a nonprofit school food service. Revenues received by the nonprofit school food service are to be used only for the operation o improvement of such food service, except that, such revenues shall not be used to purchase land or buildings, unless otherwise approved by FNS, or to construct buildings. Expenditures of nonprofit s food service revenues shall be in accordance with the financial management system established by the State agency under §210.19(a) of this part. School food authorities may use facilities, equipmen personnel supported with nonprofit school food revenues to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 seq.). (b) Net cash resources. The school food authority shall limit its net cash resources to an amount that does not exceed 3 months average expenditures for its nonprofit school food service or such othe amount as may be approved by the State agency in accordance with §210.19(a). (c) Financial assurances. The school food authority shall meet the requirements of the State agency for compliance with §210.19(a) including any separation of records of nonprofit school food servic from records of any other food service which may be operated by the school food authority as provided in paragraph (a) of this section. (d) Use of donated foods. The school food authority shall enter into an agreement with the distributing agency to receive donated foods as required by part 250 of this chapter. In addition, the school authority shall accept and use, in as large quantities as may be efficiently utilized in its nonprofit school food service, such foods as may be offered as a donation by the Department. (e) Pricing paid lunches. For each school year beginning July 1, 2011, school food authorities shall establish prices for paid lunches in accordance with this paragraph. (1) Calculation procedures. Each school food authority shall: (i) Determine the average price of paid lunches. The average shall be determined based on the total number of paid lunches claimed for the month of October in the previous school year, at each diffe price charged by the school food authority. (ii) Calculate the difference between the per meal Federal reimbursement for paid and free lunches received by the school food authority in the previous school year (i.e., the reimbursement differen (iii) Compare the average price of a paid lunch under paragraph (e)(1)(i) of this section to the difference between reimbursement rates under paragraph (e)(1)(ii) of this section. (2) Average paid lunch price is equal to/greater than the reimbursement difference. When the average paid lunch price from the prior school year is equal to or greater than the difference in reimbursement rates as determined in paragraph (e)(1)(iii) of this section, the school food authority shall establish an average paid lunch price for the current school year that is not less than the

Legal Standards

1,821	§210.15 Reporting and recordkeeping	Federal	(a) Reporting summary. Participating school food authorities are required to submit forms and reports to the State agency or the distributing agency, as appropriate, to demonstrate compliance with Program requirements. These reports include, but are not limited to: (1) A Claim for Reimbursement and, for the month of October and as otherwise specified by the State agency, supporting data as specified in accordance with §210.8 of this part; (2) An application and agreement for Program operations between the school food authority and the State agency, and a Free and Reduced Price Policy Statement as required under §210.9; (3) A written response to reviews pertaining to corrective action taken for Program deficiencies; (4) A commodity school's preference whether to receive part of its donated food allocation in cash for processing and handling of donated foods as required under §210.19(b); (5) A written response to audit findings pertaining to the school food authority's operation as required under §210.22; (6) Information on civil rights complaints, if any, and their resolution as required under §210.23; (7) The number of food safety inspections obtained per school year by each school under its jurisdiction; (8) The prices of paid lunches charged by the school food authority; and (9) For any local educational agency required to conduct a second review of free and reduced price applications as required under §245.11 of this chapter, the number of free and reduced price applications subject to a second review, the number and percentage of reviewed applications for which the eligibility determination was changed, and a summary of the types of changes made. (b) Recordkeeping summary. In order to participate in the Program, a school food authority or a school, as applicable, must maintain records to demonstrate compliance with Program requirements. These records include but are not limited to: (1) Documentation of participation data by school in support of the Claim for Reimbursement and data used in the claims review process, as required under §210.8(a), (b), and (c) of this part; (2) Production and menu records as required under §210.10 and documentation to support performance-based cash assistance, as required under §210.7(d)(2).
1,822	§210.16 Food service management companies	Federal	(a) General. Any school food authority (including a State agency acting in the capacity of a school food authority) may contract with a food service management company to manage its food service operation in one or more of its schools. However, no school or school food authority may contract with a food service management company to operate an a la carte food service unless the company a to offer free, reduced price and paid reimbursable lunches to all eligible children. Any school food authority that employs a food service management company in the operation of its nonprofit school service shall: (1) Adhere to the procurement standards specified in §210.21 when contracting with the food service management company; (2) Ensure that the food service operation is in conformance with the school food authority's agreement under the Program; (3) Monitor the food service operation through periodic on-site visits; (4) Retain control of the quality, extent, and general nature of its food service, and the prices to be charged the children for meals; (5) Retain signature authority on the State agency-school food authority agreement, free and reduced price policy statement and claims; (6) Ensure that all federally donated foods received by the school food authority and made available to the food service management company accrue only to the benefit of the school food authority's nonprofit school food service and are fully utilized therein; (7) Maintain applicable health certification and assure that all State and local regulations are being met by a food service management company preparing or serving meals at a school food authority facility; (8) Establish an advisory board composed of parents, teachers, and students to assist in menu planning; (9) Obtain written approval of invitations for bids and requests for proposals before their issuance when required by the State agency. The school food authority must incorporate all State agency rec changes to its solicitation documents before issuing those documents; and (10) Ensure that the State agency has reviewed and approved the contract terms and that the school food authority has incorporated all State agency required changes into the contract or amendmen before any contract or amendment to an existing food service management company contract is executed. Any changes made by the school food authority or a food service management company to a

Legal Standards

1,823	Subpart D—Requirements for State Agency Participation §210.17 Matching Federal funds	Federal	(a) State revenue matching. For each school year, the amount of State revenues appropriated or used specifically by the State for program purposes shall not be less than 30 percent of the funds recei by such State under section 4 of the National School Lunch Act during the school year beginning July 1, 1980; provided that, the State revenues derived from the operation of such programs and State revenues expended for salaries and administrative expenses of such programs at the State level are not considered in this computation. However, if the per capita income of any State is less than the p capita income of the United States, the matching requirements so computed shall be decreased by the percentage by which the State per capita income is below the per capita income of the United Sta (b) Private school exemption. No State in which the State agency is prohibited by law from disbursing State appropriated funds to nonpublic schools shall be required to match general cash assistanc funds expended for meals served in such schools, or to disburse to such schools any of the State revenues required to meet the requirements of paragraph (a) of this section. Furthermore, the requirements of this section do not apply to schools in which the Program is administered by a FNSRO. (c) Territorial waiver. American Samoa and the Commonwealth of the Northern Mariana Islands shall be exempted from the matching requirements of paragraph (a) of this section if their respective matching requirements are under $100,000. (d) Applicable revenues. The following State revenues, appropriated or used specifically for program purposes which are expended for any school year shall be eligible for meeting the applicable percentage of the matching requirements prescribed in paragraph (a) of this section for that school year: (1) State revenues disbursed by the State agency to school food authorities for program purposes, including revenue disbursed to nonprofit private schools where the State administers the program such schools; (2) State revenues made available to school food authorities and transferred by the school food authorities to the nonprofit school food service accounts or otherwise expended by the school food authorities in connection with the nonprofit school food service program; and (3) State revenues used to finance the costs (other than State salaries or other State level administrative costs) of the nonprofit school food service program, i.e.: (i) Local program supervision; (ii) Operating the program in participating schools; and (iii) The intrastate distribution of foods donated under part 250 of this chapter to schools participating in the program.
1,824	§210.18 Administrative reviews	Federal	(a) Implementation dates. Each State agency must follow the requirements of this section to conduct administrative reviews of school food authorities serving meals under parts 210 and 220 of this chapter. For school food authorities selected for administrative review in school year 2012-2013, State agencies may conduct the administrative reviews in school year 2012-13 or 2013-14; except th State agencies must conduct reviews of those school food authorities identified as at-risk school food authorities in school year 2012-2013. (b) Definitions. The following definitions are provided in order to clarify State agency administrative review requirements: (1) Administrative reviews means the initial comprehensive on-site evaluation of all school food authorities participating in the Program in accordance with the provisions of this section. The term "administrative review" is used to reflect a review of both critical and general areas in accordance with paragraphs (g) and (h) of this section, and includes other areas of Program operations determi by the State agency to be important to Program performance. (2) Critical areas means the following two performance standards described in detail in paragraph (g) of this section which serve as measures of compliance with Program regulations: (i) Performance Standard 1—Certification/Counting/Claiming—All free, reduced price and paid lunches claimed for reimbursement are served only to children eligible for free, reduced price and pa lunches, respectively; and counted, recorded, consolidated and reported through a system which consistently yields correct claims. (ii) Performance Standard 2—Meal Requirements. Reimbursable lunches meet the meal requirements in §210.10 of this chapter, as applicable to the age/grade group reviewed. Reimbursable breakf meet the meal requirements in §§220.8 and 220.23 of this chapter, as applicable to the age/grade group reviewed. (3) Documented corrective action means written notification required of the school food authority to certify that the corrective action required for each violation has been completed and to notify th State agency of the dates of completion. Documented corrective action may be provided at the time of the review or may be submitted to the State agency within specified timeframes. (4) Follow-up reviews means any visit(s) to the school food authority subsequent to the administrative review to ensure corrective actions are taken. (5) General areas means the areas of review specified in paragraph (h) of this section. (6) Large school food authority means, in any State: (i) All school food authorities that participate in the Program and have enrollments of 40,000 children or more each; or

Legal Standards

1,825	§210.18 Administrative reviews continued	Federal	(1) Minimum number of schools. Except for residential child care institutions, the State agency shall review all schools with a free average daily participation of 100 or more and a free participation fa of 100 percent or more. In no event shall the State agency review less than the minimum number of schools illustrated in table A: Table A No. of schools in the school food authority Minimum no. of schools to be reviewed 1 to 5 1 6 to 10 2 11 to 20 3 21 to 40 4 41 to 60 6 61 to 80 8 81 to 100 10 101 or more 112 1Twelve plus 5 percent of the number of schools over 100. Fractions shall be rounded to the nearest whole number. (2) School selection criteria. (i) Selection of additional schools to meet the minimum number of schools required under paragraph (e)(2) of this section, shall be based on the following criteria: (A) Elementary schools with a free average daily participation of 100 or more and a free participation factor of 97 percent or more; (B) Secondary schools with a free average daily participation of 100 or more and a free participation factor of 77 percent or more; and (C) Combination schools with a free average daily participation of 100 or more and a free participation factor of 87 percent or more. A combination school means a school with a mixture of elementa secondary grades. (ii) When the number of schools selected on the basis of the criteria established in paragraph (A) through paragraph (C) of this paragraph are not sufficient to meet the minimum number of schools required under paragraph (e)(1) of this section, the schools selected for review shall be selected on the basis of State agency criteria which may include low participation schools, recommendations f
1,826	§210.18 Administrative reviews continued	Federal	(2) In lieu of reviewing all of the free and reduced price applications as required under paragraph (g)(1)(i)(A)(1) of this section, the State agency may review a statistically valid sample of those applications. If the State agency chooses to review a statistically valid sample of applications, the State agency shall ensure that the sample size is large enough so that there is a 95 percent chance tha actual error rate for all applications is not less than 2 percentage points less than the error rate found in the sample (i.e., the lower bound of the one-sided 95 percent confidence interval is no more th percentage points less than the point estimate). In addition, the State agency shall determine the need for follow-up reviews and base fiscal action upon the error rate found in the sample. (3) Evaluate if the previous year's eligibility determinations were used as required in §245.6(c)(2) of this chapter. (4) In the case where children are determined eligible for free lunches through direct certification, as specified in §245.6 of this chapter, establish that the documentation for direct certification of chi is official and from the appropriate State or local agency or another appropriate individual, as approved by FNS; establish that all information required under §245.6 of this chapter is complete and th children were enrolled in the school under review during the review period. (B) Evaluate the system for issuing benefits and updating eligibility status by validating the mechanism(s) the reviewed school uses to provide benefits to eligible children, e.g., master list. The State agency shall determine whether the system for issuing benefits and updating children's eligibility status is adequate and, within the timeframes established in §210.7(c)(1)(ii)(B), reflects changes du verification findings, transfers, or a household's decision to decline benefits. (C) Determine whether the lunch counting system yields correct claims. At a minimum, the State agency shall determine whether: (1) The daily lunch counts, by type, for the review period are more than the product of the number of children determined by the school/school food authority to be eligible for free, reduced price, an paid lunches for the review period times an attendance factor. If the lunch count, for any type, appears questionable or significantly exceeds the product of the number of eligibles, for that type, times attendance factor, documentation showing good cause must be available for review by the State agency. (2) Each type of food service line provides accurate point of service lunch counts, by type, and those lunch counts are correctly counted and recorded. If an alternative counting system is employed (i accordance with §210.7(c)(2)), the State agency shall ensure that it provides accurate counts of reimbursable lunches, by type, and is correctly implemented as approved by the State agency. (3) All lunches are correctly counted, recorded, consolidated and reported for the day they are served. (ii) For each school food authority reviewed, the State agency shall review lunch count records to ensure that the lunch counts submitted by each reviewed school are correctly consolidated, recorde reported by the school food authority on the Claim for Reimbursement.

Legal Standards

1,827	§210.18 Administrative reviews continued	Federal	(i) Follow-up reviews. All school food authorities found to have a critical area violation in excess of any one of the review thresholds specified in this paragraph are subject to follow-up reviews. State agencies shall notify FNS of the names of large school food authorities exceeding critical area review thresholds in accordance with paragraph (d)(2) of this section. The State agency shall conduct a f follow-up review of any large school food authority found on an administrative review to have critical area violations in excess of any one of the review thresholds. State agencies shall also conduct a follow-up review of at least 25 percent of the small school food authorities found on a review to have critical area violations in excess of any one of the review thresholds. State agencies shall conduct additional follow-up reviews of any school food authority which has a critical area violation exceeding a review threshold on the first follow-up or any subsequent follow-up review regardless of whe such review is conducted by FNS or the State agency. (1) Selection of small school food authorities. In determining which small school food authorities to include in the follow-up review sample, State agencies shall select those school food authorities w have the most serious problems, including, but not limited to, systemic accountability problems, large overclaims, significant lunch pattern violations, etc. (2) Selection of schools. (i) If the critical area violation(s) responsible for follow-up review activity are limited to school food authority level problems (e.g. centralized application processing or centr kitchen), the State agency may limit the follow-up review to the school food authority level. (ii) If the critical area violation(s) responsible for follow-up review activity were identified in the review of a school(s), then State agencies shall review at least the minimum number of schools requi under paragraph (e)(1) of this section. State agencies shall meet the minimum number of schools requirement by selecting those schools found, on a previous review, to have significant critical area violations. If any additional schools must be selected to meet the minimum required number, the State agency shall select from those schools which meet State agency-developed criteria identified u paragraph (e)(2)(ii) of this section. (3) Review thresholds. The review thresholds apply only to the critical areas of review and are designed to limit follow-up reviews to those school food authorities with serious problems. The provisi paragraph (i) of this section apply when: (i) For Performance Standard 1— (A) A number of the reviewed schools in a school food authority, as specified in Table B, have an inadequate system for certification, issuing benefits or updating eligibility status; or for counting, recording, consolidating or reporting lunches, by type; or (B) The school food authority has an inadequate system for consolidating lunch counts, by type, or for reporting claims; or, if applicable, for certification, issuing benefits or updating eligibility status
1,828	§210.18 Administrative reviews continued	Federal	Table B Number of schools reviewed Number of schools violating performance standard 1 1 to 5 1 6 to 10 2 11 to 20 3 21 to 30 4 31 to 40 5 41 to 50 6 51 to 60 7 61 to 70 8 71 to 80 9 81 to 90 10 91 to 100 11 101 or more 11* *11 plus the number identified above for the appropriate increment. (ii) For Performance Standard 2—10 percent or more of the total number of Program lunches or Program breakfasts observed in a school food authority are missing one or more of the food compon required under parts 210 and 220. (4) Scope of follow-up reviews. On any follow-up review, the State agency is encouraged to review all of the critical and general areas of review specified in paragraph (g) and (h) of this section for th schools which were not reviewed during the administrative review. At a minimum, the State agency shall: (i) For each school selected for review (or for the school food authority, as applicable,) review the critical areas for which the review thresholds were exceeded by the school food authority on a previ review; (ii) Determine whether the school food authority has satisfactorily completed the corrective actions in accordance with paragraph (k) of this section required for both critical and general areas withi

Legal Standards

1,829	§210.18 Administrative reviews continued	Federal	(6) General area violations identified in a follow-up review. General area violations identified in a follow-up review shall be addressed as follows: (i) If, during a follow-up review, the State agency determines that corrective actions have not been taken in accordance with the documented corrective action, the State agency shall withhold Progra payments in accordance with paragraph (l) of this section, until such time as the State agency receives adequate documented corrective action. (ii) If the State agency determines that the corrective actions taken did not effectively resolve the problem, or if new general area violations are observed on a follow-up review, the State agency shall require the school food authority to resolve the problem and to submit documented corrective action to the State agency within specified timeframes. If adequate documented corrective action is no received within those timeframes, the State agency shall withhold Program payments in accordance with paragraph (l) of this section, until such time as adequate documented corrective action is received. (7) Exceptions. FNS may, on an individual school food authority basis, approve written requests for exceptions to the follow-up review requirement specified in paragraph (i)(1) of this section if FNS determines that the requirement conflicts with efficient State agency management of the program. (j) Exit conference and notification. The State agency shall hold an exit conference at the close of the administrative review and of any subsequent follow-up review to discuss the violations observed, extent of the violations and a preliminary assessment of the actions needed to correct the violations. The State agency shall discuss an appropriate deadline(s) for completion of corrective action, pro that the deadline(s) results in the completion of corrective action on a timely basis. After every review, the State agency shall provide written notification of the review findings to the school food authority's Superintendent (or equivalent in a non-public school food authority) or authorized representative. The written notification shall include the review findings, the needed corrective actions deadlines for completion of the corrective action, and the potential fiscal action. As a part of the denial of all or a part of a Claim for Reimbursement or withholding payment in accordance with the provisions of this section, the State agency shall provide the school food authority a written notice which details the grounds on which the denial of all or a part of the Claim for Reimbursement or withholding payment is based. This notice, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the school food authority may appeal the denia or a part of a Claim for Reimbursement or withholding payment and the entity (i.e., FNS or State agency) to which the appeal should be directed. The State agency shall notify the school food authorit writing, of the appeal procedures as specified in §210.18(q) for appeals of State agency findings, and for appeals of FNS findings, provide a copy of §210.29(d)(3) of the regulations. (k) Corrective action. Corrective action is required for any violation under either the critical or general areas of the review. Corrective action shall be applied to all schools in the school food authority appropriate, to ensure that previously deficient practices and procedures are revised system-wide. Corrective actions may include training, technical assistance, recalculation of data to ensure the correctness of any claim that the school food authority is preparing at the time of the review, or other actions. Fiscal action shall be taken in accordance with paragraph (m) of this section.
1,830	§210.18 Administrative reviews continued	Federal	(2) Duration. In all cases, Program payments shall be withheld until such time as corrective action is completed, and documented corrective action is received and deemed acceptable by the State age or as otherwise specified in paragraph (i)(5) of this section. Subsequent to the State agency's acceptance of the corrective actions (and a follow-up review, when required), payments will be released lunches served in accordance with the provisions of this part during the period the payments were withheld. In very serious cases, the State agency will evaluate whether the degree of non-compliance warrants termination in accordance with §210.25 of this part. (3) Exceptions. The State agency may, at its discretion, reduce the amount required to be withheld from a school food authority pursuant to paragraph (l)(1)(i) through (iii) of this section by as much percent of the total Program payments when it is determined to be in the best interest of the Program. FNS may authorize a State agency to limit withholding of funds to an amount less than 40 perce the total Program payments, if FNS determines such action to be in the best interest of the Program. (4) Failure to withhold payments. FNS may suspend or withhold Program payments, in whole or in part, to those State agencies failing to withhold Program payments in accordance with paragraph (of this section and may withhold administrative funds in accordance with §235.11(b) of this title. The withholding of Program payments will remain in effect until such time as the State agency docu compliance with paragraph (l)(1) of this section to FNS. Subsequent to the documentation of compliance, any withheld administrative funds will be released and payment will be released for any lun served in accordance with the provisions of this part during the period the payments were withheld. (m) Fiscal action. Fiscal action for violations identified during an administrative review or any follow-up reviews must be taken in accordance with the provisions in §210.19(c) of this part. (1) Performance Standard 1 violations. A State agency is required to take fiscal action for all violations of Performance Standard 1. The State agency may limit fiscal action from the point corrective a occurs back through the beginning of the review period for errors identified under paragraphs (g)(1)(i)(A) through (C) of this section, provided corrective action occurs. (2) Performance Standard 2 violations. Except as noted under paragraph (m)(2)(iv) of this section, a State agency is required to take fiscal action for violations of Performance Standard 2 as follows: (i) For food component violations cited under paragraph (g)(2) of this section, the State agency must take fiscal action and require the school food authority and/or school reviewed to take correctiv action for the missing component. If a corrective action plan is in place, the State agency may limit fiscal action from the point corrective action occurs back through the beginning of the review perio errors identified under paragraph (g)(2) of this section. (ii) For repeated violations involving vegetable subgroups and milk type cited under paragraph (g)(2) of this section, the State agency must take fiscal action provided that: (A) Technical assistance has been given by the State agency;

Legal Standards

1,831	§210.18 Administrative reviews continued	Federal	(q) School food authority appeal of State agency findings. Except for FNS-conducted reviews authorized under §210.29(d)(2), each State agency shall establish an appeal procedure to be followed by school food authority requesting a review of a denial of all or a part of the Claim for Reimbursement or withholding payment arising from administrative or follow-up review activity conducted by th State agency under §210.18 of this part. State agencies may use their own appeal procedures provided the same procedures are applied to all appellants in the State and the procedures meet the follo requirements: appellants are assured of a fair and impartial hearing before an independent official at which they may be represented by legal counsel; decisions are rendered in a timely manner not t exceed 120 days from the date of the receipt of the request for review; appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which th may attend in person; and adequate notice is given of the time, date, place and procedures of the hearing. If the State agency has not established its own appeal procedures or the procedures do not m the above listed criteria, the State agency shall observe the following procedures at a minimum: (1) The written request for a review shall be postmarked within 15 calendar days of the date the appellant received the notice of the denial of all or a part of the Claim for Reimbursement or withhold payment, and the State agency shall acknowledge the receipt of the request for appeal within 10 calendar days; (2) The appellant may refute the action specified in the notice in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant school authority's representative to appear at a scheduled hearing shall constitute the appellant school food authority's waiver of the right to a personal appearance before the review official, unless the revi official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the revi official; (3) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, the time, date and place of the hearing; (4) Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review; (5) The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of thi section; (6) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;
1,832	§210.19 Additional responsibilities	Federal	(a) General Program management. Each State agency shall provide an adequate number of consultative, technical and managerial personnel to administer programs and monitor performance in complying with all Program requirements. (1) Assurance of compliance for finances. Each State agency shall ensure that school food authorities comply with the requirements to account for all revenues and expenditures of their nonprofit sch food service. School food authorities shall meet the requirements for the allowability of nonprofit school food service expenditures in accordance with this part and, 7 CFR part 3015 and 7 CFR part 3 or 7 CFR part 3019, as applicable. All costs resulting from contracts that do not meet the requirements of this part are unallowable nonprofit school food service account expenses. When the school fo authority fails to incorporate State agency required changes to solicitation or contract documents, all costs resulting from the subsequent contract award are unallowable charges to the nonprofit sch food service account. The State agency shall ensure compliance with the requirements to limit net cash resources and shall provide for approval of net cash resources in excess of three months' avera expenditures. Each State agency shall monitor, through review or audit or by other means, the net cash resources of the nonprofit school food service in each school food authority participating in the Program. In the event that net cash resources exceed 3 months' average expenditures for the school food authority's nonprofit school food service or such other amount as may be approved in accord with this paragraph, the State agency may require the school food authority to reduce the price children are charged for lunches, improve food quality or take other action designed to improve the nonprofit school food service. In the absence of any such action, the State agency shall make adjustments in the rate of reimbursement under the Program. Each State agency shall ensure that school f authorities comply with the requirements for pricing paid lunches and nonprogram foods as required in §210.14(e) and §210.14(f). (2) Improved management practices. The State agency shall work with the school food authority toward improving the school food authority's management practices where the State agency has foun poor food service management practices leading to decreasing or low child participation and/or poor child acceptance of the Program or of foods served. If a substantial number of children who rout and over a period of time do not favorably accept a particular item that is offered; return foods; or choose less than all food items/components or foods and menu items, as authorized under §210.10, acceptance of certain menus may be indicated. (3) Program compliance. Each State agency shall require that school food authorities comply with the applicable provisions of this part. The State agency shall ensure compliance through audits, administrative reviews, technical assistance, training guidance materials or by other means. (4) Investigations. Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to corre any irregularities. State agencies shall maintain on file, evidence of such investigations and actions. FNS and OIG may make reviews or investigations at the request of the State agency or where FNS o determines reviews or investigations are appropriate. (5) Food service management companies. Each State agency shall annually review each contract (including all supporting documentation) between any school food authority and food service manag company to ensure compliance with all the provisions and standards set forth in this part before execution of the contract by either party. When the State agency develops a prototype contract for us

Legal Standards

1,833	§210.19 Additional responsibilities continued	Federal	(iii) In taking fiscal action, State agencies shall assume that children determined by the reviewer to be incorrectly approved for free and reduced price lunches participated at the same rate as correct approved children in the corresponding lunch category. (3) Failure to collect. If a State agency fails to disallow a claim or recover an overpayment from a school food authority, as described in this section, FNS will notify the State agency that a claim may b assessed against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning overpayment. If after considering all available information, FNS determ that a claim is warranted, FNS will assess a claim in the amount of such overpayment against the State agency. If the State agency fails to pay any such demand for funds promptly, FNS will reduce the agency's Letter of Credit by the sum due in accordance with FNS' existing offset procedures for Letter of Credit. In such event, the State agency shall provide the funds necessary to maintain Program operations at the level of earnings from a source other than the Program. (4) Interest charge. If an agreement cannot be reached with the State agency for payment of its debts or for offset of debts on its current Letter of Credit, interest will be charged against the State agen from the date the demand leter was sent, at the rate established by the Secretary of Treasury. (5) Use of recovered payment. The amounts recovered by the State agency from school food authorities may be utilized during the fiscal year for which the funds were initially available, first, to make payments to school food authorities for the purposes of the Program; and second, to repay any State funds expended in the reimbursement of claims under the Program and not otherwise repaid. An amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part. (6) Exceptions. The State agency need not disallow payment or collect an overpayment when any review or audit reveals that a school food authority is approving applications which indicate that the households' incomes are within the Income Eligibility Guidelines issued by the Department or the applications contain Supplemental Nutrition Assistance Program or TANF case numbers or FDPIR c numbers or other FDPIR identifiers but the applications are missing the information specified in paragraph (1)(ii) of the definition of Documentation in §245.2 of this chapter. (7) Claims adjustment. FNS will have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof will also have the authority to waive such claims if FNS determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of th United States under section 516 of title 28, U.S. Code, to conduct litigation on behalf of the United States. (d) Management evaluations. Each State agency shall provide FNS with full opportunity to conduct management evaluations of all State agency Program operations and shall provide OIG with full opportunity to conduct audits of all State agency Program operations. Each State agency shall make available its records, including records of the receipt and disbursement of funds under the Progra records of any claim compromised in accordance with this paragraph, upon a reasonable request by FNS, OIG, or the Comptroller General of the United States. FNS and OIG retain the right to visit sch and OIG also has the right to make audits of the records and operations of any school. In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disr
1,834	§210.20 Reporting and recordkeeping	Federal	(a) Reporting summary. Participating State agencies shall submit forms and reports to FNS to demonstrate compliance with Program requirements. The reports include but are not limited to: (1) Requests for cash to make reimbursement payments to school food authorities as required under §210.5(a); (2) Information on the amounts of Federal Program funds expended and obligated to date (SF-269) as required under §210.5(d); (3) Statewide totals on Program participation (FNS-10) as required under §210.5(d); (4) Information on State funds provided by the State to meet the State matching requirements (FNS-13) specified under §210.17(g); (5) The names of school food authorities in need of a follow-up review; (6) Results of reviews and audits; (7) Results of the commodity preference survey and recommendations for commodity purchases as required under §250.13(k) of this chapter; (8) Results of the State agency's review of schools' compliance with the food safety inspection requirement in §210.13(b) by November 15 following each of school years 2005-2006 through 2014-20 beginning November 15, 2006. The report will be based on data supplied by the school food authorities in accordance with §210.15(a)(7); (9) The prices of paid lunches charged by each school food authority; and (10) For each local educational agency required to conduct a second review of applications under §245.11 of this chapter, the number of free and reduced price applications subject to a second revie results of the reviews including the number and percentage of reviewed applications for which the eligibility determination was changed, and a summary of the types of changes made. (b) Recordkeeping summary. Participating State agencies are required to maintain records to demonstrate compliance with Program requirements. The records include but are not limited to: (1) Accounting records and source documents to control the receipt, custody and disbursement of Federal Program funds as required under §210.5(a);

Legal Standards

1,835	Subpart E—State Agency and School Food Authority Responsibilities §210.21 Procurement	Federal	(a) General. State agencies and school food authorities shall comply with the requirements of this part and 7 CFR part 3016 or 7 CFR part 3019, as applicable, which implement the applicable Office o Management and Budget Circulars, concerning the procurement of all goods and services with nonprofit school food service account funds. (b) Contractual responsibilities. The standards contained in this part and 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable, do not relieve the State agency or school food authorit any contractual responsibilities under its contracts. The State agency or school food authority is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to source evaluation, protests, disputes, claims, or oth matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State, or Federal authority that has proper jurisdiction. (c) Procedures. The State agency may elect to follow either the State laws, policies and procedures as authorized by §§3016.36(a) and 3016.37(a) of this title, or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with §3016.36(b) through (i) of this title. Regardless of the option selected, States must ensure that all contracts include any clauses required by Federal statutes and executive orders and that the requirements of §3016.60(b) and (c) of this title are followed. A school food authority may use its own procurement procedure which reflect applicable State and local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set forth in this part and §§3016.36(b) through 3016.36(i), 3016.60 and 3019.40 through 3019.48 of this title, as applicable, and in the applicable Office of Management and Budget Circulars. School food authority procedure must include a written code of standards of conduct meeting the minimum standards of §3016.36(b)(3) or §3019.42 of this title, as applicable. (1) Pre-issuance review requirement. The State agency may impose a pre-issuance review requirement on a school food authority's proposed procurement. The school food authority must make ava upon request by the State agency, its procurement documents, including but not limited to solicitation documents, specifications, evaluation criteria, procurement procedures, proposed contracts an contract terms. School food authorities shall comply with State agency requests for changes to procurement procedures and solicitation and contract documents to ensure that, to the State agency's satisfaction, such procedures and documents reflect applicable procurement and contract requirements and the requirements of this part. (2) Prototype solicitation documents and contracts. The school food authority must obtain the State agency's prior written approval for any change made to prototype solicitation or contract docume before issuing the revised solicitation documents or execution of the revised contract. (3) Prohibited expenditures. No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of this part. (d) Buy American—(1) Definition of domestic commodity or product. In this paragraph (d), the term 'domestic commodity or product' means— (i) An agricultural commodity that is produced in the United States; and
1,836	§210.22 Audits	Federal	(a) General. Unless otherwise exempt, audits at the State and school food authority levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3. (b) Audit procedure. These requirements call for organization-wide financial and compliance audits to ascertain whether financial operations are conducted properly; financial statements are presen fairly; recipients and subrecipients comply with the laws and regulations that affect the expenditures of Federal funds; recipients and subrecipients have established procedures to meet the objective federally assisted programs; and recipients and subrecipients are providing accurate and reliable information concerning grant funds. States and school food authorities shall use their own procedur arrange for and prescribe the scope of independent audits, provided that such audits comply with the requirements set forth in 7 CFR part 3015. [53 FR 29147, Aug. 2, 1988, as amended at 71 FR 39516, July 13, 2006]

Legal Standards

1,837	§210.23 Other responsibilities	Federal	(a) Free and reduced price lunches and meal supplements. State agencies and school food authorities shall ensure that lunches and meal supplements are made available free or at a reduced price to a children who are determined by the school food authority to be eligible for such benefits. The determination of a child's eligibility for free or reduced price lunches and meal supplements is to be mad accordance with 7 CFR part 245. (b) Civil rights. In the operation of the Program, no child shall be denied benefits or be otherwise discriminated against because of race, color, national origin, age, sex, or disability. State agencies and school food authorities shall comply with the requirements of: Title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; the Discrimination Act of 1975; Department of Agriculture regulations on nondiscrimination (7 CFR parts 15, 15a, and 15b); and FNS Instruction 113-1. (c) Retention of records. State agencies and school food authorities may retain necessary records in their original form or on microfilm. State agency records shall be retained for a period of 3 years a the date of submission of the final Financial Status Report for the fiscal year. School food authority records shall be retained for a period of 3 years after submission of the final Claim for Reimbursem for the fiscal year. In either case, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit. (d) Data collection related to school food authorities. (1) Each State agency must collect data related to school food authorities that have an agreement with the State agency to participate in the prog for each of Federal fiscal years 2006 through 2009, including those school food authorities that participated only for part of the fiscal year. Such data shall include: (i) The name of each school food authority; (ii) The city in which each participating school food authority was headquartered and the name of the state; (iii) The amount of funds provided to the participating organization, i.e., the amount of federal funds reimbursed to each participating school food authority; and (iv) The type of participating organization, e.g., government agency, educational institution, non-profit organization/secular, non-profit organization/faith-based, and "other." (2) On or before August 31, 2007, and each subsequent year through 2010, State agencies must report to FNS data as specified in paragraph (d)(1) of this section for the prior Federal fiscal year. State agencies must submit this data in a format designated by FNS. (e) Program evaluations. States, State agencies, local educational agencies, school food authorities, schools and contractors must cooperate in studies and evaluations conducted by or on behalf of the Department, related to programs authorized under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966.
1,838	Subpart F—Additional Provisions §210.24 Withholding payments	Federal	In accordance with Departmental regulations at §§3016.43 and 3019.62 of this title, the State agency shall withhold Program payments, in whole or in part, to any school food authority which has fai comply with the provisions of this part. Program payments shall be withheld until the school food authority takes corrective action satisfactory to the State agency, or gives evidence that such correc action will be taken, or until the State agency terminates the grant in accordance with §210.25 of this part. Subsequent to the State agency's acceptance of the corrective actions, payments will be rele for any lunches served in accordance with the provisions of this part during the period the payments were withheld. [56 FR 32948, July 17, 1991, as amended at 71 FR 39516, July 13, 2006; 72 FR 61492, Oct. 31, 2007]
1,839	§210.25 Suspension, termination and grant closeout procedures	Federal	Whenever it is determined that a State agency has materially failed to comply with the provisions of this part, or with FNS guidelines and instructions, FNS may suspend or terminate the Program in or in part, or take any other action as may be available and appropriate. A State agency may also terminate the Program by mutual agreement with FNS. FNS and the State agency shall comply with th provisions of 7 CFR part 3016 concerning grant suspension, termination and closeout procedures. Furthermore, the State agency shall apply these provisions, or the parallel provisions of 7 CFR part as applicable, to suspension or termination of the Program in school food authorities. [53 FR 29147, Aug. 2, 1988. Redesignated at 56 FR 32948, July 17, 1991, and amended at 71 FR 39516, July 13, 2006]
1,840	§210.26 Penalties	Federal	Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part whether received directly or indirectly from the Department, shall if such f assets, or property are of a value of $100 or more, be fined no more than $25,000 or imprisoned not more than 5 years or both; or if such funds, assets, or property are of a value of less than $100, be not more than $1,000 or imprisoned not more than 1 year or both. Whoever receives, conceals, or retains for personal use or gain, funds, assets, or property provided under this part, whether receive directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties. [53 FR 29147, Aug. 2, 1988. Redesignated at 56 FR 32948, July 17, 1991, as amended at 64 FR 50741, Sept. 20, 1999]
1,841	§210.27 Educational prohibitions	Federal	In carrying out the provisions of the Act, the Department shall not impose any requirements with respect to teaching personnel, curriculum, instructions, methods of instruction, or materials of instru in any school as a condition for participation in the Program. [53 FR 29147, Aug. 2, 1988. Redesignated at 56 FR 32948, July 17, 1991, as amended at 64 FR 50741, Sept. 20, 1999]

Legal Standards

1,842	§210.28 Pilot project exemptions	Federal	Those State agencies or school food authorities selected for the pilot projects mandated under section 18(d) of the Act may be exempted by the Department from some or all of the counting and free a reduced price application requirements of this part and 7 CFR part 245, as necessary, to conduct an approved pilot project. Additionally, those schools selected for pilot projects that also operate the School Breakfast Program (7 CFR part 220) and/or the Special Milk Program for Children (7 CFR part 215), may be exempted from the counting and free and reduced price application requirements mandated under these Programs. The Department shall notify the appropriate State agencies and school food authorities of its determination of which requirements are exempted after the Departme selection of pilot projects. [55 FR 41504, Oct. 12, 1990. Redesignated at 56 FR 32948, July 17, 1991, And further redesignated at 64 FR 50741, Sept. 20, 1999]
1,843	§210.29 Management evaluations	Federal	(a) Management evaluations. FNS will conduct a comprehensive management evaluation of each State agency's administration of the National School Lunch Program. (b) Basis for evaluations. FNS will evaluate all aspects of State agency management of the Program using tools such as State agency reviews as required under §210.18 or §210.18a of this part; review conducted by FNS in accordance with §210.18 of this part; FNS reviews of school food authorities and schools authorized under §210.19(a)(4) of this part; follow-up reviews and actions taken by the agency to correct violations found during reviews; FNS observations of State agency reviews; and audit reports. (c) Scope of management evaluations. The management evaluation will determine whether the State agency has taken steps to ensure school food authority compliance with Program regulations, an whether the State agency is administering the Program in accordance with Program requirements and good management practices. (1) Local compliance. FNS will evaluate whether the State agency has actively taken steps to ensure that school food authorities comply with the provisions of this part. (2) State agency compliance. FNS will evaluate whether the State agency has fulfilled its State level responsibilities, including, but not limited to the following areas: use of Federal funds; reporting an recordkeeping; agreements with school food authorities; review of food service management company contracts; review of the claims payment process; implementation of the State agency's monito responsibilities; initiation and completion of corrective action; recovery of overpayments; disallowance of claims that are not properly payable; withholding of Program payments; oversight of schoo authority procurement activities; training and guidance activities; civil rights; and compliance with the State Administrative Expense Funds requirements as specified in 7 CFR part 235. (d) School food authority reviews. FNS will examine State agency administration of the Program by reviewing local Program operations. When conducting these reviews under paragraph (d)(2) of th section, FNS will follow all the administrative review requirements specified in §210.18(a)-(h) of this part. When FNS conducts reviews, the findings will be sent to the State agency to ensure all the n follow-up activity occurs. The State agency will, in all cases, be invited to accompany FNS reviewers. (1) Observation of State agency reviews. FNS may observe the State agency conduct of any review and/or any follow-up review as required under this part. At State agency request, FNS may assist in conduct of the review. (2) Section 210.18 reviews. FNS will conduct administrative reviews or follow-up reviews in accordance with §210.18(a)-(h) of this part which will count toward meeting the State agency responsibi identified under §210.18 of this part. (3) School food authority appeal of FNS findings. When administrative or follow-up review activity conducted by FNS in accordance with the provisions of paragraph (d)(2) of this section results in t denial of all or part of a Claim for Reimbursement or withholding of payment, a school food authority may appeal the FNS findings by filing a written request with the Chief, Administrative Review Br
1,844	§210.30 State agency and Regional office addresses	Federal	School food authorities and schools desiring information about the Program should contact their State educational agency or the appropriate FNS Regional Office at the address or telephone number on the FNS Web site (www.fns.usda.gov/cnd). [77 FR 4153, Jan. 26, 2012]

Legal Standards

1,845	§210.31 OMB control numbers	Federal	The following control numbers have been assigned to the information collection requirements in 7 CFR part 210 by the Office of Management and Budget pursuant to the Paperwork Reduction Act o 1980, Pub. L. 96-511. 7 CFR section where requirements are described Current OMB control No. 210.3(b) 0584-0327 210.5(d) 0584-0006 210.5(d)(1) 0584-0002 210.5(d)(2) 0584-0341 210.5(d)(3) 0584-0341 210.6(b) 0584-0006 210.8 0584-0006 0584-0284 210.9 0584-0006 0584-0026 0584-0329 210.10(b) 0584-0006 210.10(i)(1) 0584-0006 210.14(c) 0584-0006 210.16 0584-0006 210.17 0584-0006 210.17(g) 0584-0075 210.18 0584-0006 210.19 0584-0006 210.22 0584-0006 210.23(c) 0584-0006 210.24 0584-0006 210.27 0584-0006
1,846	§210.32 xxx	Federal	
1,847	Appendix A to Part 210—Alternate Foods for Meals	Federal	I. Enriched Macaroni Products with Fortified Protein 1. Schools may utilize the enriched macaroni products with fortified protein defined in paragraph 3 as a food item in meeting the meal requirements of this part under the following terms and condit (a) One ounce (28.35 grams) of a dry enriched macaroni product with fortified protein may be used to meet not more than one-half of the meat or meat alternate requirements specified in §210.10, v served in combination with 1 or more ounces (28.35 grams) of cooked meat, poultry, fish, or cheese. The size of servings of the cooked combination may be adjusted for various age groups. (b) Only enriched macaroni products with fortified protein that bear a label containing substantially the following legend shall be so utilized: “One ounce (28.35 grams) dry weight of this product me one-half of the meat or meat alternate requirements of lunch or supper of the USDA child nutrition programs when served in combination with 1 or more ounces (28.35 grams) of cooked meat, poult fish, or cheese. In those States where State or local law prohibits the wording specified, a legend acceptable to both the State or local authorities and FNS shall be substituted.” (c) Enriched macaroni product may not be used for infants under 1 year of age. 2. Only enriched macaroni products with fortified protein that have been accepted by FNS for use in the USDA Child Nutrition Programs may be labeled as provided in paragraph 1(b) of this appendi Manufacturers seeking acceptance of their product shall furnish FNS a chemical analysis, the Protein Digestibility-Corrected Amino Acid Score (PDCAAS), and such other pertinent data as may be requested by FNS, except that prior to November 7, 1994, manufacturers may submit protein efficiency ratio analysis in lieu of the PDCAAS. This information is to be forwarded to: Director, Nutritio Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, room 607, Alexandria, VA 22302. All laboratory analyses are to be performed by independent or other laboratories acceptable to FNS. (FNS prefers an independent laboratory.) All laboratories shall retain the “raw” laboratory data for a period of 1 year. Such information shall be available to FNS upon request. Manufacturers must notify FNS if there is a change in the protein portion of their product after the original testing. Manufacturers who report such a change in protein previously approved product must submit protein data in accordance with the method specified in this paragraph. 3. The product should not be designed in such a manner that would require it to be classified as a Dietary Supplement as described by the Food and Drug Administration (FDA) in 21 CFR part 105. To accepted by FNS, enriched macaroni products with fortified protein must conform to the following requirements: (a)(1) Each of these foods is produced by drying formed units of dough made with one or more of the milled wheat ingredients designated in 21 CFR 139.110(a) and 139.138(a), and other ingredient enable the finished food to meet the protein requirements set out in paragraph 3.(a)(2)(i) under Enriched Macaroni Products with Fortified Protein in this appendix. Edible protein sources, including grade flours or meals made from nonwheat cereals or from oilseeds, may be used. Vitamin and mineral enrichment nutrients are added to bring the food into conformity with the requirements of paragraph (b) under Enriched Macaroni Products with Fortified Protein in this appendix. Safe and suitable ingredients, as provided for in paragraph (c) under Enriched Macaroni Products with Forti Protein in this appendix, may be added. The proportion of the milled wheat ingredient is larger than the proportion of any other ingredient used.

Legal Standards

1,848	Appendix A to Part 210—Alternate Foods for Meals continued	Federal	II. Alternate Protein Products A. What Are the Criteria for Alternate Protein Products Used in the National School Lunch Program? 1. An alternate protein product used in meals planned under the food-based menu planning approaches in §210.10(k), must meet all of the criteria in this section. 2. An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the following criteria: a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible pro produced from plant or animal sources. b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCA c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. ("When hydrated or formulated" refers to a dry alternate protein product and t amount of water, fat, oil, colors, flavors or any other substances which have been added). d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs A2. a through c of this appendix. e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis. f. For an alternate protein product mix, manufacturers should provide information on: (1) the amount by weight of dry alternate protein product in the package; (2) hydration instructions; and (3) instructions on how to combine the mix with meat or other meat alternates. B. How Are Alternate Protein Products Used in the National School Lunch Program?
1,849	Appendix B to Part 210—Categories of Foods of Minimal Nutritional Value	Federal	(a) Foods of minimal nutritional value—Foods of minimal nutritional value are: (1) Soda Water—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressu one atmosphere and at a temperature of 60 °F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingre used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and protein. (2) Water Ices—As defined by 21 CFR 135.160 Food and Drug Administration Regulations except that water ices which contain fruit or fruit juices are not included in this definition. (3) Chewing Gum—Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing. (4) Certain Candies—Processed foods made predominantly from sweeteners or artifical sweeteners with a variety of minor ingredients which characterize the following types: (i) Hard Candy—A product made predominantly from sugar (sucrose) and corn syrup which may be flavored and colored, is characterized by a hard, brittle texture, and includes such items as sour b fruit balls, candy sticks, lollipops, starlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers and cough drops. (ii) Jellies and Gums—A mixture of carbohydrates which are combined to form a stable gelatinous system of jelly-like character, and are generally flavored and colored, and include gum drops, jelly b jellied and fruit-flavored slices. (iii) Marshmallow Candies—An aerated confection composed as sugar, corn syrup, invert sugar, 20 percent water and gelatin or egg white to which flavors and colors may be added. (iv) Fondant—A product consisting of microscopic-sized sugar crystals which are separated by thin film of sugar and/or invert sugar in solution such as candy corn, soft mints. (v) Licorice—A product made predominantly from sugar and corn syrup which is flavored with an extract made from the licorice root. (vi) Spun Candy—A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine. (vii) Candy Coated Popcorn—Popcorn which is coated with a mixture made predominantly from sugar and corn syrup.

Legal Standards

1,850	Appendix C to Part 210—Child Nutrition Labeling Program	Federal	1. The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service in conjunction with the Food Safety and Inspection Service (and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture, and National Marine Fisheries Service of the U.S. Department of Commerce (USDC) for the Child Nutrition Programs. T program essentially involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward meal pattern requirements and a review of the CN label statement to ensure its accuracy. CN labeled products must be produced in accordance with all requirements set forth in this rule. 2. Products eligible for CN labels are as follows: (a) Commercially prepared food products that contribute significantly to the meat/meat alternate component of meal pattern requirements of 7 CFR 210.10, 225.20, and 226.20 and are served in the dish. (b) Juice drinks and juice drink products that contain a minimum of 50 percent full-strength juice by volume. 3. For the purpose of this appendix the following definitions apply: (a) “CN label” is a food product label that contains a CN label statement and CN logo as defined in paragraph 3 (b) and (c) below. (b) The “CN logo” (as shown below) is a distinct border which is used around the edges of a “CN label statement” as defined in paragraph 3(c). eCFR graphic ec17se91.000.gif View or download PDF (c) The “CN label statement” includes the following: (1) The product identification number (assigned by FNS), (2) The statement of the product's contribution toward meal pattern requirements of 7 CFR 210.10, §220.8 or §220.8a, whichever is applicable, §§225.20, and 226.20. The statement shall identify the
1,851	Title 7: Agriculture PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS	Federal	
1,852	§245.1 General purpose and scope	Federal	(a) This part established the responsibilities of State agencies, Food and Nutrition Service Regional Offices, school food authorities or local educational agencies, as defined in §245.2, as applicable in providing free and reduced price meals and free milk in the National School Lunch Program (7 CFR part 210), the School Breakfast Program (7 CFR part 220), the Special Milk Program for Children (7 part 215), and commodity schools. Section 9 of the National School Lunch Act, as amended, and sections 3 and 4 of the Child Nutrition Act of 1966, as amended, require schools participating in any of programs and commodity schools to make available, as applicable, free and reduced price lunches, breakfasts, and at the option of the School Food Authority for schools participating only in the Spec Milk Program free milk to eligible children. (b) This part sets forth the responsibilities under these Acts of State agencies, the Food and Nutrition Service Regional Offices, school food authorities or local educational agencies, as applicable, with respect to the establishment of income guidelines, determination of eligibility of children for free and reduced price meals, and for free milk and assurance that there is no physical segregation of, or discrimination against, or overt identification of children unable to pay the full price for meals or milk. (Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758)) [Amdt. 6, 39 FR 30337, Aug. 22, 1974, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; 47 FR 31852, July 23, 1982; 72 FR 63792, Nov. 13, 2007]

Legal Standards

1,853	§245.2 Definitions	Federal	Adult means any individual 21 years of age or older. Categorically eligible means considered income eligible for free meals or free milk, as applicable, based on documentation that a child is a member of a Family, as defined in this section, and one or m children in that family are receiving assistance under SNAP, FDPIR or the TANF program, as defined in this section. A Foster child, Homeless child, a Migrant child, a Head Start child and a Runaway cl as defined in this section, are also categorically eligible. Categorical eligibility and automatic eligibility may be used synonymously. Commodity school means a school which does not participate in the National School Lunch Program under part 210 of this chapter, but which enters into an agreement as provided in §210.15a(b) to receive commodities donated under part 250 of this chapter for a nonprofit lunch program. Current income means income, as defined in §245.6(a), received during the month prior to application. If such income does not accurately reflect the household's annual rate of income, income shall based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the proj annual rate of income. Direct certification means determining a child is eligible for free meals or free milk, as applicable, based on documentation obtained directly from the appropriate State or local agency or individuals authorized to certify that the child is a member of a household receiving assistance under SNAP, as defined in this section; is a member of a household receiving assistance under FDPIR or under the T program, as defined in this section; a Foster child, Homeless child, a Migrant child, a Head Start child and a Runaway child, as defined in this section. Disclosure means reveal or use individual children's program eligibility information obtained through the free and reduced price meal or free milk eligibility process for a purpose other than for the purpose for which the information was obtained. The term refers to access, release, or transfer of personal data about children by means of print, tape, microfilm, microfiche, electronic communicatio any other means. Documentation means: (1) The completion of a free and reduced price school meal or free milk application which includes: (i) For households applying on the basis of income and household size, names of all household members; income received by each household member, identified by source of the income (such as earn wages, welfare, pensions, support payments, unemployment compensation, and social security and other cash income); the signature of an adult household member; and the last four digits of the soc security number of the adult household member who signs the application or an indication that the adult does not possess a social security number; or
1,854	§245.3 Eligibility standards and criteria	Federal	(a) Each State agency, or FNSRO where applicable, shall by July 1 of each year announce family-size income standards to be used by local educational agencies, as defined in §245.2, under the jurisdic of such State agency, or FNSRO where applicable, in making eligibility determinations for free or reduced price meals and for free milk. Such family size income standards for free and reduced price m and for free milk shall be in accordance with Income Eligibility Guidelines published by the Department by notice in the Federal Register. (b) Each participating local educational agency and all participating schools under its jurisdiction must adhere to the eligibility criteria specified in this part. Local educational agencies must include t eligibility criteria in their policy statement as required under §245.10 and it must be publicly announced in accordance with the provisions of §245.5. Additionally, each State agency, or FNSRO where applicable, must require that local educational agencies accept as income eligible for free meals and free milk, children who are categorically eligible for those benefits based on documentation of eligibility, as specified in §245.6 (b). (c) Each School Food Authority shall serve free and reduced price meals or free milk in the respective programs to children eligible under its eligibility criteria. When a child is not a member of a fami defined in §245.2), the child shall be considered a family of one. In any school which participates in more than one of the child nutrition programs, eligibility shall be applied uniformly so that eligible children receive the same benefits in each program. If a child transfers from one school to another school under the jurisdiction of the same School Food Authority, his eligibility for free or reduced p meals or for free milk, if previously established, shall be transferred to, and honored by, the receiving school if it participates in the National School Lunch Program, School Breakfast Program, Special Program and the School Food Authority has elected to provide free milk, or is a commodity-only school. (Sec. 8, Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1758); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772); 42 U.S.C. 1785, 1766, 1772, 1773(e), sec. 203, Pub. L. 96-499, 94 Stat. 2599; secs. 807 and 80 Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758)) [Amdt. 8, 40 FR 57207, Dec. 8, 1975; 40 FR 58281, Dec. 16, 1975, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; Amdt. 13, 44 FR 33049, June 8, 1979; 47 FR 31852, July 23, 1982; 72 FR 63793, 13, 2007; 76 FR 22800, Apr. 25, 2011]

Legal Standards

1,855	§245.4 Exceptions for Puerto Rico and the Virgin Islands	Federal	Because the State agencies of Puerto Rico and the Virgin Islands provide free meals or milk to all children in schools under their jurisdiction, regardless of the economic need of the child's family, they not required to make individual eligibility determinations or publicly announce eligibility criteria. Instead, such State agencies may use a statistical survey to determine the number of children eligibl free or reduced price meals and milk on which a percentage factor for the withdrawal of special cash assistance funds will be developed subject to the following conditions: (a) State agencies shall conduct a statistical survey once every three years in accordance with the standards provided by FNS; (b) State agencies shall submit the survey design to FNS for approval before proceeding with the survey; (c) State agencies shall conduct the survey and develop the factor for withdrawal between July 1 and December 31 of the first school year of the three-year period; (d) State agencies shall submit the results of the survey and the factor for fund withdrawal to FNS for approval before any reimbursement may be received under that factor; (e) State agencies shall keep all material relating to the conduct of the survey and determination of the factor for fund withdrawal in accordance with the record retention requirements in §210.8(e)(this chapter; (f) Until the results of the triennial statistical survey are available, the factor for fund withdrawal will be based on the most recently established percentages. The Department shall make retroactive adjustments to the States' Letter of Credit, if appropriate, for the year of the survey; (g) If any school in these States wishes to charge a student for meals, the State agency, School Food Authority and school shall comply with all the applicable provisions of this part and parts 210, 215 220 of this chapter. (Sec. 9, Pub. L. 95-166, 91 Stat 1336 (42 U.S.C. 1759a); secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; 44 U.S.C. 3506) [Amdt. 18, 45 FR 52771, Aug. 8, 1980, as amended at 46 FR 51366, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982]
1,856	§245.5 Public announcement of the eligibility criteria	Federal	(a) After the State agency, or FNSRO where applicable, notifies the local educational agency (as defined in §245.2) that its criteria for determining the eligibility of children for free and reduced price and for free milk have been approved, the local educational agency (as defined in §245.2) shall publicly announce such criteria: Provided however, that no such public announcement shall be require boarding schools, residential child care institutions (see §210.2 of this chapter, definition of Schools), or a school which includes food service fees in its tuition, where all attending children are provid the same meals or milk. Such announcements shall be made at the beginning of each school year or, if notice of approval is given thereafter, within 10 days after the notice is received. The public announcement of such criteria, as a minimum, shall include the following: (1) Except as provided in §245.6(b), a letter or notice and application distributed on or about the beginning of each school year, to the parents of all children in attendance at school. The letter or noti shall contain the following information: (i) In schools participating in a meal service program, the eligibility criteria for reduced price benefits with an explanation that households with incomes less than or equal to the reduced price criteri would be eligible for either free or reduced price meals, or in schools participating in the free milk option, the eligibility criteria for free milk benefits; (ii) How a household may make application for free or reduced price meals or for free milk for its children; (iii) An explanation that an application for free or reduced price benefits cannot be approved unless it contains complete information as described in paragraph (1)(i) of the definition of Documentati §245.2; (iv) An explanation that households with children who are members of currently certified SNAP, FDPIR or TANF households may submit applications for these children with the abbreviated informa described in paragraph (2)(ii) of the definition of Documentation in §245.2; (v) An explanation that the information on the application may be verified at any time during the school year; (vi) How a household may apply for benefits at any time during the school year as circumstances change; (vii) A statement to the effect that children having parents or guardians who become unemployed are eligible for free or reduced price meals or for free milk during the period of unemployment, Prov that the loss of income causes the household income during the period of unemployment to be within the eligibility criteria; (viii) The statement: “In the operation of child feeding programs, no child will be discriminated against because of race, sex, color, national origin, age or disability;”

Legal Standards

1,857	§245.6 Application, eligibility and certification of children for free and reduced price meals and free milk	Federal	(a) General requirements—content of application and descriptive materials. Each local educational agency, as defined in §245.2, for schools participating in the National School Lunch Program, Schoo Breakfast Program or Special Milk Program or a commodity only school, shall provide meal benefit forms for use by families in making application for free or reduced price meals or free milk for thei children. (1) Household applications. The State agency or local educational agency must provide a form that permits a household to apply for all children in that household who attend schools in the same loca educational agency. The local educational agency must provide newly enrolled students with an application and determine eligibility promptly. The local educational agency cannot require the house to submit an application for each child attending its schools. The application shall be clear and simple in design and the information requested therein shall be limited to that required to demonstrate the household does, or does not, meet the eligibility criteria for free or reduced price meals, respectively, or for free milk, provided by the local educational agency. (2) Understandable communications. Any communication with households for eligibility determination purposes must be in an understandable and uniform format and to the maximum extent practicable, in a language that parents and guardians can understand. (3) Electronic availability. In addition to the distribution of applications and descriptive materials in paper form as provided for in this section, the local educational agency may establish a system for executing household applications electronically and using electronic signatures. The electronic submission system must comply with the disclosure requirements in this section and with technical assistance and guidance provided by FNS. Descriptive materials may also be made available electronically by the local educational agency. (4) Transferring eligibility status. When a student transfers to a new school district, the new local educational agency may accept the eligibility determination from the student's former local educatio agency without incurring liability for the accuracy of the initial determination. As required under paragraph (c)(3) of this section, the accepting local educational agency must make changes that occu result of verification activities or coordinated review findings conducted in that local educational agency. (5) Required income information. The information requested on the application with respect to the current income of the household must be limited to: (i) The income received by each member identified by the household member who received the income or an indication which household members had no income; and (ii) The source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income). Other cash income includes cash amounts received or withdrawn from any source, including savings, investments, trust accounts, and other resources which are available to pay for a child's meals or milk. (6) Household members and social security numbers. The application must require applicants to provide the names of all household members. In addition, the last four digits of the social security nu
1,858	§245.6 Application, eligibility and certification of children for free and reduced price meals and free milk continued	Federal	(2) Children who may be directly certified. The local educational agency may directly certify children for free meals or free milk based on documentation received from the appropriate State or local agency that administers FDPIR or TANF, as defined in §245.2, when that agency indicates that the children are members of a household receiving assistance under one of these programs. In addition, local educational agency may directly certify children for free meals or free milk based on documentation from the appropriate State or local agency or other appropriate individual, as specified by FI that the child is a Foster child, a Homeless child, a Migrant, a Runaway child, or a Head Start child, as defined in §245.2. (3) Frequency of direct certification contacts with SNAP. (i) Until School Year 2011-2012, local educational agencies must conduct direct certification activities with SNAP at least at the beginning of school year. (ii) (A) Beginning in School Year 2011-2012, at a minimum, all local educational agencies must conduct direct certification as follows: (1) At or around the beginning of the school year; (2) Three months after the initial effort; and (3) Six months after the initial effort. (B) The information used shall be the most recent available. (iii) The names of all newly enrolled children and all children not certified for free meals shall be submitted for the direct certification required in paragraph (b)(3)(ii)(B) and paragraph (b)(3)(ii)(C) this section. Newly enrolled children must be provided with application materials in order to alleviate a delay in receipt of free meals or free milk if direct certification for these children cannot be completed promptly upon enrollment. (iv) State agencies are encouraged to conduct direct certification more frequently to obtain information about newly enrolled children or children who may be newly certified for that program's bene (4) Frequency of direct certification with other programs. Local educational agencies opting to conduct direct certification activities with FDPIR or TANF should conduct such activities at or around t beginning of the school year. Obtaining information about foster, homeless, migrant, or runaway children or Head Start enrollees should be done, at a minimum, at or around the beginning of the sch year and when newly enrolled children or children newly eligible for those programs are being certified.

Legal Standards

1,859	§245.6 Application, eligibility and certification of children for free and reduced price meals and free milk continued	Federal	(ii) Foster, homeless, migrant, andrunaway children and Head Start enrollees. Upon receipt of Documentation, as defined in paragraph (2)(ii) and (2)(iv) of the definition in §245.2, the local educatio agency must approve such children for free benefits without further application. (6) Notice of approval—Income applications. The local educational agency must notify the household of the children's eligibility and provide the eligible children the benefits to which they are entitle within 10 operating days of receiving the application from the household. (ii) Direct Certification. Households approved for benefits based on information provided by the appropriate State or local agency responsible for the administration of the SNAP, FDPIR or TANF mus notified, in writing, that their children are eligible for free meals or free milk, that no application for free and reduced price school meals or free milk is required. The notice of eligibility must also info the household that the parent or guardian must notify the local educational agency if they do not want their children to receive free benefits. However, when the parent or guardian transmits a notice eligibility provided by the SNAP, FDPIR or TANF office, the local educational agency is not required to provide a separate notice of eligibility. The local educational agency must notify, in writing, households with children who are approved on the basis of documentation that they are Categorically eligible, as defined in §245.2, that their children are eligible for free meals or free milk, and that application is required. (iii) Households declining benefits. Children from households that notify the local educational agency that they do not want free or reduced price benefits must have their benefits discontinued as soo possible. Any notification from the household declining benefits must be documented and maintained on file, as required under paragraph (e) of this section, to substantiate the eligibility determinat (7) Denied applications and the notice of denial. When the application furnished by a family is not complete or does not meet the eligibility criteria for free or reduced price benefits, the local educati agency must document and retain the reasons for ineligibility and must retain the denied application. In addition, the local educational agency must promptly provide written notice to each family de benefits. At a minimum, this notice shall include: (i) The reason for the denial of benefits, e.g. income in excess of allowable limits or incomplete application; (ii) Notification of the right to appeal; (iii) Instructions on how to appeal; and (iv) A statement reminding parents that they may reapply for free or reduced price benefits at any time during the school year.
1,860	§245.6a Verification requirements	Federal	(a) Definitions—(1) Eligible programs. For the purposes of this section, the following programs qualify as programs for which a case number may be provided in lieu of income information and that be used for direct verification purposes: (i) SNAP, as defined in 245.2; (ii) The Food Distribution Program on Indian Reservations (FDPIR) as defined in §245.2; and (iii) A State program funded under the program of block grants to States for temporary assistance for needy families (TANF) as defined in §245.2. (2) Error prone application. For the purposes of this section, "error prone application" means an approved household application that indicates monthly income within $100 or annual income within $1,200 of the applicable income eligibility limit for free or for reduced meals. (3) Non-response rate. For the purposes of this section, "non-response rate" means the percentage of approved household applications for which verification information was not obtained by the loca educational agency after verification was attempted. The non-response rate is reported on the FNS-742 in accordance with paragraph (h) of this section. (4) Official poverty line. For the purposes of this section, "official poverty line" means that described in section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)). (5) Sample size. For the purposes of this section, "sample size" means the number of approved applications that a local educational agency is required to verify based on the number of approved applications on file as of October 1 of the current school year. (6) School year. For the purposes of this section, a school year means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year. (7) Sources of information. For the purposes of this section, sources of information for verification may include written evidence, collateral contacts, and systems of records as follows: (i) Written evidence shall be used as the primary source of information for verification. Written evidence includes written confirmation of a household's circumstances, such as wage stubs, award let and letters from employers. Whenever written evidence is insufficient to confirm income information on the application or current eligibility, the local educational agency may require collateral cont (ii) Collateral contacts are verbal confirmations of a household's circumstances by a person outside of the household. The collateral contact may be made in person or by phone. The verifying official

Legal Standards

1,861	§245.6a Verification requirements	Federal	(2) Exceptions from verification. Verification is not required in residential child care institutions; in schools in which FNS has approved special cash assistance claims based on economic statistics regarding per capita income; or in schools in which all children are served with no separate charge for food service and no special cash assistance is claimed. Local educational agencies in which all sc participate in the special assistance certification and reimbursement alternatives specified in §245.9 shall meet the verification requirement only in those years in which applications are taken for all children in attendance. Verification of eligibility is not required of households if all children in the household are determined eligible based on documentation provided by the State or local agency responsible for the administration of the SNAP, FDPIR or TANF or if all children in the household are determined to be foster, homeless, migrant, or runaway, as defined in §245.2. (3) Standard sample size. Unless eligible for an alternative sample size under paragraph (d) of this section, the sample size for each local educational agency shall equal the lesser of: (i) Three (3) percent of all applications approved by the local educational agency for the school year, as of October 1 of the school year, selected from error prone applications; or (ii) 3,000 error prone applications approved by the local educational agency for the school year, as of October 1 of the school year. (iii) Local educational agencies shall not exceed the standard sample size in paragraphs (c)(3)(i) or (c)(3)(ii) of this section, as applicable, and, unless eligible for one of the alternative sample sizes provided in paragraph (c)(4) of this section, the local educational agency shall not use a smaller sample size than those in paragraphs (c)(3)(i) or (c)(3)(ii) of this section, as applicable. (iv) If the number of error-prone applications exceeds the required sample size, the local educational agency shall select the required sample at random, i.e., each application has an equal chance of be selected, from the total number of error-prone applications. (4) Alternative sample sizes. If eligible under paragraph (d) of this section for an alternative sample size, the local educational agency may use one of the following alternative sample sizes: (i) Alternative One. The sample size shall equal the lesser of: (A) 3,000 of all applications selected at random from applications approved by the local educational agency as of October 1 of the school year; or (B) Three (3) percent of all applications selected at random from applications approved by the local educational agency as of October 1 of the school year. (ii) Alternative Two. The sample size shall equal the lesser of the sum of:
1,862	§245.7 Hearing procedure for families and local educational agencies	Federal	(a) Each local educational agency of a school participating in the National School Lunch Program, School Breakfast Program or the Special Milk Program or of a commodity only school shall establish hearing procedure under which: (1) A family can appeal from a decision made by the local educational agency with respect to an application the family has made for free or reduced price meals or for free milk, and (2) The local educational agency can challenge the continued eligibility of any child for a free or reduced price meal or for free milk. The hearing procedure shall provide for both the family and the lo educational agency: (i) A simple, publicly announced method to make an oral or written request for a hearing; (ii) An opportunity to be assisted or represented by an attorney or other person; (iii) An opportunity to examine, prior to and during the hearing, any documents and records presented to support the decision under appeal; (iv) That the hearing shall be held with reasonable promptness and convenience, and that adequate notice shall be given as to the time and place of the hearing; (v) An opportunity to present oral or documentary evidence and arguments supporting a position without undue interference; (vi) An opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses; (vii) That the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal or in any previously held conference; (viii) That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record; (ix) That the parties concerned and any designated representative shall be notified in writing of the decision of the hearing official; (x) That a written record shall be prepared with respect to each hearing, which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimo presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the parties concerned of the decision of the hearing official; and

Legal Standards

1,863	§245.8 Nondiscrimination practices for children eligible to receive free and reduced price meals and free milk	Federal	School Food Authorities and local educational agencies of schools participating in the National School Lunch Program, School Breakfast Program or Special Milk Program or of commodity only schoo shall take all actions that are necessary to insure compliance with the following nondiscrimination practices for children eligible to receive free and reduced price meals or free milk: (a) The names of the children shall not be published, posted or announced in any manner; (b) There shall be no overt identification of any of the children by the use of special tokens or tickets or by any other means; (c) The children shall not be required to work for their meals or milk; (d) The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different (e) When more than one lunch or breakfast or type of milk is offered which meets the requirements prescribed in §210.10, §220.8 or the definition of Milk in §215.2 of this chapter, the children shall the same choice of meals or milk that is available to those children who pay the full price for their meal or milk. [Amdt. 6, 39 FR 30339, Aug. 22, 1974, as amended at 72 FR 63796, Nov. 13, 2007]
1,864	§245.9 Special assistance certification and reimbursement alternatives	Federal	(a) Provision 1. A School Food Authority of a school having at least 80 percent of its enrolled children determined eligible for free or reduced price meals may, at its option, authorize the school to red annual certification and public notification for those children eligible for free meals to once every two consecutive school years. This alternative shall be known as provision 1 and the following requirements shall apply: (1) A School Food Authority of a school operating under provision 1 requirements shall publicly notify in accordance with §245.5, parents of enrolled children who are receiving free meals once ever consecutive school years, and shall publicly notify in accordance with §245.5, parents of all other enrolled children on an annual basis. (2) The 80 percent enrollment eligibility for this alternative shall be based on the school's March enrollment data of the previous school year, or on other comparable data. (3) A School Food Authority of a school operating under provision 1, shall count the number of free, reduced price and paid meals served to children in that school as the basis for monthly reimburse claims. (b) Provision 2. A school food authority may certify children for free and reduced price meals for up to 4 consecutive school years in the schools which serve meals at no charge to all enrolled childre provided that public notification and eligibility determinations are in accordance with §§245.5 and 245.3, respectively, during the base year as defined in paragraph (b)(6) of this section. The Provisi base year is the first year, and is included in the 4-year cycle. The following requirements apply: (1) Meals at no charge. Participating schools must serve reimbursable meals, as determined by a point of service observation, or as otherwise approved under part 210 of this chapter, to all participa children at no charge. (2) Cost differential. The school food authority of a school participating in Provision 2 must pay, with funds from non-Federal sources, the difference between the cost of serving lunches and/or breal at no charge to all participating children and Federal reimbursement. (3) Meal counts. During the base year, even though meals are served to participating students at no charge, schools must take daily meal counts of reimbursable student meals by type (free, reduced p and paid) at the point of service, or as otherwise approved under part 210 of this chapter. During the non-base years, participating Provision 2 schools must take total daily meal counts (not by type) reimbursable student meals at the point of service, or as otherwise approved under part 210 of this chapter. For the purpose of calculating reimbursement claims in the non-base years, school food authorities must establish school specific monthly or annual claiming percentages, as follows: (i) Monthly percentages. In any given Provision 2 school, the monthly meal counts of the actual number of meals served by type (free, reduced price, and paid) during the base year must be converted

Legal Standards

1,865	§245.9 Special assistance certification and reimbursement alternatives continued	Federal	(A) Enrollment based percentages. In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 2 base year by determining program eligibility on the basis o household size and income, and direct certification if applicable, for a statistically valid proportion of the school's enrollment as of October 31, or other date approved by the State agency. The statisti valid measurement of the school's enrollment must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, enrollment b claiming percentages representing a proportion of the school's population eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable m at the point of service, or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 2, these percentages shall be used for claiming reimbursement for each of the new cycle and any extensions; or (B) Participation based percentages. In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 2 base year by determining program eligibility on the basis household size and income, and direct certification if applicable, for a statistically valid proportion of participating students established over multiple operating days. The statistically valid measurem of the school's student participation must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, participation based claiming percentages representing a proportion of the school's participating students which are eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal cou reimbursable meals at the point of service or as otherwise approved under part 210 of this chapter. These percentages shall be used for claiming reimbursement for each year of the new cycle and an extensions; or (iv) Establish a Provision 3 base year. Schools may convert to Provision 3 using the procedures contained in paragraphs (e)(2)(ii) or (e)(2)(iii) of this section. (d) Provision 3. A school food authority of a school which serves all enrolled children in that school reimbursable meals at no charge during any period for up to 4 consecutive school years may elect receive Federal cash reimbursement and commodity assistance at the same level as the total Federal cash and commodity assistance received by the school during the last year that eligibility determinations for free and reduced price meals were made and meals were counted by type (free, reduced price and paid) at the point of service, or as otherwise authorized under part 210 of this chapter. Such cash reimbursement and commodity assistance will be adjusted for each of the 4 consecutive school years pursuant to paragraph (d)(4) of this section. For purposes of this paragraph (the term base year means the last complete school year for which eligibility determinations were made and meal counts by type were taken or the school year in which a school conducted a streamli base year as authorized under paragraph (e)(2)(iii) of this section. The base year must begin at the start of a school year. Reimbursable meals may be offered to all students at no charge or students eligible for reduced price and paid meal benefits may be charged for meals during a Provision 3 base, except that schools conducting a Provision 3 streamlined base year must provide reimbursable m to all participating students at no charge in accordance with paragraph (e)(2)(iii) of this section. The Provision 3 base year immediately precedes, and is not included in, the 4-year cycle. This alternat shall be known as Provision 3, and the following requirements shall apply: (1) Meals at no charge. Participating schools must serve reimbursable meals, as determined by a point of service observation, or as otherwise authorized under part 210 of this chapter, to all particip children at no charge during non-base years of operation or as specified in paragraph (e)(2)(iii) of this section, if applicable.
1,866	§245.9 Special assistance certification and reimbursement alternatives continued	Federal	(i) Available and approved sources of socioeconomic data. Pre-approved sources of socioeconomic data which may be used by school food authorities to establish the income level of the school's population are: local data collected by the city or county zoning and economic planning office; unemployment data; local SNAP certification data including direct certification; Food Distribution Prog on Indian Reservations data; statistical sampling of the school's population using the application process; and Temporary Assistance for Needy Families data (provided that the eligibility standards w the same or more restrictive in the base year as the current year with allowance for inflation). To grant an extension using pre-approved socioeconomic data sources, State agencies must review and evaluate the socioeconomic data submitted by the school food authority to ensure that it is reflective of the school's population, provides equivalent data for both the base year and the last year of the current cycle, and demonstrates that the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement. If the school food authori wants to establish the income level of the school's population using alternate sources of data, the use of such data must be approved by the Food and Nutrition Service. Data from alternate sources mu reflective of the school's population, be equivalent data for both the base year and the last year of the current cycle, and effectively measure whether the income level of the school's population, as adj for inflation, has remained stable, declined or had only negligible improvement. (ii) Negligible improvement. The change in the income level of the school population shall be considered negligible if there is a 5 percent or less improvement, after adjusting for inflation, over the ba year in the level of the socioeconomic indicator which is used to establish the income level of the school's population. (2) Extension not approved. Schools for which the available and approved socioeconomic data does not reflect the school's population, is not equivalent data for the base year and the last year of the current cycle, or shows over 5 percent improvement after adjusting for inflation, shall not be approved for an extension. Such schools must elect one of the following options: (i) Return to standard meal counting and claiming. Return to standard meal counting and claiming procedures; (ii) Establish a new base year. Establish a new Provision 3 base year by taking new free and reduced price applications, making new free and reduced price eligibility determinations, and taking point service counts of free, reduced price and paid meals for the first year of the new cycle. Schools electing to establish a Provision 3 base year shall follow procedures contained in paragraph (d) of this section; (iii) Establish a streamlined base year. With prior approval by the State agency, establish a streamlined base year by providing reimbursable meals to all participating students at no charge and devel either enrollment based or participation based claiming percentages. (A) Enrollment based percentages. In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 3 base year by determining program eligibility on the basis o household size and income, and direct certification if applicable, for a statistically valid proportion of the school's enrollment as of October 31, or other date approved by the State agency. The statisti valid measurement of the school's enrollment must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, enrollment b

Legal Standards

1,867	§245.10 Action by local educational agencies	Federal	(a) Each local educational agencyof a school desiring to participate in the National School Lunch Program, School Breakfast Program, or to provide free milk under the Special Milk Program, or to bec commodity-only school shall submit for approval to the State agency a free and reduced price policy statement. Once approved, the policy statement shall be a permanent document which may be amended as necessary, except as specified in paragraph (c) of this section. Such policy statement, as a minimum, shall contain the following: (1) The official or officials designated by the local educational agency to make eligibility determinations on its behalf for free and reduced price meals or for free milk; (2) An assurance that for children who are not categorically eligible for free and reduced price benefits the local educational agency will determine eligibility for free and reduced price meals or free r in accordance with the current Income Eligibility Guidelines. (3) The specific procedures the local educational agency will use in accepting applications from families for free and reduced price meals or for free milk. Additionally, the local educational agency mu include the specific procedures it will use for obtaining documentation for determining children's eligibility through direct certification, in lieu of an application. Local educational agencies shall also provide households that are directly certified with a notice of eligibility, as specified in §245.6(c)(2) and shall include in their policy statement a copy of such notice. (4) A description of the method or methods to be used to collect payments from those children paying the full price of the meal or milk, or a reduced price of a meal, which will prevent the overt identification of the children receiving a free meal or free milk or a reduced price meal, and (5) An assurance that the school will abide by the hearing procedure set forth in §245.7 and the nondiscrimination practices set forth in §245.8. (b) The policy statement submitted by each local educational agency shall be accompanied by a copy of the application form to be used by the school and of the proposed letter or notice to parents. (c) Each local educational agency shall amend its permanent free and reduced price policy statement to reflect substantive changes. Any amendment to a policy shall be approved by the State agency to implementation, or as provided in paragraph (e) of this section. Each year, if a local educational agency does not have its policy statement approved by the State agency, or FNSRO where applicable October 15, reimbursement shall be suspended for any meals or milk served until such time as the local educational agency's free and reduced price policy statement has been approved by the State agency, or FNSRO where applicable. Furthermore, no commodities donated by the Department shall be used in any school after October 15, until such time as the local educational agency's free and reduced price policy statement has been approved by the State agency, or FNSRO where applicable. Once the local educational agency's free and reduced price policy statement has been approved, reimbursement may be allowed, at the discretion of the State agency, or FNSRO where applicable, for eligible meals and milk served during the period of suspension. (d) If any free and reduced price policy statement submitted for approval by any local educational agency to the State agency, or FNSRO where applicable, is determined to be not in compliance with t
1,868	§245.11 Second review of applications	Federal	(a) General. On an annual basis not later than the end of each school year, State agencies must identify local educational agencies demonstrating a high level of, or risk for, administrative error associa with certification processes and notify the affected local educational agencies that they must conduct a second review of applications beginning in the following school year. The second review of applications must be completed prior to notifying the household of the eligibility or ineligibility of the household for free or reduced price meals. (b) State agency requirements—(1) Selection criteria. Local educational agencies subject to a second review must include: (i) Administrative review certification errors. All local educational agencies with 10 percent or more of the certification/benefit issuances in error, as determined by the State agency during an administrative review; and (ii) State agency discretion. Local educational agencies not selected under paragraph (b)(1)(i) that are at risk for certification error, as determined by the State agency. (2) Reporting requirement. Beginning March 15, 2015, and every March 15 thereafter, each State agency must submit a report, as specified by FNS, describing the results of the second reviews condu by each local educational agency in their State. The report must provide information about applications reviewed in each local educational agency and include: (i) The number of free and reduced price applications subject to a second review; (ii) The number of reviewed applications for which the eligibility determination was changed; (iii) The percentage of reviewed applications for which the eligibility determination was changed; and (iv) A summary of the types of changes that were made. (3) State agencies must provide technical assistance to ameliorate certification related problems at local educational agencies determined to be at risk for certification. (c) Local educational agency requirements. Beginning July 1, 2014, and each July 1 thereafter, local educational agencies selected by the State agency to conduct a second review of applications must ensure that the initial eligibility determination for each application is reviewed for accuracy prior to notifying the household of the eligibility or ineligibility of the household for free and reduced pric meals. The second review must be conducted by an individual or entity who did not make the initial determination. This individual or entity is not required to be an employee of the local educational agency but must be trained on how to make application determinations. All individuals or entities who conduct a second review of applications are subject to the disclosure requirements set forth in

Legal Standards

1,869	§245.12 Action by State agencies and FNSROs	Federal	(a) Each State agency, or FNSRO where applicable, shall, for schools under its jurisdiction: (1) As necessary, each State agency or FNSRO, as applicable, shall issue a prototype free and reduced price policy statement and any other instructions to ensure that each local educational agency as defined in §245.2 is fully informed of the provisions of this part. If the State elects to establish for all schools a maximum price for reduced price lunches that is less than 40 cents, the State shall estab such price in its prototype policy. Such State shall then receive the adjusted national average factor provided for in §210.4(b); (2) prescribe and publicly announce by July 1 of each fiscal year, in accordance with §245.3(a), family-size income standards. Any standards prescribed by FNSRO with respect to nonprofit private schools shall be developed by FNSRO after consultation with the State agency. (a-1) When a revision of the family-size income standards of the State agency, or FNSRO where applicable, is necessitated because of a change in the Secretary's income poverty guidelines or because other program changes, the State agency shall publicly announce its revised family-size income standards no later than 30 days after the Secretary has announced such change. (b) State agencies, and FNSRO where applicable, shall review the policy statements submitted by school-food authorities for compliance with the provisions of this part and inform the school-food authorities of any necessary changes or amendments required in any policy statement to bring such statement into compliance. They shall notify school-food authorities in writing of approval of thei policy statements and shall direct them to distribute promptly the public announcements required under the provisions of §245.5. (c) Each State agency, or FNSRO where applicable, shall instruct local educational agencies under their jurisdiction that they may not alter or amend the eligibility criteria set forth in an approved pol statement without advance approval of the State agency, or FNSRO where applicable. (d) Not later than 10 days after the State agency, or FNSRO where applicable, announces its family-size income standards, it shall notify local educational agencies in writing of any amendment to the and reduced price policy statements necessary to bring the family-sized income criteria into conformance with the State agency's or FNSRO's family-size income standards. (e) Except as provided in §245.10, the State agency, or FNSRO where applicable, shall neither disburse any funds, nor authorize the distribution of commodities donated by the Department to any sch unless the local educational agency has an approved free and reduced price policy statement on file with the State Agency, or FNSRO where applicable. (f) Each State agency, or FNSRO where applicable, shall, in the course of its supervisory assistance, review and evaluate the performance of local educational agencies and of schools in fulfilling the requirements of this part, and shall advise local educational agencies of any deficiencies found and any corrective action required to be taken. (g) The State agency must notify FNS whether the TANF Program in their State is comparable to or more restrictive than the State's Aid to Families with Dependent Children Program that was in effe
1,870	§245.13 State agencies and direct certification requirements	Federal	(a) Direct certification requirements. State agencies are required to meet the direct certification performance benchmarks set forth in paragraph (b) of this section for directly certifying children who members of households receiving assistance under SNAP. A State agency that fails to meet the benchmark must develop and submit to FNS a continuous improvement plan (CIP) to fully meet the requirements of this paragraph and to improve direct certification for the following school year in accordance with the provisions in paragraphs (e), (f), and (g) of this section. (b) Direct certification performance benchmarks. State agencies must meet performance benchmarks for directly certifying for free school meals children who are members of households receiving assistance under SNAP. The performance benchmarks are as follows: (1) 80% for the school year beginning July 1, 2011; (2) 90% for the school year beginning July 1, 2012; and (3) 95% for the school year beginning July 1, 2013, and for each school year thereafter. (c) Data elements required for direct certification rate calculation. Each State agency must provide FNS with specific data elements each year, as follows: (1) Data Element #1—The number of children who are members of households receiving assistance under SNAP that are directly certified for free school meals as of the last operating day in October collected and reported in the same manner and timeframes as specified in §245.11(i). (2) Data Element #2—The unduplicated count of children ages 5 to 17 years old who are members of households receiving assistance under SNAP at any time during the period July 1 through Septer 30. This data element must be provided by the SNAP State agency, as required under 7 CFR 272.8(a)(5), and reported to FNS and to the State agency administering the NSLP in the State by December each year, in accordance with guidelines provided by FNS. (3) Data Element #3— The count of the number of children who are members of households receiving assistance under SNAP who attend a school operating under the provisions of 7 CFR 245.9 in a other than the base year or that is exercising the community eligibility option (CEO). The proxy for this data element must be established each school year through the State's data matching efforts between SNAP records and student enrollment records for these special provision schools that are operating in a non-base year or that are exercising the CEO. Such matching efforts must occur in or to October each year, but no later than the last operating day in October. However, States that have special provision schools exercising the CEO may alternatively choose to include, for these schools, count of the number of identified students directly matched with SNAP used in determining the CEO claiming percentage for that school year, or they may choose to use the count from the SNAP mat conducted by April 1 of the same calendar year, whether or not it was used in the CEO claiming percentages. State agencies must report this aggregated data element to FNS by December 1st each yea

Legal Standards

1,871	§245.14 Fraud penalties	Federal	(a) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department, shall— (1) If such funds, assets, or property are of a value of $100 or more, be fined not more than $25,000 or imprisoned not more than five years of both; or (2) If such funds, assets, or property are of a value of less than $100, be fined not more than $1,000 or imprisoned not more than one year or both. (b) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department, knowing such funds, asse property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (a) of this section. (Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626) [Amdt. 14, 44 FR 37901, June 29, 1979, as amended at 64 FR 50744, Sept. 20, 1999. Redesignated at 78 FR 12230, Feb. 22, 2013, and further redesignated at 79 FR 7054, Feb. 6, 2014]
1,872	§245.15 Information collection/recordkeeping—OMB assigned control numbers	Federal	7 CFR section where requirements are described Current OMB control number 245.3 (a), (b) 0584-0026 245.4 0584-0026 245.5 (a), (b) 0584-0026 245.6 (a), (b), (c), (e) 0584-0026 245.7(a) 0584-0026 245.9 (a), (b), (c) 0584-0026 245.10 (a), (d), (e) 0584-0026 245.11 (a), (a-1), (b), (c), (d), (f) 0584-0026 245.13(a)-(c) 0584-0026 [72 FR 68985, Dec. 6, 2007, as amended at 73 FR 11312, Mar. 3, 2008. Redesignated at 78 FR 12230, Feb. 22, 2013, and further redesignated at 79 FR 7054, Feb. 6, 2014]
1,873	Title 7: Agriculture PART 220—SCHOOL BREAKFAST PROGRAM	Federal	
1,874	§220.1 General purpose and scope	Federal	This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 4 of the Child Nutrition Act of 1966, as amended, which authorizes payments to the Sta assist them to initiate, maintain, or expand nonprofit breakfast programs in schools. [Amdt. 25, 41 FR 34758, Aug. 17, 1976]

Legal Standards

1,875	§220.2 Definitions	Federal	For the purpose of this part the term: 7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Departm programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements. 7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for av and subawards to State and local governmental organizations under Department programs. 7 CFR part 3018 means the Department's Common Rule regarding Governmentwide New Restrictions on Lobbying. Part 3018 implements the requirements established by section 319 of the 1990 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 101-121). 7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CI part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs. 7 CFR part 3052 means the Department's regulations implementing A-133, "Audits of State, Local Governments, and Non-Profit Organizations." (For availability of OMB Circulars referenced in this definition, see 5 CFR 1310.3.) Act means the Child Nutrition Act of 1966, as amended. Applicable credits shall have the meaning established in Office of Management and Budget Circulars A-87, C(4) and A-122, Attachment A, A(5), respectively. For availability of OMB circulars reference this definition see 5 CFR 1310.3. Breakfast means a meal which meets the meal requirements set out in §§220.8 and 220.23, and which is served to a child in the morning hours. The meal shall be served at or close to the beginning o child's day at school. Child means: (1) A student of high school grade or under as determined by the State educational agency, who is enrolled in an educational unit of high school grade or under as described in paragrapl and (2) of the definition of "School", including students who are mentally or physically disabled as defined by the State and who are participating in a school program established for the mentally or
1,876	§220.3 Administration	Federal	(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program covered by this part. Within FNS, CND shall be responsible for administration of the Progra (b) Within the States, responsibility for the administration of the Program in schools as described in paragraphs (1) and (2) of the definition of School in §220.2 shall be in the State educational agenc except that FNSRO shall administer the Program with respect to nonprofit private schools and adding in their place the words "as described in paragraph (1) of the definition of School in §220.2 in ar State wherein the State educational agency is not permitted by law to disburse Federal funds paid to it under the Program; Provided, however, That FNSRO shall also administer the Program in all oth nonprofit private schools which have been under continuous FNS administration since October 1, 1980, unless the administration of such private schools is assumed by a State agency. (c) Within the States, responsibility for the administration of the Program in schools, as described in paragraph (3) of the definition of School in §220.2, shall be in the State educational agency, or if t State educational agency cannot administer the Program in such schools, such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority the State and approved by the Department to administer the Program in such schools: Provided, however, That FNSRO shall administer the Program in such schools if the State agency is not permitte law to disburse Federal funds paid to it under the Program to such schools; and Provided, further, That FNSRO shall also administer the Program in all other such schools which have been under continuous FNS administration since October 1, 1980, unless the administration of such schools is assumed by a State agency. (d) References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program. (e) Each State agency desiring to take part in any of the programs shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part, 7 CFR parts 235, 245, 15, 15a, 15b and, as applicable, 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, and with FNS Instructions. Such agreement shall cover the operat the Program during the period specified therein and may be extended at the option of the Department. (Sec. 804, 816 and 817, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771 and 1785); 44 U.S.C. 3506) [Amdt. 25, 41 FR 34759, Aug. 17, 1976, as amended at 47 FR 745, Jan. 7, 1982; Amdt. 42, 47 FR 14133, Apr. 2, 1982; Amdt. 56, 54 FR 2990, Jan. 23, 1989; 71 FR 39517, July 13, 2006; 72 FR 63792, Nov 2007]

Legal Standards

1,877	§220.4 Payment of funds to States and FNSROs	Federal	(a) To the extent funds are available, the Secretary shall make breakfast assistance payments to each State agency for breakfasts served to children under the Program. Subject to §220.13(b)(2), the to these payments for each State for any fiscal year shall be limited to the total amount of reimbursement payable to eligible schools within the State under this part for the fiscal year. (b) The Secretary shall prescribe by July 1 of each fiscal year annual adjustments to the nearest one-fourth cent in the national average per breakfast factors for all breakfasts and for free and reduced breakfasts, that shall reflect changes in the cost of operating a breakfast program. (c) In addition to the funds made available under paragraph (a) of this section, funds shall be made available to the State agencies, and FNSROs where applicable, in such amounts as are needed to fina reimbursement rates assigned in accordance with the provisions of §220.9(c). (Secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1759(a), 1773, 1758); Pub. L. 97-370, 96 Stat. 1806) [38 FR 35554, Dec. 28, 1973, as amended at 40 FR 30923, July 24, 1975; 46 FR 51367, Oct. 20, 1981; 48 FR 20896, May 10, 1983; Amdt. 49, 49 FR 18987, May 4, 1984]
1,878	§220.5 Method of payment to States	Federal	Funds to be paid to any State for the School Breakfast Program shall be made available by means of Letters of Credit issued by FNS in favor of the State agency. The State agency shall: (a) Obtain funds needed for reimbursement to School Food Authorities through presentation by designated State officials of a payment Voucher on Letter of Credit in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department; (b) submit requests for funds only at such times and in such amounts, as will permit prompt payment of claims or authorized adva and (c) use the funds received from such requests without delay for the purpose for which drawn. [Amdt. 25, 41 FR 34759, Aug. 17, 1976]
1,879	§220.6 Use of funds	Federal	(a) Federal funds made available under the School Breakfast Program shall be used by State agencies, or FNSROs where applicable, to reimburse or make advance payments to School Food Authoritie connection with breakfasts served in accordance with the provisions of this part. However, with the approval of FNS, any State agency, or FNSRO where applicable, may reserve for use in carrying ou special developmental projects an amount up to 1 per centum of the funds earned in any fiscal year under the School Breakfast Program. Advance payments to School Food Authorities may be made such times and in such amounts as are necessary to meet current obligations. (b) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department, shall— (1) If such funds, assets, or property are of a value of $100 or more, be fined not more than $25,000 or imprisoned not more than 5 years or both; or (2) If such funds, assets, or property are of a value of less than $100, be fined not more than $1,000 or imprisoned not more than one year or both. (c) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department, knowing such funds, asse property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (b) of this section. (Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624 (42 U.S.C. 1757); sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626) [40 FR 30923, July 24, 1975, as amended by Amdt. 25, 41 FR 34759, Aug. 17, 1976; Amdt. 28, 44 FR 37899, June 29, 1979; 64 FR 50742, Sept. 20, 1999]

Legal Standards

1,880	§220.7 Requirements for participation	Federal	(a) The School Food Authority shall make written application to the State agency, or FNSRO where applicable, for any school in which it desires to operate the School Breakfast Program, if such schoo not participate in the Program in the prior fiscal year. The School Food Authority shall also submit for approval, either with the application or at the request of the State agency, or FNSRO where appl a free and reduced price policy statement in accordance with part 245 of this chapter. A School Food Authority which simultaneously makes application for the National School Lunch Program and th School Breakfast Program shall submit one free and reduced price policy statement which shall provide that the terms, conditions, and eligibility criteria set forth in such policy statement shall apply the service of free and reduced price lunches and to the service of free and reduced price breakfasts. If, at the time application is made for the School Breakfast Program, a School Food Authority has a approved free and reduced price policy statement on file with the State agency, or FNSRO where applicable, for the National School Lunch Program, it need only confirm in writing that such approved policy statement will also apply to the operation of its School Breakfast Program. Applications for the School Breakfast Program shall not be approved in the absence of an approved free and reduced policy statement. (1) A school which also either participates in the National School Lunch Program or only receives donations of commodities for its nonprofit lunch program under the provisions of part 250 of this ch (commodity only school) shall apply the same set of eligibility criteria so that children who are eligible for free lunches shall also be eligible for free breakfasts and children who are eligible for reduc price lunches shall also be eligible for reduced price breakfasts. (2) Schools shall obtain a minimum of two food safety inspections per school year conducted by a State or local governmental agency responsible for food safety inspections. Schools participating in than one child nutrition program shall only be required to obtain a minimum of two food safety inspections per school year if the food preparation and service for all meal programs take place at the facility. Schools shall post in a publicly visible location a report of the most recent inspection conducted, and provide a copy of the inspection report to a member of the public upon request. (3) The school food authority must implement a food safety program meeting the requirements of §§210.13(c) and 210.15(b)(5) of this chapter at each facility or part of a facility where food is store prepared, or served. (b) Applications shall solicit information in sufficient detail to enable the State agency to determine whether the School Food Authority is eligible to participate in the Program and extent of the need Program payments. (c) Within the funds available to them, State agencies, or FNSRO's where applicable, shall approve for participation in the School Breakfast Program any school making application and agreeing to car out the program in accordance with this part. State agencies, or FNSRO's where applicable, have a positive obligation, however, to extend the benefits of the School Breakfast Program to children atte schools in areas where poor economic conditions exist. (d)(1) Any school food authority (including a State agency acting in the capacity of a school food authority) may contract with a food service management company to manage its food service operati
1,881	§220.8 Meal requirements for breakfasts	Federal	(a) General requirements. This section contains the meal requirements applicable to school breakfasts for students in grades K to 12. With the exception of the milk component, the meal requirement must be implemented beginning July 1, 2013 or as otherwise specified. School food authorities wishing to adopt the provisions of this section prior to the required date of compliance may do so with approval of the State agency. In general, school food authorities must ensure that participating schools provide nutritious, well-balanced, and age-appropriate breakfasts to all the children they serve improve their diet and safeguard their health. (1) General nutrition requirements. School breakfasts offered to children age 5 and older must meet, at a minimum, the meal requirements in paragraph (b) of this section. Schools must follow a food based menu planning approach and produce enough food to offer each child the quantities specified in the meal pattern established in paragraph (c) of this section for each age/grade group served in school. In addition, school breakfasts must meet the dietary specifications in paragraph (f) of this section. Schools offering breakfasts to children ages 1 to 4 and infants must meet the meal pattern requirements in paragraph (o) of this section. When breakfast is served in the cafeteria, schools must make potable water available and accessible without restriction to children at no charge. (2) Unit pricing. Schools must price each meal as a unit. The price of a reimbursable lunch does not change if the student does not take a food item or requests smaller portions. Schools must identify, or at the beginning of the serving line(s), the food items that constitute the unit-priced reimbursable school meal(s). (3) Production and menu records. Schools or school food authorities, as applicable, must keep production and menu records for the meals they produce. These records must show how the meals offe contribute to the required food components and food quantities for each age/grade group every day. Labels or manufacturer specifications for food products and ingredients used to prepare school must indicate zero grams of trans fat per serving (less than 0.5 grams). Schools or school food authorities must maintain records of the latest nutritional analysis of the school menus conducted by th State agency. Production and menu records must be maintained in accordance with FNS guidance. (b) Meal requirements for school breakfasts. School breakfasts for children ages 5 and older must reflect food and nutrition requirements specified by the Secretary. Compliance with these requirem once fully implemented as specified in paragraphs (c), (d), (e), (f), (h), (i), and (j) of this section, is measured as follows: (1) On a daily basis: (i) Meals offered to each age/grade group must include the food components and food quantities specified in the meal pattern in paragraph (c) of this section; (ii) Food products or ingredients used to prepare meals must contain zero grams of trans fat per serving or a minimal amount of naturally occurring trans fat as specified in paragraph (f) of this secti and

Legal Standards

1,882	§220.8 Meal requirements for breakfasts continued	Federal	(c) Meal pattern for school breakfasts. A school must offer the food components and quantities required in the breakfast meal pattern established in the following table: Breakfast meal pattern Grades K-5 Grades 6-8 Grades 9-12 Meal pattern Amount of fooda per week (Minimum per day) Fruits (cups)b c 5 (1) 5 (1) 5 (1) Vegetables (cups)b c 0 0 0 Dark green 0 0 0 Red/Orange 0 0 0 Beans and peas (legumes) 0 0 0 Starchy 0 0 0 Other 0 0 0 Grains (oz eq)d 7-10 (1) 8-10 (1) 9-10 (1) Meats/Meat Alternates (oz eq)e 0 0 0 Fluid milkf (cups) 5 (1) 5 (1) 5 (1) Other Specifications: Daily Amount Based on the Average for a 5-Day Week Min-max calories (kcal)g h 350-500 400-550 450-600 Saturated fat (% of total calories)h <10 <10 <10 Sodium (mg)h i ≤430 ≤470 ≤500 Trans fath j Nutrition label or manufacturer specifications must indicate zero grams of trans fat per serving. aFood items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup. bOne quarter cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juic must be 100% full-strength. cBeginning July 1, 2014 (SY 2014-2015) schools must offer 1 cup of fruit daily and 5 cups of fruit weekly. Vegetables may be substituted for fruits, but the first two cups per week of any such substitu
1,883	§220.8 Meal requirements for breakfasts continued	Federal	(1) Age/grade groups. Effective July 1, 2013 (SY 2013-2014), schools must plan menus for students using the following age/grade groups: Grades K-5 (ages 5-10), grades 6-8 (ages 11-13), and grades (ages 14-18). If an unusual grade configuration in a school prevents the use of the established age/grade groups, students in grades K-5 and grades 6-8 may be offered the same food quantities at bre provided that the calorie and sodium standards for each age/grade group are met. No customization of the established age/grade groups is allowed. (2) Food components. Schools must offer students in each age/grade group the food components specified in meal pattern in paragraph (c). Food component descriptions in §210.10 of this chapter a to this Program. (i) Meats/meat alternates component. Schools are not required to offer meats/meat alternates as part of the breakfast menu. Effective July 1, 2013 (SY 2013-2014), schools may substitute meats/mea alternates for grains, after the daily grains requirement is met, to meet the weekly grains requirement. One ounce equivalent of meat/meat alternate is equivalent to one ounce equivalent of grains. (A) Enriched macaroni. Enriched macaroni with fortified protein as defined in Appendix A to Part 210 may be used to meet part of the meats/meat alternates requirement when used as specified in Appendix A to Part 210. An enriched macaroni product with fortified protein as defined in Appendix A to Part 210 may be used to meet part of the meats/meat alternates component or the grains component but may not meet both food components in the same lunch. (B) Nuts and seeds. Nuts and seeds and their butters are allowed as meat alternates in accordance with program guidance. Acorns, chestnuts, and coconuts may not be used because of their low prote and iron content. Nut and seed meals or flours may be used only if they meet the requirements for Alternate Protein Products established in Appendix A to Part 220. Nuts or seeds may be used to mee more than one-half (50 percent) of the meats/meat alternates component with another meats/meat alternates to meet the full requirement. (C) Yogurt. Yogurt may be used to meet all or part of the meats/meat alternates component. Yogurt may be plain or flavored, unsweetened or sweetened. Noncommercial and/or non-standardized yo products, such as frozen yogurt, drinkable yogurt products, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits and/or nuts or similar products are not creditable. Four ou (weight) or 1/2 cup (volume) of yogurt equals one ounce of the meats/meat alternates requirement. (D) Tofu and soy products. Commercial tofu and soy products may be used to meet all or part of the meats/meat alternates component in accordance with FNS guidance. Noncommercial and/or non-standardized tofu and products are not creditable. (E) Beans and peas (legumes). Cooked dry beans and peas (legumes) may be used to meet all or part of the meats/meat alternates component. Beans and peas (legumes) are identified in this section include foods such as black beans, garbanzo beans, lentils, kidney beans, mature lima beans, navy beans, pinto beans, and split peas.

Legal Standards

1,884	§220.8 Meal requirements for breakfasts continued	Federal	(f) Dietary specifications. (1) Calories. Effective July 1, 2013 (SY 2013-2014), school breakfasts offered to each age/grade group must meet, on average over the school week, the minimum and maxim calorie levels specified in the following table: Calorie Ranges for Breakfast—Effective SY 2013-2014 Grades K-5 Grades 6-8 Grades 9-12 Minimum-maximum calories (kcal)a b 350-500 400-550 450-600 aThe average daily amount for a 5-day school must fall within the minimum and maximum levels. bDiscretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, trans fat, and sodium. (2) Saturated fat. Effective July 1, 2012 (SY 2012-2013), school breakfasts offered to all age/grade groups must, on average over the school week, provide less than 10 percent of total calories from saturated fat.
1,885	§220.8 Meal requirements for breakfasts continued	Federal	(3) Sodium. School breakfasts offered to each age/grade group must meet, on average over the school week, the levels of sodium specified in the following table within the specified deadlines: Sodium Reduction: Timeline & Amount Age/grade group Baseline: average current sodium levels as offered1 (mg) Target 1: July 1, 2014 SY 2014-2015 (mg) Target 2: July 1, 2017 SY 2017-2018 (mg) Final Target: July 1, 2022 SY 2022-2023 (mg) School Breakfast Program K-5 573 (elementary) ≤540 ≤485 ≤430 6-8 629 (middle) ≤600 ≤535 ≤470 9-12 686 (high) ≤640 ≤570 ≤500 1SNDA-III. (4) Trans fat. Effective July 1, 2013 (SY 2013-2014), food products and ingredients used to prepare school meals must contain zero grams of trans fat (less than 0.5 grams) per serving. Schools must a the trans fat specification and request the required documentation (nutrition label or manufacturer specifications) in their procurement contracts. Documentation for food products and food ingredi must indicate zero grams of trans fat per serving. Meats that contain a minimal amount of naturally-occurring trans fats are allowed in the school meal programs. (g) Compliance assistance. The State agency and school food authority must provide technical assistance and training to assist schools in planning breakfasts that meet the meal pattern in paragraph this section and the dietary specifications for calorie, saturated fat, sodium, and trans fat established in paragraph (f) of this section. Compliance assistance may be offered during training, onsite visit

Legal Standards

1,886	§220.8 Meal requirements for breakfasts continued	Federal	(i) State agency responsibilities for nutrient analysis. State agencies must conduct a weighted nutrient analysis of all foods offered in a reimbursable breakfast by a school selected for administrative review to determine the average levels of calories, saturated fat, and sodium in the meals offered over a school week within the review period. The analysis must be conducted in accordance with the procedures established in §210.10(i) of this chapter. (j) State agency's responsibilities for compliance monitoring. Effective SY 2013-2014, compliance with the applicable meal requirements in paragraph (b) will be monitored by the State agency throu administrative reviews authorized in §210.18 of this chapter. (k) Menu choices at breakfast. The requirements in §210.10(k) of this chapter also apply to this Program. (l) Requirements for breakfast period. (1) Timing. Schools must offer breakfasts meeting the requirements of this section at or near the beginning of the school day. (2) [Reserved] (m) Exceptions and variations allowed in reimbursable meals. The requirements in §210.10(m) of this chapter also apply to this Program. (n) Nutrition disclosure. The requirements in §210.10(n) of this chapter also apply to this Program. (o) Breakfasts for preschoolers and infants. (1) Nutrition standards for breakfasts for children age 1 to 4. Until otherwise instructed by the Secretary, breakfasts for preschoolers, when averaged over school week, must meet the nutrition standards and the appropriate nutrient and calorie levels in this section. The nutrition standards are: (i) Provision of one-fourth of the Recommended Dietary Allowances (RDA) for protein, calcium, iron, vitamin A and vitamin C in the appropriate levels (see paragraph (o)(2) of this section); (ii) Provision of the breakfast energy allowances (calories) for children in the appropriate levels (see paragraph (o)(2) of this section); (iii) The following dietary recommendations: (A) Eat a variety of foods;
1,887	§220.8 Meal requirements for breakfasts continued	Federal	(2) Nutrient and calorie levels for breakfasts for preschoolers. Under the traditional food-based menu planning approach, the required levels are: Minimum Nutrient and Calorie Levels for School Breakfasts [Traditional Food-Based Menu Planning Approach] Age 21 Ages 3-4 Nutrients and energy allowances School week averages Energy allowances (calories) 325 388 Total fat (as a percentage of actual total food energy) (2) (2) Saturated fat (as a percentage of actual total food energy) (2) (2) RDA for protein (g) 4 5 RDA for calcium (mg) 200 200 RDA for iron (mg) 2.5 2.5 RDA for Vitamin A (RE) 100 113 RDA for Vitamin C (mg) 10 11 1Nutrient and calorie levels start at age 2 because the “Dietary Guidelines for Americans” apply to ages 2 and older. 2The 1995 “Dietary Guidelines for Americans” recommend that after 2 years of age “children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories f fat.” (3) Meal pattern for preschoolers. (i) Food items. Schools must offer these food items in at least the portions required for each age group: (A) A serving of fluid milk as a beverage or on cereal or used partly for both; (B) A serving of fruit or vegetable or both, or full-strength fruit or vegetable juice; and

Legal Standards

1,888	§220.8 Meal requirements for breakfasts continued	Federal	(ii) Quantities for the traditional food-based menu planning approach. At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the followin table: Traditional Food-Based Menu Planning Approach Meal Plan for Breakfasts Ages 1-2 Ages 3-4 Food components and food items School week averages Fluid milk (as a beverage, on cereal, or both) 4 fluid ounces 6 fluid ounces1. Juice/Fruit/Vegetable: Fruit and/or vegetable; or full-strength fruit or vegetable juice 1/4 cup 1/2 cup. Select one serving from each of the following components, two from one component, or an equivalent combination: Grains/Breads: Whole grain or enriched bread 1/2 slice 1/2 slice. Whole grain or enriched bread product, such as biscuit, roll, muffin 1/2 serving 1/2 serving. Whole grain, enriched or fortified cereal 1/4 cup or 1/3 ounce 1/3 cup or 1/2 ounce. Meat or Meat Alternates: Meat/poultry or fish 1/2 ounce 1/2 ounce. Alternate protein products2 1/2 ounce 1/2 ounce Cheese 1/2 ounce 1/2 ounce. Large egg 1/2 1/2 Peanut butter or other nut or seed butters 1 tablespoon 1 tablespoon. Cooked dry beans and peas 2 tablespoons 2 tablespoons. Nuts and/or seeds (as listed in program guidance)3 1/2 ounce 1/2 ounce. Yogurt, plain or flavored, unsweetened or sweetened 2 ounces or 1/4 cup 2 ounces or 1/4 cup. 1Fluild milk for children ages 3-4 must be fat-free (unflavored or flavored) or low-fat (unflavored only) 2Must meet the requirements in appendix A of this part.
1,889	§220.8 Meal requirements for breakfasts continued	Federal	(iii) Offer versus serve. Schools must offer all four required food items. At the school food authority's option, students in preschool may decline one of the four food items. The price of a reimbursable breakfast does not change if the student does not take a menu item or requests smaller portions. (iv) Exceptions and variations allowed in reimbursable breakfasts. Schools must follow the requirements in §210.10(m) of this chapter. (4) Fluid milk requirement. A serving of fluid milk as a beverage or on cereal or used in part for each purpose must be offered for breakfasts. Schools must offer students in age group 1-2 fluid milk in variety of fat contents, flavored or unflavored. Schools may also offer this age group lactose-free or reduced-lactose fluid milk. For students in age group 3-4, schools must offer fat-free milk (unflavor flavored) and low-fat milk (unflavored only). Schools may also offer this age group lactose-free and reduced-lactose milk that is fat-free or low-fat. Students in age group 3-4 must be offered a variety least two different options) of fluid milk. All milk served in the Program must be pasteurized fluid milk which meets State and local standards for such milk. All fluid milk must have vitamins A and D levels specified by the Food and Drug Administration and must be consistent with State and local standards for such milk. Schools must also comply with other applicable milk requirements in §210.10(d)(2), §210.10(d)(3), and §210.10(d)(4) of this chapter. (5) Additional foods. Schools may offer additional foods with breakfasts to children over one year of age. (6) Menu choices at breakfast. Schools must follow the requirements in §210.10(l) of this chapter. (7) Exceptions and variations allowed in reimbursable meals. Schools must follow the requirements in §210.10(m) of this chapter. (8) Nutrition disclosure. Schools must follow the requirements in §210.10(n) of this chapter. (9) State agency's responsibilities for monitoring breakfasts. As part of the administrative review authorized under §210.18(g)(2) of this chapter, State agencies must evaluate compliance with the m pattern requirements (food components and quantities) in paragraph (o)(3) of this section. If the meals do not meet the requirements of this section, the State agency or school food authority must provide technical assistance and require the reviewed school to take corrective action. In addition, the State agency must take fiscal action as authorized in §210.18(m) and 210.19(c) of this chapter. (10) Requirements for the infant breakfast pattern. (i) Feeding breakfasts to infants. Breakfasts served to infants ages birth through 11 months must meet the requirements described in paragraph (o)(11)(iv) of this section. Foods included in the breakfast must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in §210.10(m) of this chapter.

Legal Standards

1,890	§220.8 Meal requirements for breakfasts continued	Federal	(v) Infant meal pattern table. The minimum amounts of food components to serve to infants, as described in paragraph (o)(11)(iv) of this section, are: Breakfast Pattern for Infants Birth through 3 months 4 through 7 months 8 through 11 months 4-6 fluid ounces of formula1 or breastmilk2 3 4-8 fluid ounces of formula1 or breastmilk;2 3 and 0-3 tablespoons of infant cereal1 4 6-8 fluid ounces of formula1 or breastmilk;2 3 and 2-4 tablespoons of infant cereal;1 and 1-4 tablespoons of fruit or vegetable or both. 1Infant formula and dry infant cereal must be iron-fortified. 2Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served from birth through 11 months. 3For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with addition breastmilk offered if the infant is still hungry. 4A serving of this component is required only when the infant is developmentally ready to accept it. [77 FR 4154, Jan. 26, 2012, as amended at 78 FR 39093, June 28, 2013]
1,891	§220.9 Reimbursement payments	Federal	(a) State agencies, or FNSRO's where applicable, shall make reimbursement payments to schools only in connection with breakfasts meeting the requirements of §220.8, and reported in accordance v §220.11(b) of this part. School Food Authorities shall plan for and prepare breakfasts on the basis of participation trends, with the objective of providing one breakfast per child per day. Production a participation records shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate th number of breakfasts needed and to reduce the resultant waste, any excess breakfasts that are prepared may be served to eligible children and may be claimed for reimbursement unless the State age or FNSRO where applicable, determines that the School Food Authority has failed to plan and prepare breakfasts with the objective of providing one breakfast per child per day. In no event shall the S Food Authority claim reimbursement for free and reduced price breakfasts in excess of the number of children approved for free and reduced price meals. (b) The rates of reimbursement for breakfasts served to eligible children in schools not in severe need are the applicable national average payment factors for breakfasts. The maximum rates of reimbursement for breakfasts served to eligible children in schools determined to be in severe need are those prescribed by the Secretary. National average payment factors and maximum rates of reimbursement for the School Breakfast Program shall be prescribed annually by the Secretary in the Federal Register. (c) The total reimbursement for breakfasts served to eligible children in schools not in severe need, and schools in severe need during the school year shall not exceed the sum of the products obtaine multiplying the total numbers of such free, reduced price and paid breakfasts, respectively, by the applicable rate of reimbursement for each type of breakfast as prescribed for the school year. (d) The State agency, or FNSRO where applicable, shall determine whether a school is in severe need based on the following eligibility criteria: (1) The school is participating in or desiring to initiate a breakfast program; and (2) At least 40 percent of the lunches served to students at the school in the second preceding school year were served free or at a reduced price. Schools that did not serve lunches in the second prec year and that would like to receive reimbursement at the severe need rate may apply to their administering State agency. The administering State agency shall approve or deny such requests in accor with guidance, issued by the Secretary, that determines that the second preceding school year requirement would otherwise have been met. (Sec. 6, Pub. L. 95-627, 92 Stat. 3620 (42 U.S.C. 1776; secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1753, 1759(a), 1758, 1773; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 177 1757); 44 U.S.C. 3506)) [Amdt. 25, 41 FR 34760, Aug. 17, 1976, as amended by Amdt. 29, 44 FR 48159, Aug. 17, 1979; Amdt. No. 38, 46 FR 50928, Oct. 16, 1981; 46 FR 51368, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982; 47 FR 313 July 20, 1982; 48 FR 40196, 40197, Sept. 6, 1983; 60 FR 31222, June 13, 1995; 65 FR 26923, May 9, 2000; 70 FR 66249, Nov. 2, 2005]
1,892	§220.10 Effective date for reimbursement	Federal	Reimbursement payments under the School Breakfast Program may be made only to School Food Authorities operating under an agreement with the State Agency or the Department, and may be ma only after execution of the agreement. Such payments may include reimbursement in connection with breakfasts served in accordance with provisions of the program in the calendar month precedin calendar month in which the agreement is executed. [32 FR 35, Jan. 5, 1967, as amended by Amdt. 9, 37 FR 9613, May 13, 1972]

Legal Standards

1,893	§220.11 Reimbursement procedures	Federal	(a) To be entitled to reimbursement under this part, each School Food Authority shall submit to the State agency, or FNSRO where applicable, a monthly Claim for Reimbursement. (b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the Reports of School Program Operations require under §220.13(b)(2). Unless otherwise approved by FNS, the Claim for Reimbursement for any month shall include only breakfasts served in that month except if the first or last month of Program operations for any year contains 10 operating days or less, such month may be added to the Claim for Reimbursement for the appropriate adjacent month; however, Claims for Reimbursement may n combine operations occurring in two fiscal years. If a single State agency administers any combination of the Child Nutrition Programs, the SFA shall be able to use a common claim form with respect claims for reimbursement for meals served under those programs. A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency, or FNSRO where applicable, not later t 60 days following the last day of the full month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not postmarked and/or submitted within 60 days shall be paid with Program funds unless FNS determines that an exception should be granted. The State agency, or FNSRO where applicable, shall promptly take corrective action with respect to any Claim Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month and are reflected in the final Report of School Program Operations (FNS-10 the claim month which is required under §220.13(b)(2). Upward adjustments in Program funds claimed which are not reflected in the final FNS-10 for the claim month shall not be made unless autho by FNS. Downward adjustments in Program funds claimed shall always be made, without FNS authorization, regardless of when it is determined that such adjustments are necessary. (c) Where a school participates in both the National School Lunch Program and the School Breakfast Program, the State agency or FNSRO, where applicable, may authorize the submission of one clai reimbursement to cover both programs. (d) [Reserved] (e) Notwithstanding any other provision of this section, the State agency, or FNSRO where applicable, may advance funds available for the School Breakfast Program to a School Food Authority in an amount equal to the reimbursement estimated for the total number of breakfasts, including free and reduced price breakfasts, to be served to children for 1 month. The State agency, or FNSRO where applicable, shall require School Food Authorities who receive advances of funds under the provisions of this paragraph to make timely submissions of claims for reimbursement on a monthly basis a shall suspend advances of funds in the absence of such timely submissions. Following the receipt of claims the State agency, or FNSRO where applicable, shall make such adjustments as are necessary such advances of funds to insure that the total amount of reimbursement received by a School Food Authority for the fiscal year will not exceed an amount equal to the number of breakfasts, includin and reduced price breakfast, served to children times the respective rates of reimbursement assigned by the State agency, or FNSRO where applicable, in accordance with §220.9. (Title 1, Chapter I, Pub. L. 96-38, 93 Stat. 98 (42 U.S.C. 1776a); secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 1757); Pub. L. 97-370, 96 Stat. 1806)
1,894	§220.12 Competitive food services	Federal	School food authorities must comply with the competitive food service and standards requirements specified in §210.11 of this chapter. [78 FR 39093, June 28, 2013]

Legal Standards

1,895	§220.12a Competitive food services	Federal	(a) State agencies and School Food Authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with breakfasts served under the Program. Such rul regulations shall prohibit the sale of foods of minimal nutritional value, as listed in appendix B of this part, in the food service areas during the breakfast periods. The sale of other competitive foods n the discretion of the State agency and the School Food Authority, be allowed in the food service area during the breakfast period only if all income from the sale of such foods accrues to the benefit of nonprofit school food service or the school or student organizations approved by the school. State agencies and School Food Authorities may impose additional restrictions on the sale of and income all foods sold at any time throughout schools participating in the School Breakfast Program. (b)(1) Any person may submit a petition to FNS requesting that an individual food be exempted from a category of foods of minimal nutritional value listed in appendix B. In the case of artificially sweetened foods, the petition must include a statement of the percent of RDI for the eight nutrients listed in the definition of Foods of minimal nutritional value in §220.2 that the food provides per se and the petitioner's source of this information. In the case of all other foods, the petition must include a statement of the percent of RDI for the eight nutrients listed in the definition of Foods of minir nutritional value in §220.2 that the food provides per serving and per 100 calories and the petitioner's source of this information. The Department will determine whether or not the individual food i food of minimal nutritional value as defined the definition of Foods of minimal nutritional value in §220.2, and will inform the petitioner in writing of such determination, and the public by notice in t Federal Register as indicated under paragraph (b)(3) of this section. In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be t into account. (2) Any person may submit a petition to FNS requesting that foods in a particular category of foods be classified as meeting the definition of Foods of minimal nutritional value in §220.2. The petition identify and define the food category in easily understood language, list examples of the foods contained in the category and include a list which the foods in that category usually contain. If, upon rev the petition, the Department determines that the foods in that category should not be classified as foods of minimal nutritional value, the petitioner will be so notified in writing. If upon review of the petition, the Department determines that there is a substantial likelihood that the foods in that category should be classified as meeting the definition of Foods of minimal nutritional value in §220.2, Department shall at that time inform the petitioner. In addition, the Department shall publish a proposed rule restricting the sale of the foods in that category, setting forth the reasons for this action, soliciting public comments. On the basis of comments received within 60 days of publication of the proposed rule and other available information, the Department will determine whether the nutrier composition of the foods indicates that the category should be classified as a category of foods of minimal nutritional value. The petitioner shall be notified in writing and the public shall be notified of the Department's final determination upon publication in the Federal Register as indicated under section (b)(3) of this sec (3) By May 1 and November 1 of each year, the Department shall amend appendix B to exclude those individual foods identified under paragraph (b)(1) of this section, and to include those categories foods identified under paragraph (b)(2) of this section, Provided That there are necessary changes. (c) Definitions. For the purpose of this section:
1,896	§220.13 Special responsibilities of State agencies	Federal	(a) [Reserved] (a-1) Each State agency, or FNSRO where applicable, shall require each School Food Authority of a school participating in the School Breakfast Program to develop and file for approval a free and redu price policy statement in accordance with paragraph (a) of §220.7. (b) Records and reports. (1) Each State agency shall maintain Program records as necessary to support the reimbursement payments made to School Food Authorities under §220.9 and the reports submitted to FNS under §220.13(b)(2). The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of submission of the final Financ Status Report for the fiscal year, except that if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues rais the audit. (2) Each State agency shall submit to FNS a final Report of School Program Operations (FNS-10) for each month which shall be limited to claims submitted in accordance with §220.11(b) and which s be postmarked and/or submitted no later than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is no submitted within this time limit unless FNS grants an exception. Upward adjustments to a State agency's report shall not be made after 90 days from the month covered by the report unless authoriz FNS. Downward adjustments shall always be made, without FNS authorization, regardless of when it is determined that such adjustments are necessary. Adjustments shall be reported to FNS in accordance with procedures established by FNS. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF-269) on the use of Program funds. Such reports shall be postmarke and/or submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. A final Financial Status Report for each fiscal shall be postmarked and/or submitted to FNS within 120 days after the end of the fiscal year. FNS shall not be responsible for reimbursing unpaid Program obligations reported later than 120 days a the close of the fiscal year in which they were incurred. (3) For each of school years 2005-2006 through 2014-2015, each State agency shall monitor school food authority compliance with the food safety inspection requirement in §220.7(a)(2) and submi annual report to FNS documenting school compliance based on data supplied by the school food authorities. The report must be filed by November 15 following each of school years 2005-2006 throu 2014-2015, beginning November 15, 2006. The State agency shall keep the records supplied by the school food authorities showing the number of food safety inspections obtained by schools for the current and three most recent school years. (c) Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of either program, and shall take appropriate action to correct any irregularities. State Agencies shall maintain on file evidence of such investigations and actions. FNS or OI shall make investigations at the request of the State Agency or where FNS or OI determines investigations are appropriate.

Legal Standards

1,897	§220.14 Claims against school food authorities	Federal	(a) State agencies shall disallow any portion of a claim and recover any payment made to a School Food Authority that was not properly payable under this part. State agencies will use their own procedures to disallow claims and recover overpayments already made. (b) [Reserved] (c) The State agency may refer to CND through the FNSRO for determination any action it proposes to take under this section. (d) The State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain. (e) If CND does not concur with the State agency's action in paying a claim or a reclaim, or in failing to collect an overpayment, CND shall assert a claim against the State agency for the amount of such claim, reclaim, or overpayment. In all such cases the State agency shall have full opportunity to submit to CND evidence or information concerning the action taken. If, in the determination of CND, the agency's action was unwarranted, the State agency shall promptly pay to FNS the amount of the claim, reclaim, or overpayment. (f) The amounts recovered by the State agency from Schools may be utilized, first, to make payments to School Food Authorities for the purposes of the related program during the fiscal year for whic funds were initially available, and second to repay any State funds expended in the reimbursement of claims under the program and not otherwise repaid. Any amounts recovered which are not so ut shall be returned to FNS in accordance with the requirements of this part. (g) With respect to School Food Authorities of schools in which the program is administered by FNSRO, when FNSRO disallows a claim or a portion of a claim, or makes a demand for refund of an alle overpayment, it shall notify the School Food Authority of the reasons for such disallowance or demand and the School Food Authority shall have full opportunity to submit evidence or to file reclaims any amounts disallowed or demanded in the same manner as that afforded in this section to School Food Authorities of schools in which the program is administered by State agencies. (h) In the event that the State agency or FNSRO, where applicable, finds that a school is failing to meet the requirements of §220.8(g), §220.8(i)(2) and (i)(3), whichever is applicable, the State agency FNSRO need not disallow payment or collect an overpayment arising out of such failure, if the State agency or FNSRO takes such other action as, in its opinion, will have a corrective effect. (i) The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secr shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney Ge of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.
1,898	§220.15 Management evaluations and audits	Federal	(a) Unless otherwise exempt, audits at the State and institution levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department's implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3. (b) Each State agency shall provide FNS with full opportunity to conduct management evaluations (including visits to schools) of all operations of the State agency under the programs covered by this and shall provide OIG with full opportunity to conduct audits (including visits to schools) of all operations of the State agency under such programs. Each State agency shall make available its records including records of the receipt and expenditure of funds under such programs, upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of school. (c) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency ma establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes. (Secs. 805 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1773); sec. 812, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1759a)) [40 FR 30925, July 24, 1975. Redesignated and amended by Amdt. 25, 41 FR 34757, 34760, Aug. 17, 1976; 43 FR 59825, Dec. 22, 1978; Amdt. 41, 47 FR 14135, Apr. 2, 1982; Amdt. 43, 47 FR 18564, Ap 1982; Amdt. 56, 54 FR 2990, Jan. 23, 1989; 57 FR 38587, Aug. 26, 1992; 59 FR 1894, Jan. 13, 1994; 64 FR 50742, Sept. 20, 1999; 71 FR 30563, May 30, 2006; 71 FR 39517, July 13, 2006]

Legal Standards

1,899	§220.16 Procurement standards	Federal	(a) General. State agencies and school food authorities shall comply with the requirements of this part and parts 3015, 3016 and 3019 of this title, as applicable, which implement the applicable Offic Management and Budget Circulars, concerning the procurement of all goods and services with nonprofit school food service account funds. (b) Contractual responsibilities. The standards contained in 7 CFR part 3016 or 7 CFR part 3019, as applicable, do not relieve the State agency or School Food Authority of any contractual responsibil under its contract. The State agency or School Food Authority is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issu arising out of procurements entered into in connection with the Program. This includes but is not limited to: source evaluation, protests, disputes, claims, or other matters of a contractual nature. Ma concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction. (c) Procedures. The State agency may elect to follow either the State laws, policies and procedures as authorized by §§3016.36(a) and 3016.37(a) of this title, or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with §3016.36(b) through (i) of this title. Regardless of the option selected, States must ensure that all contracts include any clauses required by Federal statutes and executive orders and that the requirements of §3016.60(b) and (c) of this title are followed. The school food authority may use its own procurement procedu which reflect applicable State and local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set forth in this part and §§3016.36(b) through 3016.36(i), 3016.60 and §§3019.40 through 3019.48 of this title, as applicable, and the applicable Office of Management and Budget Circulars. School food authority procedure must include a written code of standards of conduct meeting the minimum standards of §3016.36(b)(3) or §3019.42 of this title, as applicable. (1) Pre-issuance review requirement. The State agency may impose a pre-issuance review requirement on a school food authority's proposed procurement. The school food authority must make ava upon request of the State agency, its procurement documents, including but not limited to solicitation documents, specifications, evaluation criteria, procurement procedures, proposed contracts and contract terms. School food authorities shall comply with State agency requests for changes to procurement procedures and solicitation and contract documents to ensure that, to the State agency's satisfaction, such procedures and documents reflect applicable procurement and contract requirements and the requirements of this part. (2) Prototype solicitation documents and contracts. The school food authority must obtain the State agency's prior written approval for any change made to prototype solicitation or contract docume before issuing the revised solicitation documents or execution of the revised contract. (3) Prohibited expenditures. No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of this part. (d) Buy American—(1) Definition of domestic commodity or product. In this paragraph (d), the term “domestic commodity or product” means— (i) An agricultural commodity that is produced in the United States; and
1,900	§220.17 Prohibitions	Federal	(a) In carrying out the provisions of this part, the Department shall not impose any requirements with respect to teaching personnel, curriculum, instructions, methods of instruction, and materials o instruction in any school as a condition for participation in the Program. (b) The value of assistance to children under the Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds rec under the Act. [32 FR 37, Jan. 5, 1967. Redesignated by Amdt. 2, 33 FR 14513, Sept. 27, 1968. Redesignated and amended by Amdt. 25, 41 FR 34757, 34760, Aug. 17, 1976; 64 FR 50743, Sept. 20, 1999]
1,901	§220.18 Withholding payments	Federal	In accordance with Departmental regulations at §§3016.43 and 3019.62 of this title, the State agency shall withhold Program payments, in whole or in part, to any school food authority which has fai comply with the provisions of this part. Program payments shall be withheld until the school food authority takes corrective action satisfactory to the State agency, or gives evidence that such correc actions will be taken, or until the State agency terminates the grant in accordance with §220.19. Subsequent to the State agency's acceptance of the corrective actions, payments will be released for a breakfasts served in accordance with the provisions of this part during the period the payments were withheld. [72 FR 61495, Oct. 31, 2007]
1,902	§220.19 Suspension, termination and grant closeout procedures	Federal	Whenever it is determined that a State agency has materially failed to comply with the provisions of this part, or with FNS guidelines and instructions, FNS may suspend or terminate the Program in or in part, or take any other action as may be available and appropriate. A State agency may also terminate the Program by mutual agreement with FNS. FNS and the State agency shall comply with th provisions of 7 CFR part 3016 concerning grant suspension, termination and closeout procedures. Furthermore, the State agency or FNSRO were applicable, shall apply these provisions, or the parall provisions of 7 CFR part 3019, as applicable, to suspension or termination of the Program in School Food Authorities. [Amdt. 49, 49 FR 18988, May 4, 1984, as amended at 71 FR 39517, July 13, 2006. Redesignated at 72 FR 61495, Oct. 31, 2007]
1,903	§220.20 Free and reduced price breakfasts	Federal	The determination of the children to whom free and reduced price breakfasts are to be served because of inability to pay the full price thereof, and the serving of the breakfasts to such children, shall effected in accordance with part 245 of this chapter. [Amdt. 25, 41 FR 34760, Aug. 17, 1976. Redesignated at 72 FR 61495, Oct. 31, 2007]

Legal Standards

1,904	§220.21 Program information	Federal	School Food Authorities desiring information concerning the program should write to their State educational agency or to the appropriate Food and Nutrition Service Regional Office as indicated bel (a) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 300 Corporate Boulevard, Robbinsville, New Jersey 08691-1598. (b) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 161 Forsyth Street Room 8T36, Atlanta, Georgia 30303. (c) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 77 West Jackson Boulevard, 20th Floor, Chicago, Illinois 6 3507. (d) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242 (e) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, the Commonwealth of the Northern Mariana Islands, and Washington: Western Regional Office, U.S. Department of Agriculture, 90 Seventh Street, Suite 10-100, San Francisco, California 94103-6701. (f) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 10 Causeway Street, Roo 501, Boston, Massachusetts 02222-1065. (g) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 1244 Speer Boulevard, Suite 903, Denver, Colorado 80204. (Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624 (42 U.S.C. 1757); sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626; secs. 804, 816, 817 and 819, Pub. L. 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771, 1773, and 1785)) [32 FR 37, Jan. 5, 1967. Redesignated at 49 FR 18988, May 4, 1984, and further redesignated at 72 FR 61495, Oct. 31, 2007, as amended at 76 FR 34569, June 13, 2011] Editorial Note: For Federal Register citations affecting §220.20, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.
1,905	§220.22 Information collection/recordkeeping—OMB assigned control numbers	Federal	7 CFR section where requirements are described Current OMB control number 220.3(e) 0584-0327 220.5 0584-0012 220.7(a)-(e) 0584-0329 0584-0012 0584-0026 220.8(f) 0584-0012 220.9(a) 0584-0012 220.11 (a), (b), (e) 0584-0012 0584-0002 0584-0341 220.12(b) 0584-0012 220.13 (a-1)-(c), (f) 0584-0026 0584-0002 0584-0341 0584-0012 220.14(d) 0584-0012 220.15 0584-0012 [Amdt. 56, 54 FR 2990, Jan. 23, 1989. Redesignated at 72 FR 61495, Oct. 31, 2007]

Legal Standards

1,906	§220.23 Nutrition standards and menu planning approaches for breakfasts	Federal	(a) What are the nutrition standards for breakfasts for children age 2 and over? This section contains the requirements applicable to school breakfasts for children age 2 and over in school years 201 2013 through 2013-14. All of the requirements of this section will be superseded by the requirements in §220.8 beginning July 1, 2013 (school year 2013-14), with the exceptions noted in paragraph this section. School food authorities must ensure that participating schools provide nutritious and well-balanced breakfasts. For children age 2 and over, breakfasts, when averaged over a school wee must meet the nutrition standards and the appropriate nutrient and calorie levels in this section. The nutrition standards are: (1) Provision of one-fourth of the Recommended Dietary Allowances (RDA) for protein, calcium, iron, vitamin A and vitamin C in the appropriate levels (see paragraphs (b), (c), (e)(1), or (h) of this section); (2) Provision of the breakfast energy allowances (calories) for children in the appropriate levels (see paragraphs (b), (c), (e)(1), or (h) of this section); (3) These applicable recommendations of the 1995 Dietary Guidelines for Americans: (i) Eat a variety of foods; (ii) Limit total fat to 30 percent of total calories; (iii) Limit saturated fat to less than 10 percent of total calories; (iv) Choose a diet low in cholesterol; (v) Choose a diet with plenty of grain products, vegetables, and fruits; and (vi) Choose a diet moderate in salt and sodium. (4) These measures of compliance with the applicable recommendations of the 1995 Dietary Guidelines for Americans: (i) Limit the percent of calories from total fat to 30 percent of the actual number of calories offered;
1,907	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(6) Schools must keep production and menu records for the breakfasts they produce. These records must show how the breakfasts contribute to the required food components, food items or menu it every day. In addition, these records must show how the breakfasts contribute to the nutrition standards in paragraph (a) of this section and the appropriate calorie and nutrient levels (see paragrap (d), or (h) of this section, depending on the menu planning approach used) over the school week. If applicable, schools or school food authorities must maintain nutritional analysis records to demon that breakfasts, when averaged over each school week, meet: (i) The nutrition standards provided in paragraph (a) of this section; and (ii) The nutrient and calorie levels for children for each age or grade group in accordance with paragraphs (b) and (e)(1) of this section or developed under paragraph (h) of this section. (b) What are the levels for nutrients and calories for breakfasts planned under the nutrient standard or assisted nutrient standard menu planning approaches? (1) The required levels are: Minimum Nutrient and Calorie Levels for School Breakfasts Nutrient Standard Meal Planning Approaches (School Week Averages) Nutrients and energy allowances Minimum requirements Optional Preschool Grades K-12 Grades 7-12 Calories (kcal) 388 554 618 Total fat (as % of total kcals) (1) (1, 2) (2) Saturated fat (as % of total kcals) (1) (1, 3) (3) RDA for protein (g) 5 10 12 RDA for calcium (mg) 200 257 300 RDA for iron (mg) 2.5 3 3.4 RDA for Vitamin A (RE) 113 197 225 RDA for Vitamin C (mg) 11 13 14 1The Dietary Guidelines recommend that after 2 years of age "* * * children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat." 2Not to exceed 30 percent over a school week.

Legal Standards

1,908	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(2) Optional levels are: Optional Minimum Nutrient and Calorie Levels for School Breakfasts Nutrient Standard Meal Planning Approaches (School Week Averages) Nutrients and energy allowances Ages 3-6 Ages 7-10 Ages 11-13 Ages 14 and above Calories (kcal) 419 500 588 625 Total fat (as % of total kcals) (1, 2) (2) (2) (2) Saturated fat (as % of total kcals) (1, 3) (3) (3) (3) RDA for protein (g) 5.5 7 11.25 12.5 RDA for calcium (mg) 200 200 300 300 RDA for iron (mg) 2.5 2.5 3.4 3.4 RDA for Vitamin A (RE) 119 175 225 225 RDA for Vitamin C (mg) 11.00 11.25 12.5 14.4 1The Dietary Guidelines recommend that after 2 years of age "* * * children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat." 2Not to exceed 30 percent over a school week. 3Less than 10 percent over a school week. (3) Schools may also develop a set of nutrient and calorie levels for a school week. These levels are customized for the age groups of the children in the particular school.
1,909	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(c) What are the nutrient and calorie levels for breakfasts planned under the food-based menu planning approaches?—(1) Traditional approach. For the traditional food-based menu planning approa the required levels are: Minimum Nutrient and Calorie Levels for School Breakfasts Traditional Food-Based Menu Planning Approach (School Week Averages) Nutrients and energy allowances Age 2 Ages 3, 4, 5 Grades K-12 Calories (kcal) 325 388 554 Total fat (as % of total kcals) (1) (1) (1, 2) Saturated fat (as % of total kcals) (1) (1) (1, 3) RDA for protein (g) 4 5 10 RDA for calcium (mg) 200 200 257 RDA for iron (mg) 2.5 2.5 3 RDA for Vitamin A (RE) 100 113 197 RDA for Vitamin C (mg) 10 11 13 1The Dietary Guidelines recommend that after 2 years of age "* * * children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat." 2Not to exceed 30 percent over a school week.

Legal Standards

1,910	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(2) Enhanced approach. For the enhanced food-based menu planning approach, the required levels are: Minimum Nutrient and Calorie Levels for School Breakfasts Enhanced Food-Based Menu Planning Approach (School Week Averages) Nutrients and energy allowances Required for Option for Preschool Grades K-12 Grades 7-12 Calories (kcal) 388 554 618 Total fat (as % of total kcals) (1) (1, 2) (2) Saturated fat (as % of total kcals) (1) (1, 3) (3) RDA for protein (g) 5 10 12 RDA for calcium (mg) 200 257 300 RDA for iron (mg) 2.5 3 3.4 RDA for Vitamin A (RE) 113 197 225 RDA for Vitamin C (mg) 11 13 14 1The Dietary Guidelines recommend that after 2 years of age "* * * children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat." 2Not to exceed 30 percent over a school week. 3Less than 10 percent over a school week. (d) Exceptions and variations allowed in reimbursable breakfasts. (1) Exceptions for disability reasons. Schools must make substitutions in breakfasts for students who are considered to have a disab under 7 CFR part 15b.3 and whose disability restricts their diet. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that incl recommended alternate foods, unless otherwise exempted by FNS. Such statement must be signed by a licensed physician. (2) Exceptions for non-disability reasons. Schools may make substitutions for students without disabilities who cannot consume the breakfast because of medical or other special dietary needs. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted FNS. Except with respect to substitutions for fluid milk, such statement must be signed by a recognized medical authority.
1,911	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(ii) Requisites for milk substitutions. (A) A school food authority must inform the State agency if any of its schools choose to offer fluid milk substitutes other than for students with disabilities; and (B) A medical authority or the student's parent or legal guardian must submit a written request for a fluid milk substitute, identifying the medical or other special dietary need that restricts the stude diet. (iii) Substitution approval. The approval for fluid milk substitution must remain in effect until the medical authority or the student's parent or legal guardian revokes such request in writing, or until time as the school changes its substitution policy for non-disabled students. (3) Variations for ethnic, religious, or economic reasons. Schools should consider ethnic and religious preferences when planning and preparing breakfasts. Variations on an experimental or continui basis in the food components for the food-based menu planning approaches in paragraph (g) of this section may be allowed by FNS. Any variations must be nutritionally sound and needed to meet et religious, or economic needs. (4) Exceptions for natural disasters. If there is a natural disaster or other catastrophe, FNS may temporarily allow schools to serve breakfasts for reimbursement that do not meet the requirements in section. (e) What are the requirements for the nutrient standard menu planning approach? (1) Nutrient levels—(i) Adjusting nutrient levels for young children. Schools with children who are age 2 must at le meet the nutrition standards in paragraph (a) of this section and the preschool nutrient and calorie levels in paragraph (b)(1) of this section over a school week. Schools may also use the preschool nutrient and calorie levels in paragraph (b)(2) of this section or may calculate nutrient and calorie levels for two year olds. FNS has a method for calculating these levels in menu planning guidance materials. (ii) Minimum levels for nutrients. Breakfasts must at least offer the nutrient and calorie levels for the required grade groups in the table in paragraph (b)(1) of this section. Schools may also offer breakfasts meeting the nutrient and calorie levels for the age groups in paragraph (b)(2) of this section. If only one grade or age group is outside the established levels, schools may follow the levels fo majority of the children. Schools may also customize the nutrient and calorie levels for the children they serve. FNS has a method for calculating these levels in guidance materials for menu planning. (2) Reimbursable breakfasts—(i) Contents of a reimbursable breakfast. A reimbursable breakfast must include at least three menu items. All menu items or foods offered in a reimbursable breakfast contribute to the nutrition standards in paragraph (a) of this section and to the levels of nutrients and calories that must be met in paragraphs (c) or (e)(1) of this section. Unless offered as part of a m item in a reimbursable breakfast, foods of minimal nutritional value (see appendix B to part 220) are not included in the nutrient analysis. Reimbursable breakfasts planned under the nutrient standa menu planning approach must meet the nutrition standards in paragraph (a) of this section and the appropriate nutrient and calorie levels in paragraph (b) or (e)(1) of this section.

Legal Standards

1,912	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(2) Quantities for the traditional food-based menu planning approach. At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the followin table: Traditional Food-Based Menu Planning Approach—Meal Pattern for Breakfasts Food components and food items 1-2 Ages 3, 4 and 5 Grades K-12 MILK (fluid) (as a beverage, on cereal, or both) 4 fluid ounces 6 fluid ounces 8 fluid ounces. JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice 1/4 cup 1/2 cup 1/2 cup. SELECT ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS, TWO FROM ONE COMPONENT, OR AN EQUIVALENT COMBINATION: GRAINS/BREADS: Whole-grain or enriched bread 1/2 slice 1/2 slice 1 slice. Whole-grain or enriched biscuit, roll, muffin, etc 1/2 serving 1/2 serving 1 serving. Whole-grain, enriched or fortified cereal 1/4 cup or 1/3 ounce 1/3 cup or1/2 ounce 3/4 cup or 1 ounce. MEAT OR MEAT ALTERNATIVES: Meat/poultry or fish 1/2 ounce 1/2 1 ounce. Alternate protein products1 1/2 ounce 1/2 ounce 1 ounce. Cheese 1/2 ounce 1/2 ounce 1 ounce. Large egg 1/2 1/2 1/2. Peanut butter or other nut or seed butters 1 tablespoon 1 tablespoon 2 tablespoons. Cooked dry beans and peas 2 tablespoons 2 tablespoons 4 tablespoons. Nuts and/or seeds (as listed in program guidance)2 1/2 ounce 1/2 ounce 1 ounce. Yogurt, plain or flavored, unsweetened or sweetened 2 ounces or 1/4 cup 2 ounces or 1/4 cup 4 ounces or 1/2 cup. 1Must meet the requirements in appendix A of this part. 2No more than 1 ounce of nuts and/or seeds may be served in any one breakfast. (3) Quantities for the enhanced food-based menu planning approach. At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the following
1,913	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(3) Quantities for the enhanced food-based menu planning approach. At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the following table: Enhanced Food-Based Menu Planning Approach-Meal Pattern for Breakfasts Food components and food items Required for Option for Ages 1-2 Preschool Grades K-12 Grades 7-12 MILK (fluid) (as a beverage, on cereal, or both) 4 fluid ounces 6 fluid ounces 8 fluid ounces 8 fluid ounces. JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice 1/4 cup 1/2 cup 1/2 cup 1/2 cup. SELECT ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS, TWO FROM ONE COMPONENT, OR AN EQUIVALENT COMBINATION: GRAINS/BREADS: Whole-grain or enriched bread 1/2 slice 1/2 slice 1 slice 1 slice. Whole-grain or enriched biscuit, roll, muffin, etc. 1/2 serving 1/2 serving 1 serving 1 serving. Whole-grain, enriched or fortified cereal 1/4 cup or 1/3 ounce 1/3 cup or 1/2 ounce 3/4 cup or 1 ounce 3/4 cup or 1 ounce plus an additional serving of one of the Grains/Breads above. MEAT OR MEAT ALTERNATIVES: Meat/poultry or fish 1/2 ounce 1/2 ounce 1 ounce 1 ounce. Alternate protein products1 1/2 ounce 1/2 ounce 1 ounce 1 ounce. Cheese 1/2 ounce 1/2 ounce 1 ounce 1 ounce. Large egg 1/2 1/2 1/2 1/2. Peanut butter or other nut or seed butters 1 tablespoon 1 tablespoon 2 tablespoons 2 tablespoons. Cooked dry beans and peas 2 tablespoons 2 tablespoons 4 tablespoons 4 tablespoons. Nuts and/or seeds (as listed in program guidance)2 1/2 ounce 1/2 ounce 1 ounce 1 ounce. Yogurt, plain or flavored, unsweetened or sweetened 2 ounces or 1/4 cup 2 ounces or 1/4 cup 4 ounces or 1/2 cup 4 ounces or 1/2 cup. 1Must meet the requirements in appendix A of this part. 2No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

Legal Standards

1,914	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(4) Offer versus serve. Each school must offer all four required food items listed in paragraph (g)(1) of this section. At the option of the school food authority, each school may allow students to refuse food item from any component. The refused food item may be any of the four items offered to the student. A student's decision to accept all four food items or to decline one of the four food items mu affect the charge for a reimbursable breakfast. (5) Meal pattern exceptions for outlying areas. Schools in American Samoa, Puerto Rico and the Virgin Islands may serve a starchy vegetable such as yams, plantains, or sweet potatoes to meet the grain/bread requirement. (h) What are the requirements for alternate menu planning approaches?—(1) Definition. Alternate menu planning approaches are those adopted or developed by school food authorities or State age that differ from the standard approaches established in paragraphs (e) through (g) of this section. (2) Use and approval of major changes or new alternate approaches. Within the guidelines established for developing alternate menu planning approaches, school food authorities or State agencies m modify one of the established menu planning approaches in paragraphs (e) through (g) of this section or may develop their own menu planning approach. The alternate menu planning approach mus available in writing for review and monitoring purposes. No formal plan is required; guidance material, a handbook or protocol is sufficient. As appropriate, the material must address how the guidel in paragraph (h)(3) of this section are met. A State agency that develops an alternate approach that is exempt from FNS approval under paragraph (h)(2)(iii) of this section must notify FNS in writing implementing the alternate approach. (i) Approval of local level plans. Any school food authority-developed menu planning approach must have prior State agency review and approval. (ii) Approval of State agency plans. Unless exempt under paragraph (h)(2)(iii) of this section, any State agency-developed menu planning approach must have prior FNS approval. (iii) State agency plans not subject to approval. A State agency-developed menu planning approach does not need FNS approval if: (A) Five or more school food authorities in the State use it; and (B) The State agency maintains on-going oversight of the operation and evaluation of the approach and makes any needed adjustments to its policies and procedures to ensure that the appropriate guidelines in paragraph (h)(3) of this section are met. (3) Elements for major changes or new approaches. Any alternate menu planning approach must:
1,915	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(3) Milk substitutes. If a school chooses to offer one or more substitutes for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide the nutr listed in the following table. Milk substitutes must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school need only offer the nondairy beverage that it has identified as allowable fluid milk substitutes according to this paragraph (i)(3). Nutrient Per cup Calcium 276 mg. Protein 8 g. Vitamin A 500 IU. Vitamin D 100 IU. Magnesium 24 mg. Phosphorus 222 mg. Potassium 349 mg. Riboflavin 0.44 mg. Vitamin B-12 1.1 mcg. (j) What are the requirements for the infant breakfast pattern? (1) Feeding breakfasts to infants. Breakfasts served to infants ages birth through 11 months must meet the requirements described in paragraph (j)(4) of this section. Foods included in the breakfast must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a sp time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements foun paragraph (d)(1) of this section. (2) Breastmilk and iron-fortified formula. Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Meals containing breastmilk and meals contai iron-fortified infant formula supplied by the school are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, dur visit to the school, contribute to a reimbursable breakfast only when the school supplies at least one component of the infant's meal. (3) Solid foods. For infants ages 4 through 7 months, solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The school shou consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid foods should be introduced one at a time, on a gradual basis, with the intent of ensuring the infant' health and nutritional well-being.

Legal Standards

1,916	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(4) Infant meal pattern. Infant breakfasts must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age. For some breastfed infants who regu consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered the infant is still hungry. Breakfasts may include portions of breastmilk and iron-fortified infant formula as long as the total number of ounces meets, or exceeds, the minimum amount required of thi component. Similarly, to meet the component requirement for vegetables and fruit, portions of both may be served. (i) Birth through 3 months. 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs. (ii) Four through 7 months. Breastmilk or iron-fortified formula is required. Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Breakfasts are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept. (A) Four to 8 fluid ounces of breastmilk or iron-fortified infant formula; and (B) 0 to 3 tablespoons of iron-fortified dry infant cereal. (iii) Eight through 11 months. Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required. (A) Six to 8 fluid ounces of breastmilk or iron-fortified infant formula; and (B) Two to 4 tablespoons of iron-fortified dry infant cereal; and (C) One to 4 tablespoons of fruit or vegetable. (5) Infant meal pattern table. The minimum amounts of food components to serve to infants, as described in paragraph (j)(4) of this section, are: Breakfast Pattern for Infants Birth through 3 months 4 through 7 months 8 through 11 months 4-6 fluid ounces of formula1 or breastmilk2 3 4-8 fluid ounces of formula1 or breastmilk2 3; and 6-8 fluid ounces of formula1 or breastmilk2 3; and
1,917	§220.23 Nutrition standards and menu planning approaches for breakfasts continued	Federal	(k) What about serving additional foods? Schools may offer additional foods with breakfasts to children over one year of age. (l) Must schools offer choices at breakfast? FNS encourages schools to offer children a selection of foods and menu items at breakfast. Choices provide variety and encourage consumption. Schools ma offer choices of reimbursable breakfasts or foods within a reimbursable breakfast. When a school offers a selection of more than one type of breakfast or when it offers a variety of food components, items or foods and milk for choice as a reimbursable breakfast, the school must offer all children the same selection(s) regardless of whether the child is eligible for free or reduced price breakfasts o must pay the designated full price. The school may establish different unit prices for each type of breakfast offered provided that the benefits made available to children eligible for free or reduced pr breakfasts are not affected. (m) What must schools do about nutrition disclosure? To the extent that school food authorities identify foods in a menu, or on the serving line or through other available means of communicating w program participants, school food authorities must identify products or dishes containing more than 30 parts fully hydrated alternate protein products (as specified in appendix A of this part) to less 70 parts beef, pork, poultry or seafood on an uncooked basis, in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. Additionally, FNS encourages schoo inform the students, parents, and the public about efforts they are making to meet the nutrition standards (see paragraph (a) of this section) for school breakfasts. (n) Implementation timeframes. All the requirements in this section will be superseded by the requirements in §220.8 beginning July 1, 2013 (SY 2013-2014) with the following exceptions: (1) Fruits and vegetables component. The fruits and vegetables requirements in paragraphs (g)(1) through (3) will be superseded July 1, 2014; and (2) Sodium specification. The sodium requirements in (a)(3)(vi) will be superseded July 1, 2014. [77 FR 4159, Jan. 26, 2012]

Legal Standards

1,918	Appendix A to Part 220—Alternate Foods for Meals	Federal	Alternate Protein Products A. What Are the Criteria for Alternate Protein Products Used in the School Breakfast Program? 1. An alternate protein product used in meals planned under the food-based menu planning approaches in §220.8(g), must meet all of the criteria in this section. 2. An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the following criteria: a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible pro produced from plant or animal sources. b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCA c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. ("When hydrated or formulated" refers to a dry alternate protein product and t amount of water, fat, oil, colors, flavors or any other substances which have been added). d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs A.2. a through c of this appendix. e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis. f. For an alternate protein product mix, manufacturers should provide information on: (1) The amount by weight of dry alternate protein product in the package; (2) Hydration instructions; and (3) instructions on how to combine the mix with meat or other meat alternates. B. How Are Alternate Protein Products Used in the School Breakfast Program?
1,919	Appendix B to Part 220—Categories of Foods of Minimal Nutritional Value	Federal	(1) Soda Water—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressu one atmosphere and at a temperature of 60 °F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingre used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and protein. (2) Water ices. As defined by 21 CFR 135.160 Food and Drug Administration Regulations except that water ices which contain fruit or fruit juices are not included in this definition. (3) Chewing gum. Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing. (4) Certain candies. Processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types: (a) Hard candy. A prod made predominantly from sugar (sucrose) and corn syrup which may be flavored and colored, is characterized by a hard, brittle texture, and includes such items as sour balls, fruit balls, candy sticks, lollipops, starlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers and cough drops. (b) Jellies and gums. A mixture of carbohydrates which are combined to form a stable gelatinous system of jelly-like character, and are generally flavored and colored, and include gum drops, jelly bea jellied and fruit-flavored slices. (c) Marshmallow candies. An aerated confection composed of sugar, corn syrup, invert sugar, 20% water and gelatin or egg white to which flavors and colors may be added. (d) Fondant. A product consisting of microscopic-sized sugar crystals which are separated by a thin film of sugar and/or invert sugar in solution such as candy corn, soft mints. (e) Licorice. A product made predominantly from sugar and corn syrup which is flavored with an extract made from the licorice root. (f) Spun candy. A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine. (g) Candy coated popcorn. Popcorn which is coated with a mixture made predominantly from sugar and corn syrup. Schedule for Amending Appendix B Actions for publication Publication
1,920	Appendix B to Part 220—Categories of Foods of Minimal Nutritional Value	Federal	(c) Appendix B remains in effect through June 30, 2014.

Legal Standards

1,921	Appendix C to Part 220—Child Nutrition (CN) Labeling Program	Federal	1. The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service (FNS) in conjunction with the Food Safety and Inspection Se (FSIS), and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA), and National Marine Fisheries Service of the U.S. Department of Commerce (USDC) for the Child Nutrit Programs. This program essentially involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward pattern requirements and a review of the CN label statement to ensure its accuracy. CN labeled products must be produced in accordance with all requirements set forth in this rule. 2. Products eligible for CN labels are as follows: (a) Commercially prepared food products that contribute significantly to the meat/meat alternate component of meal pattern requirements of 7 CFR 210.10 or 210.10a, whichever is applicable, 225.2 and 226.20 and are served in the main dish. (b) Juice drinks and juice drink products that contain a minimum of 50 percent full-strength juice by volume. 3. For the purpose of this appendix the following definitions apply: (a) “CN label” is a food product label that contains a CN label statement and CN logo as defined in paragraph 3 (b) and (c) below. (b) The “CN logo” (as shown below) is a distinct border which is used around the edges of a “CN label statement” as defined in paragraph 3(c). eCFR graphic ec17se91.003.gif View or download PDF (c) The “CN label statement” includes the following: (1) The product identification number (assigned by FNS), (2) The statement of the product's contribution toward meal pattern requirements of 7 CFR 210.10 or 210.10a, whichever is applicable, 220.8, 225.21, and 226.20. The statement shall identify the
1,922	Title 7: Agriculture PART 215—SPECIAL MILK PROGRAM FOR CHILDREN	Federal	

Legal Standards

1,923	§215.1 General purpose and scope	Federal	This part announces the policies and prescribes the general regulations with respect to the Special Milk Program for Children, under the Child Nutrition Act of 1966, as amended, and sets forth the ge requirements for participation in the program. The Act reads in pertinent part as follows: Section 3(a)(1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school gra and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the National School Lunch Act, and (B) nonprofit nursery schools, chil care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under t Act or the National School Lunch Act. (2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in w children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.). (3) For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and District of Columbia. (4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided by Pub. L. 89-642, as amended, during the fiscal year ending June 30, 1969. (5) Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the National School Lunch Act shall receive the special milk progra upon their request. (6) Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public sch be eligible for free milk upon their request. (7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be le than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.
1,924	§215.2 Definitions	Federal	For the purpose of this part, the term: 7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Departm programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements. 7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for av and subawards to State and local governmental organizations under Department programs. 7 CFR part 3018 means the Department's Common Rule regarding Governmentwide New Restrictions on Lobbying. Part 3018 implements the requirements established by section 319 of the 1990 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 101-121). 7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CF part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs. 7 CFR part 3052 means the Department's regulations implementing OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations." (For availability of OMB Circulars refere in this definition, see 5 CFR 1310.3.) Act means the Child Nutrition Act of 1966. Adults means those persons not included under the definition of children. Applicable credits shall have the meaning established in Office of Management and Budget Circulars A-87, C(4) and A-122, Attachment A, A(5), respectively. For availability of OMB circulars reference this definition, see 5 CFR 1310.3. Child and Adult Care Food Program means the program authorized by section 17 of the National School Lunch Act, as amended. Child care institution means any nonprofit nursery school, child care center, settlement house, summer camp, service institution participating in the Summer Food Program for Children pursuant to

Legal Standards

1,925	§215.3 Administration	Federal	(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, CND shall be responsible for Program administration. (b) Within the States, to the extent practicable and permissible under State law, responsibility for the administration of the Program in schools and child care institutions shall be in the educational a of the State: Provided, however, That another State agency, upon request by the Governor or other appropriate State executive or legislative authority, may be approved to administer the Program in schools as described in paragraph (3) of the definition of School in §215.2 or in child care institutions. (c) FNSRO shall administer the Program in any School or any Child care institution as defined in §215.2 wherein the State agency is not permitted by law to disburse Federal funds paid to it under the Program; Provided, however, That FNSRO shall also administer the Program in all other schools and child-care institutions which have been under continuous FNS administration since October 1, 19 unless the administration of such schools and institutions is assumed by a State agency. References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program to schools or child-care institutions within certain States. (d) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisio this part, 7 CFR parts 235, 245, 15, 15a, 15b and, as applicable, 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, and with FNS Instructions. Such agreement shall cover the operation of the Prog during the period specified therein and may be extended at the option of the Department. (Secs. 804, 816 and 817, Pub. L. 97-35; 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771 and 1785)) [Amdt. 14, 41 FR 31174, July 27, 1976, as amended by Amdt. 24, 47 FR 14133 Apr. 2, 1982; Amdt. 36, 54 FR 2989, Jan. 23, 1989; 71 FR 39516, July 13, 2006; 72 FR 63791, Nov. 13, 2007]
1,926	§215.4 Payments of funds to States and FNSROs	Federal	(a) For each fiscal year, the Secretary shall make payments to each State agency at such times as he may determine from the funds appropriated for Program reimbursement. Subject to §215.11(c)(2) total of these payments for each State for any fiscal year shall be limited to the amount of reimbursement payable to School Food Authorities and child care institutions under §215.8 of this part for th total number of half-pints of milk served under the Program to eligible children from October 1 to September 30. (b) Each State agency shall be responsible for controlling Program reimbursement payments so as to keep within the funds made available to it, and for the timely reporting to FNS of the number of h pints of milk actually served. The Secretary shall increase or decrease the available level of funding by adjusting the State agency's Letter of Credit when appropriate. (Pub. L. 97-370, 96 Stat. 1806) [Amdt. 14, 41 FR 31174, July 27, 1976, as amended by Amdt. 30, 49 FR 18986, May 4, 1984]
1,927	§215.5 Method of payment to States	Federal	(a) Funds to be paid to any State shall be made available by means of Letters of Credit issued by FNS in favor of the State agency. The State agency shall: (1) Obtain funds needed to reimburse School Food Authorities and child-care institutions through presentation by designated State officials of a Payment Voucher on Letter of Credit (Treasury Form 7578) in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department; (2) Submit requests for funds only at such times and in such amounts as will permit prompt payment of claims; (3) Use the funds received from such requests without delay for the purpose for which drawn. Notwithstanding the foregoing provisions, if funds are made available by Congress for the operation of Program under a continuing resolution, Letters of Credit shall reflect only the amount available for the effective period of the resolution. (b) [Reserved] (c) The State agency shall release to FNS any Federal funds made available to it under the Program which are unobligated at the end of each fiscal year. Release of funds by the State agency shall be ma soon as practicable but in no event later than 30 days following demand by FNSRO, and shall be reflected by a related adjustment in the State agency's Letter of Credit. [Amdt. 13, 39 FR 28416, Aug. 7, 1974, as amended by Amdt. 14, 41 FR 31174, July 27, 1976]

Legal Standards

1,928	§215.6 Use of funds	Federal	(a) Federal funds made available under the Program shall be used to encourage the consumption of milk through reimbursement payments to schools and child-care institutions in connection with t purchase and service of milk to children in accordance with the provisions of this part: Provided, however, That, with the approval of FNS, any State agency, or FNSRO where applicable, may reserve f use in carrying out special developmental projects an amount equal to not more than 1 per centum of the Federal funds so made available for any fiscal year. (b) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department, shall: (1) such funds, assets, or property are of a value of $100 or more, be fined not more than $25,000 or imprisoned not more than 5 years or both; or (2) if such funds, assets, or property are of a value of les than $100, be fined not more than $1,000 or imprisoned not more than one year or both. (c) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department, knowing such funds, asse property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (b) of this section. (Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760; sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624 (42 U.S.C. 1757); sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626; 44 U.S.C. 3506)) [Amdt. 14, 41 FR 31174, July 27, 1976, as amended by Amdt. 18, 44 FR 37898, June 29, 1979; 47 FR 746, Jan. 7, 1982; 64 FR 50741, Sept. 20, 1999]
1,929	§215.7 Requirements for participation	Federal	(a) Any school or nonprofit child care institution shall receive the Special Milk Program upon request provided it does not participate in a meal service program authorized under the Child Nutrition 1966 or the National School Lunch Act; except that schools with such meal service may receive the Special Milk Program upon request only for the children attending split-session kindergarten progr who do not have access to the meal service. Each School Food Authority or child-care institution shall make written application to the State agency, or FNSRO where applicable, for any school or child institution in which it desires to operate the Program, if such school or child-care institution did not participate in the Program in the prior fiscal year. (b) Any School Food Authority or child care institution participating in the Program may elect to serve free milk to children eligible for free meals. Upon application for the Program, each School Food Authority or child care institution: (1) Shall be required by the State agency, or FNSRO where applicable, to state whether or not it wishes to provide free milk in the schools or institutions participating under its jurisdiction and (2) If it so wishes to provide free milk, shall also submit for approval a free milk policy statement which, if for a school, shall be in accordance with part 245 of this chapter or, if for a child care institu shall be in accordance with §215.13a of this part. (c) The application shall include information in sufficient detail to enable the State agency, or FNSRO where applicable, to determine whether the School Food Authority or child-care institution is eli to participate in the Program and extent of the need for Program payments. (d) Each school food authority or child care institution approved to participate in the program shall enter into a written agreement with the State agency or FNSRO, as applicable, that may be amende necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State agency to suspend or terminate the agreement in accordance with §215.15. If a single State agency administers any combination of the Child Nutrition Programs, that State agency shall provide each SFA with a single agreement with respect to the operation of those programs. Such agreement shall provide that the School Food Authority or child-care institution shall, with respect to participating schools and child-care institutions under its jurisdiction: (1) Operate a nonprofit milk service. However, school food authorities may use facilities, equipment, and personnel supported with funds provided to a school food authority under this part to suppo nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.). (2) If electing to provide free milk (i) serve milk free to all eligible children, at times that milk is made available to nonneedy children under the Program; and (ii) make no discrimination against any child because of his inability to pay for the milk. (3) Comply with the requirements of the Department's regulations respecting nondiscrimination (7 CFR part 15);

Legal Standards

1,930	§215.8 Reimbursement payments	Federal	(a) [Reserved] (b)(1) The rate of reimbursement per half-pint of milk purchased and (i) served in nonpricing programs to all children; (ii) served to all children in pricing programs by institutions and School Food Authorities not electing to provide free milk; and (iii) served to children other than needy children in pricing programs by institutions and School Food Authorities electing to provide free milk shall b rate announced by the Secretary for the applicable school year. However, in no event shall the reimbursement for each half-pint (236 ml.) of milk served to children exceed the cost of the milk to the s or child care institution. (2) The rate of reimbursement for milk purchased and served free to needy children in pricing programs by institutions and School Food Authorities electing to provide free milk shall be the average of milk, i.e., the total cost of all milk purchased during the claim period, divided by the total number of purchased half-pints. (c) Schools and child-care institutions having pricing programs shall use the reimbursement payments received to reduce the price of milk to children. (Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772); Omnibus Reconciliation Act of 1980, sec. 209, Pub. L. 96-499, 94 Stat. 2599; se 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; secs. 805 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1773)) [Amdt. 13, 39 FR 28416, Aug. 7, 1974, as amended by Amdt. 16, 43 FR 1060, Jan. 6, 1978; 44 FR 10700, Feb. 23, 1979; Amdt. 17, 44 FR 33047, June 8, 1979; 46 FR 51365, Oct. 20, 1981; Amdt. 23, 47 F 14134, Apr. 2, 1982]
1,931	§215.9 Effective date for reimbursement	Federal	(a) A State Agency, or FNSRO where applicable, may grant written approval to begin operations under the Program prior to the receipt of the application from the School Food Authority or child-care institution. Such written approval shall be attached to the subsequently filed application, and the agreement executed by the School Food Authority or child-care institution shall be effective from the upon which the School Food Authority or child-care institution was authorized to begin operations: Provided, however, That such effective date shall not be earlier than the calendar month precedin calendar month in which the agreement is executed by the State Agency or by the Department. (b) Reimbursement payments pursuant to §215.8 shall be made for milk purchased and served to children at any time during the effective period of an agreement between a School Food Authority o care institution and the State agency or the Department. (Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766)) [32 FR 12587, Aug. 31, 1967, as amended by Amdt. 5, 37 FR 14686, July 22, 1972; Amdt. 13, 39 FR 28417, Aug. 7, 1974; Amdt. 16, 43 FR 1060, Jan. 6, 1978; 44 FR 10700, Feb. 23, 1979]

Legal Standards

1,932	§215.10 Reimbursement procedures	Federal	(a) To be entitled to reimbursement under this part, each School Food Authority shall submit to the State agency, or FNSRO where applicable, a monthly Claim for Reimbursement. (b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the Reports of School Program Operations require under §215.11(c)(2). Unless otherwise approved by FNS, the Claim for Reimbursement for any month shall include only milk served in that month except if the first or last month of Program operatio for any year contains 10 operating days or less, such month may be added to the Claim for Reimbursement for the appropriate adjacent month; however, Claims for Reimbursement may not combine operations occurring in two fiscal years. If a single State agency administers any combination of the Child Nutrition Programs, the SFA shall be able to use a common claim form with respect to claims reimbursement for meals served under those programs. A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency, or FNSRO where applicable, not later than 60 day following the last day of the full month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not postmarked and/or submitted within 60 days shall not be p with Program funds unless FNS determines that an exception should be granted. The State agency, or FNSRO where applicable, shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month and are reflected in the final Report of School Program Operations (FNS-10 the claim month which is required under §215.11(c)(2). Upward adjustments in Program funds claimed which are not reflected in the final FNS-10 for the claim month shall not be made unless autho by FNS. Downward adjustments in Program funds claimed shall always be made, without FNS authorization, regardless of when it is determined that such adjustments are necessary. (c) [Reserved] (d) In submitting a Claim for Reimbursement, each School Food Authority or child-care institution shall certify that the claim is true and correct; that records are available to support the claim; that t claim is in accordance with the existing agreement; and that payment therefor has not been received. (e) Milk served to adults is not eligible for reimbursement. (f) Any School Food Authority or child care institution which operates both a nonpricing and pricing milk program in the same school or child care institution, may elect to claim reimbursement for: (1) All milk purchased and served to children under the Program at the nonpricing rate prescribed in §215.8(b) (1), or (2) only milk purchased and served to children in the pricing program at the ra prescribed in §215.8(b) (1) and (2) for pricing programs. (Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); Pub. L. 97-370, 96 Stat. 1806)
1,933	§215.11 Special responsibilities of State agencies	Federal	(a) [Reserved] (b) Program assistance. Each State agency, or FNSRO where applicable, shall provide Program assistance, as follows: (1) Consultive, technical, and managerial personnel to administer the Program and monitor performance of schools and child-care institutions and to measure progress toward achieving Program go (2) Visits to participating schools and child-care institutions to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (part 15 of this title), issued u title VI of the Civil Rights Act of 1964. State agencies shall conduct reviews of schools participating in the Program for compliance with the provisions of this part when such schools are being review under the provisions identified under §210.18(i) of this title. Compliance reviews of participating schools shall focus on the reviewed school's compliance with the required certification, counting an service procedures. School food authorities may appeal a denial of all or a part of the Claim for Reimbursement or withholding of payment arising from review activity conducted by the State agency §210.18 of this title or by FNS under §210.30(d)(2) of this title. Any such appeal shall be subject to the procedures set forth under §210.18(q) of this title or §210.30(d)(3) of this title, as appropriate. (3) Documentation of such Program assistance shall be maintained on file by the State agency, or FNSRO where applicable. (c) Records and reports. (1) Each State agency shall maintain Program records as necessary to support the reimbursement payments made to child care institutions or School Food Authorities under §§215.8 and 215.10 and the reports submitted to FNS under §215.11(c)(2). The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the d submission of the final Financial Status Report for the fiscal year, except that if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required fo resolution of the issues raised by the audit. (2) Each State agency shall submit to FNS a final Report of School Program Operations (FNS-10) for each month which shall be limited to claims submitted in accordance with §215.10(b) and which s be postmarked and/or submitted no later than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is no submitted within this time limit unless FNS grants an exception. Upward adjustments to a State agency's report shall not be made after 90 days from the month covered by the report unless authoriz FNS. Downward adjustments shall always be made, without FNS authorization, regardless of when it is determined that such adjustments are necessary. Adjustments shall be reported to FNS in accordance with procedures established by FNS. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF-269) on the use of Program funds. Such reports shall be postmarke and/or submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. A final Financial Status Report for each fiscal shall be postmarked and/or submitted to FNS within 120 days after the end of the fiscal year. FNS shall not be responsible for reimbursing unpaid program obligations reported later than 120 days a the close of the fiscal year in which they were incurred.

Legal Standards

1,934	§215.12 Claims against schools or child-care institutions	Federal	(a) State agencies, or FNSROs where applicable, shall disallow any portion of a claim and recover any payment made to a School Food Authority or child-care institution that was not properly payable under this part. State agencies will use their own procedures to disallow claims and recover overpayments already made. (b) [Reserved] (c) The State Agency may refer any matter in connection with this section to FNSRO and CND for determination of the action to be taken. (d) Each State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of three years after the date of the submission of the final Fina Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit. (e) If CND does not concur with the State Agency action in paying a claim or a reclaim, or in failing to collect an overpayment FNSRO shall assert a claim against the State Agency for the amount of suc claim, reclaim or overpayment. In all such cases, the State Agency shall have full opportunity to submit to CND evidence or information concerning the action taken. If in the determination of CND, the Agency's action was unwarranted, the State Agency shall promptly pay to FNS the amount of the claim, reclaim, or overpayment. (f) The amounts recovered by the State Agency from schools and child-care institutions may be utilized, first, to make reimbursement payments for milk served during the fiscal year for which the fu were initially available, and second, to repay any State funds expended in the reimbursement of claims under the program and not otherwise repaid. Any amounts recovered which are not so utilized be returned to FNS in accordance with the requirements of §215.5(c). (g) With respect to schools or child-care institutions in which FNSRO administers the Program, when FNSRO disallows a claim or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the School Food Authority or child-care institutions of the reasons for such disallowance or demand and the School Food Authority or child-care institutions shall have ful opportunity to submit evidence or to file reclaim for any amount disallowed or demanded in the same manner afforded in this section to schools or child-care institutions administered by State Agen (h) The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claims arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States. (47 FR 745, Jan. 7, 1982 (44 U.S.C. 3506; secs. 804, 816 and 817, Pub. L. 97-35; 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771 and 1785))
1,935	§215.13 Management evaluations and audits	Federal	(a) Unless otherwise exempt, audits at the State and school food authority/child care institution levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department's implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3. (b) Each State agency shall provide FNS with full opportunity to conduct management evaluations (including visits to schools and child-care institutions) of any operations of the State agency under t Program and shall provide OIG with full opportunity to conduct audits (including visits to schools and child-care institutions) of all operations of the State agency under the Program. Each State agen shall make available its records, including records of the receipt and expenditure of funds under the Program, upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of records and operations of any school or child-care institution. (c) In conducting management evaluations, reviews or audits for any fiscal year, the State agency, FNS, or OIG may disregard any overpayment if the total overpayment does not exceed $600 or, in the of State agency claims in State administered Programs, it does not exceed the amount established under State law, regulations or procedure as a minimum amount for which claim will be made for St losses but not to exceed $600. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes. (Secs. 805 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1773); sec. 812, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1759a)) [Amdt. 14, 41 FR 31175, July 27, 1976, as amended at 43 FR 58925, Dec. 22, 1978; Amdt. 23, 47 FR 14135, Apr. 2, 1982; Amdt. 25, 47 FR 18564, Apr. 30, 1982; Amdt. 36, 54 FR 2990, Jan. 23, 1989; 57 38586, Aug. 26, 1992; 59 FR 1894, Jan. 13, 1994; 64 FR 50742, Sept. 20, 1999; 71 FR 39516, July 13, 2006]

Legal Standards

1,936	§215.13a Determining eligibility for free milk in child-care institutions	Federal	(a) General. Child care institutions which operate pricing programs may elect to make free milk available, as set forth in §215.7(d)(2), to children who meet the approved eligibility criteria. Such child institutions shall determine the children who are eligible for free milk and assure that there is no physical segregation of, or other discrimination against, or overt identification of, children unable to the full price for milk. (b) Action by State agencies and FNSROs. Each State agency, or FNSRO where applicable, upon application for the program by a child care institution operating a pricing program, and annually therea shall require the institution to state whether or not it wishes to serve free milk to eligible children at times that milk is provided under the Program. It shall annually require each child care institutio electing to provide free milk to submit a free milk policy statement and shall provide such institutions with a prototype free milk policy statement and a copy of the State's family-size income standar determining eligibility for free meals and milk under the National School Lunch and School Breakfast Programs to assist the institutions in meeting its responsibilities. (c) Action by institutions. Each child care institution which operates a pricing program shall inform the State agency, or FNSRO where applicable, at the time it applies for Program participation and a least annually thereafter, whether or not it wishes to provide free milk. Institutions electing to provide free milk shall annually submit a written free milk policy statement for determining free milk eligibility of children under their jurisdiction, which shall contain the items specified in paragraph (d) of this section. Such institutions shall not be approved for Program participation of their agreem renewed unless the free milk policy has been reviewed and approved. Pending approval or a revision of a policy statement, the existing policy shall remain in effect. (d) Policy statement. A free milk policy statement as required in paragraph (c) of this section shall contain the following: (1) The specific criteria to be used in determining eligibility for free milk. These criteria shall give consideration to economic need as reflected by family size and income. The criteria used by the child institution may not result in the eligibility of children from families whose incomes exceed the State's family-size income standards for determining eligibility for free meals under the National Schoo Lunch and School Breakfast Programs. (2) The method by which the child-care institution will collect information from families in order to determine a child's eligibility for free milk. (3) The method by which the child-care institution will collect milk payments so as to prevent the overt identification of children receiving free milk. (4) A hearing procedure substantially like that outlined in part 245 of this chapter. (5) An assurance that there will be no discrimination against free milk recipients and no discrimination against any child on the basis of race, color, or national origin.
1,937	§215.14a Procurement standards	Federal	(a) General. State agencies and school food authorities shall comply with the requirements of this part and parts 3015, 3016 and 3019 of this title, as applicable, which implement the applicable Offic Management and Budget Circulars, concerning the procurement of all goods and services with nonprofit school food service account funds. (b) Contractual responsibilities. The standards contained in this part and 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable, do not relieve the State agency or School Food Authori any contractual responsibilities under its contract. The State agency or School Food Authority is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes but is not limited to: Source evaluation, protests, disputes, claims, or oth matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction. (c) Procedures. The State agency may elect to follow either the State laws, policies and procedures as authorized by §§3016.36(a) and 3016.37(a) of this title, or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with §3016.36(b) through (i) of this title. Regardless of the option selected, States must ensure that all contracts include any clauses required by Federal statutes and executive orders and that the requirements of §3016.60(b) and (c) of this title are followed. The school food authority or child care institution may use its ow procurement procedures which reflect applicable State or local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set in this part and §§3016.36(b) through 3016.36(i), 3016.60 and §§3019.40 through 3019.48 of this title, as applicable, and in the applicable Office of Management and Budget Circulars. School food authority procedures must include a written code of standards of conduct meeting the minimum standards of §3016.36(b)(3) or §3019.42 of this title, as applicable. (1) Pre-issuance review requirement. The State agency may impose a pre-issuance review requirement on a school food authority's proposed procurement. The school food authority must make ava upon request of the State agency, its procurement documents, including but not limited to solicitation documents, specifications, evaluation criteria, procurement procedures, proposed contracts and contract terms. School food authorities shall comply with State agency requests for changes to procurement procedures and solicitation and contract documents to ensure that, to the State agency's satisfaction, such procedures and documents reflect applicable procurement and contract requirements and the requirements of this part. (2) Prototype solicitation documents and contracts. The school food authority must obtain the State agency's prior written approval for any change made to prototype solicitation or contract docume before issuing the revised solicitation documents or execution of the revised contract. (3) Prohibited expenditures. No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of this part. (d) Cost reimbursable contracts—(1) Required provisions. The school food authority must include the following provisions in all cost reimbursable contracts, including contracts with cost reimbursa provisions, and in solicitation documents prepared to obtain offers for such contracts:

Legal Standards

1,938	§215.15 Withholding payments	Federal	In accordance with Departmental regulations at §§3016.43 and 3019.62 of this title, the State agency shall withhold Program payments in whole or in part, to any school food authority which has fail comply with the provisions of this part. Program payments shall be withheld until the school food authority takes corrective action satisfactory to the State agency, or gives evidence that such correc actions will be taken, or until the State agency terminates the grant in accordance with §215.16. Subsequent to the State agency's acceptance of the corrective actions, payments will be released for ar milk served in accordance with the provisions of this part during the period the payments were withheld. [72 FR 61493, Oct. 31, 2007]
1,939	§215.16 Suspension, termination and grant closeout procedures	Federal	Whenever it is determined that a State agency has materially failed to comply with the provisions of this part, or with FNS guidelines and instructions, FNS may suspend or terminate the Program in or in part, or take any other action as may be available and appropriate. A State agency may also terminate the Program by mutual agreement with FNS. FNS and the State agency shall comply with th provisions of 7 CFR part 3016, concerning grant suspension, termination and closeout procedures. Furthermore, the State agency, or FNSRO where applicable, shall apply these provisions, or the par provisions of 7 CFR part 3019, as applicable, to suspension or termination of the Program in School Food Authorities. [Amdt. 30, 49 FR 18987, May 4, 1984, as amended at 71 FR 39517, July 13, 2006. Redesignated at 72 FR 61493, Oct. 31, 2007]
1,940	§215.17 Program information	Federal	School Food Authorities and child-care institutions desiring information concerning the Program should write to their State educational agency, or the appropriate Food and Nutrition Service Regio Office of FNS as indicated below: (a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 10 Causeway Street, Ro 501, Boston, Massachusetts 02222-1065. (b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 300 Corporate Boulevard, Robbinsville, New Jersey 08691-1598. (c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 61 Forsyth Street S Room 8T36, Atlanta, Georgia 30303. (d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 77 West Jackson Boulevard, 20th Floor, Chicago, Illinois 6 3507. (e) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, Texas: Southwest Regional Office, Food and Nutrition Service, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, D Texas 75242. (f) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, The Commonwealth of the Northern Mariana Islands, and Washington: Western Regional Office, U.S. Department of Agriculture, 90 Seventh Street, Suite 10-100, San Francisco, California 94103-6701. (g) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 1244 Speer Boulevard, Suite 903, Denver, Colorado 80204. (Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624 (42 U.S.C. 1757); sec. 14, Pub. 627, 92 Stat. 3625-3626); secs. 804, 816, 817 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771, 1773 and 1785) [Amdt. 14, 41 FR 31178, July 27, 1976, as amended by Amdt. 18, 44 FR 37898, June 29, 1979; Amdt. 27, 48 FR 195, Jan. 4, 1983; Amdt. 36, 54 FR 2990, Jan. 23, 1989; 65 FR 12435, Mar. 9, 2000.

Legal Standards

1,941	§215.18 Information collection/recordkeeping—OMB assigned control numbers	Federal	7 CFR section where requirements are described Current OMB control number 215.3(d) 0584-0327 215.5(a) 0584-0005 0584-0002 215.5(c) 0584-0341 215.7 (a), (c) 0584-0005 215.7 (b)(2) 0584-0026 215.7(d) 0584-0329 0584-0005 215.10 (a), (b), (d) 0584-0005 0584-0284 215.11 (b), (c)(1), (e) 0584-0005 215.11(c)(2) 0584-0002 0584-0341 215.12 (a), (d), (e), (g) 0584-0005 215.13(a) 0584-0005 215.13a(a)-(e) 0584-0026 215.14 0584-0005 215.14a(a)-(c) 0584-0005 215.15 0584-0005 [50 FR 53258, Dec. 31, 1985. Redesignated at 72 FR 61493, Oct. 31, 2007]
1,942	Title 7: Agriculture PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS	Federal	
1,943	§235.1 General purpose and scope	Federal	This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 7 of the Child Nutrition Act of 1966, as amended. It prescribes the methods for making payments of funds to State agencies for use for administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National S Lunch Program (7 CFR part 210), the Special Milk Program (7 CFR part 215), the School Breakfast Program (7 CFR part 220), the Child and Adult Care Food Program (7 CFR part 226) and the Food Distribution Program (7 CFR part 250). (Sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776)) [44 FR 51185, Aug. 31, 1979, as amended by Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15461, Mar. 24, 1995]

Legal Standards

1,944	§235.2 Definitions	Federal	For the purpose of this part, the term: 7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under USDA programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements. 7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for av and subawards to State and local governmental organizations under Department programs. 7 CFR part 3018 means the Department's Common Rule regarding Governmentwide New Restrictions on Lobbying. Part 3018 implements the requirements established by section 319 of the 1990 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 101-121). 7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CI part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs. 7 CFR part 3052 means the Department's regulations implementing OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations." (For availability of OMB Circulars refere in this definition, see 5 CFR 1310.3.) Act means the Child Nutrition Act of 1966, as amended. CND means the Child Nutrition Division of the Food and Nutrition Service of the U.S. Department of Agriculture. Department means the U.S. Department of Agriculture. Distributing agency means a State agency which enters into an agreement with the Department for the distribution of donated foods pursuant to part 250 of this title. FNS means the Food and Nutrition Service of the U.S. Department of Agriculture.
1,945	§235.3 Administration	Federal	(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program for payment to States of State administrative expense funds covered by this part. Within FN CND shall be responsible for administration of the program. (b) Each State agency desiring to receive payments under this part shall enter into a written agreement with the Department for the administration of the child nutrition programs in accordance with applicable requirements of this part, 7 CFR parts 210, 215, 220, 225, 226, 245, 15, 15a, 15b, 3015, and 3016. Each agreement shall cover the operation of the Program during the period specified ther and may be extended at the option of the Department. (Sec. 14, Pub. L. 95-166, 91 Stat. 1338 (42 U.S.C. 1776); sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776)) [41 FR 32405, Aug. 3, 1976, as amended at 44 FR 48957, Aug. 21, 1979; Amdt. 14, 51 FR 27151, July 30, 1986; 71 FR 39519, July 13, 2006]

Legal Standards

1,946	§235.4 Allocation of funds to States	Federal	(a) Nondiscretionary SAE Funds. For each fiscal year, FNS shall allocate the following: (1) To each State which administers the National School Lunch, School Breakfast or Special Milk Programs an amount equal to one (1) percent of the funds expended by such State during the second preceding fiscal year under sections 4 and 11 of the National School Lunch Act, as amended, and sections 3, 4 and 17A of the Child Nutrition Act of 1966, as amended. However, the total amount alloca to any State under this paragraph shall not be less than $200,000 or the amount allocated to the State in the fiscal year ending September 30, 1981, whichever is greater. On October 1, 2008 and each October 1 thereafter, the minimum dollar amount for a fiscal year for administrative costs shall be adjusted to reflect the percentage change between the value of the index for State and local governm purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year, and the value of that index f 12-month period ending June 30 of the preceding fiscal year. (2) To each State which administers the Child and Adult Care Food Program an amount equal to the sum of: Twenty percent of the first $50,000; ten percent of the next $100,000; five percent of the n $250,000; and two and one-half percent of any remaining funds expended within the State under section 17 of the National School Lunch Act, as amended, during the second preceding fiscal year. FN adjust the amount of any such allocation in accordance with changes in the size of the Child and Adult Care Food Program in a State. (3) For each of fiscal years 2005 through 2007 no State shall receive less than its fiscal year 2004 allocation for administrative costs for all child nutrition programs. (b) Discretionary SAE Funds. For each fiscal year, FNS shall provide the following additional allocations: (1) Allocate $30,000 to each State which administers the Child and Adult Care Food Program (7 CFR part 226). (2) $30,000 to each State which administers the Food Distribution Program (part 250 of this chapter) in schools and/or institutions which participate in programs under parts 210, 220, 226 of this chapter. (3) Amounts derived by application of the following four-part formula to each State agency which is allocated funds under paragraph (a) of this section: (i) One equal share of forty (40) percent of the funds designated by FNS for the reviews conducted under §210.18 of this title. (ii) The ratio of the number of School Food Authorities participating in the National School Lunch or Commodity School Programs under the jurisdiction of the State agency to such School Food Authorities in all States times twenty (20) percent of the funds designated by FNS for reviews conducted under §210.18 or of this title.
1,947	§235.5 Payments to States	Federal	(a) Method of payment. FNS will specify the terms and conditions of the State agency's annual grant of SAE funds in conjunction with the grant award document and will make funds available for pay by means of a Letter of Credit issued in favor of the State agency. The total amount of a State agency's grant shall be equal to the sum of the amounts allocated to such agency under §235.4 plus or min any adjustments resulting from the reallocation provisions under paragraph (d) of this section plus any transfers under §235.6(a) and/or §235.6(c) of this part. The amount of SAE funds made availa for payment to a State agency in any fiscal year shall be determined by FNS upon approval of the State agency's administrative plan under paragraph (b) of this section and any amendments to such p under paragraph (c) of this section. Funds shall not be made available before the State agency's plan or amendment to such plan, as applicable, has been approved by FNS. However, if the plan has not approved by October 1 of the base year, FNS may advance SAE funds to the State agency, in amounts determined appropriate by FNS, pending approval of the plan. (b) Administrative plan. (1) Each State agency shall submit, subject to FNS approval, an initial State Administrative Expense plan based upon guidance provided by FNS. This base year plan shall inclu (i) The staffing pattern for State level personnel; (ii) A budget for the forthcoming fiscal year showing projected amounts (combined SAE and State funds) by cost category; (iii) The total amount of budgeted funds to be provided from State sources; (iv) The total amount of budgeted funds to be provided under this part; (v) The State agency's estimate of the total amount of budgeted funds (combined SAE and State funds) attributable to administration of the School Nutrition Programs (National School Lunch, School Breakfast and Special Milk Programs), Child and Adult Care Food Program, and/or Food Distribution Program in schools and child and adult care institutions and to each of the major activity areas o State agency; and (vi) The State agency's estimate of the total Child and Adult Care Food Program audit funds to be used for the forthcoming fiscal year. (2) These activity areas shall be defined and described by the State agency in accordance with guidance issued by FNS and may include such activities as program monitoring, technical assistance, Fe reporting/claims processing, policy implementation, and allocation of foods to recipient agencies. (3) Except in specific instances where determined necessary by FNS, State agencies shall not be required to maintain expenditure records by activity area or program. State agencies shall refer to Offi Management and Budget Circular A-87, Attachment B, to establish cost categories.

Legal Standards

1,948	§235.6 Use of funds	Federal	(a) Funds allocated under this part and 7 CFR part 225 shall be used for State agency administrative costs incurred in connection with the programs governed by 7 CFR parts 210, 215, 220, 225, 226, 250 of this title. Except as provided under §235.6(c), funds allocated under §235.4, paragraphs (a) and (b) and 7 CFR part 225 shall be used for the program(s) for which allocated, except that the Stat agency may transfer funds allocated for any such program(s) to other such program(s). Subject to the provisions of this paragraph, a State agency may also transfer SAE funds that are not needed to implement its approved plan §235.5(b) to another State agency within the State that is eligible to receive SAE funds under this part. Up to 25 per cent of funds allocated under §235.4(a) through (c) fo Fiscal Year 1991 and up to 20 per cent of funds allocated in subsequent fiscal years to a State agency may, subject to the provisions of §235.5 of this part, remain available for obligation and expenditu such State agency during the following fiscal year. (a-1) State administrative expense funds paid to any State may be used by State agencies to pay salaries, including employee benefits and travel expenses for administrative and supervisory personne support services, for office equipment, and for staff development, particularly for monitoring and training of food service personnel at the local level in areas such as food purchasing and merchandiz Such funds shall be used to employ additional personnel, as approved in the applicable State plan to supervise, improve management, and give technical assistance to school food authorities and to institutions in their initiation, expansion, and conduct of any programs for which the funds are made available. State agencies may also use these funds for their general administrative expenses in connection with any such programs, including travel and related expenses. Additional personnel or part-time personnel hired are expected to meet professional qualifications and to be paid at salary scales of positions of comparable difficulty and responsibility under the State agency. Personnel may be used on a staff year equivalent basis, thus permitting new personnel and existing staff to be cr utilized for most effective and economical operation under existing and new programs. (a-2) State Administrative Expense Funds paid to any State agency under §235.4(b)(3) shall be available for reviews conducted under §210.18 activities associated with carrying out actions to ensure adherence to the program performance standards. (b) State administrative expense funds shall be used consistent with the cost principles and constraints on allowable and unallowable costs and indirect cost rates as prescribed in Office of Managem and Budget Circular A-87. (c) In addition to State Administrative Expense funds made available specifically for food distribution purposes under §235.4 (b)(2) and (b)(4), State Administrative Expense funds allocated under §2 (a)(1), (a)(2), (b)(1), (b)(3), and (d), and under (b)(4) for the Child and Adult Care Food Program may be used to assist in the administration of the Food Distribution Program (7 CFR part 250) in sch and institutions which participate in programs governed by parts 210, 220, and 226 of this title when such Food Distribution Program is administered within the State agency and may also be used to administrative expenses of a distributing agency, when such agency is other than the State agency and is responsible for administering all or part of such Food Distribution Program. (d) FNS shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act, not more than $4,000,000 in each of Fiscal Years 1993 and 1994. Subject to the maximum allocation for such projects for each fiscal year, at the beginning of each of Fiscal Years 1993 and
1,949	§235.7 Records and reports	Federal	(a) Each State agency shall keep records on the expenditure of State administrative expense funds provided under this part and part 225 of this title. Such records shall conform with the applicable St plan for use of State administrative expense funds. The State agency shall make such records available, upon a reasonable request, to FNS, OIG, or the U.S. Comptroller General and shall maintain curre accounting records of State administrative expense funds which shall adequately identify fund authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. The records ma kept in their original form or on microfilm, and shall be retained for a period of three years after the date of the submission of the final Financial Status Report, subject to the exceptions noted below: (1) If audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit. (2) Records for nonexpendable property acquired with State Administrative Expense Funds shall be retained for three years after its final disposition. (b) Each State agency shall submit to FNS a quarterly Financial Status Report (SF-269) on the use of State administrative expense funds provided for each fiscal year under this part. Reports shall be postmarked and/or submitted to FNS no later than 30 days after the end of each quarter of the fiscal year and, in case of funds carried over under §235.6(a), each quarter of the following fiscal year u all such funds have been obligated and expended. Obligations shall be reported for the fiscal year in which they occur. Each State agency shall submit a final Financial Status Report for each fiscal year State administrative expense funds. This report shall be postmarked and/or submitted to FNS no later than 30 days after the end of the fiscal year following the fiscal year for which the funds were in made available. Based on guidance provided by FNS, each State agency shall also use the quarterly SF-269 to report on the use of State funds provided during the fiscal year. Each State agency shall al submit an annual report containing information on School Food Authorities under agreement with the State agency to participate in the National School Lunch or Commodity School programs. (c) State agencies operating those programs governed by parts 210, 215, 220 and 226 and those State agencies which are distributing agencies eligible for SAE funds shall participate in surveys and studies of programs authorized under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, when such studies and surveys are authorized by the Secretary of Agriculture. The aforementioned State agencies shall encourage individual School Food Authorities, child and adult care institutions, and distributing agencies (as applicable) to participate in such st and surveys. Distribution of State Administrative Expense funds to an individual State agency is contingent upon that State agency's cooperation in such studies and surveys. (Sec. 14, Pub. L. 95-166, 91 Stat. 1338 (42 U.S.C. 1776); sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776); 93 Stat. 837, Pub. L. 96-108 (42 U.S.C. 1776); secs. 804, 816, 817 and 819, Pub. L. 97-35, 95 521-535 (42 U.S.C. 1753, 1756, 1759, 1771, 1773 and 1785); sec. 7(a), Pub. L. 95-627, 92 Stat. 3622, 42 U.S.C. 1751) [41 FR 32405, Aug. 3, 1976, as amended at 43 FR 37173, Aug. 22, 1978; 44 FR 48958, Aug. 21, 1979; 45 FR 8563, Feb. 8, 1980; Amdt. 9, 48 FR 195, Jan. 4, 1983; Amdt. 11, 48 FR 27892, June 17, 1983; 12, 49 FR 18989, May 4, 1984; Amdt. 14, 51 FR 27152, July 30, 1986; Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15463, Mar. 24, 1995]

Legal Standards

1,950	§235.8 Management evaluations and audits	Federal	(a) Unless otherwise exempt, audits at the State level shall be conducted in accordance with Office of Management and Budget Circular A-133, and the Department's implementing regulations at 7 CF 3052. (To obtain the OMB circular referenced in this definition, see 5 CFR 1310.3.) (b) While OIG shall rely to the fullest extent feasible upon State sponsored audits, it shall, whenever considered necessary, (1) perform on-site test audits, and (2) review audit reports and related wo papers of audits performed by or for State agencies. (c) Each State agency shall provide FNS with full opportunity to conduct management evaluations of all operations of the State agency under this part and shall provide OIG with full opportunity to conduct audits of all such operations. Each State agency shall make available its records, including records of the receipt and expenditure of funds, upon a reasonable request by FNS, OIG, or the U.S. Comptroller General. (Sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776); secs. 804, 805, 812, 814, 816, 817 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1754, 1756, 1759, 1759a, 1771, 1773, 1774, 1776, an 1785)) [41 FR 32405, Aug. 3, 1976, as amended at 44 FR 51186, Aug. 31, 1979; Amdt. 7, 47 FR 18567, Apr. 30, 1982; Amdt. 9, 48 FR 195, Jan. 4, 1983; 54 FR 2991, Jan. 23, 1989; 71 FR 39519, July 13, 2006]
1,951	§235.9 Procurement and property management standards	Federal	(a) Requirements. State agencies shall comply with the requirements of 7 CFR part 3016 concerning the procurement of supplies, equipment and other services with State Administrative Expense Fu (b) Contractual responsibilities. The standards contained in 7 CFR part 3016 do not relieve the State agency of any contractual responsibilities under its contract. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. Th includes, but is not limited to source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction. (c) Procurement procedure. The State agency may use its own procurement procedures which reflect applicable State laws and regulations, in accordance with 7 CFR part 3016. (d) Property acquired with State administrative expense funds. State Agencies shall comply with the requirements of 7 CFR part 3016 in their utilization and disposition of property acquired in whol in part with State Administrative Expense Funds. (Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-642, 80 Stat. 885-890 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759)) [Amdt. 9, 48 FR 19355, Apr. 29, 1983, as amended at 71 FR 39519, July 13, 2006]
1,952	§235.10 [Reserved]	Federal	

Legal Standards

1,953	§235.11 Other provisions	Federal	(a) State funds. Expenditures of funds from State sources in any fiscal year for the administration of the National School Lunch Program, School Breakfast Program, Special Milk Program, Child and Ad Care Food Program shall not be less than that expended or obligated in fiscal year 1977. Failure of a State to maintain this level of funding will result in the total withdrawal of SAE funds. State agenci shall follow the provisions of 7 CFR part 3016 in identifying and documenting expenditures of funds from State revenues to meet the State funding requirement of this paragraph. (b) Sanctions imposed. (1) FNS may recover, withhold or cancel payment of up to one hundred (100) percent of the funds payable to a State agency under this part, whenever it is determined by FNS the State agency has failed to comply with the requirements contained in this part and in parts 210, 215, 220 and 226 of this title and in part 250 of this title as it applies to the operation of the Food Distribution Program in schools and child and adult care institutions. (2) In addition to the general provisions found in paragraph (b)(1) of this section, FNS may, for any fiscal year, recover, withhold or cancel payment of up to thirty-three and one-third (331/3) percent the funds payable to, and to be used by, a State agency under §235.4(a)(1) and §235.4(b)(3) for administration of school nutrition programs in FNS determines that a State agency is deficient in one o more of the following: (i) Implementing the requirements in §210.18; (ii) Conducting the number of reviews required in §210.18 within the timeframes specified; (iii) Covering the areas of review set forth in the §210.18, carrying out corrective action, and assessing and recovering claims as prescribed in §§210.18 and 210.19 of this title; (iv) Conducting reviews with sufficient thoroughness to identify violations of the areas of review identified in §210.18; and (v) Meeting the reporting deadlines prescribed for the forms (FNS-10 and SF-269) required under §210.5(d) of this title. (3) Furthermore, FNS may for any fiscal year, recover, withhold or cancel payment of up to thirty-three and one-third (331/3) percent of the funds payable to, and to be used by, a State agency under §235.4(a)(2), §235.4(b)(1) and §235.4(b)(4) for administration of the Child and Adult Care Food Program if FNS determines that a State agency is deficient in meeting the reporting deadlines prescri for the forms (FNS-44 and SF-269) required under §226.7(d) of this title. (4) In establishing the amounts of funds to be recovered, withheld or cancelled under paragraph (b)(2) and (b)(3) of this section, FNS shall determine the current or projected rate of funds usage by t State agency for all funds subject to sanction, and after considering the severity and longevity of the cumulative deficiencies, shall apply an appropriate sanction percentage to the amount so determi
1,954	§235.12 Information collection/recordkeeping—OMB assigned control numbers	Federal	7 CFR section where requirements are described Current OMB control number 235.3(b) 0584-0067 235.4(d), (e) 0584-0067 235.7(a) 0584-0067 235.7(b) 0584-0067 235.7(c) 0584-0067 235.8(a), (b) 0584-0067 235.9(c), (d) 0584-0067 235.11(b)(2) 0584-0067 235.11(b)(5)(ii) 0584-0067 235.11(f) 0584-0067 [64 FR 50744, Sept. 20, 1999]
1,955	Title 7: Agriculture PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION	Federal	
1,956	Subpart A—General §250.1 General purpose and scope	Federal	This part prescribes the terms and conditions under which donated foods may be obtained from the Department by Federal, State and private agencies for use in any State in child nutrition programs nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, the Commodity Supplemental Food Program, the Special Supplemental Nutrition Program for Wome Infants, and Children, the Food Distribution Programs on Indian Reservations and the assistance of needy persons.

Legal Standards

1,957	§250.2 Administration	Federal	(a) Delegation to FNS. Within the Department, FNS shall act on behalf of the Department in the administration of the program. FNS will provide assistance to distributing agencies and evaluate all leve program operations to assure that the goals of the program are achieved in the most effective and efficient manner possible. (b) Delegation to distributing agency. The distributing agency is responsible for effective and efficient administration of program operations within its jurisdiction and shall administer the program i accordance with the requirements of this part and FNS guidelines and instructions. Distributing agencies may impose additional requirements for participation that are not inconsistent with the provisions of this part, except that this provision shall not apply to distribution to households on all or part of an Indian reservation which is participating in the Food Distribution Program under par and part 254 of this chapter. The distributing agency shall provide guidance to subdistributing agencies and recipient agencies on all aspects of program operations. (c) Personnel. Each distributing agency shall provide adequate personnel, to administer the program in accordance with this part.
1,958	§250.3 Definitions	Federal	7 CFR part 3016 means the Department's regulations establishing uniform administrative requirements for Federal grants and cooperative agreements and subawards to State, local, and Indian triba governments. 7 CFR part 3019 means the Department's regulations establishing uniform administrative requirements for Federal grants and cooperative agreements awarded to institutions of higher education, hospitals, and other nonprofit organizations. Adult care institution means a nonresidential adult day care center that participates independently in CACFP, or that participates as a sponsoring organization, in accordance with an agreement with distributing agency. AoA means the Administration on Aging, which is the DHHS agency that administers NSIP. Bonus foods means Section 32, Section 416, and Section 709 donated foods, as defined in this section, which are purchased under surplus removal or price support authority, and provided to distribu agencies in addition to legislatively authorized levels of assistance. CACFP means the Child and Adult Care Food Program, 7 CFR part 226. Charitable institutions means public institutions or nonprofit organizations, as defined in this section, that provide a meal service on a regular basis to predominantly needy persons in the same place without marked changes. Charitable institutions include, but are not limited to, emergency shelters, soup kitchens, hospitals, retirement homes, elderly nutrition projects; schools, summer camps, se institutions, and child and adult care institutions that do not participate in a child nutrition program, or as a commodity school, as they are defined in this section; and adult correctional institutions t conduct rehabilitation programs for a majority of inmates. Child care institution means a nonresidential child care center that participates independently in CACFP, or that participates as a sponsoring organization, in accordance with an agreement with the distributing agency. Child nutrition program means NSLP, CACFP, SFSP, or SBP. Commodities means foods donated, or available for donation, by the Department under any of the legislation referred to in this part (see “Donated Foods”).
1,959	Subpart B—General Operating Provisions §250.10 Eligible distributing and subdistributing agencies	Federal	(a) State and Federal agencies. Federal agencies and such State agencies as are designated by the Governor of the State, or by the State legislature, and approved by the Secretary are eligible to becom distributing agencies. (b) Private agencies. Where distributing agencies are not permitted by law to make distribution to private recipient agencies, or to any class of private recipient agency, private agencies which agree make distribution of donated food on a State-wide basis and which apply directly to FNS, and are approved by the Secretary are eligible to become distributing agencies. (c) Subdistributing agencies. If distributing agencies use subdistributing agencies to distribute donated foods, the distributing agencies' responsibilities to the Department for overall management ar control of the distribution program shall not be delegated to such subdistributing agencies.

Legal Standards

1,960	§250.11 Eligibility determination for recipient agencies and recipients	Federal	(a) Verification of recipient agency eligibility. Distributing agencies at the request of FNS shall: (1) Verify that recipient agencies registered to participate in the National Commodity Processing (NCP) Program have a current agreement with the distributing agency to receive donated food in accordance with §252.1(c) and (2) Report the results of such verification to FNS within timeframes determined by FNS. (b) Eligibility of recipient agencies and recipients. Distributing agencies shall determine the eligibility of any agency which submits an application for participation in the program. Distributing agenc shall consider the past performance of recipient agencies when approving applications for participation. Once a recipient agency has been determined to be eligible for participation in the program, t distributing agency shall enter into an agreement with the agency in accordance with §250.12(b) and make donated food available. Distributing agencies shall impose upon welfare agencies the responsibility for determining that recipients to whom welfare agencies distribute donated foods are eligible: Provided, however: That the State agency or FNSRO administering the applicable progra shall determine the eligibility under this part of school food authorities participating under part 210 or part 220, or sponsors participating in the Summer Food Service Program for Children under pa 225, of this chapter, and of nonresidential child care institutions participating in the Child Care Food Program under part 226 of this chapter.
1,961	§250.12 Agreements	Federal	(a) Agreements with Department. Prior to the beginning of a distribution program, distributing agencies shall enter into written agreements with the Department which shall incorporate the terms a conditions set forth in this part. When requested by the Department an eligible agency shall present evidence of its authority to enter into such agreements. The agreements shall be considered perm with amendments initiated by distributing agencies, or submitted by them at the Department's request, all of which shall be subject to approval by the Department. (b) Distributing agency agreements. Distributing agencies shall enter into written agreements with all subdistributing agencies, recipient agencies, warehouses, carriers, or other entities to which distributing agencies deliver donated foods under their distribution program. Distributing agencies shall be responsible for ensuring that program integrity is maintained by all entities with whom agreements are entered into. All agreements shall contain such terms and conditions as the distributing agency deems necessary to ensure that: (1) The distribution and use of donated foods is in accordance with this part, (2) Subdistributing agencies, recipient agencies, warehouses, carriers, or other persons to whom donated foods are delivered by the distributing agency are responsible to the distributing agency for improper distribution or use of donated foods or for any loss of, or damage to, donated foods caused by their fault or negligence, (3) Subdistributing agencies and recipient agencies have and preserve a right to assert claims against other persons to whom donated foods are delivered for care, handling or distribution, and (4) Subdistributing agencies and recipient agencies will take action to obtain restitution in connection with claims for improper distribution, use or loss of, or damage to, donated foods. (c) Duration of distributing agency agreements—(1) Recipient agencies. Distributing agency agreements with recipient agencies shall be considered permanent, with amendments to be made as necessary. Distributing agencies shall ensure that recipient agencies provide, on a timely basis, by amendment to the agreement, any changed information, including, but not limited to, any changes resulting from amendments to Federal regulatory requirements and policy and changes in site locations, and number of meals or needy persons to be served. (2) Subdistributing agencies, carriers, and other entities. Distributing agency agreements with subdistributing agencies (as defined in §250.3) that are not recipient agencies, carriers, and other entiti shall be in effect for not longer than one year, and shall provide that they may be extended at the option of both parties for two additional one-year periods. The party contracting with the distributin agency shall update all pertinent information and demonstrate that all donated food received during the period of the previous agreement has been accounted for, before an agreement is extended. (3) Termination of agreements. Agreements may be terminated for cause by either party upon 30 days notice. [53 FR 20426, June 3, 1988, as amended at 62 FR 53729, Oct. 16, 1997; 73 FR 46184, Aug. 8, 2008]

Legal Standards

1,962	§250.13 Distribution and control of donated foods	Federal	(a) Availability and use of donated foods—(1) General. (i) Donated foods shall be available only for distribution and use in accordance with the provisions of this part and, with respect to distribution households on all or part of an Indian reservation, of parts 253 and 254 of this chapter. (ii) Donated foods shall not be sold, exchanged or otherwise disposed of without the approval of the Department. (iii) Donated foods which are provided as part of an approved food package or authorized level of assistance may be transferred between like recipient agencies only with prior authorization of the distributing agency. Donated foods which are provided in addition to the State's authorized level of assistance may be transferred between recipient agencies which are eligible to receive such foods the prior authorization of the distributing agency. However, the transfer of donated foods between unlike recipient agencies (e.g., from schools to charitable institutions), which have been provided a of an approved food package or authorized level of assistance, must be approved by the appropriate FNSRO. (iv) Food donated under section 32 of Public Law 74-320 (7 U.S.C. 612c) may also be transferred by recipient agencies to eligible recipient agencies which are distributing donated foods under part 2 this chapter. A transfer between recipient agencies and eligible recipient agencies may be made only with the prior approval of the distributing agency and the State agency responsible for administe TEFAP. (v) All transfers of donated foods shall be documented. Such documentation shall be maintained in accordance with the recordkeeping requirements in §§250.16 and 251.10(a) of this chapter. (2) Quantities. (i) The quantity of donated foods to be made available for donation under this part shall be determined in accordance with the pertinent legislation and the program obligations of the Department, and shall be such as can be effectively distributed to further the objectives of the pertinent legislation. (ii) Donated foods shall be requested and distributed only in quantities which can be consumed without waste in providing food assistance for persons eligible under this part. Distributing agencies s impose similar restrictions on recipient agencies. (3) Minimum donations. Foods shall be donated only in such quantities as will protect the lower truck load freight rate, except as the Department determines to be in the best interest of the program. (4) Allocations. As foods become available for donation, FNS shall notify distributing agencies regarding the donated foods, the class or classes of recipient agencies or recipients eligible to receive th and any special terms and conditions of donation and distribution which attach to a particular donated food, in addition to the general terms and conditions set forth herein. When a commodity is available in limited quantities, the Department shall allocate such commodities among the States using allocation percentages which are based on appropriate participation dat
1,963	§250.14 Warehousing, distribution and storage of donated foods	Federal	(a) Standards for Warehousing and Distribution Systems—(1) Use of cost efficient and effective facilities. Distributing agencies shall use the most cost effective and efficient system for providing warehousing and distribution services to recipient agencies. For the purpose of this part, commercial facilities are defined as enterprises that provide commercial warehousing services or commercia delivery services, or those commercial enterprises that provide both warehousing and delivery services. (2) Timeframes for evaluation. All distributing agencies shall evaluate their current warehousing and distribution systems. Initial evaluations shall be submitted to the FNSRO by June 30, 1990. Subsequent evaluations of noncommercial systems shall, at a minimum, be submitted to FNS every three years by March 31. (3) Evaluation of current systems. The evaluation of the system in place shall, at a minimum, include the following information: (i) A description of the principal warehousing/delivery techniques used by the distributing agency. The description should include: (A) The frequency of delivery available; (B) The timeframes for making deliveries; (C) The type of delivery service offered (to the loading dock or placement in the storeroom); and (D) The system for recipient agencies to order specific amounts of food from available inventory; and (ii) An estimate of all costs that will be incurred in administering the Food Distribution Program for the upcoming school year. These costs include transportation, storage and handling of donated fo the current distributing agency system does not include delivery to recipient agencies, identification of costs incurred by recipient agencies to pick up commodities at a warehouse and to deliver the to a centralized storage facility or the individual preparation sites), salaries of persons directly connected with the administration of the program and other program related expenses. These expense include fringe benefits, travel expenses, rent, utilities, accounting/auditing services to recipient agencies such as the costs for administering and monitoring the State's processing program, and techn assistance workshops. (4) Comparison of existing system with commercial systems. All distributing agencies which do not use commercial facilities for a basic level of warehousing and distribution services shall compare t cost of warehousing and distributing commodities under their current system with the cost of comparable services under a commercial system for the upcoming school year.

Legal Standards

1,964	§250.15 Financial management	Federal	(a) Distribution charges. (1) Recipient agencies may be required to pay part or all of the direct costs for intrastate storage and distribution of donated food through distribution charges assessed by t distributing or subdistributing agency, except as provided in paragraph (a)(2) of this section. (i) Distributing and subdistributing agencies assessing distribution charges shall submit a description of their system with all data used in calculating the rate to be used for the upcoming school yea the FNSRO for approval. The initial description and data shall be submitted by June 30, 1990. Updates to this information shall, at a minimum, be submitted to the FNSRO for approval every three yea March 31. (ii) At least 90 days before increasing distribution charges beyond normal inflation, the distributing/subdistributing agency shall submit to the FNSRO a description of the change together with all da used to calculate the change. FNS will take action on the proposed increase in accordance with paragraph (a)(1)(v) of this section. (iii) Allowable costs include but are not limited to those program costs referenced in paragraph (f)(2) of this section, i.e. transportation, storage and handling of donated foods, salaries of persons dir connected with the administration of the program and other program related expenses. Examples of other program related expenses are administrative costs such as fringe benefits, travel expenses, utilities, accounting/auditing services, computer services, and the costs of providing program services to recipient agencies such as the cost for administering and monitoring the State's processing program, and technical assistance workshops. (iv) Distribution charges shall not be assessed for costs which would be unallowable under the Cost Principles in the Department's Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart no case may distribution charges be assessed for costs which are paid for by State Administrative Expense (SAE) funds, State or local appropriated funds or any other funds available to the distributi subdistributing agency to administer the program. Distribution charges shall not be based on a percentage of the value of the commodities distributed. (v) FNS shall review the information and inform the distributing agency of the appropriateness of its distribution charges. If it is determined that a distributing agency's proposed distribution charge excessive or incorporate inappropriate costs, the distributing/subdistributing agency will be required to adjust the distribution charges to reflect an appropriate level or submit further justification sufficient to satisfy the FNSRO that the proposed distribution charges are essential to cover allowable costs and services. This further justification shall include information from recipient agencies regarding their satisfaction with services provided. (vi) Distribution charges, including any excess distribution charges which may accrue (as defined in paragraph (f)(4) of this section) shall be used in accordance with provisions of paragraph (f) of th section. (2) Whenever a commodity is donated to a State without charge or credit against entitlement, recipient agencies may not be assessed for any part of the intrastate costs of storage and transportation
1,965	§250.16 Maintenance of records	Federal	(a) General requirements. (1) Accurate and complete records shall be maintained with respect to the receipt, distribution/use and inventory of donated foods including: (i) End products processed from donated foods and (ii) The determination made as to liability for any improper distribution, use of, loss of, or damage to, such foods and the results obtained from the pursuit of claims by the distributing agency. Such records shall also be maintained with respect to the receipt and disbursement of funds arising from the operation of the distribution program, including the determination as to the amount of payments to be made by any processor, upon termination of processing contracts. (2) Distributing agencies shall require all subdistributing agencies to maintain accurate and complete records with respect to the receipt, distribution/disposal, and inventory of donated foods, inclu end products processed from donated foods. Subdistributing agencies and recipient agencies must document any funds that arise from the operation of the distribution program, including refunds m to recipient agencies by a processor in accordance with §250.30(k). Further, these documents should allow an independent determination of the specific accounts that benefit from these funds. (3) Unless a distributing agency maintains an offer-and-acceptance system in accordance with §250.48(e), the distributing agency shall maintain accurate and complete records with respect to amou and value of commodities refused by school food authorities. School food authorities shall also be required to maintain such records of refusals. (4) Each processor, food service management company, warehouse, or other entity which contracts with a distributing agency, subdistributing agency or recipient agency shall be required to keep accurate and complete records with respect to the receipt, distribution/disposal, storage and inventory of such foods similar to those required of distributing agencies under this paragraph. Where donated foods have been commingled with commercial foods, the processor shall maintain records which permit an accurate determination of the donated-food inventory. The processor shall also b required to keep formula, recipes, daily or batch production records, loadout sheets, bills of lading, and other processing and shipping records to substantiate the use made of such foods and their subsequent redelivery, in whatever form, to any distributing agency, subdistributing agency or recipient agency. Processors must maintain records which will permit a determination regarding compliance with the contracting provisions required by §250.30(f) (3) and (4) as well as maintain records used as the basis for compiling the processor performance reports required by §250.30(m) (5) All recipient agencies shall be required to keep accurate and complete records showing the data and method used to determine the number of eligible persons served by that agency. (6) Failure by a distributing agency, subdistributing agency, recipient agency, processor, food service management company, warehouse or other entity to maintain records required by this Section s be considered prima facie evidence of improper distribution or loss of donated foods and the agency, processor or entity shall be subject to the provisions of §250.13(e).

Legal Standards

1,966	§250.17 Reports	Federal	(a) Inventory reports and receipt of donated foods. Distributing agencies shall complete and submit to the FNSRO semiannual reports regarding excessive inventories (as defined in §250.14(f)) of do foods, utilizing form FNS-155, the Inventory Management Register, except that distributing agencies shall submit monthly inventory information on form FNS-152, for the Food Distribution Program Indian Reservations, and on form FNS-153, for the Commodity Supplemental Food Program. FNS may require the use of other reporting formats. FNS may also require that form FNS-155 be submitte more frequently than semiannually if necessary to maintain program accountability, and that any inventory report be submitted less frequently if sufficient to meet program needs. Reports shall be submitted not later than 30 calendar days after the last month in the reporting period as established by FNS. (b) Processing inventory reports. Distributing agencies shall complete and submit a quarterly processing inventory report in accordance with §250.30(o). (c) Performance reports. Monthly reports of performance shall be submitted by processors to distributing agencies in accordance with §250.30(m). (d) Commodity acceptability reports. Distributing agencies shall submit to the FNSRO reports relative to the types and forms of donated foods which are most useful to recipient agencies in accordan with §250.13(k) of this part. (e) Other reports. Distributing agencies shall complete and submit other reports relative to distribution operations in such form as may be required from time to time by the Department. (f) Report transmission. Where a report is to be postmarked by a specific date and such report is transmitted by means of a facsimile machine, the date printed by the facsimile machine on the facsim copy may serve as the postmark. (Reporting requirements contained in paragraph (a) approved by the Office of Management and Budget under control number 0584-0001. Reporting requirements contained in paragraph (e) approv the Office of Management and Budget under control numbers 0584-0028, 0584-0109, 0584-0288 and 0584-0293) [53 FR 20426, June 3, 1988, as amended at 53 FR 27476, July 21, 1988; 59 FR 62983, Dec. 7, 1994; 62 FR 53730, Oct. 16, 1997]
1,967	§250.18 Audits	Federal	(a) Right of inspection and audit. The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, may inspect and inventory donated foods in storage or th facilities used in the handling or storage of such donated foods, and may inspect and audit all records, including financial records, and reports pertaining to the distribution of donated foods and may review or audit the procedures and methods used in carrying out the requirements of this part at any reasonable time. Subdistributing agencies, recipient agencies, processors, food service managem companies and warehouses shall be required to permit similar inspection and audit by such entities or their representatives. Fiscal matters shall continue to be reviewed in audits under the Single Au Act (31 U.S.C. 7501-07) and the Department's Uniform Federal Assistance Regulations (7 CFR part 3015). (b) Independent CPA audits of multi-State processors. (1) For any year in which a multi-State processor receives more than $250,000 in donated foods, the processor shall obtain an independent CPA (certified public accountant) audit for that year. Multi-State processors which receive $75,000 to $250,000 in donated food each year shall obtain an independent CPA audit every two years and those which receive less than $75,000 in donated foods each year shall obtain an independent CPA audit every three years. Those multi-State processors which are in the two or three-year audit cycle shall into the next audit cycle at the point in time in which the value of donated foods received reaches $75,000 or $250,000 in any year. The total value of donated food received shall be computed by addi the value of food received under State and National Commodity Processing contracts. In instances in which the Department determines that the audit is not acceptable or that the audit has disclosed serious deficiencies, the processor shall be subject to additional audits at the request of FNS. (2) Audits shall be conducted in accordance with the auditing provisions set forth under the Uniform Federal Assistance Regulations (7 CFR part 3015, subpart I) and the FNS Audit Guide for Multi-St Processors. At the discretion of FNS, auditors will be required to attend training sessions conducted by the Department. (3) The costs of the audits, including those costs associated with training, shall be borne by the processors. (4) Audit findings relative to those elements associated with the processing of donated food shall be submitted to the processor and to FNS concurrently. (5) Noncompliance with the audit requirements in paragraph (b)(1) of this section will render the processor ineligible to enter into another processing contract with any contracting agency until the required audit has been conducted and deficiencies corrected. (6) Processor response. Multi-State processors shall develop a written response to FNS addressing deficiencies which have been identified in the audit. Such responses shall include: (i) Corrective action which has already been taken to eliminate the deficiency; (ii) Corrective action which the processor proposes to take to eliminate the deficiency;

Legal Standards

1,968	§250.19 Reviews	Federal	(a) General. Each distributing agency shall establish a review system in order to assess the effectiveness of its food distribution program in meeting the requirements of these regulations. (b) Responsibilities of distributing agencies. (1) As part of its review system, each distributing agency must establish procedures to ensure compliance with the requirements of this part, and with ot Federal regulations, as applicable. Such procedures must include, for example, requirements relating to eligibility of recipient agencies and recipients, ordering, storage, and inventory of donated foo reporting and recordkeeping, and civil rights, as they apply to specific programs. They must also include: (i) An on-site review of all charitable institutions, or the food service management companies under contract with them, at a minimum, whenever the distributing agency identifies actual or probable deficiencies in the use of donated foods by such institutions, or by their contractors, through audits, investigations, complaints, or any other information. (ii) An on-site review at least once every 2 years of all processors except those that are multi-State processors as defined in §250.3, with no fewer than 50 percent being reviewed each year; (iii) An annual on-site review of each storage facility utilized by the distributing agency. On-site reviews conducted by FNS may be considered as contributing to the fulfillment of the minimum cover required by this paragraph; and (2) Each distributing agency shall design and implement a system to verify sales of end products to all recipient agencies under that distributing agency's authority in instances when a processor tra end products to a distributor and the distributor sells the end product to the recipient agencies at a discount and the distributor receives a refund from the processor. At a minimum, such a system m (i) At a minimum, provide for a semi-annual review of a statistically valid sample of sales for the previous six-month period for all processors which contract with the distributing agency or contracti agencies under the authority of the distributing agency, including multi-State processors. The sample size must ensure a 95 percent confidence level; (ii) Support the projection of a claim against the processor when, in the review of the sample, it is determined that the value of donated foods has not been passed on to recipient agencies or when en products have been improperly distributed; and (iii) Provide for the assessment of claims against the processor in accordance with FNS Instruction 410-1, Non-Audit Claims, Food Distribution Program, in instances when deficiences have been identified. (iv) Provide for the adjustment of performance reports and processing inventory reports to refect any invalid sales;
1,969	§250.20 Sanctions	Federal	Any distributing agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection with it or any agreements entered into pursuant to it, may, discretion of the Department, be disqualified from further participation in any distribution program. Reinstatement may be made at the option of the Department. Disqualification shall not prevent t Department from taking other action through other available means when considered necessary, including prosecution under applicable Federal statutes.
1,970	§250.21 Civil rights	Federal	Distributing agencies, subdistributing agencies and recipient agencies shall comply with the Department's nondiscrimination regulations (7 CFR parts 15, 15a, and 15b) and the FNS civil rights instructions to ensure that in the operation of the program no person is discriminated against because of race, color, national origin, age, sex or handicap
1,971	§250.22 Complaints	Federal	Distributing agencies shall investigate promptly complaints received in connection with the distribution or use of donated foods. Irregularities which are disclosed shall be corrected immediately. Se irregularities shall be promptly reported to the Department. Distributing agencies shall maintain or file evidence of such investigations and actions. The Department also reserves the right to make investigations and shall have the final determination as to when a complaint has been properly handled. Complaints alleged on the basis of race, color, national origin, age, sex or handicap shall be ha in accordance with §250.21.
1,972	§250.23 Buy American	Federal	(a) Purchase requirements. When purchasing food products with Federal funds, whenever possible, recipient agencies shall purchase only food products that are produced in the United States (U.S.). products produced in the U.S. means: (1) An unmanufactured food product produced in the U.S.; or (2) A food product manufactured in the U.S. primarily using food grown in the U.S. (b) Exceptions. The purchase requirements described in paragraph (a) of this section shall not apply in instances when the recipient agency determines: (1) Recipients have unusual or ethnic food preferences which can only be met through purchases of products not produced in the U.S.; (2) the product is not produced or manufactured in the U.S. in sufficient and reasonably available quantiti satisfactory quality; (3) the cost of U.S. produced food products is significantly higher than foreign products, or (4) the recipient agency is located in Alaska, Hawaii, Guam, American Samoa, Puerto Ri the Virgin Islands, or the Commonwealth of the Northern Mariana Islands. [53 FR 27476, July 21, 1988, as amended at 58 FR 39122, July 22, 1993; 67 FR 65015, Oct. 23, 2002]

Legal Standards

1,973	§250.24 Distributing agency performance standards	Federal	This section establishes basic performance standards which must be followed by distributing agencies responsible for intrastate distribution of donated commodities and products. The seven standa address the level of service that shall be provided to recipient agencies. The basic standards include the following: (a) Program management and evaluation. Distributing agencies shall conduct reviews in accordance with §250.19. Distributing agencies shall also assess the adequacy of the service provided to recip agencies. (b) Information dissemination. Distributing agencies shall provide recipient agencies with all information needed for informed participation in the program. Distributing agencies shall provide progr information relative to: (1) Current program regulations, (2) Summaries of commodity specifications upon request (§250.13(j)) and commodity fact sheets, (3) Results of any test evaluations and surveys, (4) Recipes, and (5) Written procedures for ordering commodities, handling commodities which are stale, spoiled, out-of-condition or not in compliance with specifications (including procedures for replacement by Department under §250.13(g)), submitting complaints and other written policy which affects program operations. (c) Fiscal responsibility. Distributing agencies shall maintain a financial management system which ensures fiscal integrity and accountability for all funds and includes a recordkeeping system which conforms to generally accepted accounting practices. Distributing agencies shall submit information relative to distribution charges to FNS in accordance with §250.15(a). (d) Ordering and allocation. Distributing agencies shall ensure that donated food is provided on an equitable basis and, to the extent practicable, in the types and forms most usable by recipient agenc Distributing agencies shall be responsible for: (1) Obtaining and utilizing commodity acceptability information in accordance with §250.13(k);
1,974	Subpart C—Processing and Labeling of Donated Foods §250.30 State processing of donated foods	Federal	(a) General. This section sets forth the terms and conditions under which distributing agencies, subdistributing agencies, or recipient agencies may enter into contracts for the processing of donated and prescribes the minimum requirements to be included in such contracts. (b) Permissible contractual arrangements. (1) A distributing agency, subdistributing agency, or recipient agency may contract for processing, pay the processing fee, and deliver the end products to eligible recipient agencies through its own distribution system. Distributing agencies shall assure that the acceptability of processed end products is tested with recipient agencies eligible to receive t prior to entering into a processing contract and shall develop a system for monitoring product acceptability. Distributing agencies may exempt end products from testing if they have been used previ have been determined by the distributing agency to be acceptable by recipient agencies, and have had no changes in specifications. (2) A distributing agency or subdistributing agency may contract for processing on behalf of one or more recipient agencies. All recipient agencies eligible to receive the donated foods to be processe receive end products made from those foods and produced under such processing contracts by virtue of the distributing agency—recipient agency agreement required by §250.12(b). Under this arrangement and subject to the approval of the distributing agency: (i) Processors shall utilize either a discount or a refund system as defined in §250.3 when they sell end products directly to recipient agencies, or (ii) When selling end products through a distributor, such sales shall be in accordance with paragraph (e) of this section. (3) Distributing agencies shall permit subdistributing agencies and recipient agencies to enter into processing contracts with a processor under arrangements similar to those described in paragraph (1) or (2) of this section. (c) Requirements for processing contracts. (1) Contracts with processors shall be in a standard written form and shall be reviewed by the appropriate FNSRO. Processing contracts shall terminate on 30 of each year. However, processing contracts may give contracting agencies the option of extending contracts for two 1-year periods, provided that any changed information must be updated befor contract extension is granted, including the information in paragraphs (c)(3), (c)(4)(ii), and (c)(4)(viii)(B) of this section. The processor must have performed to the satisfaction of the contracting ag during the previous contract year, submitted all required reports and any corrections to such reports up to the time that contract extension occurs, and submitted its certified public accountant repo required under paragraph (c)(4)(xi) of this section before the contract may be extended. Distributing agencies shall develop criteria for use in evaluating and selecting processing contracts. The selec criteria shall be used in selecting or rejecting processors in a manner that ensures equitable treatment of processors. The selection criteria shall, at a minimum, include: (i) The nutritional contribution which the end product will provide;

Legal Standards

1,975	Subpart C—Processing and Labeling of Donated Foods §250.30 State processing of donated foods continued	Federal	(d) End products sold by processors. (1) When recipient agencies pay the processor for end products, such sales shall be under: (i) A refund system as defined in §250.3 and in accordance with paragraph (k) of this section; or (ii) A discount system which provides the price of each unit of end product purchased by eligible recipient agencies to be discounted by the stated contract value of the donated foods contained there (iii) An alternative value pass-through system under which the value of the donated food contained in each unit of end product shall be passed to the recipient agency and which has been approved b at the request of the distributing agency. Any alternative value pass-through system approved under this paragraph must comply with the sales verification requirements specified in §250.19(b) of th part, or an alternative verification system approved by FNS. The Department retains the authority to inspect and review all pertinent records including records pertaining to the verification of a statistically valid sample of sales. FNS may consider the paperwork and resource burden associated with alternative value pass-through systems when considering approval and reserves the right to the approval of systems which are labor-intensive and provide no greater accountability than those systems permitted under paragraphs (d) and (e) of this section. (2) When a processor delivers end products produced under a fee-for-service contract, the processor shall separately identify on the bill for the recipient agency the agreed-upon fee-for-service and a delivery costs. (3) Processors shall provide pricing information summaries to contracting agencies and contracting agencies shall provide this information to recipient agencies as soon as possible after contract approval. If this pricing information changes during the contract period, processors shall provide updated pricing information to the contracting agency 30 days prior to the effective date of the chan which, in turn, shall provide this updated information to eligible recipient agencies. (e) End products sold by distributors. (1) When a processor transfers end products to a distributor for delivery and sale to recipient agencies, such sales shall be under: (i) A refund system as defined in §250.3 and in accordance with paragraph (k) of this section; or (ii) A hybrid system which provides a refund for the contract value of the donated food shall be provided to the distributor in accordance with paragraph (k) of this section and the price of each unit o product purchased by eligible recipient agencies through a distributor shall be discounted by the contract value of the donated foods contained therein; or (iii) An alternative value pass-through system under which the contract value of the donated food contained in each unit of end product shall be passed on to the recipient agency and which has been approved by FNS in accordance with paragraph (d)(1)(iii) of this section; or
1,976	Subpart C—Processing and Labeling of Donated Foods §250.30 State processing of donated foods continued	Federal	(viii) In instances in which sales verification has been delegated to the processor pursuant to §250.19(b)(2), sales verification findings shall be reported as an attachment to the December and June performance reports in whatever format the State distributing agency deems necessary. (ix) A certification statement that sufficient donated foods are in inventory or on order to account for the quantities needed for production of end products for State processing contracts and that the processor has on hand or on order adequate quantities of foods purchased commercially to meet the processor's production requirements for commercial sales. (2) In addition to reporting the information identified in paragraph (m)(1) of this section, processors which substitute concentrated skim milk for donated nonfat dry milk shall also report the follow information for the reporting period: (i) The number of pounds of nonfat dry milk used in commercial products sold to outlets which are not recipient agencies; and (ii) The number of pounds of concentrated skim milk, and the percent of milk solids contained therein, used in end products sold to recipient agencies. (3) Distributing agencies shall review and analyze reports submitted by processors to ensure that performance under each contract is in accordance with the provisions set forth in this section. (n) Inventory controls. (1) Distributing agencies shall monitor processor inventories to ensure that the quantity of donated foods for which a processor is accountable is the lowest cost-efficient level in no event more than a six-month supply based on the processor's average monthly usage, unless a higher level has been specifically approved by the distributing agency on the basis of a written justification submitted by the processor. Under no circumstances should the amount of donated foods ordered by the contracting agency for processing purposes be in excess of anticipated usage or beyond the processor's ability to accept and store the donated foods at any one time. Distributing agencies shall make no further distribution to processors whose inventories exceed these limits unt such inventories have been reduced. (2) For processors substituting concentrated skim milk for donated nonfat dry milk, distributing agencies shall review the processors' monthly performance reports to ensure that: (i) Donated nonfat dry milk inventory is being drawn down based on the amount of milk solids contained in the concentrated skim milk which was used in end products sold to eligible recipient agen (ii) An amount of milk solids equivalent to the amount in the donated nonfat dry milk is contained in end products sold to eligible recipient agencies; and (iii) Donated nonfat dry milk is not being sold in bulk form.

Legal Standards

1,977	Subpart D—Donated Foods in Contracts With Food Service Management Companies §250.50 Contract requirements and procurement	Federal	(a) Contract requirements. Prior to donated foods being made available to a food service management company, the recipient agency must enter into a contract with the food service management company. The contract must ensure that all donated foods received for use by the recipient agency for a period specified as either the school year or fiscal year are used in the recipient agency's food service. Contracts between recipient agencies in child nutrition programs and food service management companies must also ensure compliance with other requirements in this subpart relating to donated foods, as well as other Federal requirements in 7 CFR parts 210, 220, 225, or 226, as applicable. Contracts between other recipient agencies—i.e., charitable institutions and recipient agencie utilizing TEFAP foods—and food service management companies are not subject to the other requirements in this subpart. (b) Types of contracts. Recipient agencies may enter into a fixed-price or a cost-reimbursable contract with a food service management company, except that recipient agencies in CACFP are prohibit from entering into cost-reimbursable contracts, in accordance with 7 CFR part 226. Under a fixed-price contract, the recipient agency pays a fixed cost per meal provided or a fixed cost for a certain ti period. Under a cost-reimbursable contract, the food service management company charges the recipient agency for food service operating costs, and also charges fixed fees for management or servi (c) Procurement requirements. The recipient agency must meet Departmental procurement requirements in 7 CFR parts 3016 or 3019, as applicable, in obtaining the services of a food service management company, as well as applicable requirements in 7 CFR parts 210, 220, 225, or 226. The recipient agency must ensure that procurement documents, as well as contract provisions, include donated food activities that a food service management company is to perform, such as those activities listed in paragraph (d) of this section. The procurement and contract must also specify the met used to determine the donated food values to be used in crediting, or the actual values assigned, in accordance with §250.51. The method used to determine the donated food values may not be estab through a post-award negotiation, or by any other method that may directly or indirectly alter the terms and conditions of the procurement or contract. (d) Activities relating to donated foods. A food service management company may perform specific activities relating to donated foods, such as those listed in this paragraph (d), in accordance with procurement documents and its contract with the recipient agency. Such activities may also include the procurement of processed end products on behalf of the recipient agency. Such procurement r ensure compliance with the requirements in subpart C of this part and with the provisions of the distributing or recipient agency's processing agreements, and must ensure crediting of the recipient agency for the value of donated foods contained in such end products at the processing agreement value. Although the food service management company may procure processed end products on be of the recipient agency, it may not itself enter into the processing agreement with the processor required in subpart C of this part. Other donated food activities that the food service management com may perform include: (1) Preparing and serving meals; (2) Ordering or selection of donated foods, in coordination with the recipient agency, and in accordance with §250.58(a); (3) Storage and inventory management of donated foods, in accordance with §250.52; and
1,978	§250.51 Crediting for, and use of, donated foods	Federal	(a) Crediting for donated foods. In both fixed-price and cost-reimbursable contracts, the food service management company must credit the recipient agency for the value of all donated foods receive use in the recipient agency's meal service in a school year or fiscal year (including both entitlement and bonus foods). Such requirement includes crediting for the value of donated foods contained in processed end products if the food service management company's contract requires it to: (1) Procure processed end products on behalf of the recipient agency; or (2) Act as an intermediary in passing the donated food value in processed end products on to the recipient agency. (b) Method and frequency of crediting. The recipient agency may permit crediting for the value of donated foods through invoice reductions, refunds, discounts, or other means. However, all forms of crediting must provide clear documentation of the value received from the donated foods—e.g., by separate line item entries on invoices. If provided for in a fixed-price contract, the recipient agency permit a food service management company to pre-credit for donated foods. In pre-crediting, a deduction for the value of donated foods is included in the established fixed price per meal. However, t recipient agency must ensure that the food service management company provides an additional credit for any donated foods not accounted for in the fixed price per meal—e.g., for donated foods tha not made available until later in the year. In cost-reimbursable contracts, crediting may be performed by disclosure; i.e., the food service management company credits the recipient agency for the va donated foods by disclosing, in its billing for food costs submitted to the recipient agency, the savings resulting from the receipt of donated foods for the billing period. In all cases, the recipient agenc must require crediting to be performed not less frequently than annually, and must ensure that the specified method of valuation of donated foods permits crediting to be achieved in the required tim period. A school food authority must also ensure that the method, and timing, of crediting does not cause its cash resources to exceed the limits established in 7 CFR 210.9(b)(2). (c) Donated food values required in crediting. The recipient agency must ensure that, in crediting it for the value of donated foods, the food service management company uses the donated food value determined by the distributing agency, in accordance with §250.58(e), or, if approved by the distributing agency, donated food values determined by an alternate means of the recipient agency's choo For example, the recipient agency may, with the approval of the distributing agency, specify that the value will be the average price per pound for a food, or for a group or category of foods (e.g., all fro foods or cereal products), as listed in market journals over a specified period of time. However, the method of determining the donated food values to be used in crediting must be included in procure documents and in the contract, and must result in the determination of actual values; e.g., the average USDA purchase price for the period of the contract with the food vendor, or the average price pe pound listed in market journals over a specified period of time. Negotiation of such values is not permitted. Additionally, the method of valuation must ensure that crediting may be achieved in accor with paragraph (b) of this section, and at the specific frequency established in procurement documents and in the contract. (d) Use of donated foods. The food service management company must use all donated ground beef, donated ground pork, and all processed end products, in the recipient agency's food service, and r use all other donated foods, or commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the recipient agency's food service (u the contract specifically stipulates that the donated foods, and not such commercial substitutes, be used).

Legal Standards

1,979	§250.52 Storage and inventory management of donated foods	Federal	(a) General requirements. The food service management company must meet the general requirements in §250.14(b) for the storage and inventory management of donated foods. (b) Storage and inventory with commercially purchased foods. The food service management company may store and inventory donated foods together with foods it has purchased commercially for school food authority's use (unless specifically prohibited in the contract). It may store and inventory such foods together with other commercially purchased foods only to the extent that such a syst ensures compliance with the requirements for the use of donated foods in §250.51(d)—i.e., use all donated ground beef and ground pork, and all end products in the food service, and use all other do foods or commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the food service. Additionally, under cost-reimbursable contracts, the food service management company must ensure that its system of inventory management does not result in the recipient agency being charged for donated foods. (c) Disposition of donated foods and credit reconciliation upon termination of the contract. When a contract terminates, and is not extended or renewed, the food service management company must return all unused donated ground beef, donated ground pork, and processed end products, and must, at the recipient agency's discretion, return other unused donated foods. The recipient agency mu ensure that the food service management company has credited it for the value of all donated foods received for use in the recipient agency's meal service in a school year or fiscal year, as applicable.
1,980	§250.53 Contract provisions	Federal	(a) Required contract provisions in fixed-price contracts. The following provisions relating to the use of donated foods must be included, as applicable, in a recipient agency's fixed-price contract witl food service management company. Such provisions must also be included in procurement documents. The required provisions are: (1) A statement that the food service management company must credit the recipient agency for the value of all donated foods received for use in the recipient agency's meal service in the school yea fiscal year (including both entitlement and bonus foods), and including the value of donated foods contained in processed end products, in accordance with the contingencies in §250.51(a); (2) The method and frequency by which crediting will occur, and the means of documentation to be utilized to verify that the value of all donated foods has been credited; (3) The method of determining the donated food values to be used in crediting, in accordance with §250.51(c), or the actual donated food values; (4) Any activities relating to donated foods that the food service management company will be responsible for, in accordance with §250.50(d), and assurance that such activities will be performed in accordance with the applicable requirements in 7 CFR part 250; (5) A statement that the food service management company will use all donated ground beef and ground pork products, and all processed end products, in the recipient agency's food service; (6) A statement that the food service management company will use all other donated foods, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal of bette quality than the donated foods, in the recipient agency's food service; (7) Assurance that the procurement of processed end products on behalf of the recipient agency, as applicable, will ensure compliance with the requirements in subpart C of 7 CFR part 250 and with provisions of distributing or recipient agency processing agreements, and will ensure crediting of the recipient agency for the value of donated foods contained in such end products at the processing agreement value; (8) Assurance that the food service management company will not itself enter into the processing agreement with the processor required in subpart C of 7 CFR part 250; (9) Assurance that the food service management company will comply with the storage and inventory requirements for donated foods; (10) A statement that the distributing agency, subdistributing agency, or recipient agency, the Comptroller General, the Department of Agriculture, or their duly authorized representatives, may perfo onsite reviews of the food service management company's food service operation, including the review of records, to ensure compliance with requirements for the management and use of donated fo

Legal Standards

1,981	§250.54 Recordkeeping and reviews	Federal	(a) Recordkeeping requirements for the recipient agency. The recipient agency must maintain the following records relating to the use of donated foods in its contract with the food service managem company: (1) The donated foods and processed end products received and provided to the food service management company for use in the recipient agency's food service; (2) Documentation that the food service management company has credited it for the value of all donated foods received for use in the recipient agency's food service in the school or fiscal year, inclu in accordance with the requirements in §250.51(a), the value of donated foods contained in processed end products; and (3) The actual donated food values used in crediting. (b) Recordkeeping requirements for the food service management company. The food service management company must maintain the following records relating to the use of donated foods in its contract with the recipient agency: (1) The donated foods and processed end products received from, or on behalf of, the recipient agency, for use in the recipient agency's food service; (2) Documentation that it has credited the recipient agency for the value of all donated foods received for use in the recipient agency's food service in the school or fiscal year, including, in accordanc the requirements in §250.51(a), the value of donated foods contained in processed end products; and (3) Documentation of its procurement of processed end products on behalf of the recipient agency, as applicable. (c) Review requirements for the recipient agency. The recipient agency must ensure that the food service management company is in compliance with the requirements of this part through its monit of the food service operation, as required in 7 CFR parts 210, 225, or 226, as applicable. The recipient agency must also conduct a reconciliation at least annually (and upon termination of the contrac ensure that the food service management company has credited it for the value of all donated foods received for use in the recipient agency's food service in the school or fiscal year, including, in accordance with the requirements in §250.51(a), the value of donated foods contained in processed end products. (d) Departmental reviews of food service management companies. The Department may conduct reviews of food service management company operations, as necessary, to ensure compliance with t requirements of this part with respect to the use and management of donated foods.
1,982	Subpart E—National School Lunch Program (NSLP) and Other Child Nutrition Programs §250.56 Provision of donated foods in NSLP	Federal	(a) Distribution of donated foods in NSLP. The Department provides donated foods in NSLP to distributing agencies. Distributing agencies provide donated foods to school food authorities that partic in NSLP for use in serving nutritious lunches or other meals to schoolchildren in their nonprofit school food service. The distributing agency must confirm the participation of school food authorities NSLP with the State administering agency (if different from the distributing agency). In addition to requirements in this part relating to donated foods, distributing agencies and school food authoriti NSLP must adhere to Federal regulations in 7 CFR part 210, as applicable. (b) Types of donated foods distributed. The Department purchases a wide variety of foods for distribution in NSLP each school year. A list of available foods is posted on the FNS Web site, for access b distributing agencies and school food authorities. In addition to Section 6 foods (42 U.S.C. 1755) as described in paragraph (c) of this section, the distributing agency may also receive Section 14 dona foods (42 U.S.C. 1762(a)), and donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709 (7 U.S.C. 1446a-1), as available. (c) National per-meal value of donated foods. For each school year, the distributing agency receives, at a minimum, the national per-meal value of donated foods, as established by Section 6(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)), multiplied by the number of reimbursable lunches served in the State in the previous school year. The donated foods provided in this manner are referred to as Section 6 foods, or entitlement foods. The national per-meal value is adjusted each year to reflect changes in the Bureau of Labor Statistic's Producer Price Index for Foods U in Schools and Institutions, in accordance with the Richard B. Russell National School Lunch Act. The adjusted value is published in a notice in the Federal Register in July of each year. Reimbursable lunches are those that meet the nutritional standards established in 7 CFR part 210, and that are reported to FNS, in accordance with the requirements in that part. (d) Donated food values used to credit distributing agency entitlement levels. FNS uses the average price (cost per pound) for USDA purchases of donated food made in a contract period to credit distributing agency entitlement levels. (e) Cash in lieu of donated foods. States that phased out their food distribution facilities prior to July 1, 1974, are permitted to choose to receive cash in lieu of the donated foods to which they would entitled in NSLP, in accordance with the Richard B. Russell National School Lunch Act (42 U.S.C. 1765) and with 7 CFR part 240.

Legal Standards

1,983	§250.57 Commodity schools	Federal	(a) Categorization of commodity schools. Commodity schools are schools that operate a nonprofit school food service in accordance with 7 CFR part 210, but receive additional donated food assistan rather than the general cash payment available to them under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753). In addition to requirements in this part relating to donate foods, commodity schools must adhere to Federal regulations in 7 CFR part 210, as applicable. (b) Value of donated foods for commodity schools. For participating commodity schools, the distributing agency receives donated foods valued at the sum of the national per-meal value and the value the general cash payment available to it under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753), multiplied by the number of reimbursable lunches served by commodity schools in the previous school year. From the total value of donated food assistance for which it is eligible, a commodity school may elect to receive up to 5 cents per meal in cash to cover processing handling expenses related to the use of donated foods. In addition to Section 6 and Section 14 foods under the Richard B. Russell National School Lunch Act (42 U.S.C. 1755 and 1762(a)), the distribut agency may also receive donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709 (7 U.S.C. 1446a-1), as available, for commodity schools.
1,984	§250.58 Ordering donated foods and their provision to school food authorities	Federal	(a) Ordering and distribution of donated foods. The distributing agency orders donated foods through a Web-based system called the Electronic Commodity Ordering System (ECOS). Through ECOS, distributing agency places orders directly into a centralized computer system. Before submitting orders for donated foods to FNS, the distributing agency must ensure that all school food authorities aware of the full list of available donated foods, and have the opportunity to provide input at least annually in determining the donated foods from the full list that are made available to them for orde or selection. The distributing agency must ensure distribution to school food authorities of all such selected donated foods that may be cost-effectively distributed to them, and may not prohibit the u split shipments in determining such cost-effectiveness. (b) Value of donated foods offered to school food authorities. In accordance with Section 6(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)), the distributing agency must offe school food authority, at a minimum, the national per-meal value of donated food assistance multiplied by the number of reimbursable lunches served by the school food authority in the previous sch year. This is referred to as the commodity offer value. For a commodity school, the distributing agency must offer the sum of the national per-meal value of donated foods and the value of the general payment available to it under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753), multiplied by the number of reimbursable lunches served by the school in the previous sc year. The school food authority may also receive bonus foods, as available, in addition to the Section 6 foods. (c) Receipt of less donated foods than the commodity offer value. In certain cases, the school food authority may receive less donated foods than the commodity offer value in a school year. This "adju value of donated foods is referred to as the adjusted assistance level. For example, the school food authority may receive an adjusted assistance level if: (1) The distributing agency, in consultation with the school food authority, determines that the school food authority cannot efficiently utilize the commodity offer value of donated foods; or (2) The school food authority does not order, or select, donated foods equal to the commodity offer value that can be cost-effectively distributed to it. (d) Receipt of more donated foods than the commodity offer value. The school food authority may receive more donated foods than the commodity offer value if the distributing agency, in consultati with the school food authority, determines that the school food authority may efficiently utilize more donated foods than the commodity offer value, and more donated foods are available for distribu This may occur, for example, if other school food authorities receive less than the commodity offer value of donated foods for one of the reasons described in paragraph (c) of this section. (e) Donated food values required in crediting school food authorities. The distributing agency must use one of the following values for donated foods in crediting the school food authority for its commodity offer value or adjusted assistance level: (1) The USDA purchase price (cost per pound), which may be an average price for purchases made for the duration of the contract with the food vendor;
1,985	§250.59 Storage and inventory management of donated foods	Federal	(a) General requirements. Distributing agencies, subdistributing agencies, and school food authorities must meet the requirements for storage and inventory of donated foods in §250.14, in addition requirements in this section. (b) Storage at distributing agency level. The distributing or subdistributing agency, or storage facilities with which they have contracts, must store donated foods in a manner that permits them to be distinguished from commercially purchased foods or other foods, in order to ensure compliance with the requirements for the distribution and control of donated foods in this part. (c) Storage by school food authorities. The school food authority may store and inventory donated foods together with commercially purchased foods and other foods, under a single inventory management system, as defined in this part, unless the distributing agency requires donated foods to be distinguished from commercially purchased foods in storage and inventoried separately. (d) Storage by storage facilities under contract with school food authorities. A storage facility under contract with a school food authority may store and inventory donated foods together with commercially purchased foods it is storing for the school food authority, unless its contract with the school food authority prohibits this. However, the storage facility may not commingle foods it is s for a school food authority with foods it is storing for a commercial enterprise or other entity.

Legal Standards

1,986	§250.60 Use of donated foods in the school food service	Federal	(a) Use of donated foods in school lunches and other meals or activities. The school food authority should use donated foods, as far as practical, in the lunches served to schoolchildren, for which they receive an established per-meal value of donated food assistance each school year. However, the school food authority may also use donated foods in other nonprofit school food service activities. Revenues received from such activities must accrue to the school food authority's nonprofit school food service account. Some examples of other activities in which donated foods may be used includ (1) School breakfasts or other meals served in child nutrition programs; (2) A la carte foods sold to children; (3) Meals served to adults directly involved in the operation and administration of the nonprofit food service, and to other school staff; and (4) Training in nutrition, health, food service, or general home economics instruction for students. (b) Use of donated foods outside of the nonprofit school food service. The school food authority should not use donated foods in meals or food service activities that do not benefit primarily schoolchildren, such as banquets or catered events. However, their use in such meals or activities may not always be avoided, e.g, for a school food authority utilizing single inventory management. In cases, the school food authority must ensure reimbursement to the nonprofit school food service account for the value of donated foods used in such activities, in addition to reimbursement for other resources utilized from that account. Since school food authorities utilizing single inventory management cannot reimburse the nonprofit school food service account based on actual usage of donate foods outside of the nonprofit school food service, they must establish an alternate method—e.g., by including the current per-meal value of donated food reimbursement in the price charged for the service activities. (c) Use of donated foods in a contract with a food service management company. A school food authority may use donated foods in a contract with a food service management company to conduct th service. The contract must meet the requirements in subpart D of this part with respect to donated foods, and must also meet requirements in 7 CFR part 210 and 7 CFR parts 3016 or 3019, as applic with respect to the procurement of such contracts. The school food authority must also ensure that a food service management company providing meals for banquets or catered events, or other foo service activities that do not benefit primarily schoolchildren, ensure reimbursement to the nonprofit school food service account for donated foods used in such activities, in accordance with paragr (b) of this section. (d) Use of donated foods in providing a meal service to other school food authorities. A school food authority may use donated foods to provide a meal service to other school food authorities, under agreement between the parties. A school food authority providing such a service may commingle its own donated foods and the donated foods of other school food authorities that are parties to the agreement.
1,987	§250.61 Child and Adult Care Food Program (CACFP).	Federal	(a) Distribution of donated foods in CACFP. The Department provides donated foods in CACFP to distributing agencies, which provide them to child care and adult care institutions participating in CA for use in serving nutritious lunches and suppers to eligible recipients. Distributing agencies and child care and adult care institutions must also adhere to Federal regulations in 7 CFR part 226, as applicable. (b) Types and quantities of donated foods distributed. For each school year, the distributing agency receives, at a minimum, the national per-meal value of donated food assistance (or cash in lieu of donated foods) multiplied by the number of reimbursable lunches and suppers served in the State in the previous school year, as established in Section 6(c) of the Richard B. Russell National School L Act (42 U.S.C. 1755(c)). The national per-meal value is adjusted each year to reflect changes in the Bureau of Labor Statistic's Producer Price Index for Foods Used in Schools and Institutions. The adju per-meal value is published in a notice in the Federal Register in July of each year. Reimbursable lunches and suppers are those meeting the nutritional standards established in 7 CFR part 226. The number of reimbursable lunches and suppers may be adjusted during, or at the end of the school year, in accordance with 7 CFR part 226. In addition to Section 6 entitlement foods (42 U.S.C. 1755(c) distributing agency may also receive Section 14 donated foods (42 U.S.C. 1762(a)), and donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709 (7 U.S.C. 1446a-1), a available, for distribution to child care and adult care institutions participating in CACFP. (c) Cash in lieu of donated foods. In accordance with the Richard B. Russell National School Lunch Act, and with 7 CFR part 226, the State administering agency must determine whether child care and adult care institutions participating in CACFP wish to receive donated foods or cash in lieu of donated foods, and ensure that they receive the preferred form of assistance. The State administering age must inform the distributing agency (if a different agency) which institutions wish to receive donated foods and must ensure that such foods are provided to them. However, if the State administering agency, in consultation with the distributing agency, determines that distribution of such foods would not be cost-effective, it may, with the concurrence of FNS, provide cash payments to the applica institutions instead. (d) Use of donated foods in a contract with a food service management company. A child care or adult care institution may use donated foods in a contract with a food service management company t conduct its food service. The contract must meet the requirements in subpart D of this part with respect to donated foods, and must also meet requirements in 7 CFR part 226 and 7 CFR parts 3016 o 3019, as applicable, with respect to the procurement of such contracts. (e) Applicability of other requirements in this subpart to CACFP. The requirements in this subpart relating to the ordering, storage and inventory management, and use of donated foods in NSLP, also apply to CACFP. However, in accordance with 7 CFR part 226, a child care or adult care institution that uses donated foods to prepare and provide meals to other such institutions is considered a food service management company.

Legal Standards

1,988	§250.62 Summer Food Service Program (SFSP).	Federal	(a) Distribution of donated foods in SFSP. The Department provides donated foods in SFSP to distributing agencies, which provide them to eligible service institutions participating in SFSP for use in serving nutritious meals to needy children primarily in the summer months, in their nonprofit food service programs. Distributing agencies and service institutions in SFSP must also adhere to Feder regulations in 7 CFR part 225, as applicable. (b) Types and quantities of donated foods distributed. The distributing agency receives donated foods available under Section 6 and Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755 and 1762), and may also receive donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709 (7 U.S.C. 1446a-1), as available, for distribution to eligible serv institutions participating in SFSP. Section 6 donated foods are provided to distributing agencies in accordance with the number of meals served in the State in the previous school year that are eligibl donated food support, in accordance with 7 CFR part 225. (c) Distribution of donated foods to service institutions in SFSP. The distributing agency provides donated food assistance to eligible service institutions participating in SFSP based on the number of meals served that are eligible for donated food support, in accordance with 7 CFR part 225. (d) Use of donated foods in a contract with a food service management company. A service institution may use donated foods in a contract with a food service management company to conduct the fo service. The contract must meet the requirements in subpart D of this part with respect to donated foods, and must also meet requirements in 7 CFR part 225 and 7 CFR parts 3016 or 3019, as applic with respect to the procurement of such contracts. (e) Applicability of other requirements in this subpart to SFSP. The requirements in this subpart relating to the ordering, storage and inventory management, and use of donated foods in NSLP, also a to SFSP.
1,989	Subpart F—Household Programs §250.63 Commodity Supplemental Food Program	Federal	(a) Distribution. The distributing agency shall distribute donated foods to the State agency which is designated by the State to administer the Commodity Supplemental Food Program for that State a which has entered into a written agreement with the Department for the administration of that program in accordance with 7 CFR part 247, the regulations for that program. The State agency administering the Commodity Supplemental Food Program shall distribute donated foods to local agencies for use by eligible recipients in accordance with the provisions of 7 CFR part 247 and with provisions of this part, and may enter into an agreement with the distributing agency for use of the distributing agency's facilities for distribution. (b) Quantities of donated foods. Distribution of donated foods to the designated State agencies for the Commodity Supplemental Food Program shall be made on the basis of each State agency's quart estimate of need. (c) Types of donated foods authorized for donation. State agencies distributing donated foods through the Commodity Supplemental Food Program are eligible to receive such foods under section 32 section 416, section 709 and section 4(a). [53 FR 20426, June 3, 1988. Redesignated at 73 FR 46184, Aug. 8, 2008]

Legal Standards

1,990	§250.64 Food Distribution Program in the Trust Territory of the Pacific Islands	Federal	(a) Distribution. The distributing agency shall make donated foods available for distribution to households in the Trust Territory of the Pacific Islands by those welfare agencies which certify househo in accordance with a plan of operation approved by FNS, as required by paragraph (d) of this section. Distribution of donated foods to households shall be made in accordance with the approved plan operation. (b) Quantities and value of donated foods. Distribution of donated foods shall be based on the actual number of households in need of food assistance. (c) Types of donated foods authorized for donation. Agencies which make distribution to needy persons are eligible to receive foods under section 416, section 32, section 709 and section 4(a). (d) Plan of operation. Prior to making distribution to agencies or households, the distributing agency shall submit a plan of operation for approval by the appropriate FNSRO. Such plans shall incorpo the procedures and methods to be used in certifying households in need of food assistance, in making distribution to households, and in providing a fair hearing to households whose claims for food assistance under the plan are denied or are not acted upon with reasonable promptness, or who are aggrieved by an agency's interpretation of any provision of the plan. No amendment to the plan of operation of the distributing agency shall be made without prior approval of FNS, and FNS may require amendment of any plan as a condition of continuing approval. The distributing agency shall re welfare agencies making distribution to households to conduct distribution programs in accordance with all provisions of the plan of operation. At a minimum, the plan shall include the following: (1) The name of the public welfare agency or agencies which will be responsible for certification of households; (2) The manner in which donated food will be distributed, including, but not limited to, the identity of the agency that will distribute donated foods, the storage and distribution facilities to be used a method of financing; (3) The specific criteria to be used in certifying households as in need of food assistance. The income and resource standards establishes by the distributing agency for use by welfare agencies in determining the eligibility of applicant households, after October 1979, shall continue to be those standards used as of that date which were incorporated in a plan of operation approved by FNS, unle amendment to such standard is required or approved by FNS; (4) The method or methods that will be used to verify the information upon which the certification of eligibility is based, including the kinds of documentary evidence that applicants are required to furnish to obtain certification; (5) Provisions for periodically reviewing the certifications of households to discover any change in their status which would necessitate a change in the determination of eligibility. The eligibility of households shall be reviewed at least every three months, except that such reviews may be made at longer periods, not to exceed 12 months, provided that such longer periods are based upon a
1,991	§250.65 Food Distribution Program on Indian reservations	Federal	(a) Distribution. Distributing agencies which operate a food distribution program on Indian reservations shall comply with the provisions set forth in §§250.1, 250.2, 250.3, 250.10, 250.11, 250.12, 25 (with the exception of paragraph (d)(2)), §250.14, §§250.15 and 250.17(d) to the extent that these provisions are not inconsistent with the regulations cited in paragraph (b) of this section. (b) In addition to complying with the provisions identified in paragraph (a) of this section, distributing agencies shall also comply with the provisions set forth in part 253, Food Distribution Program Indian Reservations or part 254, Food Distribution Program in Oklahoma, as applicable. [53 FR 20426, June 3, 1988, as amended at 53 FR 27476, July 21, 1988. Redesignated at 73 FR 46184, Aug. 8, 2008]
1,992	§250.66 Special Supplemental Nutrition Program for Women, Infants and Children	Federal	(a) Distribution. At the request of the State agency responsible for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) under part 246 of this chapter and with approval of the Department, donated foods may be made available for distribution to program participants. In instances when donated foods are made available, State agencies shall the Department using funds allocated to the State for the WIC Program for those donated foods which are provided to participants as part of the food package. Donated foods which are provided to participants in addition to the quantities authorized for the food package will be made available to the State agency free of charge. (b) Quantities and value of donated foods. Distribution of donated foods to State agencies for the WIC Program shall be made on the basis of each State agency's quarterly estimate of need. (c) Types of donated foods authorized for donation. State agencies participating in the WIC Program under part 246 of this chapter are eligible to receive donated foods under section 416 and sectior [53 FR 20426, June 3, 1988. Redesignated at 73 FR 46184, Aug. 8, 2008]

Legal Standards

1,993	Subpart G—Other Donated Food Outlets §250.67 Charitable institutions	Federal	(a) Distribution to charitable institutions. The Department provides donated foods to distributing agencies for distribution to charitable institutions, as defined in this part. A charitable institution m have a signed agreement with the distributing agency in order to receive donated foods, in accordance with §250.12(b). However, the following organizations may not receive donated foods as charit institutions: (1) Schools, summer camps, service institutions, and child and adult care institutions that participate in child nutrition programs or as commodity schools; and (2) Adult correctional institutions that do not conduct rehabilitation programs for a majority of inmates. (b) Types of charitable institutions. Some types of charitable institutions that may receive donated foods, if they meet the requirements of this section, include: (1) Hospitals or retirement homes; (2) Emergency shelters, soup kitchens, or emergency kitchens; (3) Elderly nutrition projects or adult day care centers; (4) Schools, summer camps, service institutions, and child care institutions that do not participate in child nutrition programs; and (5) Adult correctional institutions that conduct rehabilitation programs for a majority of inmates. (c) Determining service to predominantly needy persons. To determine if a charitable institution serves predominantly needy persons, the distributing agency must use: (1) Socioeconomic data of the area in which the organization is located, or of the clientele served by the organization; (2) Data from other public or private social service agencies, or from State advisory boards, such as those established in accordance with 7 CFR 251.4(h)(4); or (3) Other similar data.
1,994	§250.68 Nutrition Services Incentive Program (NSIP)	Federal	(a) Distribution of donated foods in NSIP. The Department provides donated foods in NSIP to State Agencies on Aging and their selected elderly nutrition projects, for use in providing meals to elderl persons. NSIP is administered at the Federal level by DHHS' Administration on Aging (AoA), which provides an NSIP grant each year to State Agencies on Aging. The State agencies may choose to rece all, or part, of the grant as donated foods, on behalf of its elderly nutrition projects. The Department is responsible for the purchase of the donated foods and their delivery to State Agencies on Aging. is responsible for transferring funds to the Department for the cost of donated food purchases and for expenses related to such purchases. (b) Types and quantities of donated foods distributed. Each State Agency on Aging, and its elderly nutrition projects, may receive any types of donated foods available in food distribution or child nut programs, to the extent that such foods may be distributed cost-effectively. Each State Agency on Aging may receive donated foods with a value equal to its NSIP grant. Each State Agency on Aging an elderly nutrition projects may also receive donated foods under Section 32, Section 416, and Section 709, as available, and under Section 14 (42 U.S.C. 1762(a)). (c) Role of distributing agency. The Department delivers NSIP donated foods to distributing agencies, which distribute them to elderly nutrition projects selected by each State or Area Agency on Agi The distributing agency may only distribute donated foods to elderly nutrition projects with which they have signed agreements. The agreements must contain provisions that describe the roles of e party in ensuring that the desired donated foods are ordered, stored, and distributed in an effective manner. (d) Donated food values used in crediting a State Agency on Aging's NSIP grant. FNS uses the average price (cost per pound) for USDA purchases of a donated food made in a contract period in crediti State Agency on Aging's NSIP grant. (e) Coordination between FNS and AoA. FNS and AoA coordinate their respective roles in NSIP through the execution of annual agreements. The agreement ensures that AoA transfers funds to FNS sufficient to purchase the donated foods requested by State Agencies on Aging, and to meet expenses related to such purchases. The agreement also authorizes FNS to carry over any such funds that a not used in the current fiscal year to make purchases of donated foods for the appropriate State Agencies on Aging in the following fiscal year. [73 FR 46184, Aug. 8, 2008]

Legal Standards

1,995	§250.69 Disaster food assistance	Federal	(a) Organizational eligibility. In instances in which the President has declared a disaster and FNS has determined that, as a result of the disaster, low-income households are unable to purchase adequ amounts of nutritious food, disaster organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distributio disaster victims. Applications submitted by disaster organizations to the distributing agency for the receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing in a timely manner. Both the applications and the written approval for the use of USDA commod shall be maintained in accordance with the recordkeeping requirements of this part. (b) Congregate meal service—(1) Approval authority and duration. Distributing agencies may review and approve applications submitted by disaster organizations for the donation of foods for use i preparing congregate meals for disaster victims. Distributing agencies also shall determine the length of such donations, taking into consideration the magnitude of the situation, and may extend the duration of such donations as developing circumstances dictate. Following approval of a request for donated foods, the distributing agency shall make appropriate donated foods available from any s within the State to the disaster organization(s) and within 24 hours of approving the application shall report the information listed in paragraph (b)(2) of this section to the appropriate FNSRO. (2) Applications. (i) Disaster organizations wishing to receive donated foods for use in preparing meals for disaster victims shall submit applications to the distributing agency. Applications shall, to t extent possible, include the following information: (A) Description of disaster situation; (B) Number of people requiring meals; (C) Period of time for which commodities are requested; and (D) Quantity and types of food needed for congregate meal service. (ii) In addition, organizations shall report to the distributing agency the number and location of sites providing congregate meal service as such sites are established. (c) Household distribution—(1) Approval authority and duration. In instances in which the distributing agency has determined that the distribution of donated foods to households is appropriate, th distributing agency shall submit applications requesting approval for such distributions to the appropriate FNSRO for submission to FNS for prior approval. FNS will determine the length of time suc donations will be made, taking into consideration the magnitude of the situation, and may extend the duration of such donations as developing circumstances dictate.
1,996	§250.70 Food assistance in situations of distress	Federal	(a) Organizational eligibility. In situations of distress in which needs for food assistance cannot be met under other provisions of this Part, organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distribution to victims of the situation of distress. Applications submitted to the distributing agency fo receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing timely manner. Both the applications and the written approval for the use of USDA commodities shall be maintained in accordance with the recordkeeping requirements of this Part. (b) Congregate meal service—(1) Approval authority and duration. Distributing agencies may review and approve applications for the donation of foods for use in preparing congregate meals for a p not to exceed 30 days for victims of situations of distress in instances in which the need for such assistance meets the conditions of paragraph (a) of the definition of situation of distress in §250.3. Following approval of a request, distributing agencies shall report the information listed in paragraph (b)(2) of this section to the appropriate FNSRO within 24 hours. In instances when the distribut agency extends the originally approved distribution period from less than 30 days to the 30-day limit, it shall notify the FNSRO of such extensions. Distributing agencies shall request approval from F via the appropriate FNSRO, for donations to exceed 30 days. Upon determining that there is a need for the donation of foods for congregate meals in instances other than those that meet the criteria i paragraph (a) of the definition of situation of distress in §250.3, the distributing agency shall forward applications to the appropriate FNSRO for submission to FNS for prior approval. FNS will determ the duration of such donations, taking into consideration the magnitude of the situation. Determinations as to the length of donations may be revised as developing circumstances dictate. (2) Applications. (i) Organizations wishing to receive donated foods for use in preparing meals shall submit applications to the distributing agency. Applications shall, to the extent possible, include th following information: (A) Description of the situation of distress; (B) Number of people requiring meals and congregate meal service period; and (C) Quantity and types of food needed. (ii) In addition, information on the number and location of sites providing meals shall be submitted to the distributing agency as such sites are established. (c) Household distribution—(1) Approval authority and duration. In instances in which the distributing agency has determined that the distribution of donated foods to households is appropriate, th distributing agency shall submit applications requesting approval for such distributions to the appropriate FNSRO for submission to FNS for approval. FNS will determine the duration of the donatio taking into consideration the magnitude of the situation. Such determinations may be revised as developing circumstances dictate.
1,997	Title V, Part B, Subpart I of ESEA	Federal	

Legal Standards

1,998	Subpart 1 — Charter School Programs SEC. 5201. PURPOSE	Federal	It is the purpose of this subpart to increase national understanding of the charter schools model by — (1) providing financial assistance for the planning, program design, and initial implementation of charter schools; (2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents; (3) expanding the number of high-quality charter schools available to students across the Nation; and (4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional publi schools.
1,999	SEC. 5202. PROGRAM AUTHORIZED	Federal	(a) IN GENERAL- The Secretary may award grants to State educational agencies having applications approved pursuant to section 5203 to enable such agencies to conduct a charter school grant prog in accordance with this subpart. (b) SPECIAL RULE- If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5203, the Secretary may a a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5203(c). (c) PROGRAM PERIODS- (1) GRANTS TO STATES- Grants awarded to State educational agencies under this subpart shall be for a period of not more than 3 years. (2) GRANTS TO ELIGIBLE APPLICANTS- Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be fo period of not more than 3 years, of which the eligible applicant may use — (A) not more than 18 months for planning and program design; (B) not more than 2 years for the initial implementation of a charter school; and (C) not more than 2 years to carry out dissemination activities described in section 5204(f)(6)(B). (d) LIMITATION- A charter school may not receive — (1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or (2) more than one grant for activities under subparagraph (C) of subsection (c)(2). (e) PRIORITY TREATMENT- (1) IN GENERAL- In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 5211 (other than funds reserved to carry out sec

Legal Standards

2,000	SEC. 5203. APPLICATIONS	Federal	(a) APPLICATIONS FROM STATE AGENCIES- Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such ma and containing or accompanied by such information as the Secretary may require. (b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION- Each application submitted pursuant to subsection (a) shall — (1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agen inform teachers, parents, and communities of the State educational agency's charter school grant program; and (2) describe how the State educational agency — (A) will inform each charter school in the State regarding — (i) Federal funds that the charter school is eligible to receive; and (ii) Federal programs in which the charter school may participate; (B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first yea operation of the charter school; and (C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and (3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing — (A) a description of the educational program to be implemented by the proposed charter school, including — (i) how the program will enable all students to meet challenging State student academic achievement standards; (ii) the grade levels or ages of children to be served; and
2,001	SEC. 5204. ADMINISTRATION	Federal	(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES- The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications subm under section 5203(b), after taking into consideration such factors as — (1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students in meeting State academic content standards and State student aca achievement standards; (2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law; (3) the ambitiousness of the objectives for the State charter school grant program; (4) the quality of the strategy for assessing achievement of those objectives; (5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students; (6) the number of high-quality charter schools created under this subpart in the State; and (7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student academic achievement. (b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS- The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under sectio 5203(c), after taking into consideration such factors as — (1) the quality of the proposed curriculum and instructional practices; (2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school; (3) the extent of community support for the application;

Legal Standards

2,002	SEC. 5205. NATIONAL ACTIVITIES	Federal	(a) IN GENERAL- The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities: (1) To provide charter schools, either directly or through State educational agencies, with — (A) information regarding — (i) Federal funds that charter schools are eligible to receive; and (ii) other Federal programs in which charter schools may participate; and (B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications. (2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student academic achievement, including information regarding — (A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and (B) the professional qualifications of teachers within a charter school and the turnover of the teaching force. (3) To provide — (A) information to applicants for assistance under this subpart; (B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5203; (C) assistance in the planning and startup of charter schools; (D) training and technical assistance to existing charter schools; and
2,003	SEC. 5206. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.	Federal	(a) IN GENERAL- For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formu basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligib later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion. (b) ADJUSTMENT AND LATE OPENINGS- (1) IN GENERAL- The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data. (2) RULE- For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' fir year of operation.
2,004	SEC. 5207. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS	Federal	To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals Disabilities Education Act, or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.
2,005	SEC. 5208. RECORDS TRANSFER	Federal	State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the tran of the student from a charter school to another public school, in accordance with applicable State law.
2,006	SEC. 5209. PAPERWORK REDUCTION	Federal	To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

Legal Standards

2,007	SEC. 5210. DEFINITIONS	Federal	In this subpart: (1) CHARTER SCHOOL- The term charter school' means a public school that — (A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of publ schools, but not from any rules relating to the other requirements of this paragraph; (B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction; (C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency; (D) provides a program of elementary or secondary education, or both; (E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution; (F) does not charge tuition; (G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of Individuals with Disabilities Education Act; (H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated; (I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program; (J) meets all applicable Federal, State, and local health and safety requirements; (K) operates in accordance with State law; and
2,008	SEC. 5211. AUTHORIZATION OF APPROPRIATIONS	Federal	(a) IN GENERAL- There are authorized to be appropriated to carry out this subpart $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years. (b) RESERVATION- From the amount appropriated under subsection (a) for each fiscal year, the Secretary shall reserve — (1) $200,000,000 to carry out this subpart, other than section 5205(b); and (2) any funds in excess of $200,000,000, that do not exceed $300,000,000, to carry out section 5205(b); and (3)(A) 50 percent of any funds in excess of $300,000,000 to carry out this subpart, other than section 5205(b); and (B) 50 percent of any funds in excess of $300,000,000 to carry out section 5205(b).
2,009	Title 34: Education PART 462—MEASURING EDUCATIONAL GAIN IN THE NATIONAL REPORTING SYSTEM FOR ADULT EDUCATION	Federal	
2,010	Subpart A—General §462.1 What is the scope of this part?	Federal	The regulations in this part establish the— (a) Procedures the Secretary uses to determine the suitability of standardized tests for use in the National Reporting System for Adult Education (NRS) to measure educational gain of participants in adult education program required to report under the NRS; and (b) Procedures States and local eligible providers must follow when measuring educational gain for use in the NRS. (Authority: 20 U.S.C. 9212)

Legal Standards

2,011	§462.2 What regulations apply?	Federal	The following regulations apply to this part: (a) The Education Department General Administrative Regulations (EDGAR) as follows: (1) 34 CFR part 74 (Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations). (2) 34 CFR part 76 (State-Administered Programs). (3) 34 CFR part 77 (Definitions that Apply to Department Regulations). (4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities). (5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). (6) 34 CFR part 81 (General Education Provisions Act—Enforcement). (7) 34 CFR part 82 (New Restrictions on Lobbying). (8) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)). (9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement)). (10) 34 CFR part 86 (Drug and Alcohol Abuse Prevention). (11) 34 CFR part 97 (Protection of Human Subjects). (12) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).
2,012	§462.3 What definitions apply?	Federal	(a) Definitions in the Adult Education and Family Literacy Act (Act). The following terms used in these regulations are defined in section 203 of the Adult Education and Family Literacy Act, 20 U.S.C. (Act): Adult education, Eligible provider, Individual of limited English proficiency, Individual with a disability, Literacy. (b) Other definitions. The following definitions also apply to this part: Adult basic education (ABE) means instruction designed for an adult whose educational functioning level is equivalent to a particular ABE literacy level listed in the NRS educational functioning level in §462.44. Adult education population means individuals— (1) Who are 16 years of age or older; (2) Who are not enrolled or required to be enrolled in secondary school under State law; and (3) Who— (i) Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

Legal Standards

2,013	§462.4 What are the transition rules for using tests to measure educational gain for the National Reporting System for Adult Education (NRS)?	Federal	A State or a local eligible provider may continue to measure educational gain for the NRS using a test that was identified in the Guidelines until the Secretary announces through a notice published in Federal Register a deadline by which States and local eligible providers must use only tests that the Secretary has reviewed and determined to be suitable for use in the NRS under this part. (Approved by the Office of Management and Budget under control number 1830-0027) (Authority: 20 U.S.C. 9212)
2,014	Subpart B—What Process Does the Secretary Use To Review the Suitability of Tests for Use in the NRS?§462.10 How does the Secretary review tests?	Federal	(a) The Secretary only reviews tests under this part that are submitted by a test publisher. (b) A test publisher that wishes to have the suitability of its test determined by the Secretary under this part must submit an application to the Secretary, in the manner the Secretary may prescribe, b April 14, 2008, and, thereafter, by October 1 of each year. (Authority: 20 U.S.C. 9212)
2,015	§462.11 What must an application contain?	Federal	(a) Application content and format. In order for the Secretary to determine whether a standardized test is suitable for measuring the gains of participants in an adult education program required to r under the NRS, a test publisher must— (1) Include with its application information listed in paragraphs (b) through (i) of this section, and, if applicable, the information listed in paragraph (j) of this section; (2) Provide evidence that it holds a registered copyright of a test or is licensed by the copyright holder to sell or distribute a test. (3)(i) Arrange the information in its application in the order it is presented in paragraphs (b) through (j) of this section; or (ii) Include a table of contents in its application that identifies the location of the information required in paragraphs (b) through (j) of this section. (4) Submit to the Secretary three copies of its application. (b) General information. (1) A statement, in the technical manual for the test, of the intended purpose of the test and how the test will allow examinees to demonstrate the skills that are associated wi NRS educational functioning levels in §462.44. (2) The name, address, e-mail address, and telephone and fax numbers of a contact person to whom the Secretary may address inquiries. (3) A summary of the precise editions, forms, levels, and, if applicable, sub-tests and abbreviated tests that the test publisher is requesting that the Secretary review and determine to be suitable for u the NRS. (c) Development. Documentation of how the test was developed, including a description of— (1) The nature of samples of examinees administered the test during pilot or field testing, such as— (i) The number of examinees administered each item; (ii) How similar the sample or samples of examinees used to develop and evaluate the test were to the adult education population of interest to the NRS; and

Legal Standards

2,016	§462.12 What procedures does the Secretary use to review the suitability of tests?	Federal	(a) Review. (1) When the Secretary receives a complete application from a test publisher, the Secretary selects experts in the field of educational testing and assessment who possess appropriate adva degrees and experience in test development or psychometric research, or both, to advise the Secretary on the extent to which a test meets the criteria and requirements in §462.13. (2) The Secretary reviews and determines the suitability of a test only if an application— (i) Is submitted by a test publisher; (ii) Meets the deadline established by the Secretary; (iii) Includes a test that— (A) Has two or more secure, parallel, equated forms of the same test—either traditional paper and pencil or computer-administered instruments—for which forms are constructed prior to administr to examinees; or (B) Is an adaptive test that uses computerized algorithms for selecting and administering items in real time; however, for such an instrument, the size of the item pool and the method of item selectio must ensure negligible overlap in items across pre- and post-testing; (iv) Includes a test that samples one or more of the major content domains of the NRS educational functioning levels of ABE, ESL, or ASE with sufficient numbers of questions to represent adequately domain or domains; and (v) Includes the information prescribed by the Secretary, including the information in §462.11 of this part. (b) Secretary's determination. (1) The Secretary determines whether a test meets the criteria and requirements in §462.13 after taking into account the advice of the experts described in paragraph (of this section. (2) For tests that contain multiple sub-tests measuring content domains other than those of the NRS educational functioning levels, the Secretary determines the suitability of only those sub-tests cov the domains of the NRS educational functioning levels.
2,017	§462.13 What criteria and requirements does the Secretary use for determining the suitability of tests?	Federal	In order for the Secretary to consider a test suitable for use in the NRS, the test or the test publisher, if applicable, must meet the following criteria and requirements: (a) The test must measure the NRS educational functioning levels of members of the adult education population. (b) The test must sample one or more of the major content domains of the NRS educational functioning levels of ABE, ESL, or ASE with sufficient numbers of questions to adequately represent the do or domains. (c)(1) The test must meet all applicable and feasible standards for test construction and validity provided in the 1999 edition of the Standards for Educational and Psychological Testing, prepared by Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education incorporated by reference in this section. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 5 You may obtain a copy from the American Psychological Association, Inc., 750 First Street, NE., Washington, DC 20002. You may inspect a copy at the Department of Education, room 11159, 550 12th Street, SW., Washington, DC 20202 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. (2) If requested by the Secretary, a test publisher must explain why it believes that certain standards in the 1999 edition of the Standards for Educational and Psychological Testing were not applicab were not feasible to meet. (d) The test must contain the publisher's guidelines for retesting, including time between test-taking, which are accompanied by appropriate justification. (e) The test must— (1) Have two or more secure, parallel, equated forms of the same test—either traditional paper and pencil or computer administered instruments—for which forms are constructed prior to administration to examinees; or (2) Be an adaptive test that uses computerized algorithms for selecting and administering items in real time; however, for such an instrument, the size of the item pool and the method of item selectio must ensure negligible overlap in items across pre- and post-testing. Scores associated with these alternate administrations must be equivalent in meaning. (f) For a test that has been modified for individuals with disabilities, the test publisher must—

Legal Standards

2,018	§462.14 How often and under what circumstances must a test be reviewed by the Secretary?	Federal	(a) The Secretary's determination that a test is suitable for use in the NRS is in effect for a period of seven years from the date of the Secretary's written notification to the test publisher, unless otherw indicated by the Secretary. After that time, if the test publisher wants the test to be used in the NRS, the test must be reviewed again by the Secretary so that the Secretary can determine whether the continues to be suitable for use in the NRS. (b) If a test that the Secretary has determined is suitable for use in the NRS is substantially revised—for example, by changing its structure, number of items, content specifications, item types, or sub tests—and the test publisher wants the test to continue to be used in the NRS, the test publisher must submit, as provided in §462.11(j)(4), the substantially revised test or version of the test to the Secretary for review so that the Secretary can determine whether the test continues to be suitable for use in the NRS. (Authority: 20 U.S.C. 9212)
2,019	Subpart C [Reserved] Subpart D—What Requirements Must States and Local Eligible Providers Follow When Measuring Educational Gain? §462.40 Must a State have an assessment policy?	Federal	(a) A State must have a written assessment policy that its local eligible providers must follow in measuring educational gain and reporting data in the NRS. (b) A State must submit its assessment policy to the Secretary for review and approval at the time it submits its annual statistical report for the NRS. (c) The State's assessment policy must— (1) Include a statement requiring that local eligible providers measure the educational gain of all students who receive 12 hours or more of instruction in the State's adult education program with a t that the Secretary has determined is suitable for use in the NRS; (2) Identify the pre- and post-tests that the State requires local eligible providers to use to measure the educational gain of ABE, ESL, and ASE students; (3)(i) Indicate when, in calendar days or instructional hours, local eligible providers must administer pre- and post-tests to students; and (ii) Ensure that the time for administering the post-test is long enough after the pre-test to allow the test to measure educational gains according to the test publisher's guidelines; (4) Specify the score ranges tied to educational functioning levels for placement and for reporting gains for accountability; (5) Identify the skill areas the State intends to require local eligible providers to assess in order to measure educational gain; (6) Include the guidance the State provides to local eligible providers on testing and placement of an individual with a disability or an individual who is unable to be tested because of a disability; (7) Describe the training requirements that staff must meet in order to be qualified to administer and score each test selected by the State to measure the educational gains of students; (8) Identify the alternate form or forms of each test that local eligible providers must use for post-testing; (9) Indicate whether local eligible providers must use a locator test for guidance on identifying the appropriate pre-test; (10) Describe the State's policy for the initial placement of a student at each NRS educational functioning level using test scores;

Legal Standards

2,020	§462.41 How must tests be administered in order to accurately measure educational gain?	Federal	(a) General. A local eligible provider must measure the educational gains of students using only tests that the Secretary has determined are suitable for use in the NRS and that the State has identified assessment policy. (b) Pre-test. A local eligible provider must— (1) Administer a pre-test to measure a student's educational functioning level at intake, or as soon as possible thereafter; (2) Administer the pre-test to students at a uniform time, according to its State's assessment policy; and (3) Administer pre-tests to students in the skill areas identified in its State's assessment policy. (c) Post-test. A local eligible provider must— (1) Administer a post-test to measure a student's educational functioning level after a set time period or number of instructional hours; (2) Administer the post-test to students at a uniform time, according to its State's assessment policy; (3)(i) Administer post-tests with a secure, parallel, equated form of the same test—either traditional paper and pencil or computer-administered instruments—for which forms are constructed prior administration to examinees to pre-test and determine the initial placement of students; or (ii) Administer post-tests with an adaptive test that uses computerized algorithms for selecting and administering items in real time; however, for such an instrument, the size of the item pool and th method of item selection must ensure negligible overlap in items across pre- and post-testing; and (4) Administer post-tests to students in the same skill areas as the pre-test. (d) Other requirements. (1) A local eligible provider must administer a test using only staff who have been trained to administer the test. (2) A local eligible provider may use the results of a test in the NRS only if the test was administered in a manner that is consistent with the State's assessment policy and the test publisher's guideline
2,021	§462.42 How are tests used to place students at an NRS educational functioning level?	Federal	(a) A local eligible provider must use the results of the pre-test described in §462.41(b) to initially place students at the appropriate NRS educational functioning level. (b) A local eligible provider must use the results of the post-test described in §462.41(c)— (1) To determine whether students have completed one or more educational functioning levels or are progressing within the same level; and (2) To place students at the appropriate NRS educational functioning level. (c)(1) States and local eligible providers are not required to use all of the skill areas described in the NRS educational functioning levels to place students. (2) States and local eligible providers must test and report on the skill areas most relevant to the students' needs and to the programs' curriculum. (d)(1) If a State's assessment policy requires a local eligible provider to test a student in multiple skill areas and the student will receive instruction in all of the skill areas, the local eligible provider m place the student in an educational functioning level that is equivalent to the student's lowest test score for any of the skill areas tested under §462.41(b) and (c). (2) If a State's assessment policy requires a local eligible provider to test a student in multiple skill areas, but the student will receive instruction in fewer than all of the skill areas, the local eligible provider must place the student in an educational functioning level that is equivalent to the student's lowest test score for any of the skill areas— (i) Tested under §462.41(b) and (c); and (ii) In which the student will receive instruction. (Approved by the Office of Management and Budget under control number 1830-0027) (Authority: 20 U.S.C. 9212)

Legal Standards

2,022	§462.43 How is educational gain measured?	Federal	(a)(1) Educational gain is measured by comparing the student's initial educational functioning level, as measured by the pre-test described in §462.41(b), with the student's educational functioning l as measured by the post-test described in §462.41(c). Example: A State's assessment policy requires its local eligible providers to test students in reading and numeracy. The student scores lower in reading than in numeracy. As described in §462.42(d)(the local eligible provider would use the student's reading score to place the student in an educational functioning level. To measure educational gain, the local eligible provider would compare the re score on the pre-test with the reading score on the post-test. (2) A student is considered to have made an educational gain when the student's post-test indicates that the student has completed one or more educational functioning levels above the level in whic student was placed by the pre-test. (b) If a student is not post-tested, then no educational gain can be measured for that student and the local eligible provider must report the student in the same educational functioning level as initiall placed for NRS reporting purposes. (Approved by the Office of Management and Budget under control number 1830-0027) (Authority: 20 U.S.C. 9212)
2,023	§462.44 Which educational functioning levels must States and local eligible providers use to measure and report educational gain in the NRS?	Federal	States and local eligible providers must use the NRS educational functioning levels in the following functioning level table: eCFR graphic er14ja08.000.gif View or download PDF eCFR graphic er14ja08.001.gif View or download PDF eCFR graphic er14ja08.002.gif View or download PDF eCFR graphic er14ja08.003.gif View or download PDF (Approved by the Office of Management and Budget under control number 1830-0027) (Authority: 20 U.S.C. 9212)
2,024	Title 34: Education PART 100—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF EDUCATION EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964	Federal	
2,025	§100.1 Purpose	Federal	The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall; on the ground of color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance the Department of Education.

Legal Standards

2,026	§100.2 Application of this regulation	Federal	This regulation applies to any program to which Federal financial assistance is authorized to be extended to a recipient under a law administered by the Department, including the Federal financial assistance listed in appendix A of this regulation. It applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of the regulation pursuant to an application approved prior to such effective date. This regulation does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferre other assistance extended before the effective date of this regulation, (c) the use of any assistance by any individual who is the ultimate beneficiary, or (d) any employment practice, or any employer, employment agency, or labor organization, except to the extent described in §100.3. The fact that a type of Federal assistance is not listed in appendix A shall not mean, if title VI of the Act is otherwis applicable, that a program is not covered. Federal financial assistance under statutes now in force or hereinafter enacted may be added to this list by notice published in the Federal Register. (Authority: Secs. 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253; 42 U.S.C. 2000d-1, 2000d-3)
2,027	§100.3 Discrimination prohibited	Federal	(a) General. No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discriminatio under any program to which this part applies. (b) Specific discriminatory actions prohibited. (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, o national origin: (i) Deny an individual any service, financial aid, or other benefit provided under the program; (ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program; (iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program; (iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program; (v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals mus meet in order to be provided any service, financial aid, or other benefit provided under the program; (vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section). (vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program. (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations i which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, m not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, o national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin. (3) In determining the site or location of a facilities, an applicant or recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to

Legal Standards

2,028	§100.4 Assurances required	Federal	(a) General. (1) Every application for Federal financial assistance to which this part applies, except an application to which paragraph (b) of this section applies, and every application for Federal fina assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that th program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide rea property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used f purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obliga the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible Department official shall specify the form of the foregoing assurances, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants. Any such assurance shall include provisions which give the United States a right to seek its juc enforcement. (2) Where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government the instrument effecting or recording the transfer shall co a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved but property is improved with Federal financial assistance, the recipient shall agree to includ such a covenant to any subsequent transfer of the property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reser by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appro to the statute under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the responsible Department of may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so l the lien of such mortgage or other encumbrance remains effective. (b) Continuing Federal financial assistance. Every application by a State or a State agency for continuing Federal financial assistance to which this regulation applies (including the Federal financial assistance listed in part 2 of appendix A) shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a stater that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this regulation, and (2) provide or be accompanied by provisi such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance u such program will comply with all requirements imposed by or pursuant to this regulation. (c) Elementary and secondary schools. The requirements of paragraph (a) or (b) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such orde
2,029	§100.5 Illustrative application	Federal	The following examples will illustrate the programs aided by Federal financial assistance of the Department. (In all cases the discrimination prohibited is discrimination on the ground of race, color, o national origin prohibited by title VI of the Act and this regulation, as a condition of the receipt of Federal financial assistance). (a) In federally-affected area assistance (Pub. L. 815 and Pub. L. 874) for construction aid and for general support of the operation of elementary or secondary schools, or in more limited support to su schools such as for the acquisition of equipment, the provision of vocational education, or the provision of guidance and counseling services, discrimination by the recipient school district in any of it elementary or secondary schools in the admission of students, or in the treatment of its students in any aspect of the educational process, is prohibited. In this and the following illustrations the prohibition of discrimination in the treatment of students or other trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormi eating, recreational, or other facilities of the grantee or other recipient. (b) In a research, training, demonstration, or other grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate s is prohibited, and the prohibition extends to the entire university. (c) In a training grant to a hospital or other nonacademic institution, discrimination is prohibited in the selection of individuals to be trained and in their treatment by the grantee during their trainin research or demonstration grant to such an institution discrimination is prohibited with respect to any educational activity and any provision of medical or other services and any financial aid to individuals incident to the program. (d) In grants to assist in the construction of facilities for the provision of health, educational or welfare services, assurances will be required that services will be provided without discrimination, to t same extent that discrimination would be prohibited as a condition of Federal operating grants for the support of such services. Thus, as a condition of grants for the construction of academic, resear other facilities at institutions of higher education, assurances will be required that there will be no discrimination in the admission or treatment of students. (e) Upon transfers of real or personal surplus property for educational uses, discrimination is prohibited to the same extent as in the case of grants for the construction of facilities or the provision of equipment for like purposes. (f) Each applicant for a grant for the construction of educational television facilities is required to provide an assurance that it will, in its broadcast services, give due consideration to the interests of a significant racial or ethnic groups within the population to be served by the applicant. (g) A recipient may not take action that is calculated to bring about indirectly what this regulation forbids it to accomplish directly. Thus, a State, in selecting or approving projects or sites for the construction of public libraries which will receive Federal financial assistance, may not base its selections or approvals on criteria which have the effect of defeating or of substantially impairing

Legal Standards

2,030	§100.6 Compliance information	Federal	(a) Cooperation and assistance. The responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part. (b) Compliance reports. Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. For example, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally-assisted programs. In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part. (c) Access to sources of information. Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, an other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other age institution or person and this agency, institution or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this part. Information of a confidenti nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law. (d) Information to beneficiaries and participants. Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this regulation and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Departme official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this regulation. (Approved by the Office of Management and Budget under control number 1870-0500) (Authority: Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1) [45 FR 30918, May 9, 1980, as amended at 53 FR 49143, Dec. 6, 1988; 65 FR 68053, Nov. 13, 2000]
2,031	§100.7 Conduct of investigations	Federal	(a) Periodic compliance reviews. The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this par (b) Complaints. Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the respon Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee. (c) Investigations. The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possib failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part. (d) Resolution of matters. (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Department official or his designee will so inform recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in §100.8. (2) If an investigation does not warrant action pursuant to paragraph (1) of this paragraph (d) the responsible Department official or his designee will so inform the recipient and the complainant, if a writing. (e) Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this par identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arisi thereunder. (Authority: Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1)

Legal Standards

2,032	§100.8 Procedure for effecting compliance	Federal	(a) General. If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compl with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may inclu but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the Uni States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law. (b) Noncompliance with §100.4. If an applicant fails or refuses to furnish an assurance required under §100.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to th section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case durin pendency of the administrative proceedings under such paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and pa pursuant to an application therefor approved prior to the effective date of this part. (c) Termination of or refusal to grant or to continue Federal financial assistance. No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been a express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the expiration of 30 days a the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found. (d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 1(from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate. (Authority: Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1. Sec. 182, 80 Stat. 1209; 42 U.S.C. 2000d-5)
2,033	§100.9 Hearings	Federal	(a) Opportunity for hearing. Whenever an opportunity for a hearing is required by §100.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the ma of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and su written information and argument for the record. The failure of an applicant or recipient to request a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing und section 602 of the Act and §100.8(c) of this regulation and consent to the making of a decision on the basis of such information as may be filed as the record. (b) Time and place of hearing. Hearings shall be held at the offices of the Department in Washington, DC, at a time fixed by the responsible Department official unless he determines that the convenie the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (sectio of the Administrative Procedure Act). (c) Right to counsel. In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel. (d) Procedures, evidence, and record. (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing. Any person (other than a Government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a heari provided for by this part, may be reimbursed for his travel and actual expenses of attendance in an amount not to exceed the amount payable under the standardized travel regulations to a Governme employee traveling on official business. (2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitiou evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on eithe of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written fin shall be made.

Legal Standards

2,034	§100.10 Decisions and notices	Federal	(a) Decisions by hearing examiners. After a hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the reviewing authority for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this paragraph or in paragraph (c) of this section is made by the hearing examiner, the applicant or recipient or the counsel for the Depart may, within the period provided for in the rules of procedure issued by the responsible Department official, file with the reviewing authority exceptions to the initial decision, with his reasons therefo Upon the filing of such exceptions the reviewing authority shall review the initial decision and issue its own decision thereof including the reasons therefor. In the absence of exceptions the initial dec shall constitute the final decision, subject to the provisions of paragraph (e) of this section. (b) Decisions on record or review by the reviewing authority. Whenever a record is certified to the reviewing authority for decision or it reviews the decision of a hearing examiner pursuant to parag (a) or (c) of this section, the applicant or recipient shall be given reasonable opportunity to file with it briefs or other written statements of its contentions, and a copy of the final decision of the revie authority shall be given in writing to the applicant or recipient and to the complainant, if any. (c) Decisions on record where a hearing is waived. Whenever a hearing is waived pursuant to §100.9(a) the reviewing authority shall make its final decision on the record or refer the matter to a hear examiner for an initial decision to be made on the record. A copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any. (d) Rulings required. Each decision of a hearing examiner or reviewing authority shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply. (e) Review in certain cases by the Secretary. If the Secretary has not personally made the final decision referred to in paragraphs (a), (b), or (c) of this section, a recipient or applicant or the counsel fo Department may request the Secretary to review a decision of the Reviewing Authority in accordance with rules of procedure issued by the responsible Department official. Such review is not a matt right and shall be granted only where the Secretary determines there are special and important reasons therefor. The Secretary may grant or deny such request, in whole or in part. He may also revie such a decision upon his own motion in accordance with rules of procedure issued by the responsible Department official. In the absence of a review under this paragraph, a final decision referred to paragraphs (a), (b), (c) of this section shall become the final decision of the Department when the Secretary transmits it as such to Congressional committees with the report required under section 6 the Act. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph shall not be deemed a failure to exhaust administrative remed the purpose of obtaining judicial review. (f) Content of orders. The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies, may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this regulation, including provisions designed to assure that no Federa financial assistance to which this regulation applies will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of
2,035	§100.11 Judicial review	Federal	Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act. (Authority: Sec. 603, 78 Stat. 253; 42 U.S.C. 2000d-2)
2,036	§100.12 Effect on other regulations; forms and instructions	Federal	(a) Effect on other regulations. All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination again individuals on the ground of race, color, or national origin under any program to which this regulation applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by regulation, except that nothing in this regulation shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like directi prior to the effective date of this regulation. Nothing in this regulation, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such Order, regulations, or instructions prohibit discrimination on the ground of rac color, or national origin in any program or situation to which this regulation is inapplicable, or prohibit discrimination on any other ground; or (2) Requirements for Emergency School Assistance as published in 35 FR 13442 and codified as 34 CFR part 280. (b) Forms and instructions. The responsible Department official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this pa (c) Supervision and coordination. The responsible Department official may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this regulation (other than responsibility for review as provi §100.10(e)), including the achievements of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI ar regulation to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignm of responsibility under this section shall have the same effect as though such action had been taken by the responsible official of this Department. (Authority: Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d-1)

Legal Standards

2,037	§100.13 Definitions	Federal	As used in this part: (a) The term Department means the Department of Education. (b) The term Secretary means the Secretary of Education. (c) The term responsible Department official means the Secretary or, to the extent of any delegation by the Secretary of authority to act in his stead under any one or more provisions of this part, any person or persons to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate such authority. (d) The term reviewing authority means the Secretary, or any person or persons (including a board or other body specially created for that purpose and also including the responsible Department of acting pursuant to authority delegated by the Secretary to carry out responsibilities under §100.10(a)-(d). (e) The term United States means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing. (f) The term Federal financial assistance includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. (g) The term program or activity and the term program mean all of the operations of— (1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or (ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is exte in the case of assistance to a State or local government; (2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or
2,038	Appendix A to Part 100—Federal Financial Assistance to Which These Regulations Apply	Federal	Part 1—Assistance Other Than Continuing Assistance to States 1. Loans for acquisition of equipment for academic subjects, and for minor remodeling (20 U.S.C. 445). 2. Construction of facilities for institutions of higher education (20 U.S.C. 701-758). 3. School Construction in federally-affected and in major disaster areas (20 U.S.C. 631-647). 4. Construction of educational broadcast facilities (47 U.S.C. 390-399). 5. Loan service of captioned films and educational media; research on, and production and distribution of, educational media for the handicapped, and training of persons in the use of such media for handicapped (20 U.S.C. 1452). 6. Demonstration residential vocational education schools (20 U.S.C. 1321). 7. Research and related activities in education of handicapped children (20 U.S.C. 1441). 8. Educational research, dissemination and demonstration projects; research training; and construction under the Cooperation Research Act (20 U.S.C. 331-332(b)). 9. Research in teaching modern foreign languages (20 U.S.C. 512). 10. Training projects for manpower development and training (42 U.S.C. 2601, 2602, 2610a-2610c). 11. Research and training projects in Vocational Education (20 U.S.C. 1281(a), 1282-1284). 12. Allowances to institutions training NDEA graduate fellows (20 U.S.C. 461-465). 13. Grants for training in librarianship (20 U.S.C. 1031-1033).

Legal Standards

2,039	Appendix B to Part 100—Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs	Federal	I. Scope and Coverage A. Application of Guidelines These Guidelines apply to recipients of any Federal financial assistance from the Department of Education that offer or administer programs of vocational education or training. This includes State ag recipients. B. Definition of Recipient The definition of recipient of Federal financial assistance is established by Department regulations implementing Title VI, Title IX, and Section 504 (34 CFR 100.13(i), 106.2(h), 104.3(f). For the purposes of Title VI: The term recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such terms does not include any ultimate beneficiary [e.g., students] under any such program. (34 CFR 100.13(i)). For the purposes of Title IX: Recipient means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, o person to whom Federal financial assistance is extended, directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof. (34 CFR 106.2(h)). For the purposes of Section 504: Recipient means any State or its political subdivision any instrumentality of a State or its political subdivision, any public or private agency, institution, or organization, or other entity, or any person which Federal financial assistance is extended, directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assist (34 CFR 104.3(f)). C. Examples of Recipients Covered by These Guidelines The following education agencies, when they provide vocational education, are examples of recipients covered by these Guidelines:
2,040	Appendix B to Part 100—Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs continued...	Federal	B. Distribution of Funds Recipients may not adopt a formula or other method for the allocation of Federal, State, or local vocational education funds that has the effect of discriminating on the basis of race, color, national orig sex, or handicap. However, a recipient may adopt a formula or other method of allocation that uses as a factor race, color, national origin, sex, or handicap [or an index or proxy for race, color, nationa origin, sex, or handicap e.g., number of persons receiving Aid to Families with Dependent Children or with limited English speaking ability] if the factor is included to compensate for past discriminat to comply with those provisions of the Vocational Education Amendments of 1976 designed to assist specified protected groups. C. Example of a Pattern Suggesting Unlawful Discrimination In each State it is likely that some local recipients will enroll greater proportions of minority students in vocational education than the State-wide proportion of minority students in vocational educa A funding formula or other method of allocation that results in such local recipients receiving per-pupil allocations of Federal or State vocational education funds lower than the State-wide average p pupil allocation will be presumed unlawfully discriminatory. D. Distribution Through Competitive Grants or Contracts Each State agency that establishes criteria for awarding competitive vocational education grants or contracts must establish and apply the criteria without regard to the race, color, national origin, se handicap of any or all of a recipient's students, except to compensate for past discrimination. E. Application Processes for Competitive or Discretionary Grants State agencies must disseminate information needed to satisfy the requirements of any application process for competitive or discretionary grants so that all recipients, including those having a high percentage of minority or handicapped students, are informed of and able to seek funds. State agencies that provide technical assistance for the completion of the application process must provide su assistance without discrimination against any one recipient or class of recipients. F. Alteration of Fund Distribution to Provide Equal Opportunity If the Office for Civil Rights finds that a recipient's system for distributing vocational education funds unlawfully discriminates on the basis of race, color, national origin, sex, or handicap, it will requi recipient to adopt an alternative nondiscriminatory method of distribution. The Office for Civil Rights may also require the recipient to compensate for the effects of its past unlawful discrimination i distribution of funds. IV. Access and Admission of Students to Vocational Education Programs A. Recipient Responsibilities Criteria controlling student eligibility for admission to vocational education schools, facilities and programs may not unlawfully discriminate on the basis of race, color, national origin, sex, or handica

Legal Standards

2,041	Appendix B to Part 100—Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs continued...	Federal	F. Eligibility for Admission to Secondary Vocational Education Centers Based on Numerical Limits Imposed on Sending Schools A recipient may not adopt or maintain a system for admission to a secondary vocational education center or program that limits admission to a fixed number of students from each sending school included in the center's service area if such a system disproportionately excludes students from the center on the basis of race, sex, national origin or handicap. (Example: Assume 25 percent of a sch district's high school students are black and that most of those black students are enrolled in one high school; the white students, 75 percent of the district's total enrollment, are generally enrolled in five remaining high schools. This paragraph prohibits a system of admission to the secondary vocational education center that limits eligibility to a fixed and equal number of students from each of th district's six high schools.) G. Remedies for Violation of Eligibility Based on Numerical Limits Requirements If the Office for Civil Rights finds a violation of paragraph F, above, the recipient must implement an alternative system of admissions that does not disproportionately exclude students on the basis o color, national origin, sex, or handicap. H. Eligibility for Admission to Vocational Education Centers, Branches or Annexes Based Upon Student Option A vocational education center, branch or annex, open to all students in a service area and predominantly enrolling minority students or students of one race, national origin or sex, will be presumed unlawfully segregated if: (1) It was established by a recipient for members of one race, national origin or sex; or (2) it has since its construction been attended primarily by members of one race, national origin or sex; or (3) n of its program offerings have traditionally been selected predominantly by members of one race, national origin or sex. I. Remedies for Facility Segregation Under Student Option Plans If the conditions specified in paragraph IV-H are found and not rebutted by proof of nondiscrimination, the Office for Civil Rights will require the recipient(s) to submit a plan to remedy the segregati The following are examples of steps that may be included in the plan, where necessary to overcome the discrimination: (1) Elimination of program duplication in the segregated facility and other proximate vocational facilities; (2) relocation or “clustering” of programs or courses; (3) adding programs and courses that traditionally have been identified as intended for members of a particular race, national origin or sex to schools that have traditionally served members of the other sex or traditionally served person different race or national origin; (4) merger of programs into one facility through school closings or new construction; (5) intensive outreach recruitment and counseling; (6) providing free transpor to students whose enrollment would promote desegregation. J. [Reserved]
2,042	Appendix B to Part 100—Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs continued...	Federal	B. Counseling and Prospects for Success Recipients that operate vocational education programs must insure that counselors do not direct or urge any student to enroll in a particular career or program, or measure or predict a student's prospects for success in any career or program based upon the student's race, color, national origin, sex, or handicap. Recipients may not counsel handicapped students toward more restrictive caree objectives than nonhandicapped students with similar abilities and interests. If a vocational program disproportionately enrolls male or female students, minority or nonminority students, or handic students, recipients must take steps to insure that the disproportion does not result from unlawful discrimination in counseling activities. C. Student Recruitment Activities Recipients must conduct their student recruitment activities so as not to exclude or limit opportunities on the basis of race, color, national origin, sex, or handicap. Where recruitment activities involv presentation or portrayal of vocational and career opportunities, the curricula and programs described should cover a broad range of occupational opportunities and not be limited on the basis of th color, national origin, sex, or handicap of the students or potential students to whom the presentation is made. Also, to the extent possible, recruiting teams should include persons of different races, national origins, sexes, and handicaps. D. Counseling of Students With Limited English-Speaking Ability or Hearing Impairments Recipients must insure that counselors can effectively communicate with national origin minority students with limited English language skills and with students who have hearing impairments. Thi requirement may be satisfied by having interpreters available. E. Promotional Activities Recipients may not undertake promotional efforts (including activities of school officials, counselors, and vocational staff) in a manner that creates or perpetuates stereotypes or limitations based on color, national origin, sex or handicap. Examples of promotional efforts are career days, parents' night, shop demonstrations, visitations by groups of prospective students and by representatives fro business and industry. Materials that are part of promotional efforts may not create or perpetuate stereotypes through text or illustration. To the extent possible they should portray males or females minorities or handicapped persons in programs and occupations in which these groups traditionally have not been represented. If a recipient's service area contains a community of national origin minority persons with limited English language skills, promotional literature must be distributed to that community in its language. VI. Equal Opportunity in the Vocational Education Instructional Setting A. Accommodations For Handicapped Students Recipients must place secondary level handicapped students in the regular educational environment of any vocational education program to the maximum extent appropriate to the needs of the stud unless it can be demonstrated that the education of the handicapped person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Handicappe students may be placed in a program only after the recipient satisfies the provisions of the Department's Regulation, 34 CFR, part 104, relating to evaluation, placement, and procedural safeguards. If

Legal Standards

2,043	Title 34: Education PART 101—PRACTICE AND PROCEDURE FOR HEARINGS UNDER PART 100 OF THIS TITLE	Federal	
2,044	Subpart A—General Information §101.1 Scope of rules	Federal	The rules of procedure in this part supplement §§100.9 and 100.10 of this subtitle and govern the practice for hearings, decisions, and administrative review conducted by the Department of Educati pursuant to Title VI of the Civil Rights Act of 1964 (section 602, 78 Stat. 252) and part 100 of this subtitle.
2,045	§101.2 Records to be public	Federal	All pleadings, correspondence, exhibits, transcripts, of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of Civil Rights hearing clerk. Inquiries may be made at the Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.
2,046	§101.3 Use of gender and number	Federal	As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females o organizations.
2,047	§101.4 Suspension of rules	Federal	Upon notice to all parties, the reviewing authority or the presiding officer, with respect to matters pending before them, may modify or waive any rule in this part upon determination that no party w unduly prejudiced and the ends of justice will thereby be served.
2,048	Subpart B—Appearance and Practice §101.11 Appearance	Federal	A party may appear in person or by counsel and participate fully in any proceeding. A State agency or a corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the bar of a State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.
2,049	§101.12 Authority for representation	Federal	Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.
2,050	§101.13 Exclusion from hearing for misconduct	Federal	Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding o shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.
2,051	Subpart C—Parties §101.21 Parties	Federal	(a) The term party shall include an applicant or recipient or other person to whom a notice of hearing or opportunity for hearing has been mailed naming him a respondent. (b) The Assistant Secretary for Civil Rights of the Department of Education, shall be deemed a party to all proceedings.
2,052	§101.22 Amici curiae	Federal	(a) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference, or if none is held, before commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in proceedings, that such participation will not unduly delay the outcome, and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce eviden a hearing. (b) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. His brief shall be filed and served on each party within the time limits applicable to the party whose position he deems himse support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings. (c) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues
2,053	§101.23 Complainants not parties	Federal	A person submitting a complaint pursuant to §100.7(b) of this title is not a party to the proceedings governed by this part, but may petition, after proceedings are initiated, to become an amicus curia
2,054	Subpart D—Form, Execution, Service and Filing of Documents §101.31 Form of documents to be filed	Federal	Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 81/2 inches wide and 12 inches long.

Legal Standards

2,055	§101.32 Signature of documents	Federal	The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good groun support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.
2,056	§101.33 Filing and service	Federal	All notices by a Department official, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to a Department official from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made the Civil Rights hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Frid (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time. Originals only on exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see §101.107.
2,057	§101.34 Service—how made	Federal	Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party or amicus has appeared b attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient t reach the addressee by the date on which the original is due to be filed, and should be air mailed if the addressee is more than 300 miles distant.
2,058	§101.35 Date of service	Federal	The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shal the date of its delivery, or of its attempted delivery if refused.
2,059	§101.36 Certificate of service	Federal	The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.
2,060	Subpart E—Time §101.41 Computation	Federal	In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, u it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 d intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.
2,061	§101.42 Extension of time or postponement	Federal	Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From t designation of a presiding officer until the issuance of his decision such requests should be addressed to him. Answers to such requests are permitted, if made promptly.
2,062	§101.43 Reduction of time to file documents	Federal	For good cause, the reviewing authority or the presiding officer, with respect to matters pending before them, may reduce any time limit prescribed by the rules in this part, except as provided by law part 100 of this chapter. [45 FR 30931, May 9, 1980, as amended at 79 FR 76095, Dec. 19, 2014]
2,063	Subpart F—Proceedings Prior to Hearing §101.51 Notice of hearing or opportunity for hearing	Federal	Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to §100.9 of this title.
2,064	§101.52 Answer to notice	Federal	The respondent, applicant or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless t respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer sha deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice be deemed an admission of all matters of fact recited in the notice.
2,065	§101.53 Amendment of notice or answer	Federal	The Assistant Secretary for Civil Rights may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend hi answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answ may be amended only by leave of the presiding officer. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.
2,066	§101.54 Request for hearing	Federal	Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing the respondent, either in his answer or in a separate document, may request a hearing. Failure respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute his consent to the making of a decision on the basis of such information as is available.

Legal Standards

2,067	§101.55 Consolidation	Federal	The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreemen with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice o consolidation.
2,068	§101.56 Motions	Federal	Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they ma stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.
2,069	§101.57 Responses to motions and petitions	Federal	Within 8 days after a written motion or petition is served, or such other period as the reviewing authority or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.
2,070	§101.58 Disposition of motions and petitions	Federal	The reviewing authority or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motio petition without awaiting response: Provided, however, That prehearing conferences, hearings and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petiti may be ruled on immediately. Motions and petitions submitted to the reviewing authority or the presiding officer, respectively, and not disposed of in separate rulings or in their respective decisions be deemed denied. Oral arguments shall not be held or written motions or petitions unless the presiding officer in his discretion expressly so orders.
2,071	Subpart G—Responsibilities and Duties of Presiding Officer §101.61 Who presides	Federal	A hearing examiner assigned under 5 U.S.C. 3105 or 3344 (formerly section 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.
2,072	§101.62 Designation of hearing examiner	Federal	The designation of the hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record including his recommended findings and proposed decision to the reviewing authority, and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification or unavailabil the designated hearing examiner, another hearing examiner may be designated to take his place.
2,073	§101.63 Authority of presiding officer	Federal	The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but no limited to) the power to: (a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, to change the date, time, and place of hearings previously set. (b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding. (c) Require parties and amici curiae to state their position with respect to the various issues in the proceeding. (d) Administer oaths and affirmations. (e) Rule on motions, and other procedural items on matters pending before him. (f) Regulate the course of the hearing and conduct of counsel therein. (g) Examine witnesses and direct witnesses to testify. (h) Receive, rule on, exclude or limit evidence. (i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him. (j) Issue initial or recommended decisions. (k) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551-559 (the Administrative Procedure Act).

Legal Standards

2,074	Subpart H—Hearing Procedures §101.71 Statement of position and trial briefs	Federal	The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing. The presiding officer may also require the parties to submit trial bi
2,075	§101.72 Evidentiary purpose	Federal	(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be m at hearings. (b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applica requirements of part 100 of this title. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the reviewing authority or presiding officer may enter an order so finding, vacating the hearing date if on been set, and fixing the time for filing briefs under §101.101. Thereafter the proceedings shall go to conclusion in accordance with subpart J of this part. The presiding officer may allow an appeal fron such order in accordance with §101.86.
2,076	§101.73 Testimony	Federal	Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be pre in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§101.75 and 101.76, witnesses shall be available at the hearing for cross-examination.
2,077	§101.74 Exhibits	Federal	Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at t hearing for failure to file such written objection.
2,078	§101.75 Affidavits	Federal	An affidavit is; not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and not less t days prior to hearing a party may file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions therein at hearing. In such event the assertio objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.
2,079	§101.76 Depositions	Federal	Upon such terms as may be just, for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.
2,080	§101.77 Admissions as to facts and documents	Federal	Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing p written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service there within such further time as the presiding officer or the reviewing authority if no presiding officer has yet been designated may allow upon motion and notice) the party to whom the request is directe serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either ad or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute and admission by him for any other purpose or be used against him in an other proceeding or action.
2,081	§101.78 Evidence	Federal	Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.
2,082	§101.79 Cross-examination	Federal	A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.
2,083	§101.80 Unsponsored written material	Federal	Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding These data are not deemed part of the evidence or record in the hearing.
2,084	§101.81 Objections	Federal	Objections to evidence shall be timely and briefly state the ground relied upon.

Legal Standards

2,085	§101.82 Exceptions to rulings of presiding officer unnecessary	Federal	Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he desires the presidin officer to take, or his objection to an action taken, and his grounds therefor.
2,086	§101.83 Official notice	Federal	Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.
2,087	§101.84 Public document items	Federal	Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document iss by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identificatio but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.
2,088	§101.85 Offer of proof	Federal	An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a c of such evidence shall be marked for identification and shall accompany the record as the offer of proof.
2,089	§101.86 Appeals from ruling of presiding officer	Federal	Rulings of the presiding officer may not be appealed to the reviewing authority prior to his consideration of the entire proceeding except with the consent of the presiding officer and where he certifi the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public intere an appeal is allowed, any party may file a brief with the reviewing authority within such period as the presiding officer directs. No oral argument will be heard unless the reviewing authority directs otherwise. At any time prior to submission of the proceeding to it for decisions, the reviewing authority may direct the presiding officer to certify any question or the entire record to it for decision. W the entire record is so certified, the presiding officer shall recommend a decision.
2,090	Subpart I—The Record §101.91 Official transcript	Federal	The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed wi Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.
2,091	§101.92 Record for decision	Federal	The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision constitute the exclusive record for decision.
2,092	Subpart J—Posthearing Procedures, Decisions §101.101 Posthearing briefs: proposed findings and conclusions	Federal	(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs. (b) Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.
2,093	§101.102 Decisions following hearing	Federal	When the time for submission of posthearing briefs has expired, the presiding officer shall certify the entire record, including his recommended findings and proposed decision, to the responsible Department official; or if so authorized he shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and ami any.
2,094	§101.103 Exceptions to initial or recommended decisions	Federal	Within 20 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the reviewing authority. Any other party may file a response thereto within 30 days after the mailing of the decision. Upon the filing of such exceptions, the reviewing authority shall review the decision and issue its own decision thereon.
2,095	§101.104 Final decisions	Federal	(a) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto are filed within the 20-day period specified in §101.103, such decision shall become final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of §101.106. (b) Where the hearing is conducted by a hearing examiner who makes a recommended decision, or upon the filing of exceptions to a hearing examiner's initial decision, the reviewing authority shall review the recommended or initial decision and shall issue its own decision thereon, which shall become the final decision of the Department, and shall constitute "final agency action" within the mea of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of §101.106. (c) All final decisions shall be promptly served on all parties, and amici, if any.

Legal Standards

2,096	§101.105 Oral argument to the reviewing authority	Federal	(a) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, he shall make such request in writing. The reviewing authority may grant or such requests in its discretion. If granted, it will serve notice of oral argument on all parties. The notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Department hearing clerk not later than 7 days before the date set for oral argument. (b) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their argume to points of controlling importance and to points upon which exceptions have been filed. Consolidations of appearances at oral argument by parties taking the same side will permit the parties' intere be presented more effectively in the time allotted. (c) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Departm hearing clerk at least 7 days before the argument.
2,097	§101.106 Review by the Secretary	Federal	Within 20 days after an initial decision becomes a final decision pursuant to §101.104(a) or within 20 days of the mailing of a final decision referred to in §101.104(b), as the case may be, a party may request the Secretary to review the final decision. The Secretary may grant or deny such request, in whole or in part, or serve notice of his intent to review the decision in whole or in part upon his ow motion. If the Secretary grants the requested review, or if he serves notice of intent to review upon his own motion, each party to the decision shall have 20 days following notice of the Secretary's proposed action within which to file exceptions to the decision and supporting briefs and memoranda, or briefs and memoranda in support of the decision. Failure of a party to request review under paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.
2,098	§101.107 Service on amici curiae	Federal	All briefs, exceptions, memoranda, requests, and decisions referred to in this subpart J shall be served upon amici curiae at the same times and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under §101.71 shall be served on amici.
2,099	Subpart K—Judicial Standards of Practice §101.111 Conduct	Federal	Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offens personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his best efforts to restrain his client from improprieties in connection with a proceeding.
2,100	§101.112 Improper conduct	Federal	With respect to any proceeding it is improper for any interested person to attempt to sway the judgement of the reviewing authority by undertaking to bring pressure or influence to bear upon any o having a responsibility for a decision in the proceeding, or his decisional staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give stater to communications media, by paid advertisement or otherwise, designed to influence the judgement of any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper for any person to solicit communications to any such officer, or his decisional staff, other than proper communications by parties or amici curiae.
2,101	§101.113 Ex parte communications	Federal	Only persons employed by or assigned to work with the reviewing authority who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with t reviewing authority, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The reviewing authority, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually rel proceeding only with persons employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.
2,102	§101.114 Expeditious treatment	Federal	Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.
2,103	§101.115 Matters not prohibited	Federal	A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests sho directed to the Civil Rights hearing clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communicatio prohibited by §101.113. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Departmen official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of part 100 of this title are not prohibited.
2,104	§101.116 Filing of ex parte communications	Federal	A prohibited communication in writing received by the Secretary, the reviewing authority, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the and will not be considered as part of the record for decision. If the prohibited communication is received orally a memorandum setting forth its substance shall be made and filed in the correspondenc section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

Legal Standards

2,105	Subpart L—Posttermination Proceedings §101.121 Posttermination proceedings	Federal	(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that since en the order, it has brought its program or activity into compliance with the requirements of the Act, and with the Regulation thereunder, and shall set forth specifically, and in detail, the steps which it h taken to achieve such compliance. If the responsible Department official denies such request the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies w believes the responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance. (b) In the event that a hearing shall be requested pursuant to paragraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.
2,106	Subpart M—Definitions §101.131 Definitions	Federal	The definitions contained in §100.13 of this subtitle apply to this part, unless the context otherwise requires, and the term "reviewing authority" as used herein includes the Secretary of Education, w respect to action by that official under §101.106. Transition provisions: (a) The amendments herein shall become effective upon publication in the Federal Register. (b) These rules shall apply to any proceeding or part thereof to which part 100 of this title applies. In the case of any proceeding or part thereof governed by the provisions of 34 CFR, part 100 (Title V regulations of the Department of Education) as that part existed prior to the amendments published in the Federal Register on Oct. 19, 1967 (effective on that date), the rules in this part 101 shall app if those amendments were not in effect.
2,107	Title 34: Education PART 104—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE	Federal	
2,108	Subpart A—General Provisions §104.1 Purpose	Federal	The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Fede financial assistance.
2,109	§104.2 Application	Federal	This part applies to each recipient of Federal financial assistance from the Department of Education and to the program or activity that receives such assistance. [65 FR 30936, May 9, 1980, as amended at 65 FR 68054, Nov. 13, 2000]

Legal Standards

2,110	§104.3 Definitions	Federal	As used in this part, the term: (a) The Act means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794. (b) Section 504 means section 504 of the Act. (c) Education of the Handicapped Act means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94-142, 20 U.S.C. 1401 et seq. (d) Department means the Department of Education. (e) Assistant Secretary means the Assistant Secretary for Civil Rights of the Department of Education. (f) Recipient means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assista (g) Applicant for assistance means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient. (h) Federal financial assistance means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provid otherwise makes available assistance in the form of: (1) Funds; (2) Services of Federal personnel; or (3) Real and personal property or any interest in or use of such property, including: (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and
2,111	§104.5 Assurances required	Federal	(a) Assurances. An applicant for Federal financial assistance to which this part applies shall submit an assurance, on a form specified by the Assistant Secretary, that the program or activity will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department. (b) Duration of obligation. (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended for another purpose involving the provision of similar services or benefits. (2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property. (3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended. (c) Covenants. (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. (2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) this section in the instrument effecting or recording any subsequent transfer of the property. (3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Assistant Secretary may, upon request o transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of su mortgage or other encumbrance remains effective. [45 FR 30936, May 9, 1980, as amended at 65 FR 68054, Nov. 13, 2000]

Legal Standards

2,112	§104.6 Remedial action, voluntary action, and self-evaluation	Federal	(a) Remedial action. (1) If the Assistant Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of the discrimination. (2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient t has discriminated, the Assistant Secretary, where appropriate, may require either or both recipients to take remedial action. (3) The Assistant Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program or activity but who were participants in the program or activity when such discrimination occurred or (ii) with respec handicapped persons who would have been participants in the program or activity had the discrimination not occurred. (b) Voluntary action. A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's pro or activity by qualified handicapped persons. (c) Self-evaluation. (1) A recipient shall, within one year of the effective date of this part: (i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof tha not or may not meet the requirements of this part; (ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requiremen this part; and (iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices. (2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make availal public inspection, and provide to the Assistant Secretary upon request: (i) A list of the interested persons consulted,
2,113	§104.7 Designation of responsible employee and adoption of grievance procedures	Federal	(a) Designation of responsible employee. A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part. (b) Adoption of grievance procedures. A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or fro applicants for admission to postsecondary educational institutions.
2,114	§104.8 Notice	Federal	(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired v or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its program or activity. Th notification shall also include an identification of the responsible employee designated pursuant to §104.7(a). A recipient shall make the initial notification required by this paragraph within 90 days effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, a distribution of memoranda or other written communications. (b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications. [45 FR 30936, May 9, 1980, as amended at 65 FR 68054, Nov. 13, 2000]
2,115	§104.9 Administrative requirements for small recipients	Federal	The Assistant Secretary may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§104.7 and 104.8, in whole or in part, when the Assistant Secreta finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.
2,116	§104.10 Effect of state or local law or other requirements and effect of employment opportunities	Federal	(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits up the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession. (b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than nonhandicapped persons.

Legal Standards

2,117	Subpart B—Employment Practices §104.11 Discrimination prohibited	Federal	(a) General. (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies. (2) A recipient that receives assistance under the Education of the Handicapped Act shall take positive steps to employ and advance in employment qualified handicapped persons in programs or act assisted under that Act. (3) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap. (4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employee the recipient, and with organizations providing training and apprenticeships. (b) Specific activities. The provisions of this subpart apply to: (1) Recruitment, advertising, and the processing of applications for employment; (2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring; (3) Rates of pay or any other form of compensation and changes in compensation; (4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists; (5) Leaves of absense, sick leave, or any other leave; (6) Fringe benefits available by virtue of employment, whether or not administered by the recipient; (7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
2,118	§104.12 Reasonable accommodation	Federal	(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate the accommodation would impose an undue hardship on the operation of its program or activity. (b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons, and (2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions. (c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program or activity, factors to be considere include: (1) The overall size of the recipient's program or activity with respect to number of employees, number and type of facilities, and size of budget; (2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and (3) The nature and cost of the accommodation needed. (d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical mental limitations of the employee or applicant. [45 FR 30936, May 9, 2000, as amended at 65 FR 68054, Nov. 13, 2000]

Legal Standards

2,119	§104.13 Employment criteria	Federal	(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) Alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Director to be available. (b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, o speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or empl impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
2,120	§104.14 Preemployment inquiries	Federal	(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whe the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions (b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to §104.6 (a), when a recipient is taking voluntary action to overcome the effects of conditions tha resulted in limited participation in its federally assisted program or activity pursuant to §104.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient ma invite applicants for employment to indicate whether and to what extent they are handicapped, Provided, That: (1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and (2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will n subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part. (c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, Provided, T (1) All entering employees are subjected to such an examination regardless of handicap, and (2) The results of such an examination are used only in accordance with the requirements of this part. (d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentia medical records, except that: (1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations; (2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and (3) Government officials investigating compliance with the Act shall be provided relevant information upon request.
2,121	Subpart C—Accessibility §104.21 Discrimination prohibited	Federal	No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwis subjected to discrimination under any program or activity to which this part applies.

Legal Standards

2,122	§104.22 Existing facilities	Federal	(a) Accessibility. A recipient shall operate its program or activity so that when each part is viewed in its entirety, it is readily accessible to handicapped persons. This paragraph does not require a rec to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons. (b) Methods. A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buil assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of §104.23, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of parag (a) of this section, a recipient shall give priority to those methods that serve handicapped persons in the most integrated setting appropriate. (c) Small health, welfare, or other social service providers. If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a handic person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternati refer the handicapped person to other providers of those services that are accessible. (d) Time period. A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible. (e) Transition plan. In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum: (1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons; (2) Describe in detail the methods that will be used to make the facilities accessible; (3) Specify the schedule for taking the steps necessary to achieve full accessibility in order to comply with paagraph (a) of this section and, if the time period of the transition plan is longer than one y identify the steps of that will be taken during each year of the transition period; and (4) Indicate the person responsible for implementation of the plan.
2,123	§104.23 New construction	Federal	(a) Design and construction. Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the fa is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part. (b) Alteration. Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of th facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons. (c) Conformance with Uniform Federal Accessibility Standards. (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3-8 of the Uniform Fe Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101-19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided. (2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with phusical handicaps. (3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member. [45 FR 30936, May 9, 1980; 45 FR 37426, June 3, 1980, as amended at 55 FR 52138, 52141, Dec. 19, 1990]
2,124	Subpart D—Preschool, Elementary, and Secondary Education §104.31 Application of this subpart	Federal	Subpart D applies to preschool, elementary, secondary, and adult education programs or activities that receive Federal financial assistance and to recipients that operate, or that receive Federal finan assistance for the operation of, such programs or activities. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]

Legal Standards

2,125	§104.32 Location and notification	Federal	A recipient that operates a public elementary or secondary education program or activity shall annually: (a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and (b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart. [45 FR 30936, May 9, 2000, as amended at 65 FR 68054, Nov. 13, 2000]
2,126	§104.33 Free appropriate public education	Federal	(a) General. A recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in recipient's jurisdiction, regardless of the nature or severity of the person's handicap. (b) Appropriate education. (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are desig to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the require of §§104.34, 104.35, and 104.36. (2) Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1 this section. (3) A recipient may place a handicapped person or refer such a person for aid, benefits, or services other than those that it operates or provides as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred. (c) Free education—(1) General. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements of this subpart, of payment for the cost the aid, benefits, or services. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer o similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person. (2) Transportation. If a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requiremen this subpart, the recipient shall ensure that adequate transportation to and from the aid, benefits, or services is provided at no greater cost than would be incurred by the person or his or her parents guardian if the person were placed in the aid, benefits, or services operated by the recipient. (3) Residential placement. If a public or private residential placement is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the placeme including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian. (4) Placement of handicapped persons by parents. If a recipient has made available, in conformance with the requirements of this section and §104.34, a free appropriate public education to a handic person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements betwee
2,127	§104.34 Educational setting	Federal	(a) Academic setting. A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipie unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home. (b) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set fo §104.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question. (c) Comparable facilities. If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the faci and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

Legal Standards

2,128	§104.35 Evaluation and placement	Federal	(a) Preplacement evaluation. A recipient that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of paragraph this section of any person who, because of handicap, needs or is belived to need special education or related services before taking any action with respect to the initial placement of the person in reg or special education and any subsequent significant change in placement. (b) Evaluation procedures. A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are belie need special education or related services which ensure that: (1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provide their producer; (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; a (3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the stud aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are th factors that the test purports to measure). (c) Placement procedures. In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achieveme tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and placement options, and (4) ensure that the placement decision is made in conformity with §104.34. (d) Reevaluation. A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided s education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,129	§104.36 Procedural safeguards	Federal	A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educationa placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the par or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review proce Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement. [45 FR 30936, May 9, 1980, as amended at 65 FR 68054, Nov. 13, 2000]
2,130	§104.37 Nonacademic services	Federal	(a) General. (1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equa opportunity for participation in such services and activities. (2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest gro or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance making available outside employment. (b) Counseling services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these servic without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. (c) Physical education and athletics. (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapp students an equal opportunity for participation. (2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of §104.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not sep or different. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]

Legal Standards

2,131	§104.38 Preschool and adult education	Federal	A recipient to which this subpart applies that provides preschool education or day care or adult education may not, on the basis of handicap, exclude qualified handicapped persons and shall take into account the needs of such persons in determining the aid, benefits or services to be provided. [65 FR 68055, Nov. 13, 2000]
2,132	§104.39 Private education	Federal	(a) A recipient that provides private elementary or secondary education may not, on the basis of handicap, exclude a qualified handicapped person if the person can, with minor adjustments, be provi an appropriate education, as defined in §104.33(b)(1), within that recipient's program or activity. (b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient. (c) A recipient to which this section applies that provides special education shall do so in accordance with the provisions of §§104.35 and 104.36. Each recipient to which this section applies is subjec the provisions of §§104.34, 104.37, and 104.38. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,133	Subpart E—Postsecondary Education §104.41 Application of this subpart	Federal	Subpart E applies to postsecondary education programs or activities, including postsecondary vocational education programs or activities, that receive Federal financial assistance and to recipients t operate, or that receive Federal financial assistance for the operation of, such programs or activities. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,134	§104.42 Admissions and recruitment	Federal	(a) General. Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies. (b) Admissions. In administering its admission policies, a recipient to which this subpart applies: (1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted; (2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as u by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Assistant Secretary to be available. (3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and (4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquirie confidential basis as to handicaps that may require accommodation. (c) Preadmission inquiry exception. When a recipient is taking remedial action to correct the effects of past discrimination pursuant to §104.6(a) or when a recipient is taking voluntary action to ove the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to §104.6(b), the recipient may invite applicants for admission to indicate whether to what extent they are handicapped, Provided, That: (1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and (2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treat

Legal Standards

2,135	§104.43 Treatment of students; general	Federal	(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, rese occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education aid, benefi services to which this subpart applies. (b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, and educatio program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons. (c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity. (d) A recipient to which this subpart applies shall operate its program or activity in the most integrated setting appropriate. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,136	§104.44 Academic adjustments	Federal	(a) Academic requirements. A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discrimina have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the instruc being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the len time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific course conducted. (b) Other rules. A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity. (c) Course examinations. In its course examinations or other procedures for evaluating students' academic achievement, a recipient to which this subpart applies shall provide such methods for evalu the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the cou rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure). (d) Auxiliary aids. (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, o otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills. (2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for studen with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,137	§104.45 Housing	Federal	(a) Housing provided by the recipient. A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the cost as to others. At the end of the transition period provided for in subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of liv accommodations is, as a whole, comparable to that of nonhandicapped students. (b) Other housing. A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such ho is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

Legal Standards

2,138	§104.46 Financial and employment assistance to students	Federal	(a) Provision of financial assistance. (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not, (i) On the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) Assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap. (2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and forms of financial assistance is not discriminatory on the basis of handicap. (b) Assistance in making available outside employment. A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself tha such employment opportunities, as a whole, are made available in a manner that would not violate subpart B if they were provided by the recipient. (c) Employment of students by recipients. A recipient that employs any of its students may not do so in a manner that violates subpart B.
2,139	§104.47 Nonacademic services	Federal	(a) Physical education and athletics. (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicappe students an equal opportunity for participation in these activities. (2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of §104.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different. (b) Counseling and placement services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provi these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that m present obstacles to handicapped persons in their pursuit of particular careers. (c) Social organizations. A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do no permit discrimination otherwise prohibited by this subpart. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,140	Subpart F—Health, Welfare, and Social Services §104.51 Application of this subpart	Federal	Subpart F applies to health, welfare, and other social service programs or activities that receive Federal financial assistance and to recipients that operate, or that receive Federal financial assistance f operation of, such programs or activities. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]

Legal Standards

2,141	§104.52 Health, welfare, and other social services	Federal	(a) General. In providing health, welfare, or other social services or benefits, a recipient may not, on the basis of handicap: (1) Deny a qualified handicapped person these benefits or services; (2) Afford a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons; (3) Provide a qualified handicapped person with benefits or services that are not as effective (as defined in §104.4(b)) as the benefits or services provided to others; (4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or (5) Provide different or separate benefits or services to handicapped persons except where necessary to provide qualified handicapped persons with benefits and services that are as effective as thos provided to others. (b) Notice. A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure th qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap. (c) Emergency treatment for the hearing impaired. A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care. (d) Auxiliary aids. (1) A recipient to which this subpart applies that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking sk where necessary to afford such persons an equal opportunity to benefit from the service in question. (2) The Assistant Secretary may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services. (3) For the purpose of this paragraph, auxiliary aids may include brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.
2,142	§104.53 Drug and alcohol addicts	Federal	A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suf from a medical condition, because of the person's drug or alcohol abuse or alcoholism.
2,143	§104.54 Education of institutionalized persons	Federal	A recipient to which this subpart applies and that operates or supervises a program or activity that provides aid, benefits or services for persons who are institutionalized because of handicap shall e that each qualified handicapped person, as defined in §104.3(k)(2), in its program or activity is provided an appropriate education, as defined in §104.33(b). Nothing in this section shall be interprete altering in any way the obligations of recipients under subpart D. [45 FR 30936, May 9, 1980, as amended at 65 FR 68055, Nov. 13, 2000]
2,144	Subpart G—Procedures §104.61 Procedures	Federal	The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§100.6-100.10 and part 101 of this title.

Legal Standards

2,145	Appendix A to Part 104—Analysis of Final Regulation	Federal	Subpart A—General Provisions Definitions—1. Recipient. Section 104.23 contains definitions used throughout the regulation. One comment requested that the regulation specify that nonpublic elementary and secondary schools that are not otherwise recipients do not become recipients by virtue of the fact their students participate in certain federally funded programs. The Secretary believes it unnecessary to amend the regulation in this regard, because almost identical language in the Department's regulations implementing title VI and title IX of the Education Amendments of 1972 has consistently been interpreted so as not to render such schools recipients. These schools, however, are indirectly subject to substantive requirements of this regulation through the application of §104.4(b)(iv), which prohibits recipients from assisting agencies that discriminate on the basis of handicap in providing service beneficiaries of the recipients' programs. 2. Federal financial assistance. In §104.3(h), defining federal financial assistance, a clarifying change has been made: procurement contracts are specifically excluded. They are covered, however, by th Department of Labor's regulation under section 503. The Department has never considered such contracts to be contracts of assistance; the explicit exemption has been added only to avoid possible confusion. The proposed regulation's exemption of contracts of insurance or guaranty has been retained. A number of comments argued for its deletion on the ground that section 504, unlike title VI and title IX contains no statutory exemption for such contracts. There is no indication, however, in the legislative history of the Rehabilitation Act of 1973 or of the amendments to that Act in 1974, that Congress intended section 504 to have a broader application, in terms of federal financial assistance, than other civil rights statutes. Indeed, Congress directed that section 504 be implemented in the same ma as titles VI and IX. In view of the long established exemption of contracts of insurance or guaranty under title VI, we think it unlikely that Congress intended section 504 to apply to such contracts. 3. Handicapped person. Section 104.3(j), which defines the class of persons protected under the regulation, has not been substantially changed. The definition of handicapped person in paragraph (j) conforms to the statutory definition of handicapped person that is applicable to section 504, as set forth in section 111(a) of the Rehabilitation Act Amendments of 1974, Pub. L. 93-516. The first of the three parts of the statutory and regulatory definition includes any person who has a physical or mental impairment that substantially limits one or more major life activities. Paragrap (j)(2)(i) further defines physical or mental impairments. The definition does not set forth a list of specific diseases and conditions that constitute physical or mental impairments because of the diffic ensuring the comprehensiveness of any such list. The term includes, however, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and, as discussed below, drug addiction and alcoholism. It should be emphasized that a physical or mental impairment does not constitute a handicap for purposes of section 504 unless its severity is such that it results in a substantial limitation of one or m major life activities. Several comments observed the lack of any definition in the proposed regulation of the phrase “substantially limits.” The Department does not believe that a definition of this term
2,146	Appendix A to Part 104—Analysis of Final Regulation continued…	Federal	The Secretary wishes to reassure recipients that inclusion of addicts and alcoholics within the scope of the regulation will not lead to the consequences feared by many commenters. It cannot be emphasized too strongly that the statute and the regulation apply only to discrimination against qualified handicapped persons solely by reason of their handicap. The fact that drug addiction and alcoholism may be handicaps does not mean that these conditions must be ignored in determining whether an individual is qualified for services or employment opportunities. On the contrary, a rec may hold a drug addict or alcoholic to the same standard of performance and behavior to which it holds others, even if any unsatisfactory performance or behavior is related to the person's drug add or alcoholism. In other words, while an alcoholic or drug addict may not be denied services or disqualified from employment solely because of his or her condition, the behavioral manifestations of th condition may be taken into account in determining whether he or she is qualified. With respect to the employment of a drug addict or alcoholic, if it can be shown that the addiction or alcoholism prevents successful performance of the job, the person need not be provided the employment opportunity in question. For example, in making employment decisions, a recipient may judge addicts and alcoholics on the same basis it judges all other applicants and employees. Thus recipient may consider—for all applicants including drug addicts and alcoholics—past personnel records, absenteeism, disruptive, abusive, or dangerous behavior, violations of rules and unsatisfacto work performance. Moreover, employers may enforce rules prohibiting the possession or use of alcohol or drugs in the work-place, provided that such rules are enforced against all employees. With respect to other services, the implications of coverage, of alcoholics and drug addicts are two-fold: first, no person may be excluded from services solely by reason of the presence or history of th conditions; second, to the extent that the manifestations of the condition prevent the person from meeting the basic eligibility requirements of the program or cause substantial interference with the operation of the program, the condition may be taken into consideration. Thus, a college may not exclude an addict or alcoholic as a student, on the basis of addiction or alcoholism, if the person can successfully participate in the education program and complies with the rules of the college and if his or her behavior does not impede the performance of other students. Of great concern to many commenters was the question of what effect the inclusion of drug addicts and alcoholics as handicapped persons would have on school disciplinary rules prohibiting the use possession of drugs or alcohol by students. Neither such rules nor their application to drug addicts or alcoholics is prohibited by this regulation, provided that the rules are enforced evenly with resp all students. 5. Qualified handicapped person. Paragraph (k) of §104.3 defines the term “qualified handicapped person.” Throughout the regulation, this term is used instead of the statutory term “otherwise quali handicapped person.” The Department believes that the omission of the word “otherwise” is necessary in order to comport with the intent of the statute because, read literally, “otherwise” qualified handicapped persons include persons who are qualified except for their handicap, rather than in spite of their handicap. Under such a literal reading, a blind person possessing all the qualifications fo driving a bus except sight could be said to be “otherwise qualified” for the job of driving. Clearly, such a result was not intended by Congress. In all other respects, the terms “qualified” and “otherwise qualified” are intended to be interchangeable. Section 104.3(k)(1) defines a qualified handicapped person with respect to employment as a handicapped person who can, with reasonable accommodation, perform the essential functions of the job

Legal Standards

2,147	Appendix A to Part 104—Analysis of Final Regulation continued…	Federal	It is important that both handicapped persons and the public at large be aware of the obligations of recipients under section 504. Both the Department and recipients have responsibilities in this rega Indeed the Department intends to undertake a major public information effort to inform persons of their rights under section 504 and this regulation. In §104.8 the Department has sought to impose clear obligation on major recipients to notify beneficiaries and employees of the requirements of section 504, without dictating the precise way in which this notice must be given. At the same time, w have avoided imposing requirements on small recipients (those with fewer than fifteen employees) that would create unnecessary and counterproductive paper work burdens on them and unduly st the enforcement resources of the Department. Section 104.8(a), as simplified, requires recipients with fifteen or more employees to take appropriate steps to notify beneficiaries and employees of the recipient's obligations under section 504. The sentence of §104.8(a) has been revised to list possible, rather than required, means of notification. Section 104.8(b) requires recipients to include a notification of their policy of nondiscrimination in recruitment and other general information materials. In response to a number of comments, §104.8 has been revised to delete the requirements of publication in local newspapers, which has proved to be both troublesome and ineffective. Several commenters suggested that notification on separate forms be allowed until present stocks of publications and forms are depleted. The final regulation explicitly allows this method of compliance. The separate form should, however, be included with each significant publication or form that is distributed. Section 104 which prohibited the use of materials that might give the impression that a recipient excludes qualified handicapped persons from its program, has been deleted. The Department is conv by the comments that this provision is unnecessary and difficult to apply. The Department encourages recipients, however, to include in their recruitment and other general information materials photographs of handicapped persons and ramps and other features of accessible buildings. Under new §104.9 the Assistant Secretary may, under certain circumstances, require recipients with fewer than fifteen employees to comply with one or more of these requirements. Thus, if experien shows a need for imposing notice or other requirements on particular recipients or classes of small recipients, the Department is prepared to expand the coverage of these sections. 14. Inconsistent State laws. Section 104.10(a) states that compliance with the regulation is not excused by State or local laws limiting the eligibility of qualified handicapped persons to receive service to practice an occupation. The provision thus applies only with respect to state or local laws that unjustifiably differentiate on the basis of handicap. Paragraph (b) further points out that the presence of limited employment opportunities in a particular profession, does not excuse a recipient from complying with the regulation. Thus, a law school not deny admission to a blind applicant because blind laywers may find it more difficult to find jobs than do nonhandicapped lawyers. Subpart B—Employment Practices
2,148	Appendix A to Part 104—Analysis of Final Regulation continued…	Federal	17. Tests and selection criteria. Revised §104.13(a) prohibits employers from using test or other selection criteria that screen out or tend to screen out handicapped persons unless the test or criteri shown to be job-related and alternative tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Assistant Secretary to be available. This parag is an application of the principle established under title VII of the Civil Rights Act of 1964 in Griggs v. Duke Power Company, 401 U.S. 424 (1971). Under the proposed section, a statistical showing of adverse impact on handicapped persons was required to trigger an employer's obligation to show that employment criteria and qualifications rela to handicap were necessary. This requirement was changed because the small number of handicapped persons taking tests would make statistical showings of “disproportionate, adverse effect” diffi and burdensome. Under the altered, more workable provision, once it is shown that an employment test substantially limits the opportunities of handicapped persons, the employer must show the te be job-related. A recipient is no longer limited to using predictive validity studies as the method for demonstrating that a test or other selection criterion is in fact job-related. Nor, in all cases, are predictive validity studies sufficient to demonstrate that a test or criterion is job-related. In addition, §104.13(a) has been revised to place the burden on the Assistant Secretary, rather than the recip to identify alternate tests. Section 104.13(b) requires that a recipient take into account that some tests and criteria depend upon sensory, manual, or speaking skills that may not themselves be necessary to the job in question that may make the handicapped person unable to pass the test. The recipient must select and administer tests so as best to ensure that the test will measure the handicapped person's ability to perfor the job rather than the person's ability to see, hear, speak, or perform manual tasks, except, of course, where such skills are the factors that the test purports to measure. For example, a person with a speech impediment may be perfectly qualified for jobs that do not or need not, with reasonable accommodation, require ability to speak clearly. Yet, if given an oral test, the person will be unable to perform in a satisfactory manner. The test results will not, therefore, predict job performance but instead will reflect impaired speech. 18. Preemployment inquiries. Section 104.14, concerning preemployment inquiries, generated a large number of comments. Commenters representing handicapped persons strongly favored a ban o preemployment inquiries on the ground that such inquiries are often used to discriminate against handicapped persons and are not necessary to serve any legitimate interests of employers. Some recipients, on the other hand, argued that preemployment inquiries are necessary to determine qualifications of the applicant, safety hazards caused by a particular handicapping condition, and accommodations that might be required. The Secretary has concluded that a general prohibition of preemployment inquiries is appropriate. However, a sentence has been added to paragraph (a) to make clear that an employer may inquire an applicant's ability to perform job-related tasks but may not ask if the person has a handicap. For example, an employer may not ask on an employment form if an applicant is visually impaired but ask if the person has a current driver's license (if that is a necessary qualification for the position in question). Similarly, employers may make inquiries about an applicant's ability to perform a job sa Thus, an employer may not ask if an applicant is an epileptic but may ask whether the person can perform a particular job without endangering other employees. Section 104.14(b) allows preemployment inquiries only if they are made in conjunction with required remedial action to correct past discrimination, with voluntary action to overcome past conditio

Legal Standards

2,149	Appendix A to Part 104—Analysis of Final Regulation continued…	Federal	Subpart D—Preschool, Elementary, and Secondary Education Subpart D sets forth requirements for nondiscrimination in preschool, elementary, secondary, and adult education programs and activities, including secondary vocational education programs. In thi context, the term "adult education" refers only to those educational programs and activities for adults that are operated by elementary and secondary schools. The provisions of Subpart D apply to state and local educational agencies. Although the subpart applies, in general, to both public and private education programs and activities that are federally assi §§104.32 and 104.33 apply only to public programs and §104.39 applies only to private programs; §§104.35 and 104.36 apply both to public programs and to those private programs that include spe services for handicapped students. Subpart B generally conforms to the standards established for the education of handicapped persons in Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (D.D.C. 1972), Pennsyl Association for Retarded Children v. Commonwealth of Pennsylvania, 344 F. Supp. 1257 (E.D. 1971), 343 F. Supp. 279 (E.D. Pa. 1972), and Lebanks v. Spears, 60, F.R.D. 135 (E.D. La. 1973), as well as i Education of the Handicapped Act, as amended by Pub. L. 94-142 (the EHA). The basic requirements common to those cases, to the EHA, and to this regulation are (1) that handicapped persons, regardless of the nature or severity of their handicap, be provided a free appropri public education, (2) that handicapped students be educated with nonhandicapped students to the maximum extent appropriate to their needs, (3) that educational agencies undertake to identify an locate all unserved handicapped children, (4) that evaluation procedures be improved in order to avoid the inappropriate education that results from the misclassification of students, and (5) that procedural safeguard be established to enable parents and guardians to influence decisions regarding the evaluation and placement of their children. These requirements are designed to ensure that handicapped child is excluded from school on the basis of handicap and, if a recipient demonstrates that placement in a regular educational setting cannot be achieved satisfactorily, that the student i provided with adequate alternative services suited to the student's needs without additional cost to the student's parents or guardian. Thus, a recipient that operates a public school system must eith educate handicapped children in its regular program or provide such children with an appropriate alternative education at public expense. It is not the intention of the Department, except in extraordinary circumstances, to review the result of individual placement and other educational decisions, so long as the school district complies w the "process" requirements of this subpart (concerning identification and location, evaluation, and due process procedures). However, the Department will place a high priority on investigating cases which may involve exclusion of a child from the education system or a pattern or practice of discriminatory placements or education. 22. Location and notification. Section 104.32 requires public schools to take steps annually to identify and locate handicapped children who are not receiving an education and to publicize to handica children and their parents the rights and duties established by section 504 and this regulation. This section has been shortened without substantive change. 23. Free appropriate public education. Under §104.33(a), a recipient is responsible for providing a free appropriate public education to each qualified handicapped person who is in the recipient's
2,150	Appendix A to Part 104—Analysis of Final Regulation continued…	Federal	The proposed regulation would have required a complete individual reevaluation of the student each year. The Department has concluded that it is inappropriate in the section 504 regulation to requ full reevaluations on such a rigid schedule. Accordingly, §104.35(c) requires periodic reevaluations and specifies that reevaluations in accordance with the EHA will constitute compliance. The propo regulation implementing the EHA allows reevaluation at three-year intervals except under certain specified circumstances. Under §104.36, a recipient must establish a system of due process procedures to be afforded to parents or guardians before the recipient takes any action regarding the identification, evaluation, or educational placement of a person who, because of handicap, needs or is believed to need special education or related services. This section has been revised. Because the due process procedures of t EHA, incorporated by reference in the proposed section 504 regulation, are inappropriate for some recipients not subject to that Act, the section now specifies minimum necessary procedures: notice right to inspect records, an impartial hearing with a right to representation by counsel, and a review procedure. The EHA procedures remain one means of meeting the regulation's due process requirements, however, and are recommended to recipients as a model. 26. Nonacademic services. Section 104.37 requires a recipient to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an ec opportunity for participation. Because these services and activities are part of a recipient's education program, they must, in accordance with the provisions of §104.34, be provided in the most integ setting appropriate. Revised paragraph (c)(2) does permit separation or differentiation with respect to the provision of physical education and athletics activities, but only if qualified handicapped students are also allov the opportunity to compete for regular teams or participate in regular activities. Most handicapped students are able to participate in one or more regular physical education and athletics activities. F example, a student in a wheelchair can participate in regular archery course, as can a deaf student in a wrestling course. Finally, the one-year transition period provided in a proposed section was deleted in response to the almost unanimous objection of commenters to that provision. 27. Preschool and adult education. Section 104.38 prohibits discrimination on the basis of handicap in preschool and adult education programs. Former paragraph (b), which emphasized that compensatory programs for disadvantaged children are subject to section 504, has been deleted as unnecessary, since it is comprehended by paragraph (a). 28. Private education. Section 104.39 sets forth the requirements applicable to recipients that operate private education programs and activities. The obligations of these recipients have been change two significant respects: first, private schools are subject to the evaluation and due process provisions of the subpart only if they operate special education programs; second, under §104.39(b), they charge more for providing services to handicapped students than to nonhandicapped students to the extent that additional charges can be justified by increased costs. Paragraph (a) of §104.39 is intended to make clear that recipients that operate private education programs and activities are not required to provide an appropriate education to handicapped studen

Legal Standards

2,151	Appendix A to Part 104—Analysis of Final Regulation continued…	Federal	Subpart F—Health, Welfare, and Social Services Subpart F applies to recipients that operate health, welfare, and social service programs. The Department received fewer comments on this subpart than on others. Although many commented that subpart F lacked specificity, these commenters provided neither concrete suggestions nor additions. Nevertheless, some changes have been made, pursuant to comm to clarify the obligations of recipients in specific areas. In addition, in an effort to reduce duplication in the regulation, the section governing recipients providing health services has been consolidate the section regulating providers of welfare and social services. Since the separate provisions that appeared in the proposed regulation were almost identical, no substantive change should be inferre their consolidation. Several commenters asked whether subpart F applies to vocational rehabilitation agencies whose purpose is to assist in the rehabilitation of handicapped persons. To the extent that such agencies re financial assistance from the Department, they are covered by subpart F and all other relevant subparts of the regulation. Nothing in this regulation, however, precludes such agencies from servicing handicapped persons. Indeed, §104.4(c) permits recipients to offer services or benefits that are limited by federal law to handicapped persons or classes of handicapped persons. Many comments suggested requiring state social service agencies to take an active role in the enforcement of section 504 with regard to local social service providers. The Department believes that t possibility for federal-state cooperation in the administration and enforcement of section 504 warrants further consideration. A number of comments also discussed whether section 504 should be read to require payment of compensation to institutionalized handicapped patients who perform services for the institution in they reside. The Department of Labor has recently issued a proposed regulation under the Fair Labor Standards Act (FLSA) that covers the question of compensation for institutionalized persons. 42 15224 (March 18, 1977). This Department will seek information and comment from the Department of Labor concerning that agency's experience administering the FLSA regulation. 36. Health, welfare, and other social service providers. Section 104.52(a) has been expanded in several respects. The addition of new paragraph (a)(2) is intended to make clear the basic requirement equal opportunity to receive benefits or services in the health, welfare, and social service areas. The paragraph parallels §§104.4(b)(ii) and 104.43(b). New paragaph (a)(3) requires the provision of effective benefits or services, as defined in §104.4(b)(2) (i.e., benefits or services which "afford handicapped persons equal opportunity to obtain the same result (or) to gain the same benefit * * *"). Section 104.52(a) also includes provisions concerning the limitation of benefits or services to handicapped persons and the subjection of handicapped persons to different eligibility standards. One common misconception about the regulation is that it would require specialized hospitals and other health care providers to treat all handicapped persons. The regulation makes no such requiremen Thus, a burn treatment center need not provide other types of medical treatment to handicapped persons unless it provides such medical services to nonhandicapped persons. It could not, however, to treat the burns of a deaf person because of his or her deafness.
2,152	Title 34: Education PART 105—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF EDUCATION	Federal	
2,153	§105.1 Purpose	Federal	The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilita Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.
2,154	§105.2 Application	Federal	This part applies to all programs or activities conducted by the Department, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in th United States.

Legal Standards

2,155	§105.3 Definitions	Federal	For purposes of this part, the following definitions apply: Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Department. For example, auxiliary aids useful for persons with impaired vision include readers, materials in braille, audio recordings, and other similar services and devic Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpret notetakers, written materials, and other similar services and devices. Complete complaint means a written statement that contains the complainant's name and address and describes the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation of section 504. It must be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of cl or third parties must describe or identify (by name, if possible) the alleged victims of discrimination. Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property. Historic preservation programs means programs conducted by the Department that have preservation of historic properties as a primary purpose. Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State o local government body. Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase— (1) Physical or mental impairment includes— (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
2,156	§§105.4-105.9 [Reserved]	Federal	
2,157	§105.10 Self-evaluation	Federal	(a) The Department shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part to the extent modification of any of those policies and practices is required, the Department shall proceed to make the necessary modifications. (b) The Department shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps to participate in the self-evalua process by submitting comments (both oral and written). (c) The Department shall, for at least 3 years following completion of the self-evaluation, maintain on file, and make available for public inspection— (1) A description of areas examined and any problems identified; and (2) A description of any modifications made.
2,158	§105.11 Notice	Federal	The Department shall make available, to employees, applicants, participants, beneficiaries, and other interested persons, information regarding the provisions of this part and its applicability to the programs or activities conducted by the Department, and make that information available to them in such manner as the Secretary finds necessary to apprise those persons of the protections against discrimination assured them by section 504 and the regulations in this part.
2,159	§§105.12-105.19 [Reserved]	Federal	

Legal Standards

2,160	§105.20 General prohibitions against discrimination	Federal	(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under, any program activity conducted by the Department. (b)(1) The Department, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap— (i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service; (ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; (iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach th same level of achievement as that provided to others; (iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless that action is necessary to prov qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others; (v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards; or (vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service. (2) The Department may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities. (3) The Department may not, directly or through contractual or other arrangements, use criteria or methods of administration the purpose or effect of which would— (i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or (ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.
2,161	§§105.21-105.29 [Reserved]	Federal	
2,162	§105.30 Employment	Federal	No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Department. As provided in §105.41(b), the definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFI 1613, shall apply to employment in federally conducted programs or activities.
2,163	§105.31 Program accessibility: Discrimination prohibited	Federal	Except as otherwise provided in §105.32, no qualified individual with handicaps shall, because the Department's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Department.

Legal Standards

2,164	§105.32 Program accessibility: Existing facilities	Federal	(a) General. The Department shall operate each program or activity so that the program or activity, viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragr does not— (1) Necessarily require the Department to make each of its existing facilities accessible to and usable by individuals with handicaps; (2) In the case of historic preservation programs, require the Department to take any action that would result in a substantial impairment of significant historic features of an historic property; or (3)(i) Require the Department to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burde (ii) The Department has the burden of proving that compliance with §105.32(a) would result in that alteration or those burdens. (iii) The decision that compliance would result in that alteration or those burdens must be made by the Secretary after considering all of the Department's resources available for use in the funding a operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. (iv) If an action would result in that alteration or those burdens, the Department shall take any other action that would not result in the alteration or burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity. (b) Methods—(1) General. (i) The Department may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignments of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or a other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. (ii) The Department is not required to make structural changes in existing facilities if other methods are effective in achieving compliance with this section. (iii) The Department, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4 and any regulations implementing that Act. (iv) In choosing among available methods for meeting the requirements of this section, the Department shall give priority to those methods that offer programs and activities to qualified individuals handicaps in the most integrated setting appropriate.
2,165	§105.33 Program accessibility: New construction and alterations	Federal	Each building or part of a building that is constructed or altered by, on behalf of, or for the use of, the Department must be designed, constructed, or altered so as to be readily accessible to and usable individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to building covered by this section.
2,166	§§105.34-105.39 [Reserved]	Federal	

Legal Standards

2,167	§105.40 Communications	Federal	(a) The Department shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public, as follows: (1)(i) The Department shall furnish appropriate auxiliary aids if necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activit conducted by the Department. (ii) In determining what type of auxiliary aid is necessary, the Department shall give primary consideration to the request of the individual with handicaps. (iii) The Department need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. (2) If the Department communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDDs) or equally effective telecommunication systems must be use (b) The Department shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, a facilities. (c) The Department shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility must be used at each primary entrance of an accessible facility. (d)(1) This section does not require the Department to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. (2) The Department has the burden of proving that compliance with §105.40 would result in that alteration or those burdens. (3) The decision that compliance would result in that alteration or those burdens must be made by the Secretary after considering all Department resources available for use in the funding and opera of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. (4) If an action required to comply with this section would result in that alteration or those burdens, the Department shall take any other action that would not result in the alteration or burdens but nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.
2,168	§105.41 Compliance procedures	Federal	(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the Department. (b) As provided in §105.30, the Department shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). (c) The Deputy Under Secretary for Management is responsible for coordinating implementation of this section. Complaints may be sent to the U.S. Department of Education, Office of Management, F Building No. 6, 400 Maryland Avenue SW., Washington, DC 20202. (d) The Department shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The Department may extend this time period for good cause. (e) If the Department receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriat government entity. (f) The Department shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Ba Act of 1968, as amended (42 U.S.C. 4151-4157) is not readily accessible to and usable by individuals with handicaps. (g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Department shall notify the complainant of the results of the investigation in a letter containing— (1) Findings of fact and conclusions of law; (2) A description of a remedy for each violation found; and (3) A notice of the right to appeal. (h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the Department of the letter required by §105.41(g). The Depart may extend this time for good cause.
2,169	§105.42 Effective date	Federal	The effective date of this part is October 9, 1990.

Legal Standards

2,170	Title 34: Education PART 106—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE	Federal	
2,171	Subpart A—Introduction §106.1 Purpose and effective date	Federal	The purpose of this part is to effectuate title IX of the Education Amendments of 1972, as amended by Pub. L. 93-568, 88 Stat. 1855 (except sections 904 and 906 of those Amendments) which is desig to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered sponsored by an educational institution as defined in this part. This part is also intended to effectuate section 844 of the Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 484. The effective da this part shall be July 21, 1975. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682, as amended by Pub. L. 93-568, 88 Stat. 1855, and sec. 844, Education Amendments of 1974, 88 Stat Pub. L. 93-380)
2,172	§106.2 Definitions	Federal	As used in this part, the term: (a) Title IX means title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by section 3 of Pub. L. 93-568, 88 Stat. 1855, except sections 904 and 906 thereof; 20 U.S.C. 1681, 1682, 1 1685, 1686. (b) Department means the Department of Education. (c) Secretary means the Secretary of Education. (d) Assistant Secretary means the Assistant Secretary for Civil Rights of the Department. (e) Reviewing Authority means that component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under thi part. (f) Administrative law judge means a person appointed by the reviewing authority to preside over a hearing held under this part. (g) Federal financial assistance means any of the following, when authorized or extended under a law administered by the Department: (1) A grant or loan of Federal financial assistance, including funds made available for: (i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and (ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that e (2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market valu the property is not, upon such sale or transfer, properly accounted for to the Federal Government. (3) Provision of the services of Federal personnel.

Legal Standards

2,173	§106.3 Remedial and affirmative action and self-evaluation	Federal	(a) Remedial action. If the Assistant Secretary finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial a as the Assistant Secretary deems necessary to overcome the effects of such discrimination. (b) Affirmative action. In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of condition which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executiv Order 11246. (c) Self-evaluation. Each recipient education institution shall, within one year of the effective date of this part: (1) Evaluate, in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both acad and non-academic personnel working in connection with the recipient's education program or activity; (2) Modify any of these policies and practices which do not or may not meet the requirements of this part; and (3) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices. (d) Availability of self-evaluation and related materials. Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, an shall provide to the Assistant Secretary upon request, a description of any modifications made pursuant to paragraph (c)(ii) of this section and of any remedial steps taken pursuant to paragraph (c)(this section. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,174	§106.4 Assurance required	Federal	(a) General. Every application for Federal financial assistance shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Assistant Secretary, that the education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with t part shall not be satisfactory to the Assistant Secretary if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance w §106.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Assistant Secretary such assurance. (b) Duration of obligation. (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequ transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity. (2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property. (3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended. (c) Form. The Director will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 45 FR 86298, Dec. 30, 1980; 65 FR 68056, Nov. 13, 2000]
2,175	§106.5 Transfers of property	Federal	If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal shar the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subje the provisions of subpart B of this part. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,176	§106.6 Effect of other requirements	Federal	(a) Effect of other Federal provisions. The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, amended; sections 704 and 855 of the Public Health Service Act (42 U.S.C. 292d and 298b-2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); the Equal Pay Act (29 U.S.C. 206 and 206 and any other Act of Congress or Federal regulation. (Authority: Secs. 901, 902, 905, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1685) (b) Effect of State or local law or other requirements. The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any appli or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession. (c) Effect of rules or regulations of private organizations. The obligation to comply with this part is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other leagu association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or ac operated by a recipient and which receives Federal financial assistance. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]
2,177	§106.7 Effect of employment opportunities	Federal	The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,178	§106.8 Designation of responsible employee and adoption of grievance procedures	Federal	(a) Designation of responsible employee. Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all it students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph. (b) Complaint procedure of recipient. A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,179	§106.9 Dissemination of policy	Federal	(a) Notification of policy. (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary scho students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational program or activity which it operates, and that it is required by title IX and this part not to discriminate in such a manner. notification shall contain such information, and be made in such manner, as the Assistant Secretary finds necessary to apprise such persons of the protections against discrimination assured them by IX and this part, but shall state at least that the requirement not to discriminate in the education program or activity extends to employment therein, and to admission thereto unless Subpart C does n apply to the recipient, and that inquiries concerning the application of title IX and this part to such recipient may be referred to the employee designated pursuant to §106.8, or to the Assistant Secret (2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in: (i) Local newspapers; (ii) Newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (iii) Memoranda or other written communications distributed to every student and employee of such recipient. (b) Publications. (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type, described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees. (2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, or employees diffe on the basis of sex except as such treatment is permitted by this part. (c) Distribution. Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]
2,180	Subpart B—Coverage §106.11 Application	Federal	Except as provided in this subpart, this part 106 applies to every recipient and to the education program or activity operated by such recipient which receives Federal financial assistance. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 86298, Dec. 30, 1980, as amended at 65 FR 68056, Nov. 13, 2000]
2,181	§106.12 Educational institutions controlled by religious organizations	Federal	(a) Application. This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious te of such organization. (b) Exemption. An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, shall do so by submitting in writing to the Assistant Secretary a statement by highest ranking official of the institution, identifying the provisions of this part which conflict with a specific tenet of the religious organization. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,182	§106.13 Military and merchant marine educational institutions	Federal	This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,183	§106.14 Membership practices of certain organizations	Federal	(a) Social fraternities and sororities. This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Rev Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education. (b) YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls. This part does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Associatio the Girl Scouts, the Boy Scouts and Camp Fire Girls. (c) Voluntary youth service organizations. This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; sec. 3(a) of P.L. 93-568, 88 Stat. 1862 amending Sec. 901)
2,184	§106.15 Admissions	Federal	(a) Admissions to educational institutions prior to June 24, 1973, are not covered by this part. (b) Administratively separate units. For the purposes only of this section, §§106.16 and 106.17, and subpart C, each administratively separate unit shall be deemed to be an educational institution. (c) Application of subpart C. Except as provided in paragraphs (d) and (e) of this section, subpart C applies to each recipient. A recipient to which subpart C applies shall not discriminate on the basis in admission or recruitment in violation of that subpart. (d) Educational institutions. Except as provided in paragraph (e) of this section as to recipients which are educational institutions, subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education. (e) Public institutions of undergraduate higher education. Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishr has had a policy of admitting only students of one sex. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 45 FR 86298, Dec. 30, 1980]
2,185	§106.16 Educational institutions eligible to submit transition plans	Federal	(a) Application. This section applies to each educational institution to which subpart C applies which: (1) Admitted only students of one sex as regular students as of June 23, 1972; or (2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965. (b) Provision for transition plans. An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of subpart C unless it is car out a transition plan approved by the Secretary as described in §106.17, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 1979. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,186	§106.17 Transition plans	Federal	(a) Submission of plans. An institution to which §106.16 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all su units, or a separate transition plan applicable to each such unit. (b) Content of plans. In order to be approved by the Secretary a transition plan shall: (1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator o president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan. (2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so, when it began to do so. (3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex. (4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for thei implementation. (5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan. (c) Nondiscrimination. No policy or practice of a recipient to which §106.16 applies shall result in treatment of applicants to or students of such recipient in violation of subpart C unless such treatme necessitated by an obstacle identified in paragraph (b) (3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b) (4) of this section. (d) Effects of past exclusion. To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which §106.16 applies shall include in its transition plan, and shal implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment which emphasiz institution's commitment to enrolling students of the sex previously excluded. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]
2,187	Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited §106.21 Admission	Federal	(a) General. No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§106.16 an 106.17. (b) Specific prohibitions. (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies shall not: (i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise; (ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or (iii) Otherwise treat one individual differently from another on the basis of sex. (2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or crite is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavai (c) Prohibitions relating to marital or parental status. In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this sub applies: (1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex; (2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes; (3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or phys condition; and (4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is “Miss” or “Mrs.” A recipient may make pre-admission inquiry as to sex of an applicant for admision, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited b part.

Legal Standards

2,188	§106.22 Preference in admission	Federal	A recipient to which this subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as stude only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,189	§106.23 Recruitment	Federal	(a) Nondiscriminatory recruitment. A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to §106.3(a), and may choose to undertake such efforts as affirmative action pursuant to §106.3(b). (b) Recruitment at certain institutions. A recipient to which this subpart applies shall not recruit primarily or exclusively at educational institutions, schools or entities which admit as students only c predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,190	Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited §106.31 Education programs or activities	Federal	(a) General. Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. This subpart does not apply to a of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which subpart C does not apply, or (2) an entity, not a recipient, to which subpart C would not apply if the entity were a recipient. (b) Specific prohibitions. Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex: (1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service; (2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner; (3) Deny any person any such aid, benefit, or service; (4) Subject any person to separate or different rules of behavior, sanctions, or other treatment; (5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition; (6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit service to students or employees; (7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity. (c) Assistance administered by a recipient educational institution to study at a foreign institution. A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; Provided, a recipient educational institu which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

Legal Standards

2,191	§106.32 Housing	Federal	(a) Generally. A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students). (b) Housing provided by recipient. (1) A recipient may provide separate housing on the basis of sex. (2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole: (i) Proportionate in quantity to the number of students of that sex applying for such housing; and (ii) Comparable in quality and cost to the student. (c) Other housing. (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient. (2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole: (i) Proportionate in quantity and (ii) Comparable in quality and cost to the student. A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex. (Authority: Secs. 901, 902, 907, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1686)
2,192	§106.33 Comparable facilities	Federal	A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for stu of the other sex. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374)
2,193	§106.34 Access to classes and schools	Federal	(a) General standard. Except as provided for in this section or otherwise in this part, a recipient shall not provide or otherwise carry out any of its education programs or activities separately on the b of sex, or require or refuse participation therein by any of its students on the basis of sex. (1) Contact sports in physical education classes. This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, ru ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact. (2) Ability grouping in physical education classes. This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of indiv performance developed and applied without regard to sex. (3) Human sexuality classes. Classes or portions of classes in elementary and secondary schools that deal primarily with human sexuality may be conducted in separate sessions for boys and girls. (4) Choruses. Recipients may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. (b) Classes and extracurricular activities—(1) General standard. Subject to the requirements in this paragraph, a recipient that operates a nonvocational coeducational elementary or secondary scho may provide nonvocational single-sex classes or extracurricular activities, if— (i) Each single-sex class or extracurricular activity is based on the recipient's important objective— (A) To improve educational achievement of its students, through a recipient's overall established policy to provide diverse educational opportunities, provided that the single-sex nature of the class o extracurricular activity is substantially related to achieving that objective; or (B) To meet the particular, identified educational needs of its students, provided that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective; (ii) The recipient implements its objective in an evenhanded manner; (iii) Student enrollment in a single-sex class or extracurricular activity is completely voluntary; and (iv) The recipient provides to all other students, including students of the excluded sex, a substantially equal coeducational class or extracurricular activity in the same subject or activity.

Legal Standards

2,194	§106.35 Access to institutions of vocational education	Federal	A recipient shall not, on the basis of sex, exclude any person from admission to any institution of vocational education operated by that recipient. (Authority: 20 U.S.C. 1681, 1682) [71 FR 62543, Oct. 25, 2006]
2,195	§106.36 Counseling and use of appraisal and counseling materials	Federal	(a) Counseling. A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission. (b) Use of appraisal and counseling materials. A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different mat is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counsel test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessar assure itself that such disproportion is not the result of discrimination in the instrument or its application. (c) Disproportion in classes. Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessa assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,196	§106.37 Financial assistance	Federal	(a) General. Except as provided in paragraphs (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not: (1) On the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discrimi (2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such recipient's stud in a manner which discriminates on the basis of sex; or (3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or paren status. (b) Financial aid established by certain legal instruments. (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified th Provided, That the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex. (2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which: (i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex; (ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and (iii) No student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex. (c) Athletic scholarships. (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proport the number of students of each sex participating in interscholastic or intercollegiate athletics. (2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph an §106.41.
2,197	§106.38 Employment assistance to students	Federal	(a) Assistance by recipient in making available outside employment. A recipient which assists any agency, organization or person in making employment available to any of its students: (1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and (2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices. (b) Employment of students by recipients. A recipient which employs any of its students shall not do so in a manner which violates subpart E of this part. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,198	§106.39 Health and insurance benefits and services	Federal	In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, p or plan in a manner which would violate Subpart E of this part if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecol care. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,199	§106.40 Marital or parental status	Federal	(a) Status generally. A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. (b) Pregnancy and related conditions. (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate port the program or activity of the recipient. (2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is requir all students for other physical or emotional conditions requiring the attention of a physician. (3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the separate portion is comparable to that offered to non-pregnant students. (4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity. (5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682) [45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

Legal Standards

2,200	§106.41 Athletics	Federal	(a) General. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis. (b) Separate teams. Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is b upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no suc team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unle sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact. (c) Equal opportunity. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors: (1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes; (2) The provision of equipment and supplies; (3) Scheduling of games and practice time; (4) Travel and per diem allowance; (5) Opportunity to receive coaching and academic tutoring; (6) Assignment and compensation of coaches and tutors; (7) Provision of locker rooms, practice and competitive facilities; (8) Provision of medical and training facilities and services;
2,201	§106.42 Textbooks and curricular material	Federal	Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,202	§106.43 Standards for measuring skill or progress in physical education classes	Federal	If use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, the recipient shall use appropriate standards that do not have that (Authority: 20 U.S.C. 1681, 1682) [71 FR 62543, Oct. 25, 2006]
2,203	Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited	Federal	

Legal Standards

2,204	§106.51 Employment	Federal	(a) General. (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or sel therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives Federal financial assistance. (2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicant employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex. (3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient. (4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members o sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part. (b) Application. The provisions of this subpart apply to: (1) Recruitment, advertising, and the process of application for employment; (2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring; (3) Rates of pay or any other form of compensation, and changes in compensation; (4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists; (5) The terms of any collective bargaining agreement; (6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any oth leave; (7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;
2,205	§106.52 Employment criteria	Federal	A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless: (a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and (b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,206	§106.53 Recruitment	Federal	(a) Nondiscriminatory recruitment and hiring. A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated aga so as to overcome the effects of such past or present discrimination. (b) Recruitment patterns. A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,207	§106.54 Compensation	Federal	A recipient shall not make or enforce any policy or practice which, on the basis of sex: (a) Makes distinctions in rates of pay or other compensation; (b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, responsibility, and which are performed under similar working conditions. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,208	§106.55 Job classification and structure	Federal	A recipient shall not: (a) Classify a job as being for males or for females; (b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or (c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the b of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in §106.61. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,209	§106.56 Fringe benefits	Federal	(a) Fringe benefits defined. For purposes of this part, fringe benefits means: Any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus pla leave, and any other benefit or service of employment not subject to the provision of §106.54. (b) Prohibitions. A recipient shall not: (1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon th basis of the employee's sex; (2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal contributions to the plan by such recipient for members of each sex; or (3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in ben on the basis of sex. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,210	§106.57 Marital or parental status	Federal	(a) General. A recipient shall not apply any policy or take any employment action: (1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or (2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit. (b) Pregnancy. A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination o pregnancy, or recovery therefrom. (c) Pregnancy as a temporary disability. A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting theref as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment. (d) Pregnancy leave. In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonab period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or of promotional opportunities, or any other right or privilege of employment. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,211	§106.58 Effect of State or local law or other requirements	Federal	(a) Prohibitory requirements. The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or li upon employment of members of one sex which are not imposed upon members of the other sex. (b) Benefits. A recipient which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, servi benefit to members of the other sex. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Legal Standards

2,212	§106.59 Advertising	Federal	A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,213	§106.60 Pre-employment inquiries	Federal	(a) Marital status. A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs." (b) Sex. A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682
2,214	§106.61 Sex as a bona-fide occupational qualification	Federal	A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to su action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.
2,215	Subpart F—Procedures [Interim] §106.71 Procedures	Federal	The procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 34 CFR 100.6-100.11 and CFR, part 101. (Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)
2,216	Subject Index to Title IX Preamble and Regulation1	Federal	1Preamble paragraph numbers are in brackets [ ]. A Access to Course Offerings [43, 55, 56, 57, 58]; 106.34 Access to Schools Operated by LEA's, [44]; 106.35 Admissions, [5, 6, 30]; 106.15, 106.21 Affirmative and remedial action, [16, 17, 24]; 106.3(a); (b) Administratively separate units, [30]; 106.15(b) 106.2(o) Educational Institutions, [30], 106.15(d), 106.2(n) General, 106.21(a), 106.2(p), Prohibitions relating to marital and parental status, [32, 36]; 106.21(c) Professional schools, [30], 106.2(m) Public institutions of undergraduate higher education, 106.15(e) Recruitment, [34, 35]; 106.23 Specific prohibitions, 106.21(b) Tests, [31]; 106.21(b) (2)
2,217	Appendix A to Part 106—Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs	Federal	Editorial Note: For the text of these guidelines, see 34 CFR part 100, appendix B. [44 FR 17168, Mar. 21, 1979]

Legal Standards

2,218	Title 34: Education PART 108—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES FOR THE BOY SCOUTS OF AMERICA AND OTHER DESIGNATED YOUTH GROUPS	Federal	
2,219	§108.1 Purpose	Federal	The purpose of this part is to implement the Boy Scouts of America Equal Access Act, 20 U.S.C. 7905. (Authority: 20 U.S.C. 7905)
2,220	§108.2 Applicability	Federal	This part applies to any public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or limited public forum and that re funds made available through the Department. (Authority: 20 U.S.C. 7905)
2,221	§108.3 Definitions	Federal	The following definitions apply to this part: (a) Act means the Boy Scouts of America Equal Access Act, section 9525 of the Elementary and Secondary Education Act of 1965, as amended by section 901 of the No Child Left Behind Act of 2001, P 107-110, 115 Stat. 1425, 1981-82 (20 U.S.C. 7905). (b) Boy Scouts means the organization named "Boy Scouts of America," which has a Federal charter and which is listed as an organization in title 36 of the United States Code (Patriotic and National Observances, Ceremonies, and Organizations) in Subtitle II (Patriotic and National Organizations), Part B (Organizations), Chapter 309 (Boy Scouts of America). (c) Covered entity means any public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or limited public forum and t receives funds made available through the Department. (d) Department means the Department of Education. (e) Designated open forum means that an elementary school or secondary school designates a time and place for one or more outside youth or community groups to meet on school premises or in sc facilities, including during the hours in which attendance at the school is compulsory, for reasons other than to provide the school's educational program. (f) Elementary school means an elementary school as defined by section 9101(18) of the Elementary and Secondary Education Act of 1965, as amended by section 901 of the No Child Left Behind Act 2001, Pub. L. 107-110, 115 Stat. 1425, 1958 (20 U.S.C. 7801). (g) Group officially affiliated with any other Title 36 youth group means a youth group resulting from the chartering process or other process used by that Title 36 youth group to establish official affiliation with youth groups. (h) Group officially affiliated with the Boy Scouts means a youth group formed as a result of a community organization charter issued by the Boy Scouts. (i) Limited public forum means that an elementary school or secondary school grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises o school facilities before or after the hours during which attendance at the school is compulsory. (j) Local educational agency means a local educational agency as defined by section 9101(26) of the Elementary and Secondary Education Act of 1965, as amended by section 901 of the No Child Left
2,222	§108.4 Effect of State or local law	Federal	The obligation of a covered entity to comply with the Act and this part is not obviated or alleviated by any State or local law or other requirement. (Authority: 20 U.S.C. 7905)

Legal Standards

2,223	§108.5 Compliance obligations	Federal	(a) The obligation of covered entities to comply with the Act and this part is not limited by the nature or extent of their authority to make decisions about the use of school premises or facilities. (b) Consistent with the requirements of §108.6, a covered entity must provide equal access to any group that is officially affiliated with the Boy Scouts or is officially affiliated with any other Title 36 y group. A covered entity may require that any group seeking equal access inform the covered entity whether the group is officially affiliated with the Boy Scouts or is officially affiliated with any other 36 youth group. A covered entity's failure to request this information is not a defense to a covered entity's noncompliance with the Act or this part. (Authority: 20 U.S.C. 7905)
2,224	§108.6 Equal access	Federal	(a) General. Consistent with the requirements of paragraph (b) of this section, no covered entity shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting within that covered entity's designated open forum or limited public forum covered entity shall deny that access or opportunity or discriminate for reasons including the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts or of the Ti youth group. (b) Specific requirements—(1) Meetings. Any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting in the covere entity's designated open forum or limited public forum must be given equal access to school premises or facilities to conduct meetings. (2) Benefits and services. Any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting as described in paragraph (b) this section must be given equal access to any other benefits and services provided to one or more outside youth or community groups that are allowed to meet in that same forum. These benefits an services may include, but are not necessarily limited to, school-related means of communication, such as bulletin board notices and literature distribution, and recruitment. (3) Fees. Fees may be charged in connection with the access provided under the Act and this part. (4) Terms. Any access provided under the Act and this part to any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group, as well as any fees charged f this access, must be on terms that are no less favorable than the most favorable terms provided to one or more outside youth or community groups. (5) Nondiscrimination. Any decisions relevant to the provision of equal access must be made on a nondiscriminatory basis. Any determinations of which youth or community groups are outside grou must be made using objective, nondiscriminatory criteria, and these criteria must be used in a consistent, equal, and nondiscriminatory manner. (Authority: 20 U.S.C. 7905)
2,225	§108.7 Voluntary sponsorship	Federal	Nothing in the Act or this part shall be construed to require any school, agency, or school served by an agency to sponsor any group officially affiliated with the Boy Scouts or with any other Title 36 y group. (Authority: 20 U.S.C. 7905)
2,226	§108.8 Assurances	Federal	An applicant for funds made available through the Department to which this part applies must submit an assurance that the applicant will comply with the Act and this part. The assurance shall be in for the period during which funds made available through the Department are extended. The Department specifies the form of the assurance, including the extent to which assurances will be require concerning the compliance obligations of subgrantees, contractors and subcontractors, and other participants, and provisions that give the United States a right to seek its judicial enforcement. An applicant may incorporate this assurance by reference in subsequent applications to the Department. (Approved by the Office of Management and Budget under control number 1870-0503) (Authority: 20 U.S.C. 7905)
2,227	§108.9 Procedures	Federal	The procedural provisions applicable to title VI of the Civil Rights Act of 1964, which are found in 34 CFR 100.6 through 100.11 and 34 CFR part 101, apply to this part, except that, notwithstanding th provisions and any other provision of law, no funds made available through the Department shall be provided to any school, agency, or school served by an agency that fails to comply with the Act or part. (Authority: 20 U.S.C. 7905)

Legal Standards

2,228	Title 34: Education PART 110—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE	Federal	
2,229	Subpart A—General §110.1 What is the purpose of ED's age discrimination regulations?	Federal	The purpose of these regulations is to set out ED's rules for implementing the Age Discrimination Act of 1975. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act permits federally assisted programs or activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age that meet the requirements of the Act. (Authority: 42 U.S.C. 6101-6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68056, Nov. 13, 2000]
2,230	§110.2 To what programs or activities do these regulations apply?	Federal	(a) These regulations apply to any program or activity receiving Federal financial assistance from ED. (b) These regulations do not apply to— (1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body that— (i) Provides any benefits or assistance to persons based on age; (ii) Establishes criteria for participation in age-related terms; or (iii) Describes intended beneficiaries or target groups in age-related terms; or (2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except any program or activity receiving Fed financial assistance for employment under the Job Training Partnership Act (29 U.S.C. 1501 et seq.). (Authority: 42 U.S.C. 6103)

Legal Standards

2,231	§110.3 What definitions apply?	Federal	The following definitions apply to these regulations: Act means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94-135). Action means any act, activity, policy, rule, standard, or method of administration, or the use of any policy, rule, standard, or method of administration. Age means how old a person is, or the number of years from the date of a person's birth. Age distinction means any action using age or an age-related term. Age-related term means a word or words that necessarily imply a particular age or range of ages (e.g., “children,” “adult,” “older persons,” but not “student” or “grade”). Agency means a Federal department or agency that is empowered to extend financial assistance. Applicant for Federal financial assistance means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recip or subrecipient. Department means the United States Department of Education. ED means the United States Department of Education. Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement which ED provides or otherwise makes available assistance in the form of— (a) Funds; (b) Services of Federal personnel; or (c) Real and personal property or any interest in or use of property, including—
2,232	Subpart B—Standards for Determining Age Discrimination §110.10 Rules against age discrimination	Federal	The rules stated in this section are subject to the exceptions contained in §§110.12 and 110.13 of these regulations. (a) General rule. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (b) Specific rules. A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements, use age distinctions or take a other actions that have the effect, on the basis of age, of— (1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or (2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance. (c) Other forms of discrimination. The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list. (Authority: 42 U.S.C. 6101-6103)
2,233	§110.11 Definitions of “normal operation” and “statutory objective.”	Federal	For purposes of these regulations, the terms normal operation and statutory objective have the following meanings: (a) Normal operation means the operation of a program or activity without significant changes that would impair its ability to meet its objectives. (b) Statutory objective means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislativ body. (Authority: 42 U.S.C. 6103)

Legal Standards

2,234	§110.12 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.	Federal	A recipient is permitted to take an action otherwise prohibited by §110.10 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statu objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if— (a) Age is used as a measure or approximation of one or more other characteristics; (b) The other characteristic or characteristics must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; (c) The other characteristic or characteristics can be reasonably measured or approximated by the use of age; and (d) The other characteristic or characteristics are impractical to measure directly on an individual basis. (Authority: 42 U.S.C. 6103)
2,235	§110.13 Exceptions to the rules against age discrimination: Reasonable factors other than age.	Federal	A recipient is permitted to take an action otherwise prohibited by §110.10 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. (Authority: 42 U.S.C. 6103)
2,236	§110.14 Burden of proof	Federal	The burden of proving that an age distinction or other action falls within the exceptions outlined in §§110.12 and 110.13 is on the recipient of Federal financial assistance. (Authority: 42 U.S.C. 6104)
2,237	§110.15 Affirmative action by recipients	Federal	Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activ on the basis of age. (Authority: 42 U.S.C. 6103)
2,238	§110.16 Special benefits for children and the elderly	Federal	If a recipient operating a program or activity provides special benefits to the elderly or to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of §110.12. (Authority: 42 U.S.C. 6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]
2,239	§110.17 Age distinctions contained in ED's regulations	Federal	Any age distinction contained in regulations issued by ED is presumed to be necessary to the achievement of a statutory objective of the program or activity to which the regulations apply, notwithstanding the provisions of §110.12. (Authority: 42 U.S.C. 6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]
2,240	Subpart C—Duties of ED Recipients §110.20 General responsibilities	Federal	Each ED recipient has primary responsibility for ensuring that its program or activity is in compliance with the Act and these regulations and shall take steps to eliminate violations of the Act. A recip also has responsibility to maintain records, provide information, and to afford ED access to its records to the extent required for ED to determine whether the recipient is in compliance with the Act a these regulations. (Authority: 42 U.S.C. 6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]

Legal Standards

2,241	§110.21 Notice to subrecipients	Federal	If the recipient initially receiving funds makes the funds available to a subrecipient, the recipient shall notify the subrecipient of its obligations under the Act and these regulations. (Authority: 42 U.S.C. 6103)
2,242	§110.22 Information requirements	Federal	Each recipient shall— (a) Provide ED with information that ED determines is necessary to ascertain whether the recipient is in compliance with the Act and these regulations; and (b) Permit reasonable access by ED to the books, records, accounts, reports, and other recipient facilities and sources of information to the extent ED determines is necessary to ascertain whether a recipient is in compliance with the Act and these regulations. (Authority: 42 U.S.C. 6103)
2,243	§110.23 Assurances required	Federal	(a) Assurances. An applicant for Federal financial assistance to which these regulations apply shall sign a written assurance, on a form specified by ED, that the program or activity will be operated in compliance with these regulations. An applicant may incorporate this assurance by reference in subsequent applications to ED. (b) Duration of obligation. (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended for another purpose involving the provision of similar services or benefits. (2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property. (3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended. (c) Covenants. (1) If Federal financial assistance is provided in the form of real property or interest in the property from ED, the instrument effecting or recording this transfer must contain a covenan running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. (2) If no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of thi section in the instrument effecting or recording any subsequent transfer of the property. (3) If Federal financial assistance is provided in the form of real property or interest in the property from ED, the covenant must also include a condition coupled with a right to be reserved by ED to r title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of ne improvement of existing, facilities on the property for the purposes for which the property was transferred, ED may, upon request of the transferee and if necessary to accomplish that financing and u conditions that ED deems appropriate, agree to forbear the exercise of the right to revert title for as long as the lien of the mortgage or other encumbrance remains effective. (Authority: 42 U.S.C. 6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]
2,244	§110.24 Recipient assessment of age distinctions	Federal	(a) As part of a compliance review under §110.30 or a complaint investigation under §110.31, ED may require a recipient employing the equivalent of 15 or more full-time employees to complete a w self-evaluation, in a manner specified by ED, of any age distinction imposed in its program or activity receiving Federal financial assistance from ED to assess the recipient's compliance with the Act. (b) Whenever an assessment indicates a violation of the Act or these regulations, the recipient shall take corrective action. (Authority: 42 U.S.C. 6103)

Legal Standards

2,245	§110.25 Designation of responsible employee, notice, and grievance procedures	Federal	(a) Designation of responsible employee. Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Act and these regulat including investigation of any complaints that the recipient receives alleging any actions that are prohibited by the Act and these regulations. (b) Notice. A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Act and these regulations. The notification must also identify the responsibl employee by name or title, address, and telephone number. (c) Grievance procedures. A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the A these regulations. (Authority: 42 U.S.C. 6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]
2,246	Subpart D—Investigation, Conciliation, and Enforcement Procedures §110.30 Compliance reviews	Federal	(a) ED may conduct compliance reviews, pre-award reviews, and other similar procedures that permit ED to investigate and correct violations of the Act and of these regulations. ED may conduct the reviews in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations occurred. (b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, ED attempts to achieve voluntary compliance with the Act. If voluntary compliance cannot be achi ED arranges for enforcement as described in §110.35. (Authority: 42 U.S.C. 6103)
2,247	§110.31 Complaints	Federal	(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with ED alleging discrimination prohibited by the Act or by these regulations based on an action occu on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged discrimination. However, for good cause shown, ED may extend this time limit. (b) ED attempts to facilitate the filing of complaints, if possible, by— (1) Accepting as a complete complaint any written statement that identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the acti practice complained of, and is signed by the complainant; (2) Freely permitting a complainant to add information to the complaint to meet the requirements of a complete complaint; (3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations; (4) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure; and (5) Notifying the complainant and the recipient (or their representatives) of their right to contact ED for information and assistance regarding the complaint resolution process. (c) A complaint is considered to be complete on the date that ED receives all the information necessary to process it, as described in paragraph (b)(1) of this section. (d) ED returns to the complainant any complaint outside the jurisdiction of these regulations and states the reason or reasons why it is outside the jurisdiction of the regulations. (Authority: 42 U.S.C. 6103)

Legal Standards

2,248	§110.32 Mediation	Federal	(a) ED promptly refers to the Federal Mediation and Conciliation Service or to the mediation agency designated by the Secretary of Health and Human Services, all complaints that— (1) Fall within the jurisdiction of the Act and these regulations, unless the age distinction complained of is clearly within an exemption under §110.2(b); and (2) Contain all information necessary for further processing. (b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or to make an informed judgment that an agreement is not possibl recipient and the complainant need not meet with the mediator at the same time, and the meeting may be conducted by telephone or other means of effective dialogue if a personal meeting between party and the mediator is impractical. (c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a of the agreement to ED. ED takes no further action on the complaint unless informed that the complainant or the recipient fails to comply with the agreement, at which time ED reinstates the complai (d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, o otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency. (e) The mediation will proceed for a maximum of 60 days after a complaint is filed with ED. Mediation ends if— (1) 60 days elapse from the time the complaint is received; (2) Prior to the end of the 60-day period, an agreement is reached; or (3) Prior to the end of the 60-day period, the mediator determines that agreement cannot be reached. (f) The mediator shall return unresolved complaints to ED. (Authority: 42 U.S.C. 6103)
2,249	§110.33 Investigation	Federal	(a) Initial investigation. ED investigates complaints that are unresolved after mediation or reopened because of a violation of the mediation agreement. ED uses methods during the investigation to encourage voluntary resolution of the complaint, including discussions with the complainant and recipient to establish the facts and, if possible, resolve the complaint to the mutual satisfaction of the parties. ED may seek the assistance of any involved State, local, or other Federal agency. (b) Formal investigation, conciliation, and hearing. If ED cannot resolve the complaint during the early stages of the investigation, ED completes the investigation of the complaint and makes formal findings. If the investigation indicates a violation of the Act or these regulations, ED attempts to achieve voluntary compliance. If ED cannot obtain voluntary compliance, ED begins enforcement as described in §110.35. (Authority: 42 U.S.C. 6103) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]
2,250	§110.34 Prohibition against intimidation or retaliation	Federal	A recipient may not engage in acts of intimidation or retaliation against any person who— (a) Attempts to assert a right protected by the Act or these regulations; or (b) Cooperates in any mediation, investigation, hearing, or other part of ED's investigation, conciliation, and enforcement process. (Authority: 42 U.S.C. 6103)

Legal Standards

2,251	§110.35 Compliance procedure	Federal	(a) ED may enforce the Act and these regulations under §110.35(a) (1) or (2) through— (1) Termination of, or refusal to grant or continue, a recipient's Federal financial assistance from ED for a program or activity in which the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. (2) Any other means authorized by law, including, but not limited to— (i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations; or (ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or of these regulations. (b) ED limits any termination or refusal under §110.35(a)(1) to the particular recipient and to the particular program or activity ED finds in violation of the Act or these regulations. ED will not base a part of a termination on a finding with respect to any program or activity that does not receive Federal financial assistance from ED. (c) ED takes no action under paragraph (a) of this section until— (1) ED has advised the recipient of its failure to comply with the Act or with these regulations and has determined that voluntary compliance cannot be obtained; and (2) Thirty days have elapsed after the Secretary has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the pro or activity involved. The Secretary files a report if any action is taken under §110.35(a)(1). (d) The Secretary also may defer granting new Federal financial assistance from ED to a recipient if termination proceedings in §110.35(a)(1) are initiated. (1) New Federal financial assistance from ED includes all assistance for which ED requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from ED does not include increases in funding as a result of changed computation of formula awards or assistance approved pri the initiation of termination proceedings. (2) ED does not begin a deferral until the recipient has received a notice of an opportunity for a hearing under §110.35(a)(1). A deferral may not continue for more than 60 days unless a hearing has b
2,252	§110.36 Hearings, decisions, and post-termination proceedings	Federal	(a) The following ED procedural provisions applicable to Title VI of the Civil Rights Act of 1964 also apply to ED's enforcement of these regulations: 34 CFR 100.9 and 100.10 and 34 CFR part 101. (b) Action taken under section 305 of the Act is subject to judicial review as provided by section 306 of the Act. (Authority: 42 U.S.C. 6104-6105)
2,253	§110.37 Procedure for disbursal of funds to an alternate recipient	Federal	(a) If the Secretary withholds funds from a recipient under these regulations, the Secretary may disburse the funds withheld directly to an alternate recipient: any public or nonprofit private organiza or agency, or State or political subdivision of the State. (b) The Secretary requires any alternate recipient to demonstrate— (1) The ability to comply with the Act and these regulations; and (2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance. (Authority: 42 U.S.C. 6104) [58 FR 40197, July 27, 1993, as amended at 65 FR 68057, Nov. 13, 2000]
2,254	§110.38 Remedial action by recipients	Federal	If ED finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action that ED may require to overcome the effects of the discrimination. If another recipient exe control over the recipient that has discriminated or if the entity that has discriminated is a subrecipient, both recipients or recipient and subrecipient may be required to take remedial action.

Legal Standards

2,255	§110.39 Exhaustion of administrative remedies	Federal	(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if— (1) One hundred eighty days have elapsed since the complainant filed the complaint with ED, and ED has made no finding with regard to the complaint; or (2) ED issues any finding in favor of the recipient. (b) If ED fails to make a finding within 180 days or issues a finding in favor of the recipient, ED promptly— (1) Advises the complainant of this fact; (2) Advises the complainant of his or her right to bring a civil action for injunctive relief; and (3) Informs the complainant— (i) That a civil action can be brought only in a United States district court for the district in which the recipient is found or transacts business; (ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint filed the court; (iii) That before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary, the Secretary of Health and Human Services, the Attorney General of the United States, and the recipient; (iv) That the notice shall state the alleged violation of the Act, the relief requested, the court in which the action will be brought, and whether or not attorney's fees are demanded in the event the complainant prevails; and (v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States. (Authority: 42 U.S.C. 6104)
2,256	Carl D. Perkins Career and Technical Education Improvement Act of 2006	Federal	
2,257	PART A--ALLOTMENT AND ALLOCATION SEC. 111. RESERVATIONS AND STATE ALLOTMENT	Federal	`(a) Reservations and State Allotment-  `(1) RESERVATIONS- From the sum appropriated under section 9 for each fiscal year, the Secretary shall reserve-- `(A) 0.13 percent to carry out section 115; and  `(B) 1.50 percent to carry out section 116, of which-- `(i) 1.25 percent of the sum shall be available to carry out section 116(b); and  `(ii) 0.25 percent of the sum shall be available to carry out section 116(h). `(2) STATE ALLOTMENT FORMULA- Subject to paragraphs (3), (4), and (5), from the remainder of the sum appropriated under section 9 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year--  `(A) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for whi determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; `(B) an amount that bears the same ratio to 20 percent of the sum being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for wh the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; `(C) an amount that bears the same ratio to 15 percent of the sum being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for wh the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and `(D) an amount that bears the same ratio to 15 percent of the sum being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amou allotted to all the States under subparagraphs (A), (B), and (C) for such year.  `(3) MINIMUM ALLOTMENT FOR YEARS WITH NO ADDITIONAL FUNDS-

Legal Standards

2,258	SEC. 112. WITHIN STATE ALLOCATION	Federal	`(a) In General- From the amount allotted to each State under section 111 for a fiscal year, the eligible agency shall make available--  `(1) not less than 85 percent for distribution under section 131 or 132, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c); `(2) not more than 10 percent to carry out State leadership activities described in section 124, of which--  `(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 111 for the fiscal year shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and `(B) not less than $60,000 and not more than $150,000 shall be available for services that prepare individuals for non-traditional fields; and  `(3) an amount equal to not more than 5 percent, or $250,000, whichever is greater, for administration of the State plan, which may be used for the costs of-- `(A) developing the State plan;  `(B) reviewing a local plan; `(C) monitoring and evaluating program effectiveness;  `(D) assuring compliance with all applicable Federal laws; `(E) providing technical assistance; and  `(F) supporting and developing State data systems relevant to the provisions of this Act. `(b) Matching Requirement- Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received un subsection (a)(3).
2,259	SEC. 113. ACCOUNTABILITY	Federal	`(a) Purpose- The purpose of this section is to establish and support State and local performance accountability systems, comprised of the activities described in this section, to assess the effectivene the State and the eligible recipients of the State in achieving statewide progress in career and technical education, and to optimize the return of investment of Federal funds in career and technical education activities. `(b) State Performance Measures-  `(1) IN GENERAL- Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of-- `(A) the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2);  `(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(C); and `(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indi of performance.  `(2) INDICATORS OF PERFORMANCE- `(A) CORE INDICATORS OF PERFORMANCE FOR CAREER AND TECHNICAL EDUCATION STUDENTS AT THE SECONDARY LEVEL- Each eligible agency shall identify in the State plan core indicators o performance for career and technical education students at the secondary level that are valid and reliable, and that include, at a minimum, measures of each of the following: `(i) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by a State in accordance with section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and measured by the State determined proficient levels on the academic assessments described in section 1111(b)(3) of such Act. `(ii) Student attainment of career and technical skill proficiencies, including student achievement on technical assessments, that are aligned with industry-recognized standards, if available and appropriate.  `(iii) Student rates of attainment of each of the following:

Legal Standards

2,260	SEC. 114. NATIONAL ACTIVITIES	Federal	`(a) Program Performance Information-  `(1) IN GENERAL- The Secretary shall collect performance information about, and report on, the condition of career and technical education and on the effectiveness of State and local programs, servi and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality ar effectiveness of career and technical education. The Secretary shall report annually to Congress on the Secretary's aggregate analysis of performance information collected each year pursuant to this including an analysis of performance data regarding special populations. `(2) COMPATIBILITY- The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.  `(3) ASSESSMENTS- As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on career and technical education for a nationally representat sample of students. Such assessment may include international comparisons in the aggregate. `(b) Miscellaneous Provisions-  `(1) COLLECTION OF INFORMATION AT REASONABLE COST- The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this title. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Vocational and Adult Education, and an entity assisted under section 118 (if applicable), s determine the methodology to be used and the frequency with which information is to be collected. `(2) COOPERATION OF STATES- All eligible agencies receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this Act.  `(c) Single Plan for Research, Development, Dissemination, Evaluation, and Assessment- `(1) IN GENERAL- The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, technical assistance with regard to the career and technical education programs under this Act. The Secretary shall develop a single plan for such activities. `(2) PLAN- Such plan shall--  `(A) identify the career and technical education activities described in paragraph (1) that the Secretary will carry out under this section;
2,261	SEC. 115. ASSISTANCE FOR THE OUTLYING AREAS	Federal	`(a) Outlying Areas- From funds reserved pursuant to section 111(a)(1)(A), the Secretary shall--  `(1) make a grant in the amount of $660,000 to Guam; `(2) make a grant in the amount of $350,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands; and  `(3) make a grant of $160,000 to the Republic of Palau, subject to subsection (d). `(b) Remainder-  `(1) FIRST YEAR- Subject to subsection (a), for the first fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, the Secretary shall a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for career and technical education and training in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, for the purpose of providing direct career and technical educational services, including-- `(A) teacher and counselor training and retraining;  `(B) curriculum development; and `(C) the improvement of career and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving secondary schools and institutions of higher education.  `(2) SUBSEQUENT YEARS- Subject to subsection (a), for the second fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, and ea subsequent year, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) and subject to subsection (a), in equal proportion, to each of Guam, American S and the Commonwealth of the Northern Mariana Islands, to be used to provide direct career and technical educational services as described in subparagraphs (A) through (C) of paragraph (1). `(c) Limitation- The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b)(1) for administrative costs.  `(d) Restriction- The Republic of Palau shall cease to be eligible to receive funding under this section upon entering into an agreement for an extension of United States educational assistance under t

Legal Standards

2,262	SEC. 116. NATIVE AMERICAN PROGRAMS	Federal	`(a) Definitions- In this section:  `(1) ALASKA NATIVE- The term `Alaska Native' means a Native as such term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).  `(2) BUREAU-FUNDED SCHOOL- The term `Bureau-funded school' has the meaning given the term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).  `(3) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION- The terms `Indian', `Indian tribe', and `tribal organization' have the meanings given the terms in section 4 of the Indian Self-Determination Education Assistance Act (25 U.S.C. 450b).  `(4) NATIVE HAWAIIAN- The term `Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.  `(5) NATIVE HAWAIIAN ORGANIZATION- The term `Native Hawaiian organization' has the meaning given the term in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517).  `(b) Program Authorized- `(1) AUTHORITY- From funds reserved under section 111(a)(1)(B)(i), the Secretary shall make grants to or enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to c out the authorized programs described in subsection (c), except that such grants or contracts shall not be awarded to secondary school programs in Bureau-funded schools. `(2) INDIAN TRIBES AND TRIBAL ORGANIZATIONS- The grants or contracts described in this section that are awarded to any Indian tribe or tribal organization shall be subject to the terms and cond of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 (25 U.S.C. 455-457), wh are relevant to the programs administered under this subsection. `(3) SPECIAL AUTHORITY RELATING TO SECONDARY SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS- An Indian tribe, a tribal organization, or an Alaska Native entity, t receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affair enable such school to carry out career and technical education programs. `(4) MATCHING- If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to p part of the costs of programs funded under this subsection.
2,263	SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS	Federal	`(a) Grants Authorized- The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary career and technical institutions tha not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) to provi basic support for the education and training of Indian students. `(b) Uses of Grants- Amounts made available under this section shall be used for career and technical education programs for Indian students and for the institutional support costs of the grant, inclu the expenses described in subsection (e).  `(c) Amount of Grants- `(1) IN GENERAL- If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of th capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure res from inflationary increases to necessary costs beyond the institution's control. `(2) PER CAPITA DETERMINATION- For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary career and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on th basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under thi section. `(3) INDIRECT COSTS- Notwithstanding any other provision of law or regulation, the Secretary shall not require the use of a restricted indirect cost rate for grants issued under this section.  `(d) Applications- Any tribally controlled postsecondary career and technical institution that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 197 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form the Secretary may require. `(e) Expenses-  `(1) IN GENERAL- The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary career and technical institution having an

Legal Standards

2,264	SEC. 118. OCCUPATIONAL AND EMPLOYMENT INFORMATION	Federal	`(a) National Activities- From funds appropriated under subsection (g), the Secretary, in consultation with appropriate Federal agencies, is authorized--  `(1) to provide assistance to an entity to enable the entity-- `(A) to provide technical assistance to State entities designated under subsection (c) to enable the State entities to carry out the activities described in such subsection;  `(B) to disseminate information that promotes the replication of high quality practices described in subsection (c); and `(C) to develop and disseminate products and services related to the activities described in subsection (c); and  `(2) to award grants to States that designate State entities in accordance with subsection (c) to enable the State entities to carry out the State level activities described in such subsection. `(b) State Application-  `(1) IN GENERAL- A jointly designated State entity described in subsection (c) that desires to receive a grant under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 122, in such manner, and accompanied by such additional information, as the Secretary may reasonably require. `(2) CONTENTS- Each application submitted under paragraph (1) shall include a description of how the jointly designated State entity described in subsection (c) will provide information based on tr provided pursuant to section 15 of the Wagner-Peyser Act to inform program development.  `(c) State Level Activities- In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State-- `(1) to provide support for career guidance and academic counseling programs designed to promote improved career and education decision making by students (and parents, as appropriate) regard education (including postsecondary education) and training options and preparations for high skill, high wage, or high demand occupations and non-traditional fields; `(2) to make available to students, parents, teachers, administrators, faculty, and career guidance and academic counselors, and to improve accessibility with respect to, information and planning resources that relate academic and career and technical educational preparation to career goals and expectations;
2,265	PART B--STATE PROVISIONS SEC. 121. STATE ADMINISTRATION	Federal	`(a) Eligible Agency Responsibilities- The responsibilities of an eligible agency under this title shall include--  `(1) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this title, including preparation for n traditional fields; `(2) consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, teacher and faculty preparation programs, representatives of businesses (including small businesses), labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination programs funded under this title; `(3) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this title, but not less than 4 times annually; and  `(4) the adoption of such procedures as the eligible agency considers necessary to-- `(A) implement State level coordination with the activities undertaken by the State boards under section 111 of Public Law 105-220; and  `(B) make available to the service delivery system under section 121 of Public Law 105-220 within the State a listing of all school dropout, postsecondary education, and adult programs assisted unde title. `(b) Exception- Except with respect to the responsibilities set forth in subsection (a), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administr operation, or supervision of activities assisted under this title, in whole or in part, to 1 or more appropriate State agencies.

Legal Standards

2,266	SEC. 122. STATE PLAN	Federal	`(a) State Plan-  `(1) IN GENERAL- Each eligible agency desiring assistance under this title for any fiscal year shall prepare and submit to the Secretary a State plan for a 6-year period, together with such annual revis as the eligible agency determines to be necessary, except that, during the period described in section 4, each eligible agency may submit a transition plan that shall fulfill the eligible agency's obligatio submit a State plan under this section for the first fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006. `(2) REVISIONS- Each eligible agency--  `(A) may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and `(B) shall, after the second year of the 6-year period, conduct a review of activities assisted under this title and submit any revisions of the State plan that the eligible agency determines necessary to t Secretary.  `(3) HEARING PROCESS- The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including charter school authorizers and organizers consistent with State law, employers, labor organizations, parents, students, and community organizations), an opport to present their views and make recommendations regarding the State plan.
2,267	SEC. 123. IMPROVEMENT PLANS	Federal	`(a) State Program Improvement-  `(1) PLAN- If a State fails to meet at least 90 percent of an agreed upon State adjusted level of performance for any of the core indicators of performance described in section 113(b)(3), the eligible ag shall develop and implement a program improvement plan (with special consideration to performance gaps identified under section 113(c)(2)) in consultation with the appropriate agencies, individ and organizations during the first program year succeeding the program year for which the eligible agency failed to so meet the State adjusted level of performance for any of the core indicators of performance. `(2) TECHNICAL ASSISTANCE- If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purposes of this Act, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement the improvement activities consisten the requirements of this Act. `(3) SUBSEQUENT ACTION-  `(A) IN GENERAL- The Secretary may, after notice and opportunity for a hearing, withhold from an eligible agency all, or a portion, of the eligible agency's allotment under paragraphs (2) and (3) of se 112(a) if the eligible agency-- `(i) fails to implement an improvement plan as described in paragraph (1);  `(ii) fails to make any improvement in meeting any of the State adjusted levels of performance for the core indicators of performance identified under paragraph (1) within the first program year of implementation of its improvement plan described in paragraph (1); or `(iii) fails to meet at least 90 percent of an agreed upon State adjusted level of performance for the same core indicator of performance for 3 consecutive years.  `(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES- The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State. `(4) FUNDS RESULTING FROM REDUCED ALLOTMENTS- The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency to provide technical assistance, to assist i development of an improved State improvement plan, or for other improvement activities consistent with the requirements of this Act for such State.

Legal Standards

2,268	SEC. 124. STATE LEADERSHIP ACTIVITIES	Federal	`(a) General Authority- From amounts reserved under section 112(a)(2), each eligible agency shall conduct State leadership activities.  `(b) Required Uses of Funds- The State leadership activities described in subsection (a) shall include-- `(1) an assessment of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met and how the career and technical education programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further education, further training, or for high skill, high wage, or high demand occupations; `(2) developing, improving, or expanding the use of technology in career and technical education that may include--  `(A) training of career and technical education teachers, faculty, career guidance and academic counselors, and administrators to use technology, including distance learning; `(B) providing career and technical education students with the academic and career and technical skills (including the mathematics and science knowledge that provides a strong basis for such skills lead to entry into technology fields, including non-traditional fields; or  `(C) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs; `(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for career and technical education teachers, faculty, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 122 and-- `(A) provide in-service and preservice training in career and technical education programs--  `(i) on effective integration and use of challenging academic and career and technical education provided jointly with academic teachers to the extent practicable; `(ii) on effective teaching skills based on research that includes promising practices;  `(iii) on effective practices to improve parental and community involvement; and
2,269	PART C--LOCAL PROVISIONS SEC. 131. DISTRIBUTION OF FUNDS TO SECONDARY EDUCATION PROGRAMS	Federal	`(a) Distribution Rules- Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 112(a)(1) t carry out this section to local educational agencies within the State as follows:  `(1) THIRTY PERCENT- Thirty percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district se by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all local educational agencies in the State fo such preceding fiscal year, as determined on the basis of the most recent satisfactory-- `(A) data provided to the Secretary by the Bureau of the Census for the purpose of determining eligibility under title I of the Elementary and Secondary Education Act of 1965; or  `(B) student membership data collected by the National Center for Education Statistics through the Common Core of Data survey system. `(2) SEVENTY PERCENT- Seventy percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school distric served by such local educational agency and are from families below the poverty level for the preceding fiscal year, as determined on the basis of the most recent satisfactory data used under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965, compared to the total number of such individuals who reside in the school districts served by all the local educational agencies the State for such preceding fiscal year. `(3) ADJUSTMENTS- Each eligible agency, in making the allocations under paragraphs (1) and (2), shall adjust the data used to make the allocations to--  `(A) reflect any change in school district boundaries that may have occurred since the data were collected; and `(B) include local educational agencies without geographical boundaries, such as charter schools and secondary schools funded by the Bureau of Indian Affairs.  `(b) Waiver for More Equitable Distribution- The Secretary may waive the application of subsection (a) in the case of any eligible agency that submits to the Secretary an application for such a waiver `(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance w section 673(2) of the Community Services Block Grant Act (42 U.S.C.

Legal Standards

2,270	SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY EDUCATION PROGRAMS	Federal	`(a) Allocation-  `(1) IN GENERAL- Except as provided in subsections (b) and (c) and section 133, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State. `(2) FORMULA- Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 112(a to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in prog meeting the requirements of section 135 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the for such year. `(3) CONSORTIUM REQUIREMENTS-  `(A) IN GENERAL- In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that-- `(i) provide services to all postsecondary institutions participating in the consortium; and  `(ii) are of sufficient size, scope, and quality to be effective. `(B) FUNDS TO CONSORTIUM- Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all memb the consortium and shall be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefitting only member of the consortium. `(4) WAIVER- The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.  `(b) Waiver for More Equitable Distribution- The Secretary may waive the application of subsection (a) if an eligible agency submits to the Secretary an application for such a waiver that-- `(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and
2,271	SEC. 133. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION	Federal	`(a) Special Rule for Minimal Allocation-  `(1) GENERAL AUTHORITY- Notwithstanding the provisions of sections 131 and 132 and in order to make a more equitable distribution of funds for programs serving the areas of greatest economic for any program year for which a minimal amount is made available by an eligible agency for distribution under section 131 or 132, such eligible agency may distribute such minimal amount for such - `(A) on a competitive basis; or  `(B) through any alternative method determined by the eligible agency. `(2) MINIMAL AMOUNT- For purposes of this section, the term `minimal amount' means not more than 15 percent of the total amount made available for distribution under section 112(a)(1). `(b) Redistribution-  `(1) IN GENERAL- In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 131 or 132, such eligible recipient sh return any unexpended amounts to the eligible agency to be reallocated under section 131 or 132, as appropriate. `(2) REDISTRIBUTION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR- In any academic year in which amounts are returned to the eligible agency under section 131 or 132 and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution i combination with amounts provided under section 112(a)(1) for the following academic year. `(c) Construction- Nothing in section 131 or 132 shall be construed--  `(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 131, from working with an eligible institution or consortium thereof that receives assistance under section 132, to carry out career and technical education programs at the secondary level in accordance with this title; `(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 132, from working with a local educational agency or consortium thereof that receives assistance u section 131, to carry out postsecondary and adult career and technical education programs in accordance with this title; or

Legal Standards

2,272	SEC. 134. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS	Federal	`(a) Local Plan Required- Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible agency (in consultation with such other educational training entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 122. `(b) Contents- The eligible agency shall determine the requirements for local plans, except that each local plan shall--  `(1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title; `(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;  `(3) describe how the eligible recipient will-- `(A) offer the appropriate courses of not less than 1 of the career and technical programs of study described in section 122(c)(1)(A);  `(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of programs through the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education programs to ensure learning in-- `(i) the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and  `(ii) career and technical education subjects; `(C) provide students with strong experience in, and understanding of, all aspects of an industry;  `(D) ensure that students who participate in such career and technical education programs are taught to the same coherent and rigorous content aligned with challenging academic standards as are t to all other students; and `(E) encourage career and technical education students at the secondary level to enroll in rigorous and challenging courses in core academic subjects (as defined in section 9101 of the Elementary an Secondary Education Act of 1965);
2,273	SEC. 135. LOCAL USES OF FUNDS	Federal	`(a) General Authority- Each eligible recipient that receives funds under this part shall use such funds to improve career and technical education programs.  `(b) Requirements for Uses of Funds- Funds made available to eligible recipients under this part shall be used to support career and technical education programs that-- `(1) strengthen the academic and career and technical skills of students participating in career and technical education programs, by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career and technical programs of s described in section 122(c)(1)(A), to ensure learning in-- `(A) the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and  `(B) career and technical education subjects; `(2) link career and technical education at the secondary level and career and technical education at the postsecondary level, including by offering the relevant elements of not less than 1 career and technical program of study described in section 122(c)(1)(A);  `(3) provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences; `(4) develop, improve, or expand the use of technology in career and technical education, which may include--  `(A) training of career and technical education teachers, faculty, and administrators to use technology, which may include distance learning; `(B) providing career and technical education students with the academic and career and technical skills (including the mathematics and science knowledge that provides a strong basis for such skills lead to entry into the technology fields; or  `(C) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs, including programs that improve the mathematics and science knowledge students; `(5) provide professional development programs that are consistent with section 122 to secondary and postsecondary teachers, faculty, administrators, and career guidance and academic counselors

Legal Standards

2,274	SEC. 201. STATE ALLOTMENT AND APPLICATION	Federal	`(a) In General- For any fiscal year, the Secretary shall allot the amount made available under section 206 among the States in the same manner as funds are allotted to States under paragraph (2) of s 111(a).  `(b) Payments to Eligible Agencies- The Secretary shall make a payment in the amount of a State's allotment under subsection (a) to the eligible agency that serves the State and has an application approved under subsection (c). `(c) State Application- Each eligible agency desiring an allotment under this title shall submit, as part of its State plan under section 122, an application that--  `(1) describes how activities under this title will be coordinated, to the extent practicable, with activities described in the State plan submitted under section 122; and `(2) contains such information as the Secretary may require.
2,275	SEC. 202. CONSOLIDATION OF FUNDS	Federal	`(a) In General- An eligible agency receiving an allotment under sections 111 and 201 may choose to consolidate all, or a portion of, funds received under section 201 with funds received under sectio in order to carry out the activities described in the State plan submitted under section 122.  `(b) Notification Requirement- Each eligible agency that chooses to consolidate funds under this section shall notify the Secretary, in the State plan submitted under section 122, of the eligible agency decision to consolidate funds under this section. `(c) Treatment of Consolidated Funds- Funds consolidated under this section shall be considered as funds allotted under section 111 and shall be distributed in accordance with section 112.
2,276	SEC. 203. TECH PREP PROGRAM	Federal	`(a) Grant Program Authorized-  `(1) IN GENERAL- From amounts made available to each eligible agency under section 201, the eligible agency, in accordance with the provisions of this title, shall award grants, on a competitive basi on the basis of a formula determined by the eligible agency, for tech prep programs described in subsection (c). The grants shall be awarded to consortia between or among-- `(A) a local educational agency, an intermediate educational agency, educational service agency, or area career and technical education school, serving secondary school students, or a secondary scho funded by the Bureau of Indian Affairs; and  `(B)(i) a nonprofit institution of higher education that-- `(I)(aa) offers a 2-year associate degree program or a 2-year certificate program; and  `(bb) is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965, including-- `(AA) an institution receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.); and  `(BB) a tribally controlled postsecondary career and technical institution; or `(II) offers a 2-year apprenticeship program that follows secondary education instruction, if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 pursuant to the provisions of section 435(a)(2 such Act; or `(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education A 1965, if such proprietary institution of higher education is not subject to a default management plan required by the Secretary. `(2) SPECIAL RULE- In addition, a consortium described in paragraph (1) may include 1 or more--

Legal Standards

2,277	SEC. 204. CONSORTIUM APPLICATIONS	Federal	`(a) In General- Each consortium that desires to receive a grant under this title shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall require.  `(b) Plan- Each application submitted under this section shall contain a 6-year plan for the development and implementation of tech prep programs under this title, which plan shall be reviewed after second year of the plan. `(c) Approval- The eligible agency shall approve applications under this title based on the potential of the activities described in the application to create an effective tech prep program.  `(d) Special Consideration- The eligible agency, as appropriate, shall give special consideration to applications that-- `(1) provide for effective employment placement activities or the transfer of students to baccalaureate or advanced degree programs;  `(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations; `(3) address effectively the issues of school dropout prevention and reentry, and the needs of special populations;  `(4) provide education and training in an area or skill, including an emerging technology, in which there is a significant workforce shortage based on the data provided by the eligible entity in the Stat under section 118; `(5) demonstrate how tech prep programs will help students meet high academic and employability competencies; and  `(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C of title I. `(e) Performance Levels-  `(1) IN GENERAL- Each consortium receiving a grant under this title shall enter into an agreement with the eligible agency to meet a minimum level of performance for each of the performance indica described in sections 113(b) and 203(e). `(2) RESUBMISSION OF APPLICATION; TERMINATION OF FUNDS- An eligible agency--
2,278	SEC. 205. REPORT	Federal	Each eligible agency that receives an allotment under this title annually shall prepare and submit to the Secretary a report on the effectiveness of the tech prep programs assisted under this title, inclu a description of how grants were awarded within the State.
2,279	SEC. 206. AUTHORIZATION OF APPROPRIATIONS	Federal	There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 2007 and each of the 5 succeeding fiscal years.
2,280	TITLE III--GENERAL PROVISIONS PART A--FEDERAL ADMINISTRATIVE PROVISIONS SEC. 311. FISCAL REQUIREMENTS	Federal	`(a) Supplement Not Supplant- Funds made available under this Act for career and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out car and technical education activities and tech prep program activities.  `(b) Maintenance of Effort- `(1) DETERMINATION-  `(A) IN GENERAL- Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for career and technical education programs or tech prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the fiscal year preceding the fi year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs for the second fiscal year preceding the fiscal year for which t determination is made. `(B) COMPUTATION- In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special 1-time project costs, and the cost pilot programs.  `(C) DECREASE IN FEDERAL SUPPORT- If the amount made available for career and technical education programs under this Act for a fiscal year is less than the amount made available for career and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the preceding fis year shall be decreased by the same percentage as the percentage decrease in the amount so made available. `(2) WAIVER- The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determinati that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforese and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under thi section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would for such waiver, have been required.
2,281	SEC. 312. AUTHORITY TO MAKE PAYMENTS.	Federal	Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

Legal Standards

2,282	SEC. 313. CONSTRUCTION	Federal	Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treat a private school or home school under State law.
2,283	SEC. 314. VOLUNTARY SELECTION AND PARTICIPATION	Federal	`No funds made available under this Act shall be used--  `(1) to require any secondary school student to choose or pursue a specific career path or major; or `(2) to mandate that any individual participate in a career and technical education program, including a career and technical education program that requires the attainment of a federally funded skil standard, or certificate of mastery.
2,284	SEC. 315. LIMITATION FOR CERTAIN STUDENTS	Federal	No funds received under this Act may be used to provide career and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds u this Act may be used by such students.
2,285	SEC. 316. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS	Federal	Nothing in this Act shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Fed programs or services.
2,286	SEC. 317. PARTICIPATION OF PRIVATE SCHOOL PERSONNEL AND CHILDREN	Federal	`(a) Personnel- An eligible agency or eligible recipient that uses funds under this Act for in-service and preservice career and technical education professional development programs for career and technical education teachers, administrators, and other personnel shall, to the extent practicable, upon written request, permit the participation in such programs of career and technical education secondary school teachers, administrators, and other personnel in nonprofit private schools offering career and technical secondary education programs located in the geographical area served by su eligible agency or eligible recipient. `(b) Student Participation-  `(1) STUDENT PARTICIPATION- Except as prohibited by State or local law, an eligible recipient may, upon written request, use funds made available under this Act to provide for the meaningful participation, in career and technical education programs and activities receiving funding under this Act, of secondary school students attending nonprofit private schools who reside in the geograph area served by the eligible recipient. `(2) CONSULTATION- An eligible recipient shall consult, upon written request, in a timely and meaningful manner with representatives of nonprofit private schools in the geographical area served by eligible recipient described in paragraph (1) regarding the meaningful participation, in career and technical education programs and activities receiving funding under this Act, of secondary school students attending nonprofit private schools.
2,287	SEC. 318. LIMITATION ON FEDERAL REGULATIONS	Federal	The Secretary may issue regulations under this Act only to the extent necessary to administer and ensure compliance with the specific requirements of this Act.
2,288	PART B--STATE ADMINISTRATIVE PROVISIONS SEC. 321. JOINT FUNDING	Federal	`(a) General Authority- Funds made available to eligible agencies under this Act may be used to provide additional funds under an applicable program if--  `(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program; `(2) such program serves the same individuals that are served under this Act;  `(3) such program provides services in a coordinated manner with services provided under this Act; and `(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.  `(b) Applicable Program- For the purposes of this section, the term `applicable program' means any program under any of the following provisions of law:  `(1) Chapters 4 and 5 of subtitle B of title I of Public Law 105-220. `(2) The Wagner-Peyser Act.  `(c) Use of Funds as Matching Funds- For the purposes of this section, the term `additional funds' does not include funds used as matching funds.
2,289	SEC. 322. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.	Federal	`No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if suc relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

Legal Standards

2,290	SEC. 323. STATE ADMINISTRATIVE COSTS	Federal	`(a) General Rule- Except as provided in subsection (b), for each fiscal year for which an eligible agency receives assistance under this Act, the eligible agency shall provide, from non-Federal sources the costs the eligible agency incurs for the administration of programs under this Act, an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such co for the preceding fiscal year. `(b) Exception- If the amount made available from Federal sources for the administration of programs under this Act for a fiscal year (referred to in this section as the `determination year') is less tha amount made available from Federal sources for the administration of programs under this Act for the preceding fiscal year, then the amount the eligible agency is required to provide from non-Fede sources for costs the eligible agency incurs for the administration of programs under this Act for the determination year under subsection (a) shall bear the same ratio to the amount the eligible agen provided from non-Federal sources for such costs for the preceding fiscal year, as the amount made available from Federal sources for the administration of programs under this Act for the determin year bears to the amount made available from Federal sources for the administration of programs under this Act for the preceding fiscal year.
2,291	SEC. 324. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS	Federal	`(a) Attendance Costs Not Treated as Income or Resources- The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds. `(b) Attendance Costs- The attendance costs described in this subsection are--  `(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and `(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.  `(c) Costs of Career and Technical Education Services- Funds made available under this Act may be used to pay for the costs of career and technical education services required in an individualized education program developed pursuant to section 614(d) of the Individuals with Disabilities Education Act and services necessary to meet the requirements of section 504 of the Rehabilitation Act o 1973 with respect to ensuring equal access to career and technical education.'.
2,292	SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS	Federal	(a) Immigration and Nationality Act- Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking `Carl D. Perkins Vocational and Technical Educati Act of 1998' and inserting `The Carl D. Perkins Career and Technical Education Act of 2006'. (b) Trade Act of 1974- The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended-- (1) in section 231(c)(1)(F) (19 U.S.C. 2291(c)(1)(F))-- (A) by striking `area vocational education schools' and inserting `area career and technical education schools'; and (B) by striking `Carl D. Perkins Vocational and Technical Education Act of 1998' and inserting `Carl D. Perkins Career and Technical Education Act of 2006'; and (2) in section 236(a)(1)(D) (19 U.S.C. 2296(a)(1)(D)), by striking `area vocational' and all that follows through `Act of 1963' and inserting `area career and technical education schools, as defined in se 3 of the Carl D. Perkins Career and Technical Education Act of 2006'. (c) Higher Education Act of 1965- The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended-- (1) in section 102(a)(3)(A) (20 U.S.C. 1002(a)(3)(A))-- (A) by striking `section 521(4)(C)' and inserting `section 3(3)(C)'; and (B) by striking `Carl D. Perkins Vocational and Applied Technology Education Act' and inserting `Carl D. Perkins Career and Technical Education Act of 2006'; and (2) in section 484(l)(1)(B)(i) (20 U.S.C. 1091(l)(1)(B)(i)), by striking `section 521(4)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998' and inserting `section 3(C) of the Carl D Perkins Career and Technical Education Act of 2006'. (d) Education for Economic Security Act- Section 3(1) of the Education for Economic Security Act (20 U.S.C. 3902(1)) is amended-- (1) by striking `area vocational education school' and inserting `area career and technical education school'; and

Legislative Oversight Committee
South Carolina House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811

2016 Annual Restructuring Report Guidelines

PLEASE NOTE:

The information included in the agency's report will appear online for all legislators and the public to view.

Agency Name:	**South Carolina Department of Education**
Date Report Submitted:	**February 26, 2016**
Agency Head	
First Name	Molly
Last Name:	Spearman
Email Address:	mspearman@ed.sc.gov
Phone Number:	803-734-8491

General Instructions

SUBMISSIONS	
What to submit?	Please submit this document in electronically only in both the original format (Excel) as well as in a PDF document. Save the document as "2016 - Agency ARR (*insert date agency submits report*)."
When to submit?	The deadline for submission is by the first day of session, January 12, 2016.
Where to submit?	Email all electronic copies to HCommLegOv@schouse.gov.

NOTE: If the agency enters its Name and the Date of Submission in the "Cover Page" tab, it should automatically populate at the top of each tab in this report.

WHERE INFORMATION WILL APPEAR	
Where will submissions appear?	The information included in the agency's report will appear online for all legislators and the public to view. On the South Carolina Statehouse Website it will appear on the Publications page as well as on the individual agency page, which can be accessed from the House Legislative Oversight Page.

QUESTIONS	
Who to contact?	House Legislative Oversight at 803-212-6810.

OTHER INFORMATION	
House Legislative Oversight	
Mailing	Post Office Box 11867
Phone	803-212-6810
Fax	803-212-6811
Email	HCommLegOv@schouse.gov
Web	The agency may visit the South Carolina General Assembly Home Page (http://www.scstatehouse.gov) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports."

Mission, Vision and Goals

This is the second chart because the agency's mission and vision should have a basis in the legal standards, which the agency provided in the previous chart. After the agency knows the laws it must satisfy, along with its mission and vision, it can then set goals to satisfy those laws and achieve that vision (and the strategy and objectives to accomplish each goal - see next chart). To ensure accountability, one person below the head of the agency should be responsible for each goal. The same person is not required to be responsible for all of the goals.

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-16

Instructions : Provide the agency's mission, vision and laws (i.e. state and/or federal statutes) which serve as the basis for the agency's mission and vision.

Mission	The mission of the SC Department of Education is to provide leadership and support so that all public education students graduate prepared for success.
Legal Basis for agency's mission	SC Code of Laws Title 59
Vision	All students graduate prepared for success in college, careers, and citizenship. By 2018, at least one school in every district will have implemented personalized learning that supports students' meeting the Profile of the South Carolina Graduate.
Legal Basis for agency's vision	SC Code of Laws Title 59

Instructions :
1) Under the "Legal Responsibilities Satisfied" column, enter the legal responsibilities (i.e. state and/or federal statutes and provisos) the goal is satisfying. All of the laws mentioned in the previous chart (i.e. Legal Standards Chart) should be included next to one of the agency's goals. When listing the Legal Responsibilities Satisfied, the agency can group the standards together when applicable (i.e. SC Code 63-19-320 thru 63-19-450). Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute.
2) Under the "Goals and Description" column, enter the number and description of the goal which will help the agency achieve its vision (i.e. Goal 1 - Increase the number of job opportunities available to juveniles to 20 per juvenile within the next 2 years). The agency should have 3-4 high level goals.
3) Under the "Describe how the Goal is SMART" column, enter the information which shows the goal is Specific, Measurable, Attainable, Relevant and Time-bound.
4) Under the "Public Benefit/Intended Outcome" column, enter the intended outcome of accomplishing the goal.
5) Under the "Responsible Person" columns, provide information about the individual who has primary responsibility/accountability for each goal. The Responsible Person has different teams of employees beneath him/her to help accomplish the goal. The Responsible Person is the person who, in conjunction with his/her team(s) and approval from higher level superiors, determines the strategy and objectives to accomplish the goal. In addition, this is the person who monitors the progress and makes any changes needed to the strategies and objectives to ensure the goal is accomplished. Under the "Position" column, enter the Responsible Person's position/title at the agency.

Legal Responsibilities Satisfied	Goals & Description	Describe how the Goal is S.M.A.R.T.	Public Benefit/Intended Outcome	Responsible Person Name:	Number of months person has been responsible for the goal or objective:	Position:
(i.e. state and federal statutes or provisos the goal is satisfying)	(i.e. Goal 1 - insert description)	Specific Measurable Attainable Relevant Time-bound	(Ex. Output = rumble strips are installed on the sides of a road; Outcome = incidents decrease and public perceives that the road is safer) Just enter the intended outcome			
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.	Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school with the world class knowledge, skills, and characteristics to be successful in post-secondary college, careers, and citizenship	The goal simplistically and clearly lists what will be attained, it is easy to measure 100% of students, it is achievable, relates to student achievement, and significant progress on this goal should be achieved by 2018.	Students will graduate with world class knowledge, skills, and life-work characteristics needed to be successful in college, careers, and citizenship.	Julie Fowler	13 Months	Deputy Superintendent

Mission, Vision and Goals

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Goal 2 - South Carolina Department of Education will support public school districts and schools in developing highly effective educator teams focused on personalized student growth to support meeting the profile of the SC graduate.	The goal is clearly lists the support to districts and schools, it can be measured, providing the support is achievable, relates to personalized student growth, and significant progress on this goal should be achieved by 2018.	Highly effective educator teams will be developed to support the success of all students.	Sheila Quinn and Karla Hawkins	7 months and 5 months	Deputy Superintendents
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and achievement, closing the achievement gap, and increasing the numbers of students meeting the Profile of the SC graduate.	The goal is clearly lists the support to educators, it can be measured, providing the support is achievable, relates to closing the achievement gap, and it should be completely implemented by 2018	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	Sheila Quinn	7 months	Deputy Superintendent
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Goal 4 - State, district, and school learning systems will be aligned to promote personalized student growth, achievement, and the Profile of the SC Graduate.	The goal is clearly lists aligning state learning systems, it can be measured, aligning the systems is achievable, relates to personalized student growth, and significant progress on this goal should be achieved by 2018.	Students will graduate with world class knowledge and skills to be successful in college, careers, and citizenship.	Sheila Quinn	7 months	Deputy Superintendent
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of the SC graduate.	The goal is clearly lists the support to districts and schools, it can be measured, providing the support is achievable, relates to personalized student growth, and significant progress on this goal should be achieved by 2018.	Students will graduate with world class knowledge and skills to be successful in college, careers, and citizenship.	Julie Fowler	13 months	Deputy Superintendent
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy environment for long-term success.	The goal is clearly lists the support to districts, it can be measured, providing the support is achievable, relates to health and safety of students, and significant progress on this goal should be achieved by 2018.	Safe and healthy students learn better. Students will learn in a safe and healthy environment.	Virgie Chambers	13 months	Deputy Superintendent
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Goal 7- The culture of South Carolina public education will be one of innovation and continuous improvement.	The goal clearly relates to innovation and continuous improvement, measures are still being completed, once complete they will be achievable, relevant to increased innovation and improved processes, and significant progress on this goal should be achieved by 2018.	Education systems will be good stewards of public funding, and will focus efforts on innovative and improving programs that work and have a high return on investment.	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer

Strategy, Objectives and Responsibility

This is the next chart because once the agency determines its goals, and those responsible for each goal, it then needs to determine the strategy and objectives to accomplish each goal. To ensure accountability, one person should be responsible for each objective. This can be the same person responsible for the goal, if it is a small agency, or, for larger agencies, a person who reports to the person responsible for the goal. The same person is not required to be responsible for all of the objectives.

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-16

Instructions :
1) Under the "Legal Responsibilities Satisfied" column, enter the legal responsibilities (i.e. state and/or federal statutes and provisos) the goal or objective is satisfying. For each goal, the agency can copy and paste the information from the Mission, Vision and Goals Chart. All of the legal standards mentioned for a particular goal should be included next to one of the objectives under that goal. When listing the Legal Responsibilities Satisfied, the agency can group the standards together when applicable (i.e. 63-19-320 thru 63-19-370). Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute.
2) Under the "Strategic Plan Part and Description" column, enter the strategic plan part number and description (i.e. Goal 1 - Increase the number of job opportunities available to juveniles to 20 per juvenile within the next 2 years). For each goal, the agency can copy and paste the information from the Mission, Vision and Goals Chart. If the agency is still utilizing the same strategies and objectives it submitted as part of the Accountability Report, it can copy and paste those into this chart, then fill in the remainder of the columns. However, if the agency has trouble explaining how each objective is SMART, it may need to revise its objectives. In addition, if the agency has revised its strategic plan since submitting its last Accountability Report, please provide information from the most current strategic plan.
3) Under the "Describe how it is SMART" column, enter the information which shows how each goal and objective is Specific, Measurable, Attainable, Relevant and Time-bound.
4) Under the "Public Benefit/Intended Outcome" column, enter the intended outcome of accomplishing each goal and objective.
5) Under the "Responsible Person" columns, provide information about the individual who has primary responsibility/accountability for each goal and objective. The Responsible Person for a goal has different teams of employees beneath him/her to help accomplish the goal. The Responsible Person for an objective has employees and possibly different teams of employees beneath him/her to help accomplish the objective. The Responsible Person for a goal is the person who, in conjunction with his/her team(s) and approval from higher level superiors, determines the strategy and objectives needed to accomplish the goal. The Responsible Person for an objective is the person who, in conjunction with his/her employees and approval from higher level superiors, sets the performance measure targets and heads the game plan for how to accomplish the objective for which he/she is responsible. Under the "Position" column, enter the Responsible Person's position/title at the agency. Under "Office Address" column, enter the address for the office from which the Responsible Person works. Under the "Department/Division" column, enter the department or division at the agency in which the Responsible Person works. Under the "Department/Division Summary" column, enter a brief summary (no more than 1-2 sentences) of what that department or division does in the agency.

Legal Responsibilities Satisfied:	*Strategic Plan Part and Description*	How it is S.M.A.R.T.:	Public Benefit/Intended Outcome:	Responsible Person Name:	Number of months person has been responsible for the goal or objective:	Position:	Office Address:	Department or Division:	Department or Division Summary:
(i.e. state and federal statutes or provisos the goal or objective is satisfying)	(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)	Describe how each goal and objective is... Specific; Measurable; Attainable; Relevant; and Time-bound	(Ex. Output = rumble strips are installed on the sides of a road; Outcome = incidents decrease and public perceives that the road is safer) Just enter the intended outcome						
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Goal 1 - *All Students will engage in personalized learning opportunities and graduate from high school with the world class knowledge, skills, and characteristics to be successful in post-secondary college, careers, and citizenship*	The goal lists what will be attained, it is easy to measure 100% of students, it is achievable, relates to student achievement, and the goal should be achieved by 2018	Students will graduate with world class knowledge, skills, and life-work characteristics needed to be successful in college, careers, and citizenship.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.1 - *Increase Student performance to at or above grade level proficiency on statewide summative assessments (subject to resetting baselines with new assessments)*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.1.1 - 75% of students in grades 3-8 English language arts and writing score proficiency or higher by 2018. REVISED: Objective 1.1.1 - 75% of students in grades 3-8 English language arts and writing score "on grade level or higher" by 2025.	Growth in student achievement is specific as revised, SCDE measures progress on SCReady and other ELA assessments, the increase in achievement is readily attainable as revised, it relates to the students, and the should occur by 2025.	*Students better prepared to learn, and ready for post-graduation success.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.1.2 -75% of students in grades 3-8 mathematics will score proficiency or higher by 2018. REVISED: Objective 1.1.2 - 75% of students in grades 3-8 mathematics will score "on grade level or higher" by 2025.	Growth in student achievement is specific, SCDE measures progress on SCPass, the increase in achievement is readily attainable, it relates to the students and the should occur by 2025.	*Increased student performance; increased numbers of students ready to perform well in STEM careers.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.1.3 -75% of students in targeted grades will score proficient or higher on science summative assessments by 2018	Growth in student achievement is specific, SCDE measures progress on SCPass, the increase in achievement is readily attainable, it relates to the students and the should occur by 2018.	*Increased student performance; increased numbers of students ready to perform well in STEM careers.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59	Objective 1.1.4 -75% of students in targeted grades will score proficient or higher on social studies assessments by 2018	Growth in student achievement is specific, SCDE measures progress on SCPass, the increase in achievement is readily attainable, it relates to the students and the should occur by 2018.	*Increased student performance*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.1.5 -Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by 2018	Growth in student achievement is specific, progress is measured on End of course exams, the increase in achievement is readily attainable, it relates to the students and the should occur by 2018.	*Increased student performance; increased numbers of students ready for post-graduation success.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
	Strategy 1.2 - All students will show growth and continuous improvement on statewide assessments	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(There is no 1.2.1)								
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.2.2- 60% of non-duplicated gap subgroup will score proficient or higher on grade level standards in ELA and mathematics by 2018.	Growth in student achievement is specific, progress is measured on SC-Ready and End of course exams, the increase in achievement by subgroup is readily attainable, it relates to the students and the should occur by 2018.	Increased student performance for all subgroups	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59	Objective 1.2.3 -Progress of historically underperforming readers will accelerate compared to average state progress on reading assessments in grades 3, 5, 8, and 11 (State Reading Goal 2).	Growth in student achievement is specific, progress is measured on SC-Ready ,the increase in achievement by subgroup is readily attainable, it relates to the students and the should occur by 2018.	Increased student performance for all subgroups	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
	Strategy 1.3 -All students will demonstrate college and career readiness	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.3.1 -50% of students will meet all benchmarks for college readiness on a Grade 11 college entrance assessment by 2018	Growth in student achievement is specific, progress is measured on the ACT exam, the increase in achievement is readily attainable, it relates to the students and the should occur by 2018.	*Increased numbers of students ready for post-graduation success.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.3.2- Rank in the top 50% nationally (compared to states giving the test to ALL students) in the average score on the Grade 11 college entrance assessment by 2018	Growth in student achievement is specific, progress is measured on the ACT exam, the increase in achievement is readily attainable, it relates to the students and the should occur by 2018.	*Increased numbers of students ready for post-graduation success; better prepared workforce to attract commerce leading to more citizens earning a livable wage.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-18-325.	Objective 1.3.3 -65% of students will achieve a "4" or higher on the Grade 11 WorkKeys assessment	Growth in student achievement is specific, progress is measured on the WorkKeys exam, the increase in achievement is readily attainable, it relates to the students and the should occur by 2018.	*Increased numbers of students ready for post-graduation success; better prepared workforce to attract commerce leading to more citizens earning a livable wage.*	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
State-SC Code of Laws Title 59	Objective 1.3.4 - Increase the percentage of seniors graduating on time by 1 percentage point each year	Increased graduation rate is specific, progress is measured by students graduating in 4 years, the increase graduation rate is attainable, it relates to students and the increase should occur annually by 2018.	*Increased numbers of students ready for post-graduation success; better prepared workforce to attract commerce.*	Elizabeth Carpentier	13 months	*Chief of Staff/Chief Operating Officer*	*1429 Senate Street Columbia, SC 29201*	COO	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 1.3.5 - Decrease the number of students requiring remediation at the start of post-secondary education (State Reading Goal 3).		Increased numbers of students ready for post-graduation success; reduced student loan debt; higher post-secondary completion and graduation rates.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	Didn't see a measure, should this be included ?

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Goal 2- South Carolina Department of Education will support public school districts and SCHOOLS in developing highly effective educator teams focused on personalized student growth to support meeting the Profile of the SC Graduate.	The goal is clearly lists the support to districts and schools, it can be measured, providing the support is achievable, relates to personalized student growth, and it should be completely implemented by 2018	Highly effective educator teams will increase and support the success of all students.	*Sheila Quinn and Karla Hawkins*	*7 months and 5 months*	*Deputy Superintendents*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness and Federal, State, and Community Resources*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state. The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate
	Strategy 2.1 - Create and implement Passages to Personalized Learning, public school choice and innovation.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.1.1 -At least one school in every district will meet the state standard for a personalized learning program by 2018	The existence of personalized learning is clear and specific, the existence is measurable, achievement is attainable, it relates to students, and it will be realized by 2018.	*Increased student performance*	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.
State-SC Code of Laws Title 59	Objective 2.1.2 - Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation	The increased number of SCDE resources is clear and specific, the increase is measurable, achievement is attainable, it relates to innovation and increased opportunities for students and the increase in resources will occur annually through 2018.	*Better engaged students who are better prepared with the knowledge, skills, and characteristics necessary for success in jobs of the future.*	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.1.3 - Increase stakeholder consumption of online SCDE resources related to public school choice and school wide innovation		*Better engaged students who are better prepared with the knowledge, skills, and characteristics necessary for success in jobs of the future.*	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	Didn't see a measure, should this be included ?
	Strategy 2.2- Effectively Implement Federal Programs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.2.1 - All federally monitored Title 1 districts will be in 100% compliance with federal policies and guidelines for use of Title 1 funds annually	Compliance with polices for use of funds is clear and specific, the compliance is measurable using monitoring tools, achievement is attainable, it relates to funds available for student success, and it should occur for all districts by 2018.	Compliance and continued availability of funds.	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	
Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.2.2 - Provide continued training and technical support to all entities receiving Federal funds to maximize available flexibility	Participation and attendance in training events is clear and specific, attendance is measurable, achievement is attainable, it relates to maximization of funding flexibility, and it should occur for all districts by 2018.	Compliance and continued availability of funds.	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	
	Strategy 2.3 - Increase the academic performance of schools identified as low performing.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.3.1 - Create and conduct a diagnostic review process in 100% of priority schools by 2018.	Existence of a diagnostic review process in all schools is clear and specific, existence is measurable, achievement of 100% is attainable, it relates to increased performance, and it should occur for all districts by 2018.	Increased academic performance of students in the state's lowest performing schools along with a culture of continuous improvement.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.3.2- Assign a trained SCDE transformation coach to 100% of priority schools by 2018.	Existence of a trained coach in all schools is clear and specific, existence is measurable, achievement of 100% is attainable, it relates to increased performance, and it should occur for all districts by 2018.	Increased academic performance of students in the state's lowest performing schools along with a culture of continuous improvement.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.3.3 - 50 percent of focus schools will reduce their most significant subgroup gap with no decrease in the ALL Students subgroup.	A reduction in the achievement gap is specific, progress is measured on PASS, SC-Ready and EOCEP ,the increase in achievement by subgroup is readily attainable, it relates to the students and the should occur by 2018.	Increased academic performance of students in the state's lowest performing schools along with a culture of continuous improvement.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 2.3.4 - 50 percent of priority schools will show improvement on annual summative assessments.	Increase in student achievement on summative assessments is specific, progress is measured on PASS, SC-Ready and EOCEP ,the increase in achievement is attainable, it relates to the students and the should occur by 2018.	Increased academic performance of students in the state's lowest performing schools along with a culture of continuous improvement.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Goal 3- SCDE will support public school EDUCATORS in building expertise for Increasing student growth and achievement, closing the achievement gap, and increasing numbers of students meeting the Profile of the SC Graduate.	The goal is clearly lists the support to districts and schools, it can be measured, providing the support is achievable, relates to closing the achievement gap, and it should be completely implemented by 2018	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.
	Strategy 3.1- Build learning progressions into the Student Learning Objective (growth component of evaluation, "SLO") development and assessment process.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.1.1-100 percent of districts will be trained on using student learning objectives to measure student growth by 2018	The number of districts trained is clear and specific, the percentage trained is measurable, achievement is attainable, it relates to increasing expertise, and it should occur for all districts by 2018.	Educators will be better able to support the success of all students.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.1.2- Obtain and train 100 percent of school districts on the State Observation Rubric by 2018	The number of districts trained is clear and specific, the percentage trained is measurable, achievement is attainable, it relates to increasing expertise, and it should occur for all districts by 2018.	Educators will be better able to support the success of all students.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.1.3- Pilot standards based learning progressions within SLOs 2016-17 school year.	The pilot of progressions within SLOs is clear and specific, the success is measurable, achievement is attainable, it relates to increasing expertise, and it should occur for pilot districts in 2016-2017.	Educators will be better able to support the success of all students.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
State-SC Code of Laws Title 59	Objective 3.1.4-One school in each district will use the learning progressions approach to SLOs by 2018	The percentage of districts implementing the approach is specific, the percentage implemented is measurable, achievement is attainable, it relates to increasing expertise, and it should occur for all districts by 2018.	Educators will be better able to support the success of all students.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
	Strategy 3.2 All educators will be equipped to lead and support student growth and achievement	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.2.1- Recruit, train, and retain educators rated proficient ("met") or above on overall effectiveness rating using multiple measures	The percentage of proficient educators is specific, the percentage proficient is measurable, achievement is attainable, it relates to increased student achievement, and it should occur for all districts by 2018	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	
State-SC Code of Laws Title 59	Objective 3.2.2- 100% of Mentor Teachers will be trained on new mentor guidelines to better support induction teachers by 2017	The percentage of educators trained is specific, the percentage is measurable, achievement is attainable, it relates to increased expertise, and it should occur for all districts by 2017	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.2.3- Implement new incentives to reduce educator turnover in high poverty, high minority rural districts by 2018.	Implementation of incentives is specific, the implementation in all applicable districts is measurable, achievement is attainable, it relates to educator retention, and it should occur for all applicable districts by 2018.	Increased quality educator retention	*Karla Hawkins*	*6*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	
State-SC Code of Laws Title 59	Objective 3.2.4- Secure and implement a multi level rubric aligned to the profile of the classroom teacher for use in evaluation of professional practice by fall of 2017	Implementation of a rubric in all schools is clear and specific, existence is measurable, achievement of 100% is attainable, it relates to increased performance, and it should occur for all districts by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59	Objective 3.2.5- 100 percent of teacher evaluators must participate in evaluator training related to effective educator practice, related evidence, and coaching skills by May 2017	The percentage of evaluators trained is clear and specific, the percentage trained is measurable, achievement is attainable, it relates to increasing expertise, and it should occur for all districts by 2017.	Educator quality	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.2.6- Review and revise certification criteria to create more flexibility and more routes to certification.	The revision of criteria is clear and specific, existence is measurable, achievement of 100% is attainable, it relates to increased routes to certification, and it should occur for all districts by 2018.	Increased number of quality educators.	Karla Hawkins	4 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure listed
	Strategy 3.3- SCDE will create, enhance and partner with others to provide Leadership Programs to support the Profile of the SC Graduate.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.3.1- SCDE will enhance program offerings for providing coaching.	The number of coaching program offerings is specific, the increase in offerings is measurable, achievement is attainable, it relates to educator quality, and it should occur for all applicable districts by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.3.2- Create or sponsor programs that support leaders in developing and implementing personalized learning (e.g., STEM, Montessori, and other innovative public school choice options).	The number of programs is specific, the increase in offerings is measurable, achievement is attainable, it relates to educator quality, and it should occur for all applicable districts by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.3.3- Update the Principal Induction Program to include evidence-based school improvement models, personalized learning, and academic growth of all students.	The revision of the program is clear and specific, the inclusion of evidence based models is measurable, achievement is attainable, it relates to increased leadership knowledge, and it should impact all new principals by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
	Strategy 3.4- South Carolina teacher candidates will have the knowledge, skills, and abilities to increase the number of students meeting the Profile of the SC Graduate.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.4.1- Teacher preparation programs will ensure candidates can work in teams to facilitate interdisciplinary personalized learning	The revision of programs is clear and specific, the inclusion of teams to facilitate interdisciplinary personalized learning is measurable, achievement is attainable, it relates to increased educator knowledge, and it should impact all new educators by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.4.2- Teacher preparation programs will ensure candidates can assess whether students are on track, analyze data and find evidence-based interventions when they are not, and implement effective learning strategies for all students.	The revision of programs is clear and specific, the inclusion of specific criteria is measurable, achievement is attainable, it relates to increased educator knowledge, and it should impact all new educators by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure listed
	Strategy 3.5 - Implement the strategies outlined in the South Carolina plan for equitable access to excellent educators.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.5.1- Support development of a pipeline of educators to high poverty, high minority, and rural schools.	Increasing the number of educators is specific, the increase in needed areas is measurable, achievement is attainable, it relates ultimately to student success, and it should occur for all applicable districts by 2018.	Improved student achievement	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure listed

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 3.5.2-Promote distributed leadership, instructional support, and improved school climate.	Providing support and resources is clear, the level of support is measurable, achievement is attainable, it is relevant to quality educators, and it should occur for all districts by 2018.	Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
Federal ESEA and State-SC Code of Laws Title 59	Objective 3.5.3- Advocate for greater salary equity among South Carolina school districts.	Increased novice teacher salaries is specific, the level of increase in the SC minimum salary schedule is measurable, achievement is attainable, it is relevant to educator retention, and it should occur by 2020.	Educator retention	Emily Heatwole	13 months	Director	*1429 Senate Street Columbia, SC 29201*	Governmental Affairs	Governmental Affairs is the State Department of Education's liaison with the General Assembly, Governor's Office, and Congressional Delegation. It assists the State Superintendent's office and the Department in the area of legislative affairs by monitoring legislation of interest to the agency and serving as the main point of contact with state and federal legislators. The office is also an information clearinghouse for the public, media, and other state agencies.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Goal 4 -State, district and school LEARNING SYSTEMS will be aligned to promote personalized student growth, achievement, and the Profile of the S.C. Graduate.	The goal is clearly lists aligning state learning systems, it can be measured, aligning the systems is achievable, relates to personalized student growth, and it should be completely implemented by 2018	Students will graduate with world class knowledge and skills to be successful in college, careers, and citizenship.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	
	Strategy 4.1- Fully implement a student longitudinal data system to communicate state, district, and school progress.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 4.1.1- Work with contractors and agency processes to ensure data from the Student Information System is accurate, reliable, and valid	Increasing the quality of data is specific, the increase in quality is measurable, achievement of increased quality is attainable, it relates to increased personalized learning, and it should be completely implemented by 2018.	Better SIS data supports better decision making, resulting in more effective personalized learning aligned to the Profile.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 4.1.2- Ensure that 100% of data are private and secure.	Security of all of data is specific, the lack of any data compromises or losses is measurable, achievement of increased security is attainable, it relates to increased personalized learning, and it should be completely implemented by 2018.	Secured student data.	Ken Puett	13 Months	Chief Information Security Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Information Security Office*	The mission of the Chief Information Security Office is to safeguard the confidentiality, integrity, and availability of information systems, data, and applications by providing proactive security expertise, creating and maintaining robust security architecture, and fostering a culture of security awareness throughout the Agency.	no performance measure listed. Ken?
State-SC Code of Laws Title 59	Objective 4.1.3-All aggregated/disaggregated summative assessment data will be presented in stakeholder-friendly formats in the student longitudinal data system by 2018.	Increased use of stakeholder friendly formats is specific, the inclusion of this format is measurable, achievement is attainable, it relates to increased reporting of progress, and it should be completely implemented by 2018.	Better communication leads to increased understanding of the successes and needs of students in public education.	*Sheila Quinn*	*7 months*	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	*Innovation and Effectiveness*	The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.	no performance measure listed
	Strategy 4.2-All districts will use an international model of qualitative systems review and continuous improvement for accreditation.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 4.2.1-All districts will be in compliance with state and federal regulations.	Compliance with regulations is clear and specific, the compliance is measurable, achievement is attainable, it relates to continuous improvement for accreditation, and it should occur for all districts by 2018.	Continuous improvement; continuous eligibility for state and federal funding	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources		no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 4.2.2- The SCDE will develop one consolidated, coherent planning tool that incorporates and aligns all required state and federal plans by 2018.	The development of a consolidated plan is clear and specific, the inclusion of specific criteria is measurable, achievement is attainable, it relates to increased efficiency for district users, and it should impact all new educators by 2018.	Increased efficiency and better aligned plans that could result in higher achievement of the aligned goals.	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Goal 5- SCDE will support expanded LEARNING OPPORTUNITIES for all students to promote the Profile of the S.C. Graduate.	The goal is clearly lists the support to districts and schools, it can be measured, providing the support is achievable, relates to personalized student growth, and it should be completely implemented by 2018	Students will graduate with world class knowledge and skills to be successful in college, careers, and citizenship.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	

Strategy, Objectives and Responsibility

	Strategy 5.1-Implement robust virtual options to meet state needs that serve 100% of students and schools who apply for a virtual course	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.1.1- Monitor student course requests to employ an adequate number of adjunct virtual program faculty to meet student demand.	Employing an adequate number of faculty is specific, the number of students turned away due to not enough staff is measurable, employing enough staff is achievable, it relates to expanded opportunities for students and it should be implemented by June 2016.	Expanded student learning opportunities at lower cost to the public.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.1.2- Implement a virtual program to serve expelled high school students in spring 2016.	Implementing a program for expelled students is specific, implementation is measurable, implementing the program is attainable, it relates to expanded opportunities for students and it should be implemented by Spring 2016.	Expanded student learning opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59	Objective 5.1.3- Research a virtual Middle School program model aligned to standards to meet district requests.	Recommending a middle school program is, the development of a recommendation after research is measurable, achievement is attainable, it relates to expanded opportunities for students and it should be implemented by July 2016.	Expanded student learning opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
	There is no 5.1.4.								
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.1.5- Develop and measure annually the number of students who participate in a free virtual, dual enrollment program.	Monitoring the number of participants is specific, the participation is measurable from year to year, achievement is attainable, it relates to expanded opportunities for students and it should be implemented by January 2016.	Expanded student learning opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.1.6- Provide virtual program for all John de la Howe School students in courses where there are no certified teachers.	Providing the program when needed is specific, the actual number of participants is measurable from year to year, achievement is attainable, it relates to expanded opportunities for students and it should be implemented by in 2016.	Expanded student learning opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
	Strategy 5.2- Align Career and Technology Education courses with workforce development needs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Objective 5.2.1-Increase the percentage of CATE completers who earn a silver or higher on the National Career Readiness Certificate	Increasing the percentage of completers with a certificate is specific, the increase is measurable, achievement is attainable, it relates ultimately to student success, and it should occur in 2016.	Improved student achievement; more students better prepared for post-secondary success	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.	Objective 5.2.2-Develop baseline data on student attainment of industry certificates and increase the percentage of student attainment by 1 percentage point annually	Increasing the percentage of completers with a certificate is specific, the increase is measurable, achievement is attainable, it relates ultimately to student success, and it should occur in 2016.	Improved student achievement; more students better prepared for post-secondary success	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
	Strategy 5.3-Support schools and districts in strengthening the quality of their early learning programs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.3.1- 70% of Kindergarten students will enter school "ready to learn" by 2018	Increasing the percentage of students entering school ready to learn is specific, the increase is measurable, achievement is attainable, it relates ultimately to student success, and it should occur by 2018.	Improved student achievement; higher long-term graduation rates and post-secondary success.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.3.2- Provide support and training to ensure that 100 percent of districts implement Readiness Assessments in 4K and 5K programs	Providing support and training is specific, the percentage of district implementation is measurable, achievement of full district implementation is attainable, it relates ultimately to student success, and it should occur in 2016.	Improved student achievement; higher long-term graduation rates and post-secondary success.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59	Objective 5.3.3-Devise new 4K standards that align with 5K standards and train 100% of districts on implementation strategies by 2017	Devising standards and providing training is specific, the percentage of districts trained is measurable, the objective of all districts to be trained on implementation strategies is attainable, it relates ultimately to student success, and it should occur in 2017.	Improved student achievement; higher long-term graduation rates and post-secondary success.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.3.4-Monitor district reading plans annually to ensure that there is a plan for students to read on grade level by grade 3	Monitoring plans for specific information is clear, whether a plan exists for students to read on grade level is measurable, achievement of this objective is attainable, it is relevant to improved student achievement, and it should be completed by 2017.	Improved student achievement; higher long-term graduation rates and post-secondary success.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.3.5- Increase the percentage of Districts meeting preschool special education outcome targets from 55 to 60 percent	Increasing the percentage of meeting the special education outcome targets is specific, the increase in the percentage of districts meeting the target is measurable, the level of increase is attainable, it relates ultimately to student success, and it should occur in 2016.	Improved student achievement; higher long-term graduation rates and post-secondary success.	Julie Fowler	12 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
	Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.4.1 50% of all elementary schools will provide before- and after-school academic remediation and acceleration activities	Increasing the percentage of elementary schools with specific activities is clear, the increase in the percentage of schools is measurable, the level of increase is attainable, it relates ultimately to student success, and it should occur by 2018.	Improved student achievement	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.4.2- Increase the number of schools with active community partners (those that provide necessary resources regularly) by 10% annually (see State Reading Goal 5).	Increasing the number of schools with partners is specific and clear, the increase in the percentage of schools is measurable, the level of increase is attainable, it relates ultimately to student success, and it should occur by 2018.	Improved student achievement; better public understanding and engagement in public education; increased resources for schools.	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.4.3-50% of students will have access to supplemental academic assistance provided by community partners by 2018	Increasing the number of students with access to supplemental academic assistance specific and clear, the increase in the percentage of students is measurable, the level of increase is attainable, it relates ultimately to student success, and it should occur by 2018.	Improved student achievement, better engaged community, increased resources and capacity for districts	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.4.4 Increase the number of students participating in summer learning	Increasing the number of students participating in summer learning specific and clear, the increase in the percentage of students is measurable, the level of increase is attainable, it relates ultimately to student success, and it should occur by 2018.	Improved student achievement	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.4.5-Advocate for increased state support of summer and afterschool programs and include transportation	Although SCDE does not have control over increases in funding, by advocating for increases, especially for the districts with the fewest resources the State may obtain specific, measurable, attainable, and relevant results by 2018.	Extended learning opportunities are a research-based method of increasing academic achievement. Transportation is a well-known barrier to participation and attendance, especially in the rural districts, to that output results in increased attendance and student achievement.	Emily Heatwole	13 months	Director	*1429 Senate Street Columbia, SC 29201*	Governmental Affairs	Governmental Affairs is the State Department of Education's liaison with the General Assembly, Governor's Office, and Congressional Delegation. It assists the State Superintendent's office and the Department in the area of legislative affairs by monitoring legislation of interest to the agency and serving as the main point of contact with state and federal legislators. The office is also an information clearinghouse for the public, media, and other state agencies.	No performance measure listed
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.4.6- Increase family awareness of and involvement in children's literacy development (State Reading Goal 4).	Increasing the parental involvement in literacy development is specific and clear, the increase in participation is measurable, the increase in involvement is attainable, it relates ultimately to student success, and it should occur by 2018.	Improved student achievement; increased family engagement in students' learning.	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	No performance measure listed
	Strategy 5.5- All students will have access to world class opportunities in the world language, related arts, technology, and accelerated programs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.5.1-Report the percentage of student participation in high quality world language programs by district	Reporting on the percentage of participation is specific, the percentage of increase is measurable from year to year, the increase is attainable, it relates ultimately to student success, and it should occur by 2016.	Increased access to world class opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.5.2- Report the percentage of student participation in high quality arts programs by district	Reporting on the percentage of participation is specific, the percentage of increase is measurable from year to year, the increase is attainable, it relates ultimately to student success, and it should occur by 2016.	Increased access to world class opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.5.3- 100% of middle schools will offer courses for high school credit by 2018	Increasing the percentage of school offering credit is specific, the percentage of increase is measurable , the increase is attainable, it relates ultimately to student success, and it should occur by 2016.	Increased access to world class opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.5.4-The percentage of students achieving a 3 or higher on Advanced Placement or a 4 or higher International Baccalaureate courses will exceed the national average	Increasing the percentage students scoring higher in advanced courses is specific, the percentage of increase is measurable , the increase is attainable, it relates ultimately to student success, and it should occur in 2016.	Increased access to world class opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.	

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59	Objective 5.5.5- 100% of high schools will report students participating in dual credit courses	Increasing the percentage of high schools reporting participation is specific, the percentage of increase is measurable , the increase is attainable, it relates ultimately to student success, and it should occur in 2016.	Increased access to world class opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 5.5.6- Increase the percentage of compliance of postsecondary transition and services of students with IEPs from 92 percent to 95 percent	Increasing the percentage of compliance is specific, the percentage of increase is measurable , the increase is attainable, it relates ultimately to student success, and it should occur in 2016.	Increased access to world class opportunities	Julie Fowler	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	*College & Career Readiness*	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Goal 6- SCDE will support DISTRICTS in BUILDING CAPACITY and expertise so that students have safe and healthy environments for long-term success.	The goal is clearly lists the support to districts, it can be measured, providing the support is achievable, relates to health and safety of students, and it should be completely implemented by 2018	Students will perform in a safe and healthy environment.	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.
	Strategy 6.1-Operate a safe and efficiently-operated school transportation program	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Objective 6.1.1- Operate a school maintenance program that ensures daily availability of regular-route school vehicles and reduces mechanic turnover by 1 percentage point annually	Ensuring daily availability of regular route vehicles and reduced mechanic turnover is specific, the reduction of turnover can be measured from year to year, availability and reduction of turnover are achievable, it relates to safe and efficient transportation, and it should be implemented by 2018	Safe and efficient student transportation	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59	Objective 6.1.2- Administer the School Bus Driver Training and Certification program to reduce the number of driver-caused bus accidents by 1 percentage point annually.	Administering a training program and reduced driver caused accidents is specific, the reduction in accidents can be measured from year to year, providing training and reducing accidents by 1 % is achievable, it relates to safe and efficient transportation, and it should be implemented by 2020	Safe and efficient student transportation	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and	Objective 6.1.3-Reduce the number of student ride times that exceed 90 minutes by 50 percent	Reducing student ride times is clear and specific, the percentage of reduction is measurable, the level of reduction is attainable, it relates to safe and efficient student transportation, and it should be implemented by 2020	Safe and efficient student transportation	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Objective 6.1.4- Reduce average age of current school bus fleet to comply with the 15 year replacement cycle	Reducing the age of the fleet is clear and specific, the age of the fleet is measurable, complying with the 15 year replacement cycle is attainable, it relates to safe and efficient student transportation, and it should be implemented by 2020.	Safe and efficient student transportation	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	
	Strategy 6.2-Provide and support a healthy learning environment by ensuring accessing to nutritious meals.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Objective 6.2.1-Train and monitor school food authorities to develop meals plans that are compliant with federal child nutrition requirements.	Training and monitoring for compliance is specific, the compliance is measurable, achievement is attainable, it relates to supporting a healthy learning environment for students, and it should occur for all districts by 2016.	Healthy learning environment for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure

Strategy, Objectives and Responsibility

Federal USDA regulations	Objective 6.2.2- Increase the direct certification state-wide rate for eligible students from 86% to 88%	Increasing the direct certification rate is specific, the level of increase is measurable, the level of increase is attainable, it is relevant to supporting a healthy learning environment for students, and it should occur by 2016.	Healthy learning environment for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure
Federal USDA regulations	Objective 6.2.3-Reduce the number of school food authorities subject to fiscal action for noncompliance by 50% to 10 school food authorities	Reducing noncompliance is specific, the noncompliance is measurable, achievement is attainable, it relates to sustain funding to supporting a healthy learning environment for students, and it should occur for all districts by 2016.	Sustained funding to supporting a healthy learning environment for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Objective 6.2.4-Reduce the state-wide verification non-response rate by 10% to 32%	Reducing the non-response rate is specific, the reduction is measurable, achievement of 10% reduction is attainable, it relates to supporting a healthy learning environment for students, and it should occur for all districts by 2016.	Healthy learning environment for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure
Federal USDA regulations	Objective 6.2.5-Administer the Summer Food Service and Simplified Summer Feeding Programs to ensure access to nutritious meals during the summer	Increasing the total count of participants is specific, the increase is measurable, the level of increase is attainable, it relates to supporting a healthy learning environment for students, and it should occur by 2016.	Healthy learning environment for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	
	Strategy 6.3- Students will learn in safe school buildings.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation. International Building Code	Objective 6.3.1-Sponsor the development of appraisal and maintenance standards for school buildings.	Sponsoring the development of standards is specific, whether the standards are developed is measurable, sponsoring the development is attainable, its relevant to safe school buildings, and it should be complete by 2018	Safe school buildings for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure
State-SC Code of Laws Title 59	Objective 6.3.2-Review plans to remodel and build new schools buildings that support systems of personalized learning with educator teams.	Reviewing plans that support personalized learning is specific, reviewing plans with the appropriate personnel is measurable, the appropriate review is attainable, it relates to safe school buildings, and it should be complete by 2018.	Safe school buildings for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure
State-SC Code of Laws Title 59	Objective 6.3.3-Monitor the number of districts' capital improvements to address safety and building access.	Monitoring capital improvements for specific concerns is specific, monitoring the number is measurable, being able to address concerns is attainable, it relates to safe school buildings for students, and it should be implemented by 2018.	Safe school buildings for students	Virgie Chambers	13 months	Deputy Superintendent	*1429 Senate Street Columbia, SC 29201*	Operations and Support	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	no performance measure
	Strategy 6.4- Support schools in developing positive and supportive climates for learning	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Objective 6.4.1-Ensure that 100 percent of schools implement anti-bullying initiatives	Increasing the percentage of schools implementing anti-bullying initiatives is clear and specific, increasing the percentage is measurable, achieving the desired percentage is attainable, it relates to positive climates for learning, and it should be fully implemented by 2018.	Positive climates for learning	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59	Objective 6.4.2-100% of schools will conduct safety drills according to district and school safety plans	Increasing the percentage of schools conducting drills is clear and specific, increasing the percentage is measurable, achieving the desired percentage is attainable, it relates to positive climates for learning, and it should be fully implemented by 2018.	Positive climates for learning	Karla Hawkins	5 months	*Deputy Superintendent*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.	Objective 6.4.3- Increase access to counselors, social workers, and mental health professionals to support the whole child and promote students' ability to learn.	Increasing the access to needed professionals is specific and clear, increasing the access is measurable, achieving an optimal number is attainable, it relates to positive climates for learning for students, and it should be implemented by 2018.	Positive climates for learning	Karla Hawkins and Virgie Chambers	5 months and 13 months	*Deputy Superintendents*	*1429 Senate Street Columbia, SC 29201*	Federal, State, and Community Resources	The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate	no performance measure
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Goal 7-The culture of South Carolina public education will be one of innovation and continuous improvement.	The goal clearly relates to innovation and continuous improvement, measures are still being completed, once complete they will be achievable, relevant to increased innovation and improved processes, and should be completely implemented by 2018	Education systems will be good stewards of public funding, and will focus efforts on innovative and improving programs that work and have a high return on investment.	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	
	Strategy 7.1-SCDE will add to the evidence and research base of what works in public education.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 7.1.1-All programs will have metrics for determining quality and fidelity of implementation.	Requiring all programs to have implementation metrics is specific, whether or not the metrics exist is measurable, development of the metrics is attainable, it is relevant increasing the evidence and research base in SC public education, and it should be implemented by 2018.	Increased evidence and research based practices; better assessment of implementation for monitoring, compliance, and evaluation purposes.	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 7.1.2-All programs will have baseline and post-implementation objective metrics for measuring effectiveness in meeting the stated goals.	Requiring all programs to have baseline and post-implementation metrics is specific, whether or not the metrics exist is measurable, development of the metrics is attainable, it is relevant increasing the evidence and research base in SC public education, and it should be implemented by 2018.	Increased evidence and research based practices; better evaluation metrics for assessment what works and return on investment.	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 7.1.3-All programs will include qualitative feedback loops to track stakeholder satisfaction and to serve as early indicators of elements needing improvement.	Requiring all programs to have stakeholder feedback is specific, whether or not the mechanisms for the qualitative feedback exists is measurable, development of the feedback loops is attainable, it is relevant increasing the evidence and research base in SC public education, and it should be implemented by 2018.	Increased evidence and research based practices; indicators for continuous improvement; early assessment of programs that are not working to reduce public waste.	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 7.1.4- All programs will collect and evaluate data to estimate the return on the public's investment compared to cost and effectiveness.	Requiring all programs to collect and evaluate data to calculate ROI is clear and specific, whether or not the data and mechanisms exist for calculating a return on investment is measurable, the collection and evaluation of data is attainable, it is relevant to increasing the evidence and research base in public education, and it should be implemented by 2018.	Increased evidence and research based practices; better stewardship of state resources.	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure
	Strategy 7.2- SCDE will foster a culture of innovation, improvement, excellence, collaboration, service, and urgency.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 7.2.1- SCDE will recruit, retain, and develop high-quality professionals dedicated to its culture and promotion of the Profile of the SC Graduate.	Employing high quality professionals is clear and specific, the quality of staff and recruitment, retention, and development of staff are measurable, employing high quality professionals is attainable, it is relevant to fostering a culture of excellence, and it should be implemented by 2018.	Increased productivity; better service to the State, and a culture of excellence	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure

Strategy, Objectives and Responsibility

State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Objective 7.2.2- SCDE will model its culture for schools and districts in all of its activities.	Modeling the culture to external stakeholders is clear, the quality of the modeling efforts is measurable, leading by example is attainable, it is relevant to creating a culture of excellence in education, and it should be implemented by 2018.	A culture of excellence	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure
	Objective 7.2.3- SCDE will measure its climate, culture, and effectiveness through annual performance reviews, stakeholder input, and well-defined performance measures.	Requiring the agency to measure its climate, culture and effectiveness is specific, whether or not the mechanisms for the assessing these elements exist is measurable, development of the measures is attainable, it is relevant creating a culture of excellence, and it should be implemented by 2018.	A culture of excellence; improved public service; resulting in more effective public schools and increased student achievement	Elizabeth Carpentier	13 months	Chief of Staff/Chief Operating Officer	*1429 Senate Street Columbia, SC 29201*	*Chief Operating Officer*	The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources.	no performance measure

Associated Programs

This is the next chart because once the agency has determined its goals, strategies and objectives, the agency needs to determine which of its programs will help achieve those objectives and goals and which programs may need to be curtailed or eliminated. If one program is helping accomplish an objective that a lot of other programs are also helping accomplish, the agency should consider whether the resources needed for that program could be better utilized (i.e. so the agency can most effectively and efficiently accomplish all of its goals and objectives) if they were distributed among the other programs that are helping accomplish the same objective or among programs that are helping accomplish other objectives.

Agency Responding	South Carolina Department of Education
Date of Submission	February 26, 2016
Fiscal Year for which information below pertains	2015-16

Instructions :
1) Under the "Name of Agency Program" column, enter the name of every program at the agency on a separate row.
2) Under the "Description of Program" column, enter a 1-3 sentence description of the agency program.
3) Under the "Legal Statute Requiring Program" column, enter the legal statute which requires (this is different than allows) the program, if the program is required by a state or federal statute or proviso. Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute. If the program is not required by a state or federal statute or proviso, enter "none."
3) Under the "Objective the Program Helps Accomplish" column, enter the strategic plan objective number and description. The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart. Enter ONLY ONE objective per row. If an agency program helps accomplish multiple objectives, insert additional rows with that agency program information and enter each different objective it helps accomplish on a separate row.

Name of Agency Program	Description of Program	Legal Statute or Proviso Requiring the Program	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart) List ONLY ONE strategic objective per row.
Flow Through to Districts/Other Entities/Special Items	Provide direct aid to school districts to include the basic foundation program for students in all SC school districts to include the two special school districts and one special school; other entities and state agencies; includes Education Improvement Act funds used to support programs above the foundation program for improvement and enhancement (some expenditures are included in programs below)	State-SC Code of Laws Title 59	1.1.1-75% of students in grades 3-8 English language arts and writing score proficiency or higher by 2018
			Objective 1.1.2 -75% of students in grades 3-8 mathematics will score proficiency or higher by 2018
			Objective 1.1.3 -75% of students in targeted grades will score proficient or higher on science summative assessments by 2018
			Objective 1.1.4 -75% of students in targeted grades will score proficient or higher on social studies assessments by 2018
			Objective 1.1.5 -Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by 2018

Associated Programs

			Objective 1.2.2- 60% of non-duplicated gap subgroup will score proficient or higher on grade level standards in ELA and mathematics by 2018.
			Objective 1.2.3 -Progress of historically underperforming readers will accelerate compared to average state progress on reading assessments in grades 3, 5, 8, and 11 (State Reading Goal 2).
			Objective 1.3.4 - Increase the percentage of seniors graduating on time by 1 percentage point each year
			Objective 1.3.5 - Decrease the number of students requiring remediation at the start of post-secondary education (State Reading Goal 3).
			Objective 2.1.1 -At least one school in every district will meet the state standard for a personalized learning program by 2018
			Objective 2.1.2 - Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation
			Objective 2.1.3 - Increase stakeholder consumption of online SCDE resources related to public school choice and school wide innovation
			Objective 3.2.1- Recruit, train, and retain educators rated proficient ("met") or above on overall effectiveness rating using multiple measures
			Objective 3.2.2- 100% of Mentor Teachers will be trained on new mentor guidelines to better support induction teachers by 2017
			Objective 3.2.3- Implement new incentives to reduce educator turnover in high poverty, high minority rural districts by 2018.
			Objective 3.2.4- Secure and implement a multi level rubric aligned to the profile of the classroom teacher for use in evaluation of professional practice by fall of 2017
			Objective 4.2.1-All districts will be in compliance with state and federal regulations.
			Objective 5.4.1 50% of all elementary schools will provide before- and after-school academic remediation and acceleration activities

Associated Programs

			Objective 5.4.2- Increase the number of schools with active community partners (those that provide necessary resources regularly) by 10% annually (see State Reading Goal 5).
			Objective 5.4.3-50% of students will have access to supplemental academic assistance provided by community partners by 2018
			Objective 5.4.5-Advocate for increased state support of summer and afterschool programs and include transportation
			Objective 5.5.1-Report the percentage of student participation in high quality world language programs by district
			Objective 5.5.2- Report the percentage of student participation in high quality arts programs by district
			Objective 5.5.3- 100% of middle schools will offer courses for high school credit by 2018
			Objective 5.5.6- Increase the percentage of compliance of postsecondary transition and services of students with IEPs from 92 percent to 95 percent
			Objective 6.4.3- Increase access to counselors, social workers, and mental health professionals to support the whole child and promote students' ability to learn.
Operations and Support	Provide funds and support operations to the SC education system to include the pupil transportation system; nutrition services; school building and Medicaid services	State-SC Code of Laws Title 59	Objective 4.2.1-All districts will be in compliance with state and federal regulations.
			5.4.5-Advocate for increased state support of summer and afterschool programs and include transportation
			Objective 6.1.1- Operate a school maintenance program that ensures daily availability of regular-route school vehicles and reduces mechanic turnover by 1
			Objective 6.1.2- Administer the School Bus Driver Training and Certification program to reduce the number of driver-caused bus accidents by 1 percentage point annually.

Associated Programs

			Objective 6.1.3-Reduce the number of student ride times that exceed 90 minutes by 50 percent
			Objective 6.1.4- Reduce average age of current school bus fleet to comply with the 15 year replacement cycle
			Objective 6.2.1-Train and monitor school food authorities to develop meals plans that are compliant with federal child nutrition requirements.
			Objective 6.2.2- Increase the direct certification state-wide rate for eligible students from 86% to 88%
			Objective 6.2.3-Reduce the number of school food authorities subject to fiscal action for noncompliance by 50% to 10 school food authorities
			Objective 6.2.4-Reduce the state-wide verification non-response rate by 10% to 32%
			Objective 6.2.5-Administer the Summer Food Service and Simplified Summer Feeding Programs to ensure access to nutritious meals during the summer
			Objective 6.3.1-Sponsor the development of appraisal and maintenance standards for school buildings.
			Objective 6.3.2-Review plans to remodel and build new schools buildings that support systems of personalized learning with educator teams.
			Objective 6.3.3-Monitor the number of districts' capital improvements to address safety and building access.
			Objective 6.4.2-100% of schools will conduct safety drills according to district and school safety plans
			Objective 6.4.3- Increase access to counselors, social workers, and mental health professionals to support the whole child and promote students' ability to learn.
Chief Financial Office	Provide funds and support of financial operations to the education system and agency; support of the State Textbook System and the payment of fringe benefits to agency employees	State-SC Code of Laws Title 59	Objective 2.2.1 - All federally monitored Title 1 districts will be in 100% compliance with federal policies and guidelines for use of Title 1 funds annually

Associated Programs

			Objective 2.2.2 - Provide continued training and technical support to all entities receiving Federal funds to maximize available flexibility
			3.5.3- Advocate for greater salary equity among South Carolina school districts
			Objective 4.2.1-All districts will be in compliance with state and federal regulations.
			Objective 6.1.4- Reduce average age of current school bus fleet to comply with the 15 year replacement cycle
			Objective 6.2.3-Reduce the number of school food authorities subject to fiscal action for noncompliance by 50% to 10 school food authorities
			Objective 6.2.5-Administer the Summer Food Service and Simplified Summer Feeding Programs to ensure access to nutritious meals during the summer
Assessments	Support of state and federally mandated and formative assessments for students	State-SC Code of Laws Title 59	Objective 1.1.1 - 75% of students in grades 3-8 English language arts and writing score proficiency or higher by 2018
			Objective 1.1.2 -75% of students in grades 3-8 mathematics will score proficiency or higher by 2018
			Objective 1.1.3 -75% of students in targeted grades will score proficient or higher on science summative assessments by 2018
			Objective 1.1.4 -75% of students in targeted grades will score proficient or higher on social studies assessments by 2018
			Objective 1.1.5 -Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by
			1.3.1 -50% of students will meet all benchmarks for college readiness on a Grade 11 college entrance assessment by 2018
			Objective 1.3.2- Rank in the top 50% nationally (compared to states giving the test to ALL students) in the average score on the Grade 11 college entrance assessment by 2018
			Objective 4.1.3-All aggregated/disaggregated summative assessment data will be presented in stakeholder-friendly formats in the student longitudinal data system by 2018.

Associated Programs

			Objective 5.3.2- Provide support and training to ensure that 100 percent of districts implement Readiness Assessments in 4K and 5K programs
			Objective 5.5.4-The percentage of students achieving a 3 or higher on Advanced Placement or a 4 or higher International Baccalaureate courses will exceed the national average
Career & Technology Education/Education and Economic Development Act	Support of Work Force Readiness and Career and Technology Education	State-SC Code of Laws Title 59	Objective 1.3.3 -65% of students will achieve a "4" or higher on the Grade 11 WorkKeys assessment
			5.2.1-Increase the percentage of CATE completers who earn a silver or higher on the National Career Readiness Certificate
			Objective 5.2.2-Develop baseline data on student attainment of industry certificates and increase the percentage of student attainment by 1 percentage point annually
			Objective 5.5.5- 100% of high schools will report students participating in dual credit courses
Accountability	Support for the state's education accountability system to include developing and implementing standards to include professional development and SLOs, assisting low performing schools, report card creation and distribution, data collection and maintenance and technological support to the agency and school districts	State-SC Code of Laws Title 59	Objective 1.1.1 - 75% of students in grades 3-8 English language arts and writing score proficiency or higher by 2018
			Objective 1.1.2 -75% of students in grades 3-8 mathematics will score proficiency or higher by 2018
			Objective 1.1.3 -75% of students in targeted grades will score proficient or higher on science summative assessments by 2018
			Objective 1.1.4 -75% of students in targeted grades will score proficient or higher on social studies assessments by 2018
			Objective 1.1.5 -Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by 2018
			Objective 1.2.2- 60% of non-duplicated gap subgroup will score proficient or higher on grade level standards in ELA and mathematics by 2018.
			Objective 1.2.3 -Progress of historically underperforming readers will accelerate compared to average state progress on reading assessments in grades 3, 5, 8, and 11 (State Reading Goal 2).
			Objective 1.3.4 - Increase the percentage of seniors graduating on time by 1 percentage point each year

Associated Programs

			Objective 1.3.5 - Decrease the number of students requiring remediation at the start of post-secondary education (State Reading Goal 3).
			Objective 2.2.1 - All federally monitored Title 1 districts will be in 100% compliance with federal policies and guidelines for use of Title 1 funds annually
			Objective 2.2.2 - Provide continued training and technical support to all entities receiving Federal funds to maximize available flexibility
			Objective 2.3.1 - Create and conduct a diagnostic review process in 100% of priority schools by 2018.
			Objective 2.3.2- Assign a trained SCDE transformation coach to 100% of priority schools by 2018.
			Objective 2.3.3 - 50 percent of federal focus schools will reduce their most significant subgroup gap with no decrease in the ALL Students subgroup.
			Objective 2.3.4 - 50 percent of priority schools will show improvement on annual summative assessments.
			Objective 3.1.1-100 percent of districts will be trained on using student learning objectives to measure student growth by 2018
			Objective 3.1.2- Obtain and train 100 percent of school districts on the State Observation Rubric by 2018
			Objective 3.1.3- Pilot standards based learning progressions within SLOs 2016-17 school year.
			Objective 3.1.4-One school in each district will use the learning progressions approach to SLOs by 2018
			Objective 4.1.1- Work with contractors and agency processes to ensure data from the Student Information System is accurate, reliable, and valid
			Objective 4.1.2- Ensure that 100% of data are private and secure.

Associated Programs

			Objective 4.1.3-All aggregated/disaggregated summative assessment data will be presented in stakeholder-friendly formats in the student longitudinal data system by 2018.
			Objective 4.2.1-All districts will be in compliance with state and federal regulations.
			Objective 4.2.2- The SCDE will develop one consolidated, coherent planning tool that incorporates and aligns all required state and federal plans by 2018.
			Objective 5.5.5- 100% of high schools will report students participating in dual credit courses
			Objective 7.1.1-All programs will have metrics for determining quality and fidelity of implementation.
			Objective 7.1.2-All programs will have baseline and post-implementation objective metrics for measuring effectiveness in meeting the stated goals.
			Objective 7.1.3-All programs will include qualitative feedback loops to track stakeholder satisfaction and to serve as early indicators of elements needing improvement.
			Objective 7.1.4- All programs will collect and evaluate data to estimate the return on the public's investment compared to cost and effectiveness.
Read to Succeed/Early Childhood	Support of Read to Succeed; Summer Reading Camps; other literacy programs and the EIA 4 year old full day and half day programs.	State-SC Code of Laws Title 59	Objective 1.2.2- 60% of non-duplicated gap subgroup will score proficient or higher on grade level standards in ELA and mathematics by 2018.
			Objective 1.2.3 -Progress of historically underperforming readers will accelerate compared to average state progress on reading assessments in grades 3, 5, 8, and 11 (State Reading Goal 2).
			Objective 5.3.1- 70% of Kindergarten students will enter school "ready to learn" by 2018
			Objective 5.3.2- Provide support and training to ensure that 100 percent of districts implement Readiness Assessments in 4K and 5K programs
			Objective 5.3.3-Devise new 4K standards that align with 5K standards and train 100% of districts on implementation strategies by 2017
			Objective 5.3.4-Monitor district reading plans annually to ensure that there is a plan for students to read on grade level by grade 3

Associated Programs

			Objective 5.3.5- Increase the percentage of Districts meeting preschool special education outcome targets from 55 to 60 percent
			Objective 5.4.1 50% of all elementary schools will provide before- and after-school academic remediation and acceleration activities
			Objective 5.4.2- Increase the number of schools with active community partners (those that provide necessary resources regularly) by 10% annually (see State Reading Goal 5).
			Objective 5.4.3-50% of students will have access to supplemental academic assistance provided by community partners by 2018
			Objective 5.4.4 Increase the number of students participating in summer learning
			Objective 5.4.6- Increase family awareness of and involvement in children's literacy development (State Reading Goal 4).
Virtual SC	Support of the Department's growing virtual education program	State-SC Code of Laws Title 59	5.1.1- Monitor student course requests to employ an adequate number of adjunct faculty to meet student demand.
			Objective 5.1.2- Implement a program to serve expelled high school students in spring 2016.
			Objective 5.1.3- Research a virtual Middle School program model aligned to standards to meet district requests.
			Objective 5.1.5- Develop and measure annually the number of students who participate in a free virtual, dual enrollment program.
			Objective 5.1.6- Provide virtual program for all John de la Howe School students in courses where there are no certified teachers.
			Objective 5.5.3- 100% of middle schools will offer courses for high school credit by 2018
Superintendent/Educator & School Effectiveness/Other	Provide support of the agency and education entities through administrative efforts for the State Superintendent; the State Board of Education and Educator Services	State-SC Code of Laws Title 59	Objective 1.3.4 - Increase the percentage of seniors graduating on time by 1 percentage point each year
			Objective 1.3.5 - Decrease the number of students requiring remediation at the start of post-secondary education (State Reading Goal 3).

Associated Programs

			Objective 2.1.1 -At least one school in every district will meet the state standard for a personalized learning program by 2018
			Objective 2.1.2 - Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation
			Objective 2.1.3 - Increase stakeholder consumption of online SCDE resources related to public school choice and school wide innovation
			Objective 2.3.1 - Create and conduct a diagnostic review process in 100% of priority schools by 2018.
			Objective 2.3.2- Assign a trained SCDE transformation coach to 100% of priority schools by 2018.
			Objective 2.3.3 - 50 percent of federal focus schools will reduce their most significant subgroup gap with no decrease in the ALL Students subgroup.
			Objective 2.3.4 - 50 percent of priority schools will show improvement on annual summative assessments.
			Objective 3.2.1- Recruit, train, and retain educators rated proficient ("met") or above on overall effectiveness rating using multiple measures
			Objective 3.2.2- 100% of Mentor Teachers will be trained on new mentor guidelines to better support induction teachers by 2017
			Objective 3.2.3- Implement new incentives to reduce educator turnover in high poverty, high minority rural districts by 2018.
			Objective 3.2.4- Secure and implement a multi level rubric aligned to the profile of the classroom teacher for use in evaluation of professional practice by fall of 2017
			Objective 3.2.5- 100 percent of teacher evaluators must participate in evaluator training related to effective educator practice, related evidence, and coaching skills by May 2017
			Objective 3.2.6- Review and revise certification criteria to create more flexibility and more routes to certification.
			Objective 3.3.1- SCDE will enhance program offerings for providing coaching.

Associated Programs

			Objective 3.3.2- Create or sponsor programs that support leaders in developing and implementing personalized learning (e.g., STEM, Montessori, and other innovative public school choice options).
			Objective 3.3.3- Update the Principal Induction Program to include evidence-based school improvement models, personalized learning, and academic growth of all students.
			Objective 3.4.1- Teacher preparation programs will ensure candidates can work in teams to facilitate interdisciplinary personalized learning
			Objective 3.4.2- Teacher preparation programs will ensure candidates can assess whether students are on track, analyze data and find evidence-based interventions when they are not, and implement effective learning strategies for all students.
			Objective 3.5.1- Support development of a pipeline of educators to high poverty, high minority, and rural schools.
			Objective 3.5.2-Promote distributed leadership, instructional support, and improved school climate.
			Objective 3.5.3- Advocate for greater salary equity among South Carolina school districts.
			Objective 4.2.1-All districts will be in compliance with state and federal regulations.
			Objective 4.2.2- The SCDE will develop one consolidated, coherent planning tool that incorporates and aligns all required state and federal plans by 2018.
			Objective 5.1.1- Monitor student course requests to employ an adequate number of adjunct faculty to meet student demand.
			Objective 5.1.2- Implement a program to serve expelled high school students in spring 2016.
			Objective 5.1.3- Research a virtual Middle School program model aligned to standards to meet district requests.
			Objective 5.1.5- Develop and measure annually the number of students who participate in a free virtual, dual enrollment program.

Associated Programs

			Objective 5.1.6- Provide virtual program for all John de la Howe School students in courses where there are no certified teachers.
			Objective 6.4.1-Ensure that 100 percent of schools implement anti-bullying initiatives
Office of Superintendent and all programs within the agency.			Objective 7.2.1- SCDE will recruit, retain, and develop high-quality professionals dedicated to its culture and promotion of the Profile of the SC Graduate.
			Objective 7.2.2- SCDE will model its culture for schools and districts in all of its activities.
			Objective 7.2.3- SCDE will measure its climate, culture, and effectiveness through annual performance reviews, stakeholder input, and well-defined performance measures.
Governor's Schools/First Steps for School Readiness/Public Charter District	Other entities appropriated under H630	State-SC Code of Laws Title 59	

Strategic Budgeting

This is the next chart because once the agency determines its goals, strategies and objectives, as well as the programs that will best allow the agency to accomplish its objectives, the agency needs to determine how to allocate its funds to most effectively and efficiently accomplish the objectives. After allocating the funds to the objectives, the agency may decide to go back and revise which associated programs it will continue, curtail or eliminate in order to most effectively and efficiently accomplish its goals and objectives.

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-2016

IMPORTANT TIME SAVING NOTE: Please note that only one year of budgeted funds is requested. Once an agency is under study with the House Legislative Oversight Committee, the Committee may request information on how the agency budgeted and spent money for the previous five years. If an agency is chosen for study five years from now, the agency can quickly and easily combine the information from this chart for each of the last five years.

Part A Instructions : Estimated Funds Available this Fiscal Year (2015-16)
1) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e. general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e. state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns below so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency estimates it has available to spend and where the agency has budgeted the funds it has available to spend.

Part B Instructions : How Agency Budgeted Funds this Fiscal Year (2015-16)
1) Enter each agency objective and description (i.e. Objective 1.1.1 - insert description of objective). The agency can insert as many rows as necessary so that all objectives are included.
2) After entering all of the objectives, enter each "unrelated purpose" for which money received by the agency will go (i.e. Unrelated Purpose #1 - insert description of unrelated purpose) on a separate row. An "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e. pass through, carry forward, etc.).
3) Enter how much money from each source of funds the agency budgets to spend on each objective and unrelated purpose. The "Total budgeted to spend on objectives and unrelated purposes" for each source of funds in Part B should equal the "Amount estimated to have available to spend this fiscal year" in Part A.

Explanations from the Agency regarding Part A: *Insert any additional explanations the agency would like to provide related to the information it provides below.*

PART A
Estimated Funds Available this Fiscal Year (2015-16)

Source of Funds:	Totals	*General Fund*	*Earmarked*	*Education Improvement Act (EIA)*	*Federal*	*Capital Reserve*	*Lottery*	Supplemental EIA
Is the source state, other or federal funding:	Totals	*State*	*Other*	*Other*	*Federal*	*Other*	*Other*	Other
Is funding recurring or one-time?	Totals	*Recurring*	*Recurring*	*Both*	*Recurring*	*Non-recurring*	*Non-recurring*	Non-recurring
$ From Last Year Available to Spend this Year		$24,983,341	$31,733,492	$67,952,149	$0	$2,011,883	$3,333,555	$0
Amount available at end of previous fiscal year								
Amount available at end of previous fiscal year that agency can actually use this fiscal year:								
If the amounts in the two rows above are not the same, explain why :	Enter explanation for each fund to the right							
$ Estimated to Receive this Year		$2,599,448,057	$44,898,154	$682,698,250	$808,180,265	$14,210,000	$51,988,976	$17,783,278
Amount budgeted/estimated to receive in this fiscal year:								
Total Actually Available this Year		$2,624,431,398	$76,631,646	$750,650,399	$808,180,265	$16,221,883	$55,322,531	$17,783,278
Amount estimated to have available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount budgeted/estimated to receive this fiscal year):	$4,349,221,400	2,624,431,398	76,631,646	750,650,399	808,180,265	16,221,883	55,322,531	17,783,278

Strategic Budgeting

Explanations from the Agency regarding Part B: *Insert any additional explanations the agency would like to provide related to the information it provides below.*

PART B
How Agency Budgeted Funds this Fiscal Year (2015-16)

Source of Funds: (the rows to the left should populate automatically from what the agency entered in Part A)	Totals	General Fund	Earmarked	Education Improvement Act (EIA)	Federal	Capital Reserve	Lottery	Supplemental EIA
Is source state, other or federal funding: (the rows to the left should populate automatically from what the agency entered in Part A)	Totals	State	Other	Other	Federal	Other	Other	Other
Restrictions on how agency is able to spend the funds from this source:	n/a							
Amount estimated to have available to spend this fiscal year: (the rows to the left should populate automatically from what the agency entered in Part A)	$4,349,221,400	$2,624,431,398	$76,631,646	$750,650,399	$808,180,265	$16,221,883	$55,322,531	$17,783,278
Are expenditure of funds tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Where Agency Budgeted to Spend Money this Year								

The agency supports the activities below across all funding sources

1.1.1	75% of students in grades 3-8 English language arts and writing will score proficiency or higher by 2018
1.1.2	75% of students in grades 3-8 mathematics will score proficiency or higher by 2018
1.1.3	75% of students in targeted grades will score proficient or higher on science summative assessments by 2018
1.1.4	75% of students in targeted grades will score proficient or higher on social studies assessments by 2018
1.1.5	Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by 2018
1.2.2	60% of non-duplicated gap subgroup will score proficient or higher on grade level standards in ELA and mathematics by 2018.
1.2.3	Progress of historically underperforming readers will accelerate compared to average state progress on reading assessments in grades 3, 5, 8, and 11 (State Reading Goal 2).
1.3.1	50% of students will meet all benchmarks for college readiness on a Grade 11 college entrance assessment by 2018
1.3.2	Rank in the top 50% nationally (compared to states giving the test to ALL students) in the average score on the Grade 11 college entrance assessment by 2018
1.3.3	65% of students will achieve a "4" or higher on the Grade 11 WorkKeys assessment
1.3.4	Increase the percentage of seniors graduating on time by 1 percentage point each year
1.3.5	Decrease the number of students requiring remediation at the start of post-secondary education (State Reading Goal 3).
2.1.1	At least one school in every district will meet the state standard for a personalized learning program by 2018
2.1.2	Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation
2.1.3	Increase stakeholder consumption of online SCDE resources related to public school choice and school wide innovation
2.2.1	All federally monitored Title 1 districts will be in 100% compliance with federal policies and guidelines for use of Title 1 funds annually
2.2.2	Provide continued training and technical support to all entities receiving Federal funds to maximize available flexibility
2.3.1	Create and conduct a diagnostic review process in 100% of priority schools by 2018.
2.3.2	Assign a trained SCDE transformation coach to 100% of priority schools by 2018.
2.3.3	50 percent of federal focus schools will reduce their most significant subgroup gap with no decrease in the ALL Students subgroup.
2.3.4	50 percent of priority schools will show improvement on annual summative assessments.
3.1.1	100 percent of districts will be trained on using student learning objectives to measure student growth by 2018
3.1.2	Obtain and train 100 percent of school districts on the State Observation Rubric by 2018
3.1.3	Pilot standards based learning progressions within SLOs 2016-17 school year.
3.1.4	One school in each district will use the learning progressions approach to SLOs by 2018
3.2.1	Recruit, train, and retain educators rated proficient ("met") or above on overall effectiveness rating using multiple measures
3.2.2	100% of Mentor Teachers will be trained on new mentor guidelines to better support induction teachers by 2017
3.2.3	Implement new incentives to reduce educator turnover in high poverty, high minority rural districts by 2018.
3.2.4	Secure and implement a multi level rubric aligned to the profile of the classroom teacher for use in evaluation of professional practice by fall of 2017
3.2.5	100 percent of teacher evaluators must participate in evaluator training related to effective educator practice, related evidence, and coaching skills by May 2017
3.2.6	Review and revise certification criteria to create more flexibility and more routes to certification.
3.3.1	SCDE will enhance program offerings for providing coaching.
3.3.2	Create or sponsor programs that support leaders in developing and implementing personalized learning (e.g., STEM, Montessori, and other innovative public
3.3.3	Update the Principal Induction Program to include evidence-based school improvement models, personalized learning, and academic growth of all students.
3.4.1	Teacher preparation programs will ensure candidates can work in teams to facilitate interdisciplinary personalized learning
3.4.2	Teacher preparation programs will ensure candidates can assess whether students are on track, analyze data and find evidence-based interventions when they are not, and implement effective learning strategies for
3.5.1	Support development of a pipeline of educators to high poverty, high minority, and rural schools.
3.5.2	Promote distributed leadership, instructional support, and improved school climate.
3.5.3	Advocate for greater salary equity among South Carolina school districts.
4.1.1	Work with contractors and agency processes to ensure data from the Student Information System is accurate, reliable, and valid
4.1.2	Ensure that 100% of data are private and secure.
4.1.3	All aggregated/disaggregated summative assessment data will be presented in stakeholder-friendly formats in the student longitudinal data system by 2018.
4.2.1	All districts will be in compliance with state and federal regulations.
4.2.2	The SCDE will develop one consolidated, coherent planning tool that incorporates and aligns all required state and federal plans by 2018.
5.1.1	Monitor student course requests to employ an adequate number of adjunct faculty to meet student demand.
5.1.2	Implement a program to serve expelled high school students in spring 2016.
5.1.3	Research a virtual Middle School program model aligned to standards to meet district requests.

Strategic Budgeting

5.1.5	Develop and measure annually the number of students who participate in a free virtual, dual enrollment program.
5.1.6	Provide virtual program for all John de la Howe School students in courses where there are no certified teachers.
5.2.1	Increase the percentage of CATE completers who earn a silver or higher on the National Career Readiness Certificate
5.2.2	Develop baseline data on student attainment of industry certificates and increase the percentage of student attainment by 1 percentage point annually
5.3.1	70% of Kindergarten students will enter school "ready to learn" by 2018
5.3.2	Provide support and training to ensure that 100 percent of districts implement Readiness Assessments in 4K and 5K programs
5.3.3	Devise new 4K standards that align with 5K standards and train 100% of districts on implementation strategies by 2017
5.3.4	Monitor district reading plans annually to ensure that there is a plan for students to read on grade level by grade 3
5.3.5	Increase the percentage of Districts meeting preschool special education outcome targets from 55 to 60 percent
5.4.1	50% of all elementary schools will provide before- and after-school academic remediation and acceleration activities
5.4.2	Increase the number of schools with active community partners (those that provide necessary resources regularly) by 10% annually (see State Reading Goal 5).
5.4.3	50% of students will have access to supplemental academic assistance provided by community partners by 2018
5.4.4	Increase the number of students participating in summer learning
5.4.5	Advocate for increased state support of summer and afterschool programs and include transportation
5.4.6	Increase family awareness of and involvement in children's literacy development (State Reading Goal 4).
5.5.1	Report the percentage of student participation in high quality world language programs by district
5.5.2	Report the percentage of student participation in high quality arts programs by district
5.5.3	100% of middle schools will offer courses for high school credit by 2018
5.5.4	The percentage of students achieving a 3 or higher on Advanced Placement or a 4 or higher International Baccalaureate courses will exceed the national average
5.5.5	100% of high schools will report students participating in dual credit courses
5.5.6	Increase the percentage of compliance of postsecondary transition and services of students with IEPs from 92 percent to 95 percent
6.1.1	Operate a school maintenance program that ensures daily availability of regular-route school vehicles and reduces mechanic turnover by 1 percentage point annually
6.1.2	Administer the School Bus Driver Training and Certification program to reduce the number of driver-caused bus accidents by 1 percentage point annually.
6.1.3	Reduce the number of student ride times that exceed 90 minutes by 50 percent
6.1.4	Reduce average age of current school bus fleet to comply with the 15 year replacement cycle
6.2.1	Train and monitor school food authorities to develop meals plans that are compliant with federal child nutrition requirements.
6.2.2	Increase the direct certification state-wide rate for eligible students from 86% to 88%
6.2.3	Reduce the number of school food authorities subject to fiscal action for noncompliance by 50% to 10 school food authorities
6.2.4	Reduce the state-wide verification non-response rate by 10% to 32%
6.2.5	Administer the Summer Food Service and Simplified Summer Feeding Programs to ensure access to nutritious meals during the summer
6.3.1	Sponsor the development of appraisal and maintenance standards for school buildings.
6.3.2	Review plans to remodel and build new schools buildings that support systems of personalized learning with educator teams.
6.3.3	Monitor the number of districts' capital improvements to address safety and building access.
6.4.1	Ensure that 100 percent of schools implement anti-bullying initiatives
6.4.2	100% of schools will conduct safety drills according to district and school safety plans
6.4.3	Increase access to counselors, social workers, and mental health professionals to support the whole child and promote students' ability to learn.
7.1.1	All programs will have metrics for determining quality and fidelity of implementation.
7.1.2	All programs will have baseline and post-implementation objective metrics for measuring effectiveness in meeting the stated goals.
7.1.3	All programs will include qualitative feedback loops to track stakeholder satisfaction and to serve as early indicators of elements needing improvement.
7.1.4	All programs will collect and evaluate data to estimate the return on the public's investment compared to cost and effectiveness.
7.2.1	SCDE will recruit, retain, and develop high-quality professionals dedicated to its culture and promotion of the Profile of the SC Graduate.
7.2.2	SCDE will model its culture for schools and districts in all of its activities.
7.2.3	SCDE will measure its climate, culture, and effectiveness through annual performance reviews, stakeholder input, and well-defined performance measures.

Objective Details

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-16

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school with the world class knowledge, skills, and characteristics to be successful in post-secondary college, careers, and citizenship*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.*	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 1.1 - Increase Student performance to at or above grade level proficiency on statewide summative assessments (subject to resetting baselines with new assessments)*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 1.1.1 - 75% of students in grades 3-8 English language arts and writing score "on grade level or higher" by 2025.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.*	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Students better prepared to learn, and ready for post-graduation success.*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Flow Through to Districts/OtherEntities/Special Item; Assessments; and Accountability*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Julie Fowler*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	13 months	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*College and Career Readiness*	
Department or Division Summary:	The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students next steps after graduation, college, careers, and citizenship.	
Amount Budgeted and Spent To Accomplish Objective		
Total Budgeted for this fiscal year:	$750,650,399	Total EIA (not amount spent on assessment and data systems).
Total Actually Spent:	*Agency will provide next year*	

Objective Details

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.
1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).
3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."
4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:
Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.
Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection
Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.
Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance		
Objective Number and Description	Objective 1.1.1 - 75% of students in grades 3-8 English language arts and writing score "on grade level or higher" by 2025.	
Performance Measure:	SCReady 3-8 Percent Met and higher ELA and Writing	
Type of Measure:	Outcome	
Results		
2013-14 Actual Results (as of 6/30/14):	SCPASS ELA 73.3; Writing 76	
2014-15 Target Results:	n/a; new administration ACT Aspire	
2014-15 Actual Results (as of 6/30/15):	ACT Aspire English 67.9; Reading 36.5; Writing 23.9	
2015-16 Minimum Acceptable Results:	n/a; baseline year on a new assessment (ACT Aspire)	
2015-16 Target Results:	n/a; baseline year on a new assessment (SC Ready)	
Details		
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	State	Both state and federal require tracking student performance
What are the names and titles of the individuals who chose this as a performance measure?	Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectivness	
Why was this performance measure chosen?	Tracks student performance on assessments	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	n/a; new administration	
What are the names and titles of the individuals who chose the target value for 2015-16?	Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectivness	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	The new assessment baseline in 2015 and the prior performance levels on PASS for student performance. A new baseline on a new 2016 SC Ready assessment may impact this performance target	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	New assessments required by legislation will be given spring 2016 for the third year in a row, making baselines and projections for targets difficult. Yes, the state is moving in the right direction to reach its performance target during the 2015-2025 time frame.	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?	The ESEA waiver, state legislation in 2014, and procurement disputes required new assessments in 2014, 2015, and 2016. 100% online assessments will occur in 2017. 2018 will be the first year in which a consistent assessment in a consistent format will be administered 2 years in a row, making goal setting more S.M.A.R.T.	

POTENTIAL NEGATIVE IMPACT

Objective Details

Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.

Most Potential Negative Impact	Students are underprepared to perform well at the next grade level
Level Requires Outside Help	Not meeting 75% after 2025
Outside Help to Request	Full funding of the EFA Base Student Cost by the General Assembly and resources so SCDE may increase support for school districts.
Level Requires Inform General Assembly	Inform the General Assembly annually on progress toward the 75% target
3 General Assembly Options	Provide increased (or current statutorily required) funding to assist with established programs; reduce unfunded mandates on districts; provide additional FTEs to enable SCDE to provide greater support to districts

REVIEWS/AUDITS

Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
None that relate to this objective			

PARTNERS

Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
Local SC School Districts	*Leadership, support, funding, and professional learning opportunties*	*State/Local Government Entity*
Education Oversight Committee	*Standards, assessments, reporting and accountability, including report cards, grading and accountability plans.*	*State/Local Government Entity*

This is the next chart because once the ag
needs to ensure it has proper performanc
needs to consider potential negative impa
issues raised in previous audits or reviews
each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each Ob
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:

Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions: Please copy and paste the chart and questio

1) In the cell next to, “Performance Measure,” enter the p

2) In the cell next to, "Type of Measure," pick the type of r

3) In the next set of cells enter the actual and target result

the target value the agency wanted to reach for the perfo

Including a minimum acceptable level and target level will

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How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

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Current Partner Entity
Local SC School Districts
Education Oversight Committee

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South Carolina Department of Education
2/26/2016
2015-16

ojective listed in the Strategy, Objectives and Respor
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school with the world class knowledge, skills, and characteristics to be successful in post-secondary college, careers, and citizenship
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 1.1 - Increase Student performance to at or above grade level proficiency on statewide summative assessments (subject to resetting baselines with new assessments)

Objective 1.1.2 -75% of students in grades 3-8 mathematics will score proficiency or higher by 2018. REVISED: Objective 1.1.2 - 75% of students in grades 3-8 mathematics will score "on grade level or higher" by 2025.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.

Increased student performance; increased numbers of students ready to perform well in STEM careers.

Flow Through to Districts/OtherEntities/Special Item; Assessments; and Accountability

Julie Fowler
13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

$750,650,399
Agency will provide next year

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Objective Number and Description
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Type of Measure:
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2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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Ways Agency Works with Current Partner
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rams and amount of funds it is allocating to accompli
effectively and efficiently it is utilizing the resources
addressed, if the objective is not accomplished; ensu
ners the agency could work with to more effectively

nsibility Chart. It is recommended that the agency copy and paste the dat
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the a

Copy and paste this from the second column of the Mission, Vision and Goals C

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Objective 1.1.2 - 75% of students in grades 3-8 mathematics will score "on grade level or higher" by 2025.
Pass 3-8 Percent Met and higher Mathematics
Outcome
PASS 71.5
n/a; new administration
ACT Aspire: 46.2
46.2- basline year on a new assessment (ACT Aspire)
N/A basline year on a new assessment (SC Ready)
State
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectiveness
Tracks student performance on assessments
n/a; new administration
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectiveness
The new assessment baseline in 2015 and the prior performance levels on PASS for student performance. A new baseline on a new 2016 SC Ready
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State/Local Government Entity
State/Local Government Entity

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and efficiently accomplish

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Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

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Local SC School Districts
Education Oversight Committee

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South Carolina Department of Education
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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.
Strategy 1.1 - Increase Student performance to at or above grade level proficiency on statewide summative assessments (subject to resetting baselines with new assessments)

Objective 1.1.3 -75% of students in targeted grades will score proficient or higher on science summative assessments by 2018
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased student performance; increased numbers of students ready to perform well in STEM careers.

Flow Through to Districts/OtherEntities/Special Item; Assessments; and Accountability

Julie Fowler
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Objective Number and Description
Performance Measure:
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2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
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Total EIA (not amount spent on assessment and data systems).

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 1.1.3 -75% of students in targeted grades will score proficient or higher on science summative assessments by 2018
Pass 3-8 Percent Met and higher Science
Outcome
69.2
n/a; new administration
66.7
66.7
67.5% Met or higher on SC PASS
State
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectiveness
Tracks student performance on assessments
n/a; new administration
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectiveness
The new assessment baseline in 2015 and the prior trajectory of student performance.
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Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State/Local Government Entity
State/Local Government Entity

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Please save the information related to
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Chart

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esponsibility Chart

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pick State from the drop down menu if
Selected if there is no state or federal

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Both state and federal require tracking student performance

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list Lexington County High Schools,

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
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How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

None that relate to this objective

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
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agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Local SC School Districts
Education Oversight Committee

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school with the world class knowledge, skills, and characteristics to be successful in post-secondary college, careers, and citizenship
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.
Strategy 1.1 - Increase Student performance to at or above grade level proficiency on statewide summative assessments (subject to resetting baselines with new assessments)

Objective 1.1.4 -75% of students in targeted grades will score proficient or higher on social studies assessments by 2018
State-SC Code of Laws Title 59
Increased student performance

Flow Through to Districts/OtherEntities/Special Item; Assessments; and Accountability

Julie Fowler
13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

$750,650,399
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
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nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
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rity. Example - # of license applications received

Objective Number and Description
Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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were made to try and ensure it was reached?
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rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are
[redacted]

ost potential negative impact to the public that may occur as a result of the agency not accomplishing th es to whom the agency would reach out if the poten notice of the level at which the potential negative ir House Legislative Oversight Committee will provide

Students are grossly underprepared to perform well at
Not meeting 85% after 2025
General Assembly and continue to work with school dis
Inform General Assebly annually of progress toward sta
Provide increased funding to assist with established pro
[redacted]

iews, audits, investigations or studies ("Reviews") of information generated by the entity performing the ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Leadership, support, funding, and professional learning opportunties
Standards, assessments, reporting and accountability, including report cards, grading and accountability plans.

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Objective 1.1.4 -75% of students in targeted grades will score proficient or higher on social studies assessments by 2018
Pass 3-8 Percent Met and higher Social Studies

Outcome
85%
n/a; new administration
75.1
75.1
76.1
State
Dr. Sheila Quinn; Deputy Superintendent of Innovation & Effectiveness
Tracks student performance on assessments
n/a; new administration
Dr. Sheila Quinn; Deputy Superintendent of Innovation & Effectiveness
The new assessment baseline in 2015 and the prior trajectory of student performance.
Yes, the state is moving in the right direction to reach its performance target during the 2015-2025 time frame

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the next grade level
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Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Chart

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and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:

Public Benefit/Intended Outcome:

Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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Level Requires Outside Help
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Matter(s) or Issue(s) Under Review
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South Carolina Department of Education
2/26/2016
2015-16

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Strategy 1.1 - Increase Student performance to at or above grade level proficiency on statewide summative assessments (subject to resetting baselines with new assessments)

Objective 1.1.5 -Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by 2018
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.

Increased student performance; increased numbers of students ready for post-graduation success.

Flow Through to Districts/OtherEntities/Special Item; Assessments; and Accountability

Julie Fowler
13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

$750,650,399
Agency will provide next year

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Objective Number and Description
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2013-14 Actual Results (as of 6/30/14):
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2015-16 Minimum Acceptable Results:
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House Legislative Oversight Committee will provide

Students are grossly underprepared to perform well at
Not meeting greater than 80% after 2018
General Assembly and continue to work with school dis
Not meeting greater than 80% after 2018
Provide increased funding to assist with established pro

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Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner
Leadership, support, funding, and professional learning opportunties
Standards, assessments, reporting and accountability, including report cards, grading and accountability plans.

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Objective 1.1.5 -Student proficiency on high school English 1, Algebra 1, Biology 1, and US History End of Course assessments will exceed 80% on each exam by 2018
Algebra 1 EOCEP; English 1 EOCEP, Biology EOCEP, and US History EOCEP
Outcome
Algebra 1-85.6%; English 1- 77%; Biology-78.8%; US History-65.4%
n/a; new administration
Algebra 1-85.5%; English 1- 74.9%; Biology-77.7%; US History-69%
Algebra 1-85.5%; English 1- 74.9%; Biology-77.7%; US History-69%
Algebra 1-90%; English 1- 85%; Biology-80%; US History-80%
State
Elizabeth Carpentier, Chief Operating Officer
Tracks student performance on assessments
n/a; new administration
Elizabeth Carpentier, Chief Operating Officer
Trajectory of student performance.
Yes, the state is moving in the right direction to reach its performance target during the 2015-2018 time frame

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Both state and federal require tracking student performance

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Agency Programs Associated with Objective
Program Names:
Responsible Person

Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
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Amount Budgeted and Spent To Accomplish Objective
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South Carolina Department of Education
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Strategy 1.2 - All students will show growth and continuous improvement on statewide assessments

Objective 1.2.2- 60% of non-duplicated gap subgroup will score proficient or higher on grade level standards in ELA and mathematics by 2018.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased student performance for all subgroups

Flow Through to Districts/OtherEntities/Special Item; Accountability; and Read to Succeed/Early Childhood

Julie Fowler
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Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

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Students are grossly underprepared to perform well at
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Ways Agency Works with Current Partner
Leadership, support, funding, and professional
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Subgroup performance on ELA 3-8; Subgroup performance on English 1 EOC; Subgroup performance on Mathematics 3-8; Subgroup performance on Algebra 1 EOC
Outcome
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n/a; new administration
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Subgroup performance on ELA 3-8-75%; Subgroup performance on English 1 EOC-85%; Subgroup performance on Mathematics 3-8-75%; Subgroup performance on Algebra 1 EOC-90%
State
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npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

the next grade level
tricts
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Review as copies may be requested when the agency is under study. NO

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Julie Fowler
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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

None that relate to this objective

PARTNERS

Instructions : Under the column labeled, "Current Partner
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Current Partner Entity
Local SC School Districts
Education Oversight Committee

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.
Strategy 1.3 -All students will demonstrate college and career readiness

Objective 1.3.1 -50% of students will meet all benchmarks for college readiness on a Grade 11 college entrance assessment by 2018
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Increased numbers of students ready for post-graduation success.

Standards & Learning; Early Learning & Literacy

Julie Fowler
13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

$750,650,399
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Objective Number and Description

Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
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[redacted]

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Students complete K-12 but are not college ready
50% of students not meeting all benchmarks on grade 1
General Assembly and continue to work with school dis
50% of students not meeting all benchmarks on grade 1
Provide increased funding to assist with established pro
[redacted]

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Reason Review was Initiated (outside request, internal policy, etc.)

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: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Leadership, support, funding, and professional learning opportunties
Standards, assessments, reporting and accountability, including report cards, grading and accountability plans.

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
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onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
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Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
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Total EIA (not amount spent on assessment and data systems).

[redacted]

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accountability report.
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ıgency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 1.3.1 -50% of students will meet all benchmarks for college readiness on a Grade 11 college entrance assessment by 2018
% meeting the "college ready" benmarks in English, Reading, Science, and Mathematics on a college readiness assessment.

Outcome
Agency did not use PM during this year
n/a; new administration
11%
11%
50%
State
Elizabeth Carpentier, Chief Operating Officer
Tracks college readiness via an assessment
n/a; new administration
Elizabeth Carpentier, Chief Operating Officer
Trajectory of student performance.
Yes, the state is moving in the right direction to reach its performance target during the 2015-2018 time frame

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

11 college entrance by 2018
tricts
11 college entrance by 2018
grams and funding for new initatives to increase college readiness

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State/Local Government Entity
State/Local Government Entity

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

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olumn

es and Responsibility Chart

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Both state and federal require tracking student performance

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
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TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and
Date Review Ended (MM/DD/YYYY)

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/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag
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agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
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each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective

Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
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entity that requires the agency to track this information ar

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workload and efforts and should be the third priority. Exa
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How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.
Strategy 1.3 -All students will demonstrate college and career readiness

Objective 1.3.2- Rank in the top 50% nationally (compared to states giving the test to ALL students) in the average score on the Grade 11 college entrance assessment by 2018
State-SC Code of Laws Title 59
Increased numbers of students ready for post-graduation success; better prepared workforce to attract commerce leading to more citizens earning a livable wage.

Assessments; Standards & Learning; Early Learning & Literacy

Julie Fowler

13

Deputy Superintendent

1429 Senate Street Columbia, SC 29201

College and Career Readiness

The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

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Agency will provide next year

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Students complete K-12 but are not college ready
Rank in the bottom 50% of all states nationally in the av
General Assembly and continue to work with school dis
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Ways Agency Works with Current Partner
Leadership, support, funding, and professional
Standards, assessments, reporting and accountability, including report cards, grading and accountability plans.

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Objective 1.3.2- Rank in the top 50% nationally (compared to states giving the test to ALL students) in the average score on the Grade 11 college entrance assessment by 2018
Mean score on Reading, English, Mathematics and Science on ACT for all Grade 11 students.
Outcome
Agency did not use PM during this year
n/a; new administration
17.90%
17.90%
20.50%
State
Elizabeth Carpentier, Chief Operating Officer
Tracks college readiness via an assessment
n/a; new administration
Elizabeth Carpentier, Chief Operating Officer
Trajectory of student performance.
Yes, the state is moving in the right direction to reach its performance target during the 2015-2018 time frame

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Please save the information related to
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Chart

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Legal responsibilities satisfied by Goal:
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school with the world class knowledge, skills, and characteristics to be successful in post-secondary college, careers, and citizenship
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act. SC Code Ann. §59-18-100.
Strategy 1.3 -All students will demonstrate college and career readiness

Objective 1.3.3 -65% of students will achieve a "4" or higher on the Grade 11 WorkKeys assessment
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-18-325.
Increased student performance

Career & Technology Education/Education and Economic Development Act

Julie Fowler
12 Months
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
The Division of College and Career Readiness pledges our commitment to the Profile of the SC Graduate and stands ready to support interagency offices, districts, schools, administrators, and teachers in preparing students for the day after graduation.

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Objective Number and Description

Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
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2015-16 Minimum Acceptable Results:	
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r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Leadership, support, funding, and professional
Standards, assessments, reporting and accountability, including report cards, grading and accountability plans.

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total EIA (not amount spent on assessment and data systems).

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 1.3.3 -65% of students will achieve a "4" or higher on the Grade 11 WorkKeys assessment

Percent meeting 4 or higher on Critical Rading, Applied Mathematics & Locating information combined on WorkKeys
Outcome
Agency did not use PM during this year
n/a; new administration
62.80%
62.80%
65%
State
Elizabeth Carpentier, Chief Operating Officer
Tracks college readiness via an assessment
n/a; new administration
Elizabeth Carpentier, Chief Operating Officer
Trajectory of student performance.
Yes, the state is moving in the right direction to reach its performance target during the 2015-2018 time frame

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

ollege but are not career ready
on the Grade 11 WorkKeys assessment after 2018
tricts
on the Grade 11 WorkKeys assessment after 2018
ograms and funding for new initatives to increase career readiness

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State/Local Government Entity
State/Local Government Entity

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

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e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Both state and federal require tracking student performance

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:

Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.

Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)

What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

PARTNERS

Instructions : Under the column labeled, "Current Partner enter the ways the agency works with the entity (names o partners. Note, if there is a large list of partners that all fit agency can list SC Middle Schools, instead of listing each n instead of listing each high school in the county separately

Current Partner Entity

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 1 - All Students will engage in personalized learning opportunities and graduate from high school
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 1.3 -All students will demonstrate college and career readiness

Objective 1.3.4 - Increase the percentage of seniors graduating on time by 1 percentage point each year
State-SC Code of Laws Title 59
Increased numbers of students ready for post-graduation success; better prepared workforce to attract commerce.

Elizabeth Carpentier
13
Chief of Staff
1429 Senate Street
Chief of Staff

Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description
Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,

is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Copy and paste this information from the Strategic Budgeting Chart

[redacted]

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accountability report.
m the drop down box (see Types of Performance Measures explained belo
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cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
M during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

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the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 1.3.4 - Increase the percentage of seniors graduating on time by 1 percentage point each year

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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e agency can determine this by sorting the
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this objective.

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hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

[redacted]

This is the next chart because once the agency determines the associated prog
agency needs to ensure it has proper performance measures established to tra
agency also needs to consider potential negative impacts which may arise, and
addressing issues raised in previous audits or reviews; and continually consider
accomplish each objective.

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-16

Instructions: Below is a template to **complete for each Objective** listed in the Strategy, Objectives and Respo
while it is still blank. The agency will then have a blank version to complete for each separate Objective. The
each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable num
assistance in completing the information below.

Strategic Plan Context	
# and description of Goal the Objective is helping accomplish:	*Goal 2 - South Carolina Department of Education will support public school districts and schools in developing highly effective educator teams focused on personalized student growth to support meeting the profile of the SC graduate.*
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.*
# and description of Strategy the Objective is under:	*Strategy 2.1 - Create and implement Pathways to Personalized Learning, public school choice, and innovation programming.*

Objective	
Objective # and Description:	*Objective 2.1.1 - At least one school in every district will meet the state standard for a personalized learning program by 2018*
Legal responsibilities satisfied by Objective:	State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Public Benefit/Intended Outcome:	*Increased student performance*
Agency Programs Associated with Objective	
Program Names:	*Pathways to Personalized Learning*
Responsible Person	
Name:	*Dr. Sheila Quinn*
Number of Months Responsible:	7
Position:	*Deputy Superintendent*
Office Address:	*1429 Senate Street Columbia, SC 29201*
Department or Division:	*Innovation and Effectiveness*
Department or Division Summary:	*The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.*
Amount Budgeted and Spent To Accomplish Objective	
Total Budgeted for this fiscal year:	$4,201,045,340

Total Actually Spent:	*Agency will provide next year*

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency ca
1) In the cell next to, “Performance Measure,” enter the performance measure just like the agency did in the a
2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure fro
3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the
the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum a
Including a minimum acceptable level and target level will hopefully encourage the agency to continually set c
then enter the following next to the applicable "Actual Results" and "Target Results," - “Agency did not use PM
4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is a
an entity in state government requires the agency to track this information, Federal if an entity in the federal
entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. O
mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on
violations.

Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ra
operations. Efficiency measures measure the efficient use of available resources and should be the second pr

Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output m
workload and efforts and should be the third priority. Example - # of business license applications processed.

Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. I
(i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance
Objective Number and Description
Performance Measure:
Type of Measure:

Results	
	2013-14 Actual Results (as of 6/30/14):
	2014-15 Target Results:
	2014-15 Actual Results (as of 6/30/15):
	2015-16 Minimum Acceptable Results:
	2015-16 Target Results:

Details
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)
What are the names and titles of the individuals who chose this as a performance measure?
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?
What are the names and titles of the individuals who chose the target value for 2015-16?
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the most potential negative impact to the public that may
the most potential negative impact to the public that may occur as a result of the agency not accomplishing th
help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the poten
the agency thinks the General Assembly should be put on notice of the level at which the potential negative ir
do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide
study.

Most Potential Negative Impact	Students unable to meet requirements of Profile of the
Level Requires Outside Help	Districts not meeting 100% target by 2018

Outside Help to Request	General Assembly and continue to work with school dis
Level Requires Inform General Assembly	Inform the General Assembly annually on progress
3 General Assembly Options	Provide increased funding to assist with established pro

REVIEWS/AUDITS

Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of maintain an electronic copy of each Review and any other information generated by the entity performing the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)
None	

PARTNERS

Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently worl enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency a partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the grou agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner
None	

grams and amount of funds it is allocating to accomplish each objective, the
ack how effectively and efficiently it is utilizing the resources allocated. The
l need to be addressed, if the objective is not accomplished; ensure the agency is
r which partners the agency could work with to more effectively and efficiently

onsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs,
agency needs to provide information in all the cells that are highlighted. Please save the information related to
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any

Copy and paste this from the second column of the Mission, Vision and Goals Chart

Copy and paste this from the first column of the Mission, Vision and Goals Chart

Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart

Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart

Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart

Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart

Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column

Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart

Total Budget for General Fund, EIA and Federal to include listed objective

an provide this information for each Performance Measure that applies to this objective.
accountability report.
m the drop down box (see Types of Performance Measures explained below).
actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter
cceptable level," enter the minimum level for this performance measure that the agency would find acceptable.
challenging targets each year. If the agency did not utilize a particular performance measure during certain years,
A during this year."
agency required to keep track of this by the state or federal government," pick State from the drop down menu if
government requires the agency to track this information, or Only Agency Selected if there is no state or federal

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the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no

tio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address demands. Output measures measure

nputs are "what we use to do the work." They measure the factors or requests received that explain performance

Objective 2.1.1 - At least one school in every district will meet the state standard for a personalized learning program by 2018
Objective 2.1.1 - At least one school in every district will meet the state standard for a personalized learning program by 2018

Outcome

n/a; new administration	
n/a; new administration	
34% reported based on soft survey and self-reporting	
n/a; baseline to be established	
n/a; baseline to be established	
	No
Betsy Carpentier - COO	
Supports Profile of the SC Graduate and Goal 2	
n/a; new administration	
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectivness	
n/a; baseline to be established	
n/a; baseline to be established	
Baseline and annual targets will be established by 6/30/2016. At that point, work will be done to ensure annual targets are set, reached, and resources diverted to support success.	

occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter
ne objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside
tial negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which
npact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could
this information to all other House standing committees, but will not address it itself until the agency is under

SC Graduate

tricts
grams; Provide additional FTEs to enable SCDE to provide greater support to districts

the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to
e Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the

Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

king with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners,"
ccomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the
p instead of each partner individually. For example, if the agency works with every middle school in the state, the
agency works with every high school in Lexington county, the agency can list Lexington County High Schools,

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
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entity that requires the agency to track this information ar

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How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
None

PARTNERS

Instructions : Under the column labeled, "Current Partner
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partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
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Current Partner Entity
None

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 2 - South Carolina Department of Education will support public school districts and schools in developing highly effective educator teams focused on personalized student growth to support meeting the profile of the SC graduate.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 2.1 - Create and implement Pathways to Personalized Learning, public school choice, and innovation programming.

Objective 2.1.2 - Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation
State-SC Code of Laws Title 59
Better engaged students who are better prepared with the knowledge, skills, and characteristics necessary for success in jobs of the future.

School Choice

Dr. Sheila Quinn
7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness
The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.

$4,201,045,340
Agency will provide next year

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Objective Number and Description
Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
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notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Students unable to meet requirements of Profile of the
Office not meeting 2 additional current, high quality res
General Assembly
Inform the General Assembly annually on progress
Provide increased funding to assist with established pro

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
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Reason Review was Initiated (outside request, internal policy, etc.)

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within a certain group, the agency can list the grou
niddle school separately. As another example, if the
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Ways Agency Works with Current Partner

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Copy and paste this from the first column of the Strategy, Objectives and Respo
Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total Budget for General Fund, EIA and Federal to include listed objective

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accountability report.
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Objective 2.1.2 - Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation
Objective 2.1.2 - Increase the number of current, high quality SCDE resources related to public school choice and school wide innovation
n/a; new administration
n/a; new administration
1 resource reported
2 additional resources; Baseline expectation of "current, high-quality" to be defined
2 additional resources; Baseline expectation of "current, high-quality" to be defined
Jennifer Morrison - Director, Office of School Transformation
Supports Profile of the SC Graduate and Goal 2
n/a; new administration
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectivness
Achievability and need to establish baseline expeactation for "current, high quality"
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

SC Graduate
ources per year in 2017-18 and beyond
grams; Provide additional FTEs to enable SCDE to provide greater support to di

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
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effectively and efficiently

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Please save the information related to
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Chart

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Selected if there is no state or federal

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Output

No

"Most Potential Negative Impact," enter
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Agency Responding
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Fiscal Year for which information below pertains

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assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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3) In the next set of cells enter the actual and target result
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How the Agency is Measuring its Performance

Results

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South Carolina Department of Education
2/26/2016
2015-16

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School Choice

Dr. Sheila Quinn
7

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
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$4,201,045,340
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Ways Agency Works with Current Partner

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Objective 2.1.3 - Increase stakeholder consumption of online SCDE resources related to public school choice and school wide innovation
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n/a; new administration
n/a; new administration
n/a; baseline to be established in 2015-16
n/a; baseline to be established
n/a; baseline to be established
Jennifer Morrison - Director, Office of School Transformation
Supports Profile of the SC Graduate and Goal 2
n/a; new administration
Dr. Sheila Quinn, Deputy Superintendent for Innovation & Effectivness
Achievability and need to establish baseline
Yes, baseline will be established

occur as a result of the agency not accomplishing this objective. Next to,
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SC Graduate
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Chart

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Outcome

No

"Most Potential Negative Impact," enter
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Legal responsibilities satisfied by Goal:
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:

Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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How the Agency is Measuring its Performance

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REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
OMB A-133 Single Audit
Title I Project Monitoring

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
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Current Partner Entity
N/A

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South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 2.2- Effectively Implement Federal Programs

Objective 2.2.1 - All federally monitored Title 1 districts will be in 100% compliance with federal policies and guidelines for use of Title 1 funds annually
Federal ESEA
Compliance and continued availability of funds.

Office of Federal & State Accountability; Title I, Title II

Karla Hawkins

5

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340

Agency will provide next year

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Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
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es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Possible loss of federal funding
N/A
N/A
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
US Department of Education Requirement
US Department of Education Requirement for LEAs

r Entities" list all entities the agency is currently worl
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Ways Agency Works with Current Partner

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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 2.2.1 - All federally monitored Title 1 districts will be in 100% compliance with federal policies and guidelines for use of Title 1 funds annually
Compliance with federal policies and guidelines for use of Title 1 funds
Output
na

na
95%
na
100%
Yes
South Carolina Department of Education
N/A
LEAs failing to be in compliance were given onsite technical assistance.
N/A
N/A
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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this information to all other House standing committees, but will not add

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
External- SEA Auditors
Internal- LEA Auditors

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gency has any questions or needs any

[redacted]

Chart

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11/19/2015- 01/29/2016
07/01/2015-06/30/2016

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/ rows as necessary to list all of the
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[redacted]

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:

Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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3) In the next set of cells enter the actual and target result
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Including a minimum acceptable level and target level will
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Types of Performance Measures:

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Efficiency Measure - A quantifiable indicator of productiv
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Output Measure - A quantifiable indicator of the number
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How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
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Level Requires Outside Help
Outside Help to Request
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3 General Assembly Options

REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review

PARTNERS

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instead of listing each high school in the county separately

Current Partner Entity

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formance measures established to tra
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s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
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Goal 2 - South Carolina Department of Education will support public school districts and schools in
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 2.2- Effectively Implement Federal Programs

Objective 2.2.2 - Provide continued training and technical support to all entities receiving Federal funds to maximize available flexibility
Federal ESEA
Compliance and continued availability of funds.

Office of Federal and State Accountability

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340

Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
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s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
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sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
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of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

If districts are not in compliance, possible loss of federa
N/A
N/A
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
N/A

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
N/A

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
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Objective 2.2.2 - Provide continued training and technical support to all entities receiving Federal funds to maximize available flexibility
Training and technical support to LEAs and SA receiving Federal funds
Output Measure

93%
95%
100%
yes
Office of Federal and State Accountability
To reach all LEAs and SA receiving federal funding
Provide greater options in training (onsite, regional, online)
Roy Stehle, Director of Office of Federal and State Accountability
All districts and agencies must be in compliance with federal requirements
yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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Review as copies may be requested when the agency is under study. NO

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Chart

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Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:

Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

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Level Requires Outside Help
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REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
None

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 2 - South Carolina Department of Education will support public school districts and schools in
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 2.3 - Increase the academic performance of schools identified as low performing.

Objective 2.3.1 - Create and conduct a diagnostic review process in 100% of priority schools by 2018.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased academic performance of students in the state's lowest performing schools along with a culture of continuous improvement.

Priority Schools

Dr. Sheila Quinn
7
Deputy Superintendent

1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness
The Division of Innovation and Effectiveness supports the Profile of the SC Graduate by providing continuum of leadership development opportunities and services to schools and districts, selecting or developing and administering high quality assessments of educational attainment; providing accurate, reliable, and timely data services for the South Carolina Department of Education and its constituent communities; developing and administering the statewide system for evaluating educators in South Carolina public schools; and committing to school improvement and transformation for the lowest performing schools in the state.

$4,201,045,340
Agency will provide next year

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2014-15 Target Results:
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what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Student performance will not improve in Priority School
Office not meeting 100% by 2018
General Assembly
Inform the General Assembly annually on progress

Provide increased funding to assist with established pro

iews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
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/.

Ways Agency Works with Current Partner
Contracted services

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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 2.3.1 - Create and conduct a diagnostic review process in 100% of priority schools by 2018.
Objective 2.3.1 - Create and conduct a diagnostic review process in 100% of priority schools by 2018.
n/a; new administration
n/a; new administration
n/a; new administration (ERT services provided on annual basis to State Priority Schools per requirements of EAA)
25% of schools identified as State or Federal Priority on November 2014 school report cards
25% of schools identified as State or Federal Priority on November 2014 school report cards
Dr. Sheila Quinn
Fidelity to state and federal requirements
n/a; new administration
Dr. Sheila Quinn
Needs of identified schools and districts
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

s

ɔgrams; Provide additional FTEs to enable SCDE to provide greater support to di

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Chart

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Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
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How the Agency is Measuring its Performance

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South Carolina Department of Education
2/26/2016
2015-16

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Priority Schools

Dr. Sheila Quinn
7

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$4,201,045,340
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House Legislative Oversight Committee will provide

Student performance will not improve in Priority School
Office not meeting 100% by 2018
General Assembly
Inform the General Assembly annually on progress
Provide increased funding to assist with established pro

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ease insert as many rows as needed.

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within a certain group, the agency can list the grou
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Ways Agency Works with Current Partner

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Total Budget for General Fund, EIA and Federal to include listed objective

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Objective 2.3.2- Assign a trained SCDE transformation coach to 100% of priority schools by 2018.
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n/a; new administration
n/a; new administration
n/a; new administration (services prrovided through contracted vendors)
Transformation Coaches hired and trained by 6/30/2016 for 2016-17 support
Transformation Coaches hired and trained by 6/30/2016 for 2016-17 support
Dr. Sheila Quinn
Fidelity to state and federal requirements
n/a; new administration
Dr. Sheila Quinn
Other successful state models, school and district need; experience with and feedback from schools regarding current services
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

s
grams; Provide additional FTEs to enable SCDE to provide greater support to di

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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effectively and efficiently

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Please save the information related to
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Chart

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Selected if there is no state or federal

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Output

State and Federal

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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3) In the next set of cells enter the actual and target result
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South Carolina Department of Education
2/26/2016
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Focus Schools

Dr. Sheila Quinn
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House Legislative Oversight Committee will provide

Student performance will not improve in Priority School
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General Assembly
Inform the General Assembly annually on progress
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Ways Agency Works with Current Partner

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n/a; new administration
n/a; new administration
0% (based on 2013-14 state tests)
n/a; new state test to be administered in 2015-16
n/a; new state test to be administered in 2015-16
Dr. Sheila Quinn
Fidelity to state and federal requirements
Target was not reached; FTE assigned to Office of School Transformation
Dr. Sheila Quinn
Other successful state models; experience; achievability
n/a; new state test to be administered in 2015-16
State test data will be analyzed

occur as a result of the agency not accomplishing this objective. Next to,
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Chart

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Outcome

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Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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South Carolina Department of Education
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House Legislative Oversight Committee will provide

Student performance will not improve in Priority School
Not meeting 50% annually in 2017-18 and beyond
General Assembly
Inform the General Assembly annually on progress
Provide increased funding to assist with established pro

iews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
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Ways Agency Works with Current Partner

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Objective 2.3.4 - 50 percent of priority schools will show improvement on annual summative assessments.
Objective 2.3.4 - 50 percent of priority schools will show improvement on annual summative assessments.
n/a; new administration
n/a; new administration
53% (based on 2013-14 state tests)
n/a; new state test to be administered in 2015-16
n/a; new state test to be administered in 2015-16
Dr. Sheila Quinn
Fidelity to state and federal requirements
Target was reached - 53% (based on 2013-14 state tests)
Dr. Sheila Quinn
Other successful state models; experience; achievability
n/a; new state test to be administered in 2015-16
State test data will be analyzed

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

s
grams; Provide additional FTEs to enable SCDE to provide greater support to di

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Chart

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Outcome

State and Federal

"Most Potential Negative Impact," enter
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Agency Responding
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
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Including a minimum acceptable level and target level will
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How the Agency is Measuring its Performance

Results

Details
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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
None that are related to this objective.

PARTNERS

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enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Local SC school districts

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 3.1- Build learning progressions into the Student Learning Objective (growth component of evaluation, "SLO") development and assessment process.

Objective 3.1.1-100 percent of districts will be trained on using student learning objectives to measure student growth by 2018
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-26-10.
Educators will be better able to support the success of all students.

Office of Educator Effectiveness

Sheila Quinn
7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
Agency will provide next year

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neasure that best fits the performance measure fro
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rmance measure for that year. Next to "Minimum a
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sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
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and customer benefits from an agency's actions. O
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Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	

2015-16 Minimum Acceptable Results:
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what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Teachers will not be ready to implement the process for
Districts need to follow through with ongoing training u
No additional supports needed. OEE will continue to up
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner
ADEPT plans, training and technical assistance.

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 3.1.1-100 percent of districts will be trained on using student learning objectives to measure student growth by 2018
Training attendance records, training evaluations, ADEPT Plan training dates
N/A new initiative
N/A new initiative
N/A new initiative

90% of districts trained through SCDE in order to continue district level training.
100% of districts were trained 4/15-9/15 in order to continue district training.
Kris Joannes, Director, Office of Educator Effectiveness
ESEA Flexibility requirment
N/A
Kris Joannes, Director, Office of Educator Effectiveness
ESEA Flexibility requirement that all districts were to move forward with full implementation of student growth measures in 2015-16.
Yes.

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
e this information to all other House standing committees, but will not add

use in teacher evaluation.
sing the resources provided.
date training materials and provide training to district training teams.

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Chart

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Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

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Current Partner Entity
Local SC school districts, IHEs

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South Carolina Department of Education
2/26/2016
2015-16

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Objective 3.1.2- Obtain and train 100 percent of school districts on the State Observation Rubric by 2018
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Educators will be better able to support the success of all students.

Office of Educator Effectiveness

Sheila Quinn
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Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
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Objective Number and Description
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House Legislative Oversight Committee will provide

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Districts and IHEs need to attend training and build trai
N/A
N/A
N/A

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Ways Agency Works with Current Partner
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nputs are "what we use to do the work." They measure the factors or req

Objective 3.1.2- Obtain and train 100 percent of school districts on the State Observation Rubric by 2018
Training attendance records, training evaluations and ADEPT plans.
N/A new initiative
N/A new initiative

N/A new initiative
N/A new initiative
N/A new initiative
Kris Joannes, Director Office of Educator Effectiveness
Implementation is required as part of the ESEA Flexibility waiver
N/A new initiative
N/A new initiative
N/A new initiative
N/A new initiative

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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rs will not be able to rate professional practice accurately
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Legal responsibilities satisfied by Goal:
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person

Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

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South Carolina Department of Education
2/26/2016
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Educators will be better able to support the success of all students.

Office of Educator Effectiveness

Sheila Quinn
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Innovation and Effectiveness

$4,201,045,340
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No negative impact. SLOs can be done without learning
No.
N/A
N/A
N/A

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Ways Agency Works with Current Partner
Training and technical support

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Total budget for General Fund, EIA and Federal to include listed objective

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nputs are "what we use to do the work." They measure the factors or req

Objective 3.1.3- Pilot standards based learning progressions within SLOs 2017-18 school year.
Training attendees, training evaluations, external (USC) implemntation study.
N/A
N/A
N/A

N/A
N/A
Kris Joannes, Director, Office of Educator Effectivness
Aligns SLOs process to personalized learning models.
N/A
N/A
N/A
N/A - goal date is for 17-18.

occur as a result of the agency not accomplishing this objective. Next to,
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Chart

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None. SLOs can be written without learning progressior
No.
N/A
N/A
N/A

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Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner
Training and technical support

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Objective 3.1.4-School districts will have the option to use a learning progressions approach within SLO assessments by August 2018.
Training records, ADEPT plans, and sample SLOs from the field.
N/A
N/A

N/A
N/A
N/A
Kris Joannes, Director, Office of Educator Effectiveness
Alignment to personalized learning agency goals.
N/A
N/A
N/A
N/A

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 3.2 All educators will be equipped to lead and support student growth and achievement

Objective 3.2.1- Recruit, train, and retain educators rated proficient ("met") or above on overall effectiveness rating using multiple measures
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.

Sheila Quinn

7
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Agency will provide next year
[redacted]

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Ways Agency Works with Current Partner

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Objective 3.2.1- Recruit, train, and retain educators rated proficient ("met") or above on overall effectiveness rating using multiple measures

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Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

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Current Partner Entity
CERRA, Local School Districts

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South Carolina Department of Education
2/26/2016
2015-16

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Strategy 3.2 All educators will be equipped to lead and support student growth and achievement

Objective 3.2.2- 100% of Mentor Trainers will be trained on new induciton and mentoring curriculum to better support induction teachers by fall 2017
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.

Office of Educator Effectiveness

Sheila Quinn

7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

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Agency will provide next year

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notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Mentors will not be equipped to support initial educato
CERRA collaboration, districts required to provide Induc
No.
N/A
N/A

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Ways Agency Works with Current Partner
Training development and faciliation

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Objective 3.2.2- 100% of Mentor Trainers will be trained on new induciton and mentoring curriculum to better support induction teachers by fall 2017
Training attendance, training evaluations
N/A
N/A
N/A

N/A
N/A
Kris Joannes (Director OEE) and Rinice Sauls (Education Associate, OEE)
Supports implementation of Expanded ADEPT with induction teachers.
N/A
N/A
N/A
N/A goal is for 2017.

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Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
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South Carolina Department of Education
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Objective 3.2.3- Implement new incentives to reduce educator turnover in high poverty, high minority rural districts by 2018.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased quality and educator retention

Karla Hawkins
6
Deputy Superintendent

1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

Agency will provide next year

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
SC Local School Districts, IHEs

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 3.2 All educators will be equipped to lead and support student growth and achievement

Objective 3.2.4- Secure and implement a multi level rubric aligned to the profile of the classroom teacher for use in evaluation of professional practice beginning fall of 2017
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-26-10.
Educator quality

Office of Educator Effectivness

Sheila Quinn

7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
Agency will provide next year

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neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
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this information, Federal if an entity in the federal
nd the agency selected it.

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t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	

2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
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what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Without the selection of a professional practice rubric,
Once secured, districts and IHEs must attend training ar
No.
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Training and technical support

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respc

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" c

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total budget for General Fund, EIA and Federal to include listed objective

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 3.2.4- Secure and implement a multi level rubric aligned to the profile of the classroom teacher for use in evaluation of professional practice beginning fall of 2017
Procurment completed, district training records, ADEPT plans
N/A new initiative
N/A new initiative
N/A new initiative

Selection of rubric completed.
Kris Joannes, Director of Educator Effectiveness
A four level differentiated rubric is a requirment of the ESEA Flexibity Waiver.
N/A
Kris Joannes, Director of Educator Effectiveness
Alignement to Data Management System procurement
Yes.

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

training schedules get delayed, and implementation gets delayed.
nd build training capacity within institutions and districts.

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

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Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

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e agency can determine this by sorting the
olumn

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

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lemands. Output measures measure

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Insert any further explanation, if needed

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
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TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
/ rows as necessary to list all of the
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list Lexington County High Schools,

[redacted]

This is the next chart because once the ag
agency needs to ensure it has proper perf
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addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
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assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
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Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 3.2 All educators will be equipped to lead and support student growth and achievement

Objective 3.2.5- 100 percent of teacher evaluators must participate in evaluator training related to effective educator practice, related evidence, and coaching skills by May 2018.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-26-10.
Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.

Office of Educator Effectiveness

Sheila Quinn
7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
Agency will provide next year

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Objective Number and Description
Performance Measure:
Type of Measure:
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2014-15 Target Results:
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what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Evaluators will not be equipped to rate teacher perfoma
Districts need to follow through with ongoing training u
No additional supports needed. OEE will continue to up
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner
Training and technical support

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Objective 3.2.5- 100 percent of teacher evaluators must participate in evaluator training related to effective educator practice, related evidence, and coaching skills by May 2018.
Training attendance records, certification exam (if applicable)
N/A New Initiaitve

N/A New Initiaitve
N/A New Initiaitve
N/A New Initiaitve
N/A New Initiaitve
Kris Joannes, Director, Educator Effectiveness
Aligned with ESEA flexbility waiver requirments
N/A- New initiative
Kris Joannes, Director, Educator Effectiveness
Required for full implmentation in 2018-19
N/A 2018-19 target

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

ance in a reliable manner.
sing the resources provided.
date training materials and provide training to district training teams.

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Chart

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esponsibility Chart

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pick State from the drop down menu if
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Agency Responding
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Fiscal Year for which information below pertains

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Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

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How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
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Most Potential Negative Impact
Level Requires Outside Help
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Matter(s) or Issue(s) Under Review
N/A

PARTNERS

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agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Network for the Transformation of Educator Preparation
Other business, Association, or Individual

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 3.2 All educators will be equipped to lead and support student growth and achievement

Objective 3.2.6- Review and revise certification criteria to create more flexibility and more routes to certification.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. (S.C. Code Ann. §59-25-110)
Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.

Karla Hawkins

6
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

$4,201,045,340
Agency will provide next year

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mple - # of business license applications processed.
ribute to the production and delivery of a service. I
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Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	

2015-16 Target Results:

ack this? (provide any additional explanation needed,

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mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Certification system remains as is.

N/A

N/A

N/A

N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
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Ways Agency Works with Current Partner
Membership and participation in reform initiative

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
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onsibility Chart. It is recommended that the agency copy and paste the da
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m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/I during this year."
ıgency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 3.2.6- Review and revise certification criteria to create more flexibility and more routes to certification.
Completion of review of all certification statutes, regulations, and guidelines and development of prioritized recommendations for revision
Outcome
N/A
N/A
N/A
Prioritized recommendations for revision of certification policy

Prioritized recommendations for revision of certification policy with timeline and action plan
only agency
Mary Hipp | Director, Office of Educator Services
Alignment with transition to Council for the Accreditation of Educator Preparation and participation in the Network for the Transformation of Educator Preparation
N/A
Mary Hipp | Director, Office of Educator Services
Alignment with transition to Council for the Accreditation of Educator Preparation and participation in the Network for the Transformation of
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
Other business, Association, or Individual

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

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Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

onsibility Chart

sponsibility Chart

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
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TE: Responses are not limited to the

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s Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

[redacted]

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-16

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and achievement, closing the achievement gap, and increasing the numbers of students meeting the Profile of the SC graduate.*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 3.3- SCDE will create, enhance and partner with others to provide Leadership Programs to support the Profile of the SC Graduate.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 3.3.1- SCDE will enhance program offerings for providing coaching.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Educator quality*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Principal Induction Program*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Sheila Quinn*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	*7*	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*Innovation and Effectiveness*	
Department or Division Summary:		
Amount Budgeted and Spent To Accomplish Objective		
Total Budgeted for this fiscal year:	$4,201,045,340	Total budget for General Fund, EIA and Federal

Total Actually Spent:	*Agency will provide next year*

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.

1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.

2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).

3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."

4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.

Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection

Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.

Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance

Objective Number and Description	Objective 3.3.1- SCDE will enhance program offerings for providing coaching.	
Performance Measure:	NA - New Initiative	
Type of Measure:	Output Measure	
Results		
2013-14 Actual Results (as of 6/30/14):	NA - New Initiative	
2014-15 Target Results:	NA - New Initiative	
2014-15 Actual Results (as of 6/30/15):	NA - New Initiative	
2015-16 Minimum Acceptable Results:	NA - New Initiative	
2015-16 Target Results:	NA - New Initiative	
Details		
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Only Agency Selected	Insert any further explanation, if needed
What are the names and titles of the individuals who chose this as a performance measure?	Sheila Quinn	
Why was this performance measure chosen?	Stakeholder input	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	NA - New Initiative	
What are the names and titles of the individuals who chose the target value for 2015-16?	Sheila Quinn	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	NA - New Initiative	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	NA - New Initiative	

If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?	NA - New Initiative

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.

Most Potential Negative Impact	*None*
Level Requires Outside Help	*Less than 90% of participants receive coaching*
Outside Help to Request	*Additional staff to ensure goal is reached*
Level Requires Inform General Assembly	*Less than 90% of participants receive coaching*
3 General Assembly Options	*Increase staffing*

REVIEWS/AUDITS

Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
Principal Induction Program	*internal request*	*Dr. Nancy McGinley - External*	*April 2015 - June 2015*

PARTNERS

Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
NA	*NA*	

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
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an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
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Efficiency Measure - A quantifiable indicator of productiv
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workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
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How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
None

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
None

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formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and achievement, closing the achievement gap, and increasing the numbers of students meeting the Profile of the SC graduate.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 3.3- SCDE will create, enhance and partner with others to provide Leadership Programs to support the Profile of the SC Graduate.

Objective 3.3.2- Create or sponsor programs that support leaders in developing and implementing personalized learning (e.g., STEM, Montessori, and other innovative public school choice options).
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Educator quality

FSL, LEAD, APPLE, DAPP, PIP, IDA

Sheila Quinn
7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
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Performance Measure:
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2014-15 Target Results:
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House Legislative Oversight Committee will provide

NA - New Objective
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Ways Agency Works with Current Partner

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Total budget for General Fund, EIA and Federal to include listed objective

[redacted]

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Objective 3.3.2- Create or sponsor programs that support leaders in developing and implementing personalized learning (e.g., STEM, Montessori, and other innovative public school choice options).
NA - New Objective
Output Measure
NA - New Objective

NA - New Objective
NA - New Objective
NA - New Objective
NA - New Objective
Only Agency Selected
Elizabeth Carpentier
Trained leaders are needed to implement personalized learning, which assists students in meeting the Profile of the SC Graduate.
NA - New Objective
NA - New Objective

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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Objective # and Description:
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Public Benefit/Intended Outcome:

Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

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POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

None

PARTNERS

Instructions : Under the column labeled, "Current Partner
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partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
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Current Partner Entity
NA - New Objective

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South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 3.3- SCDE will create, enhance and partner with others to provide Leadership Programs to support the Profile of the SC Graduate.

Objective 3.3.3- Update the Principal Induction Program to include evidence-based school improvement models, personalized learning, and academic growth of all students.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-24-80.
Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.

FSL, LEAD, APPLE, DAPP, PIP, IDA

Sheila Quinn
7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
Agency will provide next year

ons below as many times as needed so the agency ca
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Objective Number and Description

Performance Measure:

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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

None
None
None
None
None

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information generated by the entity performing the
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Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner

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Objective 3.3.3- Update the Principal Induction Program to include evidence-based school improvement models, personalized learning, and academic growth of all students.
NA - New Objective

Output Measure
NA - New Objective
NA - New Objective
NA - New Objective
NA - New Objective
NA - New Objective
Only Agency Selected
Sheila Quinn
Concerns expressed by stakeholders
n/a
Sheila Quinn
n/a
Yes

occur as a result of the agency not accomplishing this objective. Next to,
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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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Chart

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Insert any further explanation, if needed

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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Legal responsibilities satisfied by Goal:
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
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How the Agency is Measuring its Performance

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REVIEWS/AUDITS

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PARTNERS

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agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
CAEP
SC Colleges and Universities with EPPs

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
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South Carolina Department of Education
2/26/2016
2015-16

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Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 3.4- South Carolina teacher candidates will have the knowledge, skills, and abilities to increase the number of students meeting the Profile of the SC Graduate.

Objective 3.4.1- Teacher preparation programs will ensure candidates can work in teams to facilitate interdisciplinary personalized learning
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Educator quality

Karla Hawkins

5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources
The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340
Agency will provide next year

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House Legislative Oversight Committee will provide

An EPP could lose accreditation status for failure to mee
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n/a
n/a

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
Council for the Accreditation of Educator Preparation

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Ways Agency Works with Current Partner

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Objective 3.4.1- Teacher preparation programs will ensure candidates can work in teams to facilitate interdisciplinary personalized learning
During the cyclical accredition process, Educator Preparation Providers (EPPs) will meet Standard 1 of the Council for the Accreditation of Educator Preparation (CAEP). Standard 1 Content and Pedagogical Knowledge: The provider ensures that candidates develop a deep understanding of the critical concepts and principles of their discipline and, by completion, are able to use discipline-specific practices flexibly to advance the learning of all students toward attainment of college- and career-readiness standards.
Outcome
n/a
n/a
n/a
EPPs slated for the initial CAEP accreditation reviews during 2017-2018 will demonstrate evidence of program review and alignment.
75% of EPPs will demonstrate evidence of program review and alignment to CAEP standards.
R. 43-90 requires South Carolina EPPs to meet national accreditation standards.
Mary Hipp, Director of the Office of Educator Services; Rachel Harvey, Education Associate for Educator Preparation
South Carolina has a newly formed partnership agreement with CAEP, and all EPPs must align their curricula and assessment systems to the CAEP standards.
n/a
Mary Hipp, Director of the Office of Educator Services; Rachel Harvey,
South Carolina is in the first year of the CAEP agreement and transition. EPPs must conduct program reviews and develop data systems aligned with these
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
Partnership Agreement

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Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
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PERFORMANCE MEASURES

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Educator quality

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources
The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340
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Ways Agency Works with Current Partner
Partnership Agreement

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Objective 3.4.2- Teacher preparation programs will ensure candidates can assess whether students are on track, analyze data and find evidence-based interventions when they are not, and implement effective learning strategies for all students.
During the cyclical accredition process, Educator Preparation Providers (EPPs) will meet Standard 4 of the Council for the Accreditation of Educator Preparation (CAEP). Standard 4 Program Impact: The provider demonstrates the impact of its completers on P-12 student learning and development, classroom instruction, and schools, and the satisfaction of its completers with the relevance and effectiveness of their preparation.
Outcome
n/a
n/a
n/a
EPPs slated for the initial CAEP accreditation reviews during 2017-2018 will demonstrate evidence of program review and alignment.
75% of EPPs will demonstrate evidence of program review and alignment to CAEP standards.
R. 43-90 requires South Carolina EPPs to meet national accreditation standards.
Mary Hipp, Director of the Office of Educator Services; Rachel Harvey, Education Associate for Educator Preparation
South Carolina has a newly formed partnership agreement with CAEP, and all EPPs must align their curricula and assessment systems to the CAEP standards.
n/a
Mary Hipp, Director of the Office of Educator Services; Rachel Harvey,
South Carolina is in the first year of the CAEP agreement and transition. EPPs must conduct program reviews and develop data systems aligned with these
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

et CAEP standards.

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
Business, Association or Individual

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Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

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sponsibility Chart

e agency can determine this by sorting the
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ow).
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hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Transitioning from NCATE to CAEP

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
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and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:

Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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3) In the next set of cells enter the actual and target result
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Including a minimum acceptable level and target level will
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Types of Performance Measures:

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operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results

Details
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Most Potential Negative Impact
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Outside Help to Request
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3 General Assembly Options

REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review

PARTNERS

Instructions : Under the column labeled, "Current Partner
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partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Center for Educator Recruitment, Retention and Advancement

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
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Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 3.5 - Implement the strategies outlined in the South Carolina plan for equitable access to excellent educators.

Objective 3.5.1- Support development of a pipeline of educators to high poverty, high minority, and rural schools.
Federal ESEA and State-SC Code of Laws Title 59
Improved student achievement

Cross Divsional-Federal, State, and Community Resources, College and Career Readiness, and

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201

Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340

Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
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nd the agency selected it.

and customer benefits from an agency's actions. O
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rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

N/A
N/A
N/A
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

N/A

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Collaboration with the Alternataive Certifcation Team to present district and/or regional information

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total budget for General Fund, EIA and Federal to include listed objective

[redacted]

ın provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 3.5.1- Support development of a pipeline of educators to high poverty, high minority, and rural schools.
Increase in the number of teachers employed in high poverty, high minority, and rural schools
Output

N/A
N/A
N/A
Increase
Increase
The SC State Plan for Equitable Access to Excellent Educators requires monitoring.
Karla Hawkins, Deputy Superintendent
To support the objective in increasing the number of teachers in the targeted areas
N/A
Karla Hawkins, Deputy Superintendent
The need to increase the numbers of teachers in the targeted areas was considered
Yes
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
College/University

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Please save the information related to
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[redacted]

Chart

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esponsibility Chart

esponsibility Chart

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s Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

Program founded by state agency (CHE)
housed at college/university.

This is the next chart because once the ag
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Agency Responding
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Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

Results

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
None

PARTNERS

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instead of listing each high school in the county separately

Current Partner Entity
NA - New Objective

gency determines the associated prog
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South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 3.5 - Implement the strategies outlined in the South Carolina plan for equitable access to excellent educators.

Objective 3.5.2-Promote distributed leadership, instructional support, and improved school climate.
Federal ESEA and State-SC Code of Laws Title 59
Educators will have greater expertise and capacity to be better able to support all students in achieving success in meeting the Profile.

FSL, LEAD, APPLE, DAPP, PIP, IDA

Sheila Quinn

7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
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Objective Number and Description	
Performance Measure:	
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House Legislative Oversight Committee will provide

None
None
None
None
None

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Ways Agency Works with Current Partner

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nputs are "what we use to do the work." They measure the factors or req

Objective 3.5.2-Promote distributed leadership, instructional support, and improved school climate.
NA - New Objective
Output Measure
NA - New Objective
NA - New Objective
NA - New Objective
NA - New Objective

NA - New Objective
Only Agency Selected
Sheila Quinn
Concerns expressed by stakeholders
n/a
Sheila Quinn
n/a
Yes

occur as a result of the agency not accomplishing this objective. Next to,
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Chart

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[redacted]

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Fiscal Year for which information below pertains

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Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
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PERFORMANCE MEASURES

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Types of Performance Measures:

How the Agency is Measuring its Performance

Results

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POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo

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3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi

Matter(s) or Issue(s) Under Review
n/a

PARTNERS

Instructions : Under the column labeled, "Current Partner

Current Partner Entity
The Education Oversight Committee, Palmetto State Teachers Association, South Carolina Education Association, South Carolina Association of School Business Officials, South Carolina School Boards Association and the South Carolina School Administrators Association.

rency determines the associated prog

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc

Goal 3 -SCDE will support public school Educators in building expertise for increasing student growth and achievement, closing the achievement gap, and increasing the numbers of students meeting the Profile of the SC graduate.
Federal ESEA and State-SC Code of Laws Title 59
Strategy 3.5 - Implement the strategies outlined in the South Carolina plan for equitable access to excellent educators.

Objective 3.5.3- Advocate for greater salary equity among South Carolina school districts.
Federal ESEA and State-SC Code of Laws Title 59
Educator retention

Emily Heatwole
13
Director
1429 Senate Street Columbia, SC 29201
Governmental Affairs

$3,375,081,797
Agency will provide next year

ons below as many times as needed so the agency ca

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:

2014-15 Actual Results (as of 6/30/15):

2015-16 Minimum Acceptable Results:

2015-16 Target Results:

ack this? (provide any additional explanation needed,

is as a performance measure?

were made to try and ensure it was reached?

e target value for 2015-16?

rget value in 2015-16 and why was the decision finally

e agency is going to reach the target for 2015-16?

what changes are being made to try and ensure it is

ost potential negative impact to the public that may

Teacher salaries are not increased above the mandated

7

The Governor and the General Assembly.

General Assembly is already informed.

Support agency request for increased teacher salaries, s

iews, audits, investigations or studies ("Reviews") of

Reason Review was Initiated (outside request, internal policy, etc.)

n/a

r Entities" list all entities the agency is currently worl

Ways Agency Works with Current Partner

rams and amount of funds it is allocating to accompl

onsibility Chart. It is recommended that the agency copy and paste the da

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respc
Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total budget for General Fund, EIA and Federal to include listed objective

an provide this information for each Performance Measure that applies to

Objective 3.5.3- Advocate for greater salary equity among South Carolina school districts.

The agency will include in the annual budget request funding recommendations to support more equitable salaries for teachers in South Carolina. The agency shall request a salary increase of two percent in addition to the annual step increase to ensure that the state minimum starting salary is above $30,000. The agency will also request that the General Assembly fund an additional year on the state salary schedule to ensure that teachers recevie increases in districts that currently have salary schedules that stop at 22 years. The department will also request an additional year to make recommendations on the state salary schedule.

n/a

n/a

n/a

Agency budget request and proviso requests are included in the Annual Appropriations Act.

n/a

Emily Heatwole, Director of Governmental Affairs

It is a measurable step in achieving greater salary equity across districts.

n/a

Emily Heatwole, Director of Governmental Affairs

n/a

n/a

n/a

occur as a result of the agency not accomplishing this objective. Next to,

step increase.Teacher morale, retention and recruitment continues to suffer as

support corresponding proviso changes and support legislative changes to the st

the agency which occurred during the past fiscal year that relates/impact

Entity Performing the Review and Whether Reviewing Entity External or Internal

n/a

king with that help the agency accomplish this objective. Under the "Way

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the

ata in this tab into multiple other tabs,

[redacted]

:hart

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esponsibility Chart

esponsibility Chart

onsibility Chart
sponsibility Chart

e agency can determine this by sorting the

es and Responsibility Chart

[redacted]

this objective.

Insert any further explanation, if needed

"Most Potential Negative Impact," enter

a result.

tate minimum salary schedule

s this objective. Please remember to

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
n/a

s Agency works with Current Partners,"

[redacted]

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
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assistance in completing the information below.

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Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.

Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
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3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

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N/A

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instead of listing each high school in the county separately

Current Partner Entity

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 4 - State, district, and school learning systems will be aligned to promote personalized student
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 4.1- Fully implement a student longitudinal data system to communicate state, district, and school progress.

Objective 4.1.1- Work with contractors and agency processes to ensure data from the Student Information System is accurate, reliable, and valid
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Better SIS data supports better decision making, resulting in more effective personalized learning aligned to the Profile.

Education Accountability Act

Sheila Quinn

7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$1,558,830,664
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
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nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

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Objective Number and Description	
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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Federal and State funding are tied to the ability to accu
N/A
N/A
N/A
N/A

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niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

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accountability report.
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government requires the agency to track this information, or Only Agency

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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 4.1.1- Work with contractors and agency processes to ensure data from the Student Information System is accurate, reliable, and valid
Creation and population of a modified CEDS database. Progress is benchmarked against completeon of phased implementation targets
Input/Explanatory/Activity
N/A
N/A
N/A

Student Demographics
Student Demographics and School Characteristics
Only Agency Selected
Daniel Ralyea Director ORDA
Compatibility with SLDS and implementation of Enterprise Data System
N/A
N/A
Project Scope and resources
yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

ratly report student data

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Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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[redacted]

Chart

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esponsibility Chart

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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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list Lexington County High Schools,

[redacted]

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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Objective # and Description:
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Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

Results

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Most Potential Negative Impact
Level Requires Outside Help
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Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
daily vulnerability scans and data loss prevention scanning

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
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Current Partner Entity
RSA
Nexpose

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 4 - State, district, and school learning systems will be aligned to promote personalized student growth, achievement, and the Profile of the SC Graduate.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 4.1- Fully implement a student longitudinal data system to communicate state, district, and school progress.

Objective 4.1.2- Ensure that 100% of data are private and secure.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. Cybersecurity laws: http://ed.sc.gov/data/data-security-privacy/resources/
Secured student data.

Chief Information Security Office - State DIS

Ken Puett
20
Chief Information Security Officer
1429 Senate Street Columbia, SC 29201
Chief Information Security Office

$1,558,830,664
Agency will provide next year
[redacted]

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Objective Number and Description	
Performance Measure:	
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House Legislative Oversight Committee will provide

Exposure of over 700,000 student record information
none

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
internal procedures

r Entities" list all entities the agency is currently worl
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: within a certain group, the agency can list the grou
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/.

Ways Agency Works with Current Partner
business vendor
business vendor
[redacted]

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 4.1.2- Ensure that 100% of data are private and secure.
% of student and teacher unique identifiers lost
not tracked
0% lost
0% lost

0% lost
0% lost
CISO - Kenneth B. Puett
Extensive longitudinal data containing PII
n/a
CISO - Kenneth B. Puett
exposure of public data
yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
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Matter(s) or Issue(s) Under Review

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Education Oversight Committee
Public School Districts

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 4 - State, district, and school learning systems will be aligned to promote personalized student
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 4.1- Fully implement a student longitudinal data system to produce digital report cards that communicate state, district, and school progress.

Objective 4.1.3-All aggregated/disaggregated summative assessment data will be accessed through the student longitudinal data system and presented in stakeholder-friendly formats for the Report Cards by 2018.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Better communication leads to increased understanding of the successes and needs of students in public education.

Education Accountability Act

Sheila Quinn
7
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Innovation and Effectiveness

$1,558,830,664
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
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mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
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what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Inaccurate reporting of school districts ratings and nega
N/A
N/A
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
The report card is published under the EOC but the production is completed by SCDE
Data is collected from and verified by the school districts

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Copy and paste this from the second column of the Strategy, Objectives and Re

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Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total budget for EIA and Federal to include listed objective

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 4.1.3-All aggregated/disaggregated summative assessment data will be accessed through the student longitudinal data system and presented in stakeholder-friendly formats for the Report Cards by 2018.
The sucessful creation of a web-based portal that would allow on demand access to assessment data. The first iteration of this is a web-based report card.

Input/Explanatory/Activity
N/A
N/A
N/A
N/A
N/A/baseline
Only Agency Selected
Daniel Ralyea Director ORDA
Under the current process school districts provided feedback after publication of the data resulting in miscommunication and multiple republications of the reportcard in order to ensure accurate data was being disseminated to the public.
n/a
n/a
n/a
n/a

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
: this information to all other House standing committees, but will not add

ative impact on funding

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State/Local Government Entity
State/Local Government Entity

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

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Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

e agency can determine this by sorting the
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es and Responsibility Chart

this objective.

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
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TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
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This is the next chart because once the ag
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agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:

Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
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Types of Performance Measures:

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mission, goals and objectives. They are also used to direct
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Efficiency Measure - A quantifiable indicator of productiv
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Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
Annual Accreditation Report to the SC Board of Education

PARTNERS

Instructions : Under the column labeled, "Current Partner
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Current Partner Entity
AdvancED

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 4 - State, district, and school learning systems will be aligned to promote personalized student
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Strategy 4.2-All districts will use an international model of qualitative systems review and continuous improvement for accreditation.

Objective 4.2.1-All districts will be in compliance with state and federal regulations.
Federal ESEA and State-SC Code of Laws Title 59
Continuous improvement for accreditation.

Accreditation, District Strategic Planning, School Renewal Planning

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$1,558,830,664
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
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this information, Federal if an entity in the federal
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Objective Number and Description
Performance Measure:
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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

SC Diplomas will not be granted to districts that are not
NA
NA
NA
NA

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
State Board Policy

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
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Ways Agency Works with Current Partner
Accreditation

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government requires the agency to track this information, or Only Agency

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the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 4.2.1-All districts will be in compliance with state and federal regulations.
Number of districts accreditated
Output

100%
100%
100%
100%
SC Board of Education
State Legislature and SC Board of Education
To comply with SC Legislation
SC Department of Education
School Districts must be accreditated to grant SC diplomas
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

accreditated. Possible loss of state funding.

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
South Carolina Department of Education

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Chart

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esponsibility Chart

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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
07/01/2015-06/30/2016

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[redacted]

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Agency Responding
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and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
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workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
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How the Agency is Measuring its Performance

Results
Details
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instead of listing each high school in the county separately

Current Partner Entity
Local districts with state submitted plans

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
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South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 4.2-All districts will use an international model of qualitative systems review and continuous improvement for accreditation.

Objective 4.2.2- The SCDE will develop one consolidated, coherent planning tool that incorporates and aligns all required state and federal plans by 2018.
Federal ESEA and State-SC Code of Laws Title 59
Increased efficiency and better aligned plans that could result in higher achievement of the aligned goals.

District Strategic, School Renewal Plans, Federal Program Plans

Karla Hawkins

5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources
The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$1,558,830,664
Agency will provide next year

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nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
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of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	
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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

N/A
N/A
N/A
N/A
N/A

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information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
N/A

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f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
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Ways Agency Works with Current Partner
N/A

grams and amount of funds it is allocating to accompl
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government requires the agency to track this information, or Only Agency

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the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 4.2.2- The SCDE will develop one consolidated, coherent planning tool that incorporates and aligns all required state and federal plans by 2018.
Completed one plan document by December 2018
Input/Explanatory/Activity
NA
NA
NA
NA
Go from concept to project management
No
Roy Stehle, Director of Office of Federal and State Accountability
Reduce paperwork at the LEA level
N/A
Roy Stehle, Director of Office of Federal and State Accountability
Process planning began 2015-2016
yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

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sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
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Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
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Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
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What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
N/A
N/A

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
None
None

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.1-Implement robust virtual options to meet state needs that serve 100% of students and schools who apply for a virtual course

Objective 5.1.1- Monitor student course requests to employ an adequate number of adjunct faculty to meet student demand.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Expanded student learning opportunities at lower cost to the public.

VirtualSC

Julie Fowler
13

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
Student demand for virtual courses through VirtualSC continues to grow at a tremendous rate each year, but VirtualSC is committed to serving 100% of the students that request to take online courses by ensuring that the appropriate numbers of teachers are hired each semester to ensure proper coverage of all courses for all students.

$4,201,045,340
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. Ou
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

If this objective is not achieved then students needing to
80%
A comprehensive review of data would be used to deter
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.1.1- Monitor student course requests to employ an adequate number of adjunct faculty to meet student demand.
Monitor virtual student course requests to ensure that enough adjunct teachers have been hired to meet the student demand.

95%
95%
98%
98%
100%
Bradley Mitchell, Director - Office of Virtual Education
To ensure that adequate teacher coverage was being provided to meet student demands statewide.
Additional adjunct teachers are being hired for the 2015-16 school year to
Bradley Mitchell, Director - Office of Virtual Education
Historical program data was used to determine the percentage of student requests served in previous years and a new target of 100% was set to ensure
At this point 100% of students who have requested courses in the Fall and Spring semesters have been placed into courses, so it appears that the office
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

o take virtual courses for a variety of reasons may not be served by the program
mine the cause. Likely the cause would be due to not enough teachers on staff

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
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sources allocated. The
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Please save the information related to
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Chart

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formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Output Measure

No

No.

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

leaving the student, parent, or school to

to accommodate the student request, so

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:

Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
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Types of Performance Measures:

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Output Measure - A quantifiable indicator of the number
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How the Agency is Measuring its Performance

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
N/A
N/A

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partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
None
None

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.1-Implement robust virtual options to meet state needs that serve 100% of students and schools who apply for a virtual course

Objective 5.1.2- Implement a program to serve expelled high school students in spring 2016.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Expanded student learning opportunities

VirtualSC

Julie Fowler
13
Deputy Superinetendent
1429 Senate Street Columbia, SC 29201

College and Career Readiness
VirtualSC will develop and make recommendations on how to best serve high school students who are expelled from their school. VirtualSC will provide the teachers and course materials to students, so that they can continue on their path toward graduation. Presently, schools can begin sponsoring their expelled students into courses with VirtualSC and the program will begin serving them immediately starting in the Spring 2016 semester.

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
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mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
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e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Expelled students would not have an option to continue
50%
School Districts would be contacted to ensure that they
30%
1) Develop a proviso or legislation that would require sc

iews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

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Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

[redacted]

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accountability report.
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utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.1.2- Implement a program to serve expelled high school students in spring 2016.
Implement a program to serve expelled high school students starting in Spring 2016 semester.

0
0
0
Serving 80% of expelled high school students that request enrollment.
Serving 80% of expelled high school students that request enrollment.
Bradley Mitchell, Director - Office of Virtual Education
This was identified as a need by schools, so VirtualSC will begin developing a plan to serve expelled high school students with it's virtual program by providing enrollment, online course materials, and a certified teacher to ensure that expelled students are maintaining and stay on track of their plan for graduation - even while expelled from high school.
N/A - this is a new objective for 2015-16.
Bradley Mitchell, Director - Office of Virtual Education
Since this is the first year the program is working to serve expelled students and is working on developing a plan to ensure that all expelled students have
Yes
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
: this information to all other House standing committees, but will not add

on their pathway toward graduation without the program focusing on this obje
are working with the program to enroll expelled students into virtual courses wi
chools to sponsor expelled students into courses with VirtualSC and continue spo

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
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agency works with every high school in Lexington county, the agency can

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Chart

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Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Outcome Measures

Insert any further explanation, if needed	No.

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

ective.

ith VirtualSC during the student's expulsion

nsorship throughout the expulsion as long

s this objective. Please remember to
TE: Responses are not limited to the

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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?
POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
N/A
N/A

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
None
None

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.1-Implement robust virtual options to meet state needs that serve 100% of students and schools who apply for a virtual course

Objective 5.1.3- Research a virtual Middle School program model aligned to standards to meet district requests.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-16-10, etal.
Expanded student learning opportunities

VirtualSC

Julie Fowler
13

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
VirtualSC will research and find the best practices for teaching online courses to Middle School students and then begin developing a plan for implementing and offering virtual Middle School courses to students statewide to continue the expansion of the program in areas that meet the needs of students and schools statewide.

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

The most potential negative impact would be that a virt
No outside help should be needed until the Middle Scho
Share resources, courses, and materials with other state
N/A
N/A

iews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

[redacted]

ın provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/I during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.1.3- Research a virtual Middle School program model aligned to standards to meet district requests.
Research and begin plans to implement a virtual Middle School program through VirtualSC aligned to state standards to meet district requests.

N/A - This is a new objective.
N/A - This is a new objective.
N/A - This is a new objective.
The office will produce a comprehensive plan on developing Middle School courses after conducting research on effective programs and working with other states that have developed virtual Middle School programs.
Develop a plan for implementation for a virtual Middle School program and hire appropriate staff to assist with development of new courses and teachers trained to teach at the Middle School level.
Bradley Mitchell, Director - Office of Virtual Education
This objective was chosen based on feedback from school districts across the state based on their needs for continued program development. Additionally, parent and student feedback was collected that showed that VirtualSC needed to expand to offer virtual Middle School courses.
NA - This is a new objective.
Bradley Mitchell, Director - Office of Virtual Education
This year is a research year to allow the program to identify how to best implement this program, develop the curriculum, and begin working toward
Yes.
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

tual Middle School program is not developed and implemented. This is a new pr
ol program is fully developed and launched.
e virtual school programs and receive guidance from states that have already im

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

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hat year. Next to "Target Results," enter
:hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Activity Measure

Insert any further explanation, if needed	No.

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

ogram for VirtualSC, so no one is currently

plemented a Middle School virtual

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
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Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
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POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
N/A
N/A

PARTNERS

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partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Florence-Darlington Tech
Coastal Carolina University

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.1-Implement robust virtual options to meet state needs that serve 100% of students and schools who apply for a virtual course

Objective 5.1.5- Develop and measure annually the number of students who participate in a free virtual, dual enrollment program.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-16-10, etal.
Expanded student learning opportunities

VirtualSC

Julie Fowler
13

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
VirtualSC will partner with a higher education institution to offer and fund a program that will offer dual enrollment courses virtually to students statewide. VirtualSC will fund the textbooks/materials required for the courses and provide a credentialed and certified SC teacher to teach the courses to students.

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
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nd the agency selected it.

and customer benefits from an agency's actions. Ou
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
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of goods or services an agency produces. Output m
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rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
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2015-16 Target Results:
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is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Since this is a new program, the most potential negativ
N/A
The program is currently working with technical college
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Dual Enrollment provider.
Dual enrollment provider.

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

[redacted]

ın provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/I during this year."
ıgency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.1.5- Develop and measure annually the number of students who participate in a free virtual, dual enrollment program.
Develop and measure annually the number of studetns who participate in a free virtual, dual enrollment program.

N/A - this is a new objective.
N/A - this is a new objective.
N/A - this is a new objective.
Develop a virtual dual enrollment program to be offered through VirtualSC.
Develop a virtual dual enrollment program to be offered through VirtualSC.
Bradley Mitchell, Director - Office of Virtual Education
Based on statewide demand to support rural schools and ensure that students statewide have equal opportunity to take dual enrollment courses during their high school career.
N/A - this is a new objective.
Bradley Mitchell, Director - Office of Virtual Education
The dual virtual dual enrollment program is currently under development and will be measured annually to ensure that it is meeting the needs of students
Questionable
The program was ready to be implemented in Spring 2016, but did not begin due to some issues with the Technical College system. The program is currently evaluating other institutions to see if a dual enrollment program can

occur as a result of the agency not accomplishing this objective. Next to,
ıe objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
: this information to all other House standing committees, but will not add

e impact would be that students in rural areas without easy access to a local col
s and other colleges to develop a virtual dual enrollment program to be offered

the agency which occurred during the past fiscal year that relates/impact
: Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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Please save the information related to
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Chart

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sponsibility Chart

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es and Responsibility Chart

this objective.

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:hat the agency would find acceptable.
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pick State from the drop down menu if
Selected if there is no state or federal

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Activity Measure

Insert any further explanation, if needed

No.

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s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

College

College

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
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Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
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Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.

Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
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What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
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POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
John de la Howe Accreditation Report
N/A

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
John de la Howe
None

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.1-Implement robust virtual options to meet state needs that serve 100% of students and schools who apply for a virtual course

Objective 5.1.6- Provide virtual program for all John de la Howe School students in courses where there are no certified teachers.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-16-10, etal.
Expanded student learning opportunities

VirtualSC

Julie Fowler
13

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness
VirtualSC will support John de la Howe by providing courses for which John de la Howe is struggling to find certified teachers to teach.

$4,201,045,340
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
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this information, Federal if an entity in the federal
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t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
e of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description
Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:

2014-15 Actual Results (as of 6/30/15):

2015-16 Minimum Acceptable Results:

2015-16 Target Results:

ack this? (provide any additional explanation needed,

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were made to try and ensure it was reached?

e target value for 2015-16?

rget value in 2015-16 and why was the decision finally

e agency is going to reach the target for 2015-16?

what changes are being made to try and ensure it is
mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

The largest impact of not meeting this objective is that

If the school needs courses that cannot be offered by Vi

John de la Howe would need to contract with a vendor t

N/A

N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
Accreditation issues at John de la Howe are being reviewed to determine if the school will remain an accredited school in 2016-17. Additionally, the Education Oversight Committee is reporting on issues within the school as well.

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Provide virtual courses through VirtualSC to students

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

[redacted]

ın provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
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cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/I during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.1.6- Provide virtual program for all John de la Howe School students in courses where there are no certified teachers.
Provide needed courses to John de la Howe students for courses in which the school does not have certified teachers on staff.
N/A - this is a new objective.
N/A - this is a new objective.

N/A - this is a new objective.
Provide at least 4 courses to the students at John de la Howe based on school needs to ensure that students have equal opportunity to take the same courses as students at other schools.
Provide at least 4 courses to the students at John de la Howe based on school needs to ensure that students have equal opportunity to take the same courses as students at other schools.
Bradley Mitchell, Director - Office of Virtual Education
A need was identified in discussions with the administration at John de la Howe that the school did not have enough certified teachers to cover the courses needed by the students. Since the school had identified that they needed to offer courses taught by certified teachers to ensure that they were meeting the objectives of their accountability plan. VirtualSC discussed the option of providing the virtual coursework and curriculum to the students along with a certified teacher using a blended format utilizing a robot and the online coursework.
N/A - this is a new objective.
Bradley Mitchell, Director - Office of Virtual Education
The school administration identified at least 4 courses that they would need to provide to their students over the course of the 2015-16 school year.
Yes, VirtualSC is providing 6 courses at the present time to the students at John de la Howe.
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
: this information to all other House standing committees, but will not add

the students at John de la Howe may not have access to the same courses taugh
rtualSC then additional help may be needed from an outside provider.
to offer courses that cannot be provided through VirtualSC (such as some Art co

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
SCDE (Accountability Office) and Education Oversight Committee

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

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sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Activity Measure

Insert any further explanation, if needed

No.

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

nt at other schools or may be taught by an

urses or more hands-on courses that have

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
August 27, 2015 to December 31, 2015

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

State Agency

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
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Efficiency Measure - A quantifiable indicator of productiv
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Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
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Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
N/A
N/A

PARTNERS

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enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
SC State Board for Technical and Comp. Education
SC Department of Commerce (12 REC's)
[redacted]

SC Chamber of Commerce
Ready SC and Apprenticeship Carolina
SC Department of Employment and Workforce

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 5.2- Align Career and Technology Education courses with workforce development needs

Objective 5.2.1-Increase the percentage of CATE completers who earn a silver or higher on the National Career Readiness Certificate
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-16-10, etal.
Improved student achievement; more students better prepared for post-secondary success

SC Department of Education Office of Career and Technology Education

Julie Fowler

13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	

ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
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what changes are being made to try and ensure it is rmance measures more likely to be reached, are

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es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

N/A
N/A
N/A
N/A
N/A

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niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Articulation of Courses
Provides NCRC Data
[redacted]
Provides NCRC Data
Provides NCRC Data
Provides NCRC Data

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.2.1-Increase the percentage of CATE completers who earn a silver or higher on the National Career Readiness Certificate
Student Acheivement
N/A
N/A
68.6% of CATE Completers earned Silver or higher on the NCRC
N/A
N/A

Statewide Accountability Workgroup
Provide Business and Industry with baseline data on NCRC
N/A
N/A
N/A
N/A
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
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Review as copies may be requested when the agency is under study. NO

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Please save the information related to
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[redacted]

Chart

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esponsibility Chart

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es and Responsibility Chart

[redacted]

this objective.

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hat year. Next to "Target Results," enter
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formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Outcome Measure

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
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State

State

[redacted]

State
State
State

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Fiscal Year for which information below pertains

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and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person

Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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2) In the cell next to, "Type of Measure," pick the type of r
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How the Agency is Measuring its Performance
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Level Requires Outside Help
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Matter(s) or Issue(s) Under Review
N/A
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South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
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Strategy 5.2- Align Career and Technology Education courses with workforce development needs

Objective 5.2.2-Develop baseline data on student attainment of industry certificates and increase the percentage of student attainment by 1 percentage point annually
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Improved student achievement; more students better prepared for post-secondary success

SC Department of Education Office of Career and Technology Education

Julie Fowler
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College and Career Readiness

$4,201,045,340
Agency will provide next year

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this information, Federal if an entity in the federal
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Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	

2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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House Legislative Oversight Committee will provide

N/A
N/A
N/A
N/A
N/A

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Ways Agency Works with Current Partner
Articulation of Courses
Provides NCRC Data
[redacted]
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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.2.2-Develop baseline data on student attainment of industry certificates and increase the percentage of student attainment by 1 percentage point annually
Student Acheivement
N/A
N/A

38% attainment of industry certificates
39%
50%
Statewide Accountability Workgroup
Close the skills gap and meet the needs of the SC workfore demands
N/A
Statewide Accountability Workgroup
Labor Market Needs
Yes
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
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Please save the information related to
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[redacted]

Chart

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esponsibility Chart

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, productivity, and timeliness of agency

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uests received that explain performance

Outcome Measure

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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State
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Agency Responding
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Fiscal Year for which information below pertains

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and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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1) In the cell next to, “Performance Measure,” enter the p
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How the Agency is Measuring its Performance
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3 General Assembly Options

REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
CDEP Evaluation

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agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
First Steps
Office of Special Education and Adult Education
Department of Social Services

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of the SC Graduate.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.3-Support schools and districts in strengthening the quality of their early learning programs

Objective 5.3.1- 70% of Kindergarten students will enter school "ready to learn" by 2018
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-1152-10
Improved student achievement; higher long-term graduation rates and post-secondary success.

EIA, CDEP, Read to Succeed

Julie Fowler

13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

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hopefully encourage the agency to continually set c
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Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
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Objective Number and Description	
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Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
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2015-16 Minimum Acceptable Results:	

2015-16 Target Results:
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is as a performance measure?
were made to try and ensure it was reached?
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rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Students entering kindergarten will not be ready.
40%
Share resources and network with other early learning p
TBD once baseline data has been collected.
NA

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
Mandated by Legislation

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Collaborate in planning and professional development
Collaborate across the agency to promote literacy
Collaborate in planning and professional development for early learning teachers of 4K
[redacted]

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

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Total General Fund, EIA and Federal to include listed objective

[redacted]

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accountability report.
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tio-based units. Efficiency measures are used to assess the cost-efficiency
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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.3.1- 70% of Kindergarten students will enter school "ready to learn" by 2018
NA --this is a new objective
NA --this is a new objective
NA --this is a new objective
Baseline data is being collected

Assessment measure has changed, baseline date TBD
Julie Fowler, Dupty, College Career and Readiness; Jennifer Anderson, Director
Read to Succeed, Act 284, with the requirement of third grade retention and the recognition of the importance of the high quality of a 4k early learning. State Law
NA --this is a new objective
Julie Fowler, Deputy of Division for College and Careeer Readiness
Read to Succeed, Act 284, with the requirement of third grade retention and the recognition of the importance of the high quality of a 4k early learning.
Questionable
Data analysis and readiness levels are being determined based on research.

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

programs, parents and stakeholders that serve children before entering kindergc

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
Education Oversight Committee

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ccomplish this objective. List only one partner per row and insert as many
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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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Target is not required; statutes promote readiness.

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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
July 1, 2015-Present

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Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance
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REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
Readiness Assessment Implementation

PARTNERS

Instructions : Under the column labeled, "Current Partner
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Current Partner Entity
First Steps

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South Carolina Department of Education
2/26/2016
2015-16

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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.3-Support schools and districts in strengthening the quality of their early learning programs

Objective 5.3.2- Provide support and training to ensure that 100 percent of districts implement Readiness Assessments in 4K and 5K programs
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.S.C. Code Ann. §59-152-10.
Improved student achievement; higher long-term graduation rates and post-secondary success.

EIA, CDEP, Read to Succeed

Julie Fowler

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Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

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Objective Number and Description
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notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

If students are not assessed with a state readiness asse
100%
NA
NA

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ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
Legislation Mandated

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Ways Agency Works with Current Partner
Collborating -professional learning and data collection

grams and amount of funds it is allocating to accompl
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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.3.2- Provide support and training to ensure that 100 percent of districts implement Readiness Assessments in 4K and 5K programs
NA-This is a new objective.
100% of districts implemented Readiness Assessments for 4K and 5K programs.

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Julie Fowler, Deputy of College and Career Readiness
State Legislation, Stategic Planning
Julie Fowler, Deputy of College and Career Readiness
State Legislation, Stategic Planning
Yes

occur as a result of the agency not accomplishing this objective. Next to,
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ssment there will notbe a method to identify students who may need interventic

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EOC

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Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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Current Partner Entity
Division of Child Care Administration, Dept of Social Services
2 Year, and 4 Year Colleges

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South Carolina Department of Education
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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.3-Support schools and districts in strengthening the quality of their early learning programs

Objective 5.3.3-Devise new 4K standards that align with 5K standards and train 100% of districts on implementation strategies by 2017
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-152-10.
Improved student achievement; higher long-term graduation rates and post-secondary success.

EIA, CDEP, Read to Succeed

Julie Fowler

13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
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rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
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t resources to strategies with the greatest effect on

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of available resources and should be the second pr
of goods or services an agency produces. Output m
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rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	

ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may occur as a result of the agency not accomplishing th es to whom the agency would reach out if the poten notice of the level at which the potential negative ir House Legislative Oversight Committee will provide

Student achievment could be jeopardized without 4k sta
NA
NA
NA

iews, audits, investigations or studies ("Reviews") of information generated by the entity performing the ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Collaborating on revisions, DSS supporting with
ELS to be aligned to EC coursework

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
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utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.3.3-Revise new 4K standards that align with 5K standards and train 100% of districts on implementation strategies by 2017
NA- This is a new objective.
NA- This is a new objective.
NA- This is a new objective.
Revision of ELS in process
Revisions of ELS more than 70% complete

Julie Fowler, Deputy of College and Career Readiness; Jennifer Anderson,
New SC ELA and Math standards for 5K in 2015 this provides consistency across all 4K programs with standardized expectations.
NA
Julie Fowler, Deputy of College and Career Readiness; Jennifer Anderson,
Timing of the new SCCCR standards and the focus on quality 4k programs and the "ready learner" for kindergarten.
Questionable
Including stakeholders

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

andards align to the 5K standards.

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed	No

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

State Government

Colleges and Universities

[redacted]

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
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Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
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Efficiency Measure - A quantifiable indicator of productiv
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workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance
Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
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What are the names and titles of the individuals who chose the
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Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
NA
NA

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Reading Advisory Panel
NA

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.3-Support schools and districts in strengthening the quality of their early learning programs

Objective 5.3.4-Monitor district reading plans annually to ensure that there is a plan for students to read on grade level by grade 3
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-155-110, etal.
Improved student achievement; higher long-term graduation rates and post-secondary success.

Read to Succeed

Julie Fowler

13
Dpeuty Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

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sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
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nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
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Objective Number and Description	
Performance Measure:	
Type of Measure:	
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2015-16 Minimum Acceptable Results:	

2015-16 Target Results:
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what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

By not monitoring the reading plans, students would no
NA
NA
TBD- baseline will be collected to be determined.

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
NA
NA

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Solicit stakeholder input, collaborate
NA

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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Total General Fund, EIA and Federal to include listed objective

[redacted]

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M during this year."
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utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.3.4-Monitor district reading plans annually to ensure that there is a plan for students to read on grade level by grade 3
NA- this is a new objective
NA- this is a new objective
NA- this is a new objective
Districts are in the process of writing plans.

Districts will submit plans April 25, 2016.
Julie Fowler, Deputy of College and Career Readiness; Jennifer Anderson,
Read to Succeed, Act 284, mandates that districts write and implement reading plans for students to read on grade level. The SCDE will annually monitor.
NA
Julie Fowler, Deputy of College and Career Readiness; Jennifer Anderson,
Read to Succeed, Act 284, mandates that districts write and implement reading plans for students to read on grade level. The SCDE will annually
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

t receive interventions to become proficient readers and writers by third grade.

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

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e agency can determine this by sorting the
olumn

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hat year. Next to "Target Results," enter
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formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
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, productivity, and timeliness of agency

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Insert any further explanation, if needed

Act 284 requires

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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list Lexington County High Schools,

Multiagency

[redacted]

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Fiscal Year for which information below pertains

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Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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workload and efforts and should be the third priority. Exa
Input/Explanatory/Activity Measure - Resources that cont
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How the Agency is Measuring its Performance

Results

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Level Requires Outside Help
Outside Help to Request
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REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
Annual IDEA Determination

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
ECTA
School Districts

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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Strategy 5.3-Support schools and districts in strengthening the quality of their early learning programs

Objective 5.3.5- Increase the percentage of Districts meeting preschool special education outcome targets from 55 to 60 percent
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Improved student achievement; higher long-term graduation rates and post-secondary success.

Office of Special Education Services

Julie Fowler
13

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

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mple - # of business license applications processed.
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Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	

2015-16 Target Results:
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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Children with disabilities will not demonstrate language
50%
National organizations (Early Childhood Technical Assis
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
Annual Requirement

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
National TA Provider
Training/Technical Assistance Provision
[redacted]

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
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nputs are "what we use to do the work." They measure the factors or req

Objective 5.3.5- Increase the percentage of Districts meeting preschool special education outcome targets from 55 to 60 percent
Increase the percentage of Districts meeting preschool special education outcome targets from 55 to 60 percen
55.00%
N/A
60%
60%

TBD (data to be submitted June 2016)
John R. Payne, Office of Special Education Services
To ensure preschoolers with disabilites show evidence of increased preschool outcomes.
N/A
John R. Payne, Office of Special Education Services
Targets established broadly by stakeholders and constituents are required by the IDEA for the State Performance Plan/Annual Performance Report, using
Yes.
N/A

occur as a result of the agency not accomplishing this objective. Next to,
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npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

, behavioral or social-emotional progress they will need to start school ready to
tance Collaborative); School District Personnel

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
USDE Office of Special Education Programs (OSEP)

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ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

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Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

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e agency can determine this by sorting the
olumn

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formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Yes. This is a required collection under the IDEA State Performance Plan/Annual Performance Report

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

learn.

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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
April 2015 - June 2015

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/ rows as necessary to list all of the
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[redacted]

This is the next chart because once the ag
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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each Ol
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Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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How the Agency is Measuring its Performance

Results

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REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
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Current Partner Entity
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;; and continually consider which part

South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students

Objective 5.4.1 50% of all elementary schools will provide before- and after-school academic remediation and acceleration activities
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Improved student achievement

Office of Family and Community Engagement

Karla Hawkins

5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
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neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
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Details about each measure. In the cell next to, "Is a
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and customer benefits from an agency's actions. O
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Objective Number and Description

Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	
ack this? (provide any additional explanation needed,	
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e agency is going to reach the target for 2015-16?	
what changes are being made to try and ensure it is rmance measures more likely to be reached, are	
ost potential negative impact to the public that may occur as a result of the agency not accomplishing th es to whom the agency would reach out if the poten notice of the level at which the potential negative ir House Legislative Oversight Committee will provide	
NA	
NA	
NA	
NA	
NA	

iews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
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Ways Agency Works with Current Partner

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[redacted]

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government requires the agency to track this information, or Only Agency

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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Output

Objective 5.4.1 50% of all elementary schools will provide before- and after-school academic remediation and acceleration activities

Output
Performance will be measured by the number of elementary schools providing before and after school academic remediation and acceleration activities in comparison to the previous year.
Not applicable
Not applicable
Not applicable
50%
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
Only Agency
Yolande Anderson, Director of FACE
The measure directly relates to the responsibilities of the FACE office and the FSCR division.
N/A
Chief Operating Officer
The goal encompasses the probability that at least 50% of the elementary schools throughout the state have either a before and/or after school acceleration/remediation program.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
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Agency Programs Associated with Objective

Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students

Objective 5.4.2- Increase the number of schools with active community partners (those that provide necessary resources regularly) by 10% annually (see State Reading Goal 5).
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Improved student achievement; better public understanding and engagement in public education; increased resources for schools.

Office of Family & Community Engagement

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340
Agency will provide next year

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NA
NA
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Objective 5.4.2- Increase the number of schools with active community partners (those that provide necessary resources regularly) by 10% annually (see State Reading Goal 5).
Performance will be measured by the number of community partners providing regular resources to the school in comparison to the previous year.
Activity Measure
Not applicable
Not applicable
Not applicable
10% annual increase
Not applicable
Only Agency
Yolande Anderson, Director of the Office of Family & Community Engagement
The measure directly relates to the responsibilities of the FACE office and the FSCR division.
Not applicable
Chief Operating Officer
Target value was established to monitor and increase community partners activity levels in neighboring schools.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
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Responsible Person
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Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions: Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

PARTNERS

Instructions: Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity

;ency determines the associated prog
:e measures established to track how
acts which may arise, and need to be
;; and continually consider which part

South Carolina Department of Education
2/26/2016
2015-16

ojective listed in the Strategy, Objectives and Respor
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students

Objective 5.4.3-50% of students will have access to supplemental academic assistance provided by community partners by 2018
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Improved student achievement, better engaged community, increased resources and capacity for districts

Office of Family & Community Engagement

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
:s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. Ou
t resources to strategies with the greatest effect on

ty expressed in unit costs, units of time, or other rat
e of available resources and should be the second pr
of goods or services an agency produces. Output me
mple - # of business license applications processed.
ribute to the production and delivery of a service. Ir
rity. Example - # of license applications received

Objective Number and Description
Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

NA
NA
NA
NA
NA

ews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
NA

Entities" list all entities the agency is currently work
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
NA

rams and amount of funds it is allocating to accompli
effectively and efficiently it is utilizing the resources
addressed, if the objective is not accomplished; ensu
ners the agency could work with to more effectively

nsibility Chart. It is recommended that the agency copy and paste the dat
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the a

Copy and paste this from the second column of the Mission, Vision and Goals C

Copy and paste this from the first column of the Mission, Vision and Goals Char

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" c

Copy and paste this information from the fifth column of the Strategy, Objectiv

Total General Fund, EIA and Federal to include listed objective

n provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/I during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving it
the most valued outcomes. Outcome measures should be the first priorit

io-based units. Efficiency measures are used to assess the cost-efficiency,
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or requ

Objective 5.4.3-50% of students will have access to supplemental academic assistance provided by community partners by 2018

Performance will be measured by the number of students who have access to supplemental academic assistance provided by community partners in comparison to the previous year.

Outcome Measure
Not applicable
Not applicable
Not applicable
Measures are set to be assessed by 2018
Baseline data is being established in order to assess whether the target will be attained by 2018.
Only Agency
Yolande Anderson, Director of the Office of Family & Community Enagagement
The measure directly relates to the responsibilities of the FACE office and the FSCR division.
Not applicable
Chief Operating Officer
Perfomance target was established to increase the amount of community partners offering supplemental academic assistance.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.

occur as a result of the agency not accomplishing this objective. Next to, '
ıe objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
: this information to all other House standing committees, but will not add

the agency which occurred during the past fiscal year that relates/impacts
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

ing with that help the agency accomplish this objective. Under the "Ways
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the agency
allocated. The agency also
re the agency is addressing
and efficiently accomplish

ta in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

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this objective.

ow).
hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

s key customers and in achieving its
y. Example - % of licensees with no

productivity, and timeliness of agency

emands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag
needs to ensure it has proper performanc
needs to consider potential negative impa
issues raised in previous audits or reviews
each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each Ob
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions: Please copy and paste the chart and questio

1) In the cell next to, “Performance Measure,” enter the p

2) In the cell next to, "Type of Measure," pick the type of r

3) In the next set of cells enter the actual and target result

the target value the agency wanted to reach for the perfo

Including a minimum acceptable level and target level will

then enter the following next to the applicable "Actual Res

4) In the last set of cells, answer the questions to provide I

an entity in state government requires the agency to track

entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public

mission, goals and objectives. They are also used to direct

violations.

Efficiency Measure - A quantifiable indicator of productivit

operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number o

workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that contr

(i.e. explanatory). These measures should be the last prior

How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

Instructions: Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students

Objective 5.4.4 Increase the number of students participating in summer learning
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-155-110.
Improved student achievement

Office of Family & Community Enagagement

Karla Hawkins
5

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources

The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,201,045,340
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
:s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. Ou
t resources to strategies with the greatest effect on

ty expressed in unit costs, units of time, or other rat
e of available resources and should be the second pr
of goods or services an agency produces. Output me
mple - # of business license applications processed.
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rity. Example - # of license applications received

Objective Number and Description

Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

NA
NA
NA
NA
NA

ews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
NA

Entities" list all entities the agency is currently work
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
NA

rams and amount of funds it is allocating to accompli
effectively and efficiently it is utilizing the resources
addressed, if the objective is not accomplished; ensu
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nsibility Chart. It is recommended that the agency copy and paste the dat
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Total General Fund, EIA and Federal to include listed objective

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accountability report.
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challenging targets each year. If the agency did not utilize a particular perf
A during this year."
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government requires the agency to track this information, or Only Agency

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the most valued outcomes. Outcome measures should be the first priority

io-based units. Efficiency measures are used to assess the cost-efficiency,
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or requ

Objective 5.4.4 Increase the number of students participating in summer learning

Performance will be measured by the number of students participating in summer learning activities provided by elementary schools in comparison to the previous year.

Activity Measure
NA
NA
NA
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
Only Agency
Yolande Anderson, Director of the Office of Family & Community Enagagement
The measure directly relates to the responsibilities of the FACE office and the FSCR division.
NA
Chief Operating Officer
Perfomance target was established to increase the amount of summer learning activities provided throughout the state and children participating.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.
Baseline data is being established in order to assess whether the target will be attainable for the 2015-16FY.

occur as a result of the agency not accomplishing this objective. Next to, '
ıe objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
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Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the agency
allocated. The agency also
re the agency is addressing
and efficiently accomplish

ta in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

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e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

s key customers and in achieving its
y. Example - % of licensees with no

productivity, and timeliness of agency

emands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

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TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:

Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio

Types of Performance Measures:

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," reached or what resources are being diverted to ensure perfor

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi

Matter(s) or Issue(s) Under Review
N/A

PARTNERS

Instructions : Under the column labeled, "Current Partner

Current Partner Entity
South Carolina Afterschool Alliance & The Education Oversight Committee

rency determines the associated prog

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc

[redacted]

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of the SC graduate.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students

Objective 5.4.5-Advocate for increased state support of summer and afterschool programs and include transportation
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Extended learning opportunities are a research-based method of increasing academic achievement. Transportation is a well-known barrier to participation and attendance, especially in the rural districts, to that output results in increased attendance and student achievement.

EIA, EAA, Read to Succeed

Emily Heatwole
13
Director
1429 Senate Street Columbia, SC 29201
Governmental Affairs

Agency will provide next year

ons below as many times as needed so the agency ca

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:

2014-15 Actual Results (as of 6/30/15):

2015-16 Minimum Acceptable Results:

2015-16 Target Results:

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rget value in 2015-16 and why was the decision finally

e agency is going to reach the target for 2015-16?

what changes are being made to try and ensure it is

rmance measures more likely to be reached, are

ost potential negative impact to the public that may

Children who need educational support through extend

High

Funding from the General Assembly

High

Increase state support for extended learnin, offer flexibi

iews, audits, investigations or studies ("Reviews") of

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently wor

Ways Agency Works with Current Partner
provision of summer camps and evaluatio of summer reading partners.

rams and amount of funds it is allocating to accompl

onsibility Chart. It is recommended that the agency copy and paste the da

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respc

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The

Copy and paste this information from the fifth column of the Strategy, Objectiv

Copy and paste this information from the Strategic Budgeting Chart

an provide this information for each Performance Measure that applies to

Objective 5.4.5-Advocate for increased state support of summer and afterschool programs and include transportation
The agency will advocate for increase financial support for district expansion of extended learning opportunities to increse student achievement and success.
$1,500,000 appropriated in the 13-14 budget
Increased funding
$6,000,000 appropriated in the 14-15 budget ($4,500,000 increase)
Appropriation of requested $1,500,000
N/A
Emily Heatwole, Director of Governmental Affairs
The department is charged through Read to Succeed to ensure all students are reading on grade level by the end of third grade and must offer summer learning to any student who is not reading on grade level. The department wishes to extend these extended learning opportunitites to students in K-2.
N/A
Emily Heatwole, Director of Governmental Affairs & Jennifer Anderson, Director Office of Early Literacy and Learning
Number of students qualifying for a summer reading camp but unable to participate due to the lack of state support.
Possibly
The agency will continue to advocate for the funding increase as the budget progresses through the Senate.

occur as a result of the agency not accomplishing this objective. Next to,

ed learning do not receive that opportunity.

lity in delivery of extended learning opportunities to permit the mandate for the

the agency which occurred during the past fiscal year that relates/impact

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the

ata in this tab into multiple other tabs,

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

e agency can determine this by sorting the

es and Responsibility Chart

this objective.

Outcome

Insert any further explanation, if needed

"Most Potential Negative Impact," enter

"Summer Reading Camp" to be met during

s this objective. Please remember to

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"

Other and State Government Entity

This is the next chart because once the ag
agency needs to ensure it has proper perf
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Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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Types of Performance Measures:

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How the Agency is Measuring its Performance

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REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
NA
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PARTNERS

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Current Partner Entity
Office of Adult Education
Department of Social Service

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South Carolina Department of Education
2/26/2016
2015-16

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Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.4 Provide resources that will allow schools to offer a continuum of supplemental services/resources to support the academic, social, and emotional needs of students

Objective 5.4.6- Increase family awareness of and involvement in children's literacy development (State Reading Goal 4).
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act. S.C. Code Ann. §59-155-110.
Improved student achievement; increased family engagement in students' learning.

Read to Succeed

Julie Fowler
13
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,201,045,340
Agency will provide next year

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Ways Agency Works with Current Partner
Collaborate with professional learning oportunities,
Partnership to provide vouchers for childcare as a family literacy project
[redacted]

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Total General Fund, EIA and Federal to include listed objective

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Julie Fowler, Deputy of College and Career Readiness; Jennifer Anderson,
State Law, Read to Succeed- Act 284
NA
Julie Fowler, Deputy of College and Career Readiness; Jennifer Anderson,
Read to Succeed, Act 284
Questionable
Baseline Data analysis will need to be collected to track.

occur as a result of the agency not accomplishing this objective. Next to,
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Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective

Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

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South Carolina Department of Education
1/11/2016
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State-SC Code of Laws Title 59
Strategy 5.5- All students will have access to world class opportunities in the world language, related arts, technology, and accelerated programs

Objective 5.5.1-Report the percentage of student participation in high quality world language programs by district
State-SC Code of Laws Title 59
Increased access to world class opportunities

Julie Fowler
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

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Ways Agency Works with Current Partner

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Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:

Total Actually Spent:
[redacted]

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Objective 5.5.2- Report the percentage of student participation in high quality arts programs by district
State-SC Code of Laws Title 59
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Julie Fowler
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
College and Career Readiness

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Objective 5.5.3- 100% of middle schools will offer courses for high school credit by 2018
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r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo
Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Copy and paste this information from the Strategic Budgeting Chart

[redacted]

ın provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belc
actual value the agency had for that performance measure at the end of tl
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/I during this year."
ıgency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.5.5- 100% of high schools will report students participating in dual credit courses

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
e this information to all other House standing committees, but will not add

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
e agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

onsibility Chart
sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

[redacted]

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:

Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.

Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
Annual IDEA Determination

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
TASC
School Districts

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 5- SCDE will support expanded learning opportunities for all students to promote the Profile of
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Strategy 5.5- All students will have access to world class opportunities in the world language, related arts, technology, and accelerated programs

Objective 5.5.6- Increase the percentage of compliance of postsecondary transition and services of students with IEPs from 92 percent to 95 percent
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased access to world class opportunities

Office of Special Education Services

Julie Fowler
13
Deputy Superintendent

1429 Senate Street Columbia, SC 29201
College and Career Readiness

$4,349,221,400
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	

2015-16 Target Results:
ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Youth and young adults will not receive the appropriate
<50%
Transition Alliance of SC; National Technical Assistance
N/A
N/A

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
Annual Requirement

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Funding; Training; Technical Assistance; Strategic
Training; Technical Assistance
[redacted]

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
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[redacted]

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accountability report.
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cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
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government requires the agency to track this information, or Only Agency

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the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 5.5.6- Increase the percentage of compliance of postsecondary transition and services of students with IEPs from 92 percent to 95 percent
ncrease the percentage of compliance of postsecondary transition and services of students with IEPs from 92 percent to 95 percent
92%
95.00%
96.60%
95.00%

TBD (Data to be finalized in June 2016 for the 2015-16 school year).
John R. Payne, Office of Special Education Services
To ensure youth with disabilites receive appropriate post-secondary services to prepare them for continued education, employment and independent living (per the IDEA & the SCDE Vision).
N/A
John R. Payne, Office of Special Education Services
Targets established broadly by stakeholders and constituents are required by the IDEA for the State Performance Plan/Annual Performance Report, using
Yes.
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

services to prepare them for continued education, employment and independe
Providers (mulitple); US Dept. of Education; School Districts

the agency which occurred during the past fiscal year that relates/impact
Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal
USDE Office of Special Education Programs (OSEP)

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

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e agency can determine this by sorting the
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es and Responsibility Chart

this objective.

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Yes. This is a required collection under the IDEA State Performance Plan/Annual Performance Report

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

nt living. Egregious violoations could

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
April 2015 - June 2015

s Agency works with Current Partners,"
/ rows as necessary to list all of the
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list Lexington County High Schools,

[redacted]

This is the next chart because once the ag
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accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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each Objective as a separate tab in the excel document. L
assistance in completing the information below.

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and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person

Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide l
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.

Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?
Based on the performance so far in 2015-16, does it appear th
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POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options
REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
None that relate to this objective

PARTNERS

Instructions : Under the column labeled, "Current Partne
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
School Districts

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy environment for long-term success.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.
Strategy 6.1-Operate a safe and efficiently operated school transportation program

Objective 6.1.1- Operate a school maintenance program that ensures daily availability of regular-route school vehicles and reduces mechanic turnover by 1 percentage point annually
State-SC Code of Laws Title 59 S.C. Code Ann. §59-67-10
Safe and efficient student transportation

Office Of Transportation

Virgie Chambers
13 months
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Operations and Support
The Office of Transportation provides, maintains, and services the state school bus fleet; manages the school bus drivers training and certification program; monitors school transportation safety and provides programs to enhance student transportation safety; assists districts with school bus routing and scheduling; and assists districts in responding to Federal school transportation mandates.

$4,349,221,400
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
measure that best fits the performance measure fro
ts for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
e of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
tribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description
Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Insufficient staffing to maintain and accomplish agency
Current levels of vacancy require outside support
SC General Assembly
Current levels of vacancy require notification
Increase mechanic pay; create a step program for more fleet.

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently wor
f projects, initiatives, etc.) which helps the agency a
t within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Districts have begun purchasing their own buses

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belc
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.1.1- Operate a school maintenance program that ensures daily availability of regular-route school vehicles and reduces mechanic turnover by 1 percentage point annually
Reduction of mechanic turnover by 1% annually
Input/Explanatory/Activity Measure
Turnover was 68
N/A
Turnover was 74 = 16%
Turnover of 71
Turnover of 70 = 15%
No
Virgie Chambers, Deputy Superintendent for Operations and Support
Reducing turnover increases the supply of experienced mechanics who can service school buses, keeping them available for pupil transportation.
NA; new administration
Virgie Chambers, Deputy Superintendent for Operations and Support
Trajectory of turnover rate
Every effort is being made to obtain this target level
SCDE has requested additional funding to increase mechanic salaries to the levels paid by other, competing, state agencies.

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
e this information to all other House standing committees, but will not add

goals
qualified mechanics, increase number of FTEs to lower mechanics' work loads,

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State/Local Government Entity

ish each objective, the
sources allocated. The
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Please save the information related to
gency has any questions or needs any

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Chart

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formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

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y. Example - % of licensees with no

, productivity, and timeliness of agency

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Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
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ns for what the General Assembly could
lress it itself until the agency is under

purchase newer buses to update aging

:s this objective. Please remember to
)TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

's Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
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agency also needs to consider potential n
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Date of Submission
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Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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3) In the next set of cells enter the actual and target result
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Including a minimum acceptable level and target level will
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an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
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violations.

Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use

Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

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PARTNERS

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Current Partner Entity
Local School Districts

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South Carolina Department of Education
2/26/2016
2015-16

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rsion to complete for each separate Objective. The
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Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.
Strategy 6.1-Operate a safe and efficiently operated school transportation program

Objective 6.1.2- Administer the School Bus Driver Training and Certification program to reduce the number of driver-caused bus accidents by 1 percentage point annually.
State-SC Code of Laws Title 59 S.C. Code Ann. §59-67-10
Safe and efficient student transportation

Office Of Transportation and Local SC School Districts

Virgie Chambers

13 Months
Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Operations and Support
The Office of Transportation provides, maintains, and services the state school bus fleet; manages the school bus drivers training and certification program; monitors school transportation safety and provides programs to enhance student transportation safety; assists districts with school bus routing and scheduling; and assists districts in responding to Federal school transportation mandates.

$4,349,221,400
Agency will provide next year

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rity. Example - # of license applications received

Objective Number and Description

Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
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rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Annual increase in bus driver at-fault accidents and pup
Consecutive years of increase in bus driver at-fault accid
General Assembly and continue working with districts
Consecutive years of increase in bus driver at-fault accid
Provide increased funding for driver salary to reduce tur *driver training; provide additional funding for equipmen*

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently wor
f projects, initiatives, etc.) which helps the agency a
t within a certain group, the agency can list the grou
niddle school separately. As another example, if the
y.

Ways Agency Works with Current Partner
SCDE certified classroom instructors and behind-the-wheel trainers provide instruction and training

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the a

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Copy and paste this from the first column of the Strategy, Objectives and Respc

Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" c

Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belc
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.1.2- Administer the School Bus Driver Training and Certification program to reduce the number of driver-caused bus accidents by 1 percentage point annually.

Reduce driver at-fault accidents by 1% each year
Outcome Measure
402 (59.2% of all accidents)
NA
341 (58.6% of all accidents)
57.6% of all accidents
57.6% of all accidents (1% decrease)
No
Virgie Chambers, Deputy Superintendent for Operations and Support
To reduce the number of bus driver at-fault accidents
NA; new administration
Virgie Chambers, Deputy Superintendent for Operations and Support
Trajectory of driver at-fault accidents
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
mpact has risen. Next to, "3 General Assembly Options," enter three optio
e this information to all other House standing committees, but will not add

il injuries
dents
dents
rnover and retain qualified personnel; provide additional FTEs to enable SCDE to
nt designed to improve driver safety.

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State/Local Government Entity

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
:hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

/, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
lress it itself until the agency is under

provide greater support to districts for

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

's Agency works with Current Partners,"
/ rows as necessary to list all of the
vith every middle school in the state, the
ı list Lexington County High Schools,

This is the next chart because once the ag
ensure it has proper performance measur
potential negative impacts which may aris
or reviews; and continually consider whic

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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tab in the excel document. Label each Tab, "O__" and ins
below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:

Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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applicable "Actual Results" and "Target Results," - “Agency
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How the Agency is Measuring its Performance

Results

Details
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Most Potential Negative Impact
Level Requires Outside Help
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Level Requires Inform General Assembly

3 General Assembly Options

REVIEWS/AUDITS

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Matter(s) or Issue(s) Under Review
None that relate to this objective

PARTNERS

Instructions : Under the column labeled, "Current Partner
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of partners that all fit within a certain group, the agency c
each middle school separately. As another example, if the

Current Partner Entity
None that relate to this objective

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res established to track how effective
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South Carolina Department of Education
2/26/2016
2015-16

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Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and
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Strategy 6.1-Operate a safe and efficiently operated school transportation program

Objective 6.1.3-Reduce the number of student ride times that exceed 90 minutes by 50 percent
State-SC Code of Laws Title 59 S.C. Code Ann. §59-67-105.
Safe and efficient student transportation

Office of Transportation and Local SC School Districts

Virgie Chambers
13 Months
Deputy Superintendent

1429 Senate Street Columbia, SC 29201
Operations and Support
The Office of Transportation provides, maintains, and services the state school bus fleet; manages the school bus drivers training and certification program; monitors school transportation safety and provides programs to enhance student transportation safety; assists districts with school bus routing and scheduling; and assists districts in responding to Federal school transportation mandates.

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the agency to continually set challenging targets ea
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of goods or services an agency produces. Output m
siness license applications processed.
tribute to the production and delivery of a service. I
Example - # of license applications received

Objective Number and Description
Performance Measure:
Type of Measure:

2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
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e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may
a result of the agency not accomplishing the objecti
would reach out if the potential negative impact rise
e potential negative impact has risen. Next to, "3 Ge
rovide this information to all other House standing c

Student ride time exceeds 90 minutes
Does not apply
General Assembly
An increase in routes over 90 minutes

Increase driver salary, funding to increase the fleet and

iews, audits, investigations or studies (“Reviews”) of
generated by the entity performing the Review as c
needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently wor
ıtives, etc.) which helps the agency accomplish this c
an list the group instead of each partner individually
ɜ agency works with every high school in Lexington c

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
ly and efficiently it is utilizing the resources allocated
objective is not accomplished; ensure the agency is ac
h to more effectively and efficiently accomplish each

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Budget is across all funding sources for this section of objectives

[redacted]

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tio-based units. Efficiency measures are used to assess the cost-efficiency
ple - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.1.3-Reduce the number of student ride times that exceed 90 minutes by 50 percent
The reduction of student ride time by 50%
Outcome Measure

N/A
N/A
Number of routes over 90 minutes - 1776
Number of routes over 90 minutes - 1000
Number of routes over 90 minutes - 888
State: SECTION 59-67-105. Maximum ride time
Virgie Chambers, Deputy Superintendent for Operations and Support
Students will have less ride time so as to improve students physical and mental stamina in preparation for daily academic instruction
N/A; new administration
Virgie Chambers, Deputy Superintendent for Operations and Support
Increase in ride times for regular and special needs routes
Possibly
Route Plan Assessments, Route Audits, Route Training in Reviewing State Laws and Regulations. Assist school districts with scheduling, efficient routing, identify need for growth and new facilities.

occur as a result of the agency not accomplishing this objective. Next to,
ve. Next to, "Level Requires Outside Help," enter the level at which the ag
s to that level. Next to, "Level Requires Inform General Assembly," enter t
eneral Assembly Options," enter three options for what the General Assem
committees, but will not address it itself until the agency is under study.

drivers for additional buses, improve road infrastructure

the agency which occurred during the past fiscal year that relates/impact
copies may be requested when the agency is under study. NOTE: Respons

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[redacted]

Chart

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esponsibility Chart

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pick State from the drop down menu if an entity in state
is no state or federal entity that requires the agency to

ts key customers and in achieving its mission, goals and
licensees with no violations.
y, productivity, and timeliness of agency operations.

demands. Output measures measure workload and

uests received that explain performance (i.e.

NOTE: These are ROUTEs over 90 minutes; not necessarily student ride RIDE TIMES over 90 minutes.
New data will be supplied when we have better information on RIDE TIMES.

A student may not ride continuously on a state-owned school bus for more than ninety minutes. With the approval of the Department of Education, the ninety-minute maximum ride time may be exceeded when the area's geography requires longer than average highway travel because of a circuitous or meandering road network, extremely low population density, or waterway barriers. The ninety-minute maximum ride time may be exceeded when attendance zones are multidistrict or countywide.

"Most Potential Negative Impact," enter the most
gency believes it needs outside help. Next to, "Outside
the level at which the agency thinks the General
nbly could do to help resolve the issue before it became

:s this objective. Please remember to maintain an
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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agency needs to ensure it has proper perf
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accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
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Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
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3 General Assembly Options

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Current Partner Entity
None that relate to this objective

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South Carolina Department of Education
2/26/2016
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State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.
Strategy 6.1-Operate a safe and efficiently operated school transportation program

Objective 6.1.4- Reduce average age of current school bus fleet to comply with the 15-year replacement cycle
State-SC Code of Laws Title 59 S.C. Code Ann. §§59-67-10 and 580
Safe and efficient student transportation

Office Of Transportation

Virgie Chambers
13 Months

Deputy Superintendent
1429 Senate Street Columbia, SC 29201
Operations and Support
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Objective Number and Description
Performance Measure:

Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
2015-16 Target Results:
ack this? (provide any additional explanation needed,
is as a performance measure?
were made to try and ensure it was reached?
e target value for 2015-16?
rget value in 2015-16 and why was the decision finally
e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Unreliable fleet, additional maintenance cost, longer stu
Current age of the fleet requires outside support
General Assembly
Current age of the fleet requires notification

Fund 15-year replacement cycle, increase FTEs to incre issues

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently wor
f projects, initiatives, etc.) which helps the agency a
t within a certain group, the agency can list the grou
niddle school separately. As another example, if the
y.

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the a

Copy and paste this from the second column of the Mission, Vision and Goals C

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Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belc
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.1.4- Reduce average age of current school bus fleet to comply with the 15-year replacement cycle
The current age of fleet

Outcome
60.6% over 15 years
No bus older than 15 years
56 % over 15 years
Reduction of the age of the fleet
No bus older than 15 years
State: SC CODE SECTION 59-67-580
Virgie Chambers, Deputy Superintendent for Operations and Support
To provide a more reliable and cost-effective transportation system
Researching new possibilities with available funding; request additional
Virgie Chambers, Deputy Superintendent for Operations and Support
Trajectory of age of fleet
No
Continue to request appropriate funding and research possible alternatives to bus purchase. Implementing a 15-year replacement cycle requires consistent funding.

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
e this information to all other House standing committees, but will not add

udent ride time

ase mechanical support, increase fleet size to make more spare buses available

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
olished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

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sponsibility Chart

e agency can determine this by sorting the
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es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
:hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

/, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

SC Code 59-67-580 (A) With funds appropriated by the General Assembly for school bus purchases, the State Board of Education shall implement a school bus replacement cycle to replace approximately one-fifteenth of the fleet each year with new school buses, resulting in a complete replacement of the fleet every fifteen years. These funds must not be used for school bus maintenance or fuel.

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
lress it itself until the agency is under

for districts; assistance with procurement

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education	
Date of Submission	2/26/2016	
Fiscal Year for which information below pertains	2015-16	

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.*	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 6.2-Provide and support a healthy learning environment by ensuring accessing to nutritious meals.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 6.2.1-Train and monitor school food authorities to develop meals plans that are compliant with federal child nutrition requirements.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	*7 CFR 210 Child Nutrition Program*	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Healthy learning environment for students*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Office of Health and Nutrition*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Virgie Chambers*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	13 months	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*Operations and Support*	

Department or Division Summary:	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.		
Amount Budgeted and Spent To Accomplish Objective			
Total Budgeted for this fiscal year:	$4,349,221,400	Budget is across all funding sources for this section of objectives	
Total Actually Spent:	*Agency will provide next year*		
PERFORMANCE MEASURES			

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.
1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).
3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."
4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:
Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.
Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection
Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.
Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance		
Objective Number and Description	Objective 6.2.1-Train and monitor school food authorities to develop meals plans that are compliant with federal child nutrition requirements.	
Performance Measure:	% of schools meeting 2010 Healthy Hunger Free Kids Act meal pattern requirements	
Type of Measure:	Outcome measure	
Results		
2013-14 Actual Results (as of 6/30/14):	Data not available	
2014-15 Target Results:	NA	
2014-15 Actual Results (as of 6/30/15):	100% compliant	
2015-16 Minimum Acceptable Results:	100% compliant	
2015-16 Target Results:	100% compliant	
Details		

Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Yes	Federal regulations require state level monitoring through the Administrative Review process for school compliance with required meal patterns
What are the names and titles of the individuals who chose this as a performance measure?		
Why was this performance measure chosen?	A federal requirement to gauge compliance	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	NA; new adminstration	
What are the names and titles of the individuals who chose the target value for 2015-16?	Virgie Chambers Deputy Superintendent	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	Degree of compliance with federal regulations	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	Yes	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?		

POTENTIAL NEGATIVE IMPACT			
Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.			
Most Potential Negative Impact	*Noncompliant meal patterns resulting in non-nutritious meals and reduced meal reimbursement*		
Level Requires Outside Help	*Compliance levels less than 90%*		
Outside Help to Request	*USDA, School Food Authorities*		
Level Requires Inform General Assembly	*Compliance levels significantly less than 85%*		
3 General Assembly Options	*N/A*		

REVIEWS/AUDITS			
Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.			
Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
Summer SchooolManagement Evaluation	*Federal Requirement*	*USDA-Southeast Regional Office*	*Januaary 11 - 14, 2016*
State Audit	*State Audit*		*December 2015, - Jan. 2016*

PARTNERS			
Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.			
Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?	
SC Department of Health and Environmental Control	*Provide techincal assistance to select counties related*	*State/Local Government Entity*	
SC Department of Social Services	Resource regarding summer food initiatives	*State/Local Government Entity*	

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education	
Date of Submission	2/26/2016	
Fiscal Year for which information below pertains	2015-16	

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.*	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 6.2-Provide and support a healthy learning environment by ensuring accessing to nutritious meals.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 6.2.2- Increase the direct certification state-wide rate for eligible students from 86% to 88%*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	*7 CFR 210 Child Nutrition Program*	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Healthy learning environment for students*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Office of Health and Nutrition*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Virgie Chambers*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	13 months	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*Operations and Support*	
Department or Division Summary:	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.	
Amount Budgeted and Spent To Accomplish Objective		
Total Budgeted for this fiscal year:	$4,349,221,400	Budget is across all funding sources for this section of objectives

Total Actually Spent:	*Agency will provide next year*		
PERFORMANCE MEASURES			

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.
1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
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Types of Performance Measures:
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Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection
Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.
Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance		
Objective Number and Description	Objective 6.2.2- Increase the direct certification state-wide rate for eligible students from 86% to 88%	
Performance Measure:	Direct Certification Rate	
Type of Measure:		
Results		
2013-14 Actual Results (as of 6/30/14):		
2014-15 Target Results:		
2014-15 Actual Results (as of 6/30/15):	86%	
2015-16 Minimum Acceptable Results:	88%	
2015-16 Target Results:	88%	
Details		
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Federal	The USDA establishes rates of direct certification goals for each state. SC's goal is 95%.
What are the names and titles of the individuals who chose this as a performance measure?	Virgie Chambers	
Why was this performance measure chosen?	Federal benchmark rates estabished	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	Agency is piloting an in-house method to directly certify more students	
What are the names and titles of the individuals who chose the target value for 2015-16?	Virgie Chambers, Deputy Director, Operations and Support	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	Federal benchmark, technology capacity, and implications of other nutrition-related programs such as Community Eligibility Provision (CEP)	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	Yes	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?	N/A	

POTENTIAL NEGATIVE IMPACT			
Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.			
Most Potential Negative Impact	Poor identification of eligible low-income students resulting in less access to nutritious meals and potential loss of district revenue from federal meal reimbursements		
Level Requires Outside Help	Current levels of performance		
Outside Help to Request	*SC Department of Social Services, Office Revenue and Fiscal Affairs, Local School Districts, General Assembly*		
Level Requires Inform General Assembly	*Performance significantly below current levels*		
3 General Assembly Options			

REVIEWS/AUDITS			
Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.			
Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

PARTNERS			
Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.			
Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?	
Department of Social Services	*Share student data*	*State/Local Government Entity*	
School Food Authorities	*Data review and follow-up*	*State/Local Government Entity*	
Office Revenue and Fiscal Affairs	Data matching	*State/Local Government Entity*	

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education	
Date of Submission	2/26/2016	
Fiscal Year for which information below pertains	2015-16	

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.*	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 6.2-Provide and support a healthy learning environment by ensuring accessing to nutritious meals.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 6.2.3-Reduce the number of school food authorities subject to fiscal action for noncompliance by 50% to 10 school food authorities*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	*7 CFR 210 Child Nutrition Program*	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Sustained funding to supporting a healthy learning environment for students*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Office of Health and Nutrition*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Virgie Chambers*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	13 months	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*Operations and Support*	

Department or Division Summary:	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.		
Amount Budgeted and Spent To Accomplish Objective			
Total Budgeted for this fiscal year:	$4,349,221,400	Budget is across all funding sources for this section of objectives	
Total Actually Spent:	*Agency will provide next year*		

PERFORMANCE MEASURES			

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.
1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).
3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."
4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:
Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.
Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection
Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.
Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance		
Objective Number and Description	Objective 6.2.3-Reduce the number of school food authorities subject to fiscal action for noncompliance by 50% to 10 school food authorities	
Performance Measure:	Number SFAs whose benefit issueance exceeds $600	
Type of Measure:		
Results		
2013-14 Actual Results (as of 6/30/14):	Not available	
2014-15 Target Results:	Not available	
2014-15 Actual Results (as of 6/30/15):	20 SFA	
2015-16 Minimum Acceptable Results:	10	
2015-16 Target Results:	10	
Details		
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Federal	Insert any further explanation, if needed
What are the names and titles of the individuals who chose this as a performance measure?	Virgie Chambers	

Why was this performance measure chosen?	Indicator of SFA financial capabilities	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	N/A	
What are the names and titles of the individuals who chose the target value for 2015-16?	Virgie Chambers	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	Trajectory of noncompliant districts	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	Yes	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?		

POTENTIAL NEGATIVE IMPACT			
Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.			
Most Potential Negative Impact	Reduced revenue for SFAs		
Level Requires Outside Help	*No*		
Outside Help to Request	*No*		
Level Requires Inform General Assembly	*No*		
3 General Assembly Options	*None*		

REVIEWS/AUDITS			
Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.			
Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

PARTNERS			
Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.			
Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?	
School Food Authorities	*Actual benefit issuance/determinations*		

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education	
Date of Submission	2/26/2016	
Fiscal Year for which information below pertains	2015-16	

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.*	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 6.2-Provide and support a healthy learning environment by ensuring accessing to nutritious meals.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 6.2.4-Reduce the state-wide verification non-response rate by 10% to 32%*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	*7 CFR 210 Child Nutrition Program*	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Healthy learning environment for students*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Office of Health and Nutrition*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Virgie Chambers*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	13 months	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*Operations and Support*	

Department or Division Summary:	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.		
Amount Budgeted and Spent To Accomplish Objective			
Total Budgeted for this fiscal year:	$4,349,221,400	Budget is across all funding sources for this section of objectives	
Total Actually Spent:	*Agency will provide next year*		
PERFORMANCE MEASURES			

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.
1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).
3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."
4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:
Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.
Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection
Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.
Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance		
Objective Number and Description	Objective 6.2.4-Reduce the state-wide verification non-response rate by 10% to 32%	
Performance Measure:	Statewide verification non-response rate	
Type of Measure:		
Results		
2013-14 Actual Results (as of 6/30/14):	43.30%	
2014-15 Target Results:		
2014-15 Actual Results (as of 6/30/15):	47.70%	
2015-16 Minimum Acceptable Results:	32%	
2015-16 Target Results:	32%	
Details		
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Federal	Insert any further explanation, if needed
What are the names and titles of the individuals who chose this as a performance measure?	Virgie Chambers	

Why was this performance measure chosen?	Improve benefit issuance for eligible students.	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	NA	
What are the names and titles of the individuals who chose the target value for 2015-16?	Virgie Chambers	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	Trajectory of food service director turnover rate	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	yes	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?		

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.

Most Potential Negative Impact	Students will not receive correct benefits and local school food authorities will lose funds
Level Requires Outside Help	*N/A*
Outside Help to Request	*N/A*
Level Requires Inform General Assembly	*N/A*
3 General Assembly Options	*N/A*

REVIEWS/AUDITS

Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
State Audit	Internal Policy	State Auditors	*December 2015-Janurary 2016*
Applications, reimburseable meals, resource management	*Federal Requirement*	*Office of Health and Nutrition and represenatives from the South East Regional Office (USDA)*	*December 2015 - May 2016*

PARTNERS

Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?	
Local School Food Authorities	*Training and technical assistance*	*State/Local Government Entity*	

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Education	
Date of Submission	2/26/2016	
Fiscal Year for which information below pertains	2015-16	

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:	*Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy*	Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:	*State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.*	Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:	*Strategy 6.2-Provide and support a healthy learning environment by ensuring accessing to nutritious meals.*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:	*Objective 6.2.5-Administer the Summer Food Service and Simplified Summer Feeding Programs to ensure access to nutritious meals during the summer*	Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:	*Federal USDA regulations*	Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:	*Healthy learning environment for students*	Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:	*Office of Health and Nutrition*	Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:	*Virgie Chambers*	Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:	13 months	
Position:	*Deputy Superintendent*	
Office Address:	*1429 Senate Street Columbia, SC 29201*	
Department or Division:	*Operations and Support*	

Department or Division Summary:	The mission of the Division of Operations and Support is to support the operations of the South Carolina Department of Education, and to provide technical assistance, monitoring, and support to school districts implementing health and nutrition, transportation, facilities, and Medicaid claiming activities.		
Amount Budgeted and Spent To Accomplish Objective			
Total Budgeted for this fiscal year:	$4,349,221,400	Budget is across all funding sources for this section of objectives	
Total Actually Spent:	*Agency will provide next year*		
PERFORMANCE MEASURES			

Instructions : Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.
1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
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4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Types of Performance Measures:
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Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection
Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.
Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance		
Objective Number and Description	Objective 6.2.5-Administer the Summer Food Service and Simplified Summer Feeding Programs to ensure access to nutritious meals during the summer	
Performance Measure:	Increased participation in summer meals, number of sponsors and sites	
Type of Measure:		
Results		
2013-14 Actual Results (as of 6/30/14):	N/A	
2014-15 Target Results:	N/A	
2014-15 Actual Results (as of 6/30/15):	58	
2015-16 Minimum Acceptable Results:	58	
2015-16 Target Results:	63	
Details		
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Federal	Insert any further explanation, if needed

What are the names and titles of the individuals who chose this as a performance measure?	Virgie Chambers	
Why was this performance measure chosen?	Meets federal requirements	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	NA	
What are the names and titles of the individuals who chose the target value for 2015-16?	Virgie Chambers	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	Number reimbursable summers meals, number approved sponsors, agency capacity and resources	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	Yes	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?	N/A	

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.

Most Potential Negative Impact	*Many children who benefit from school meals during the academic year will not have access to meals during the summer months. Academic gains could be lost during the summer*
Level Requires Outside Help	*Performance decreasing by 25%*
Outside Help to Request	*Community partners, Department of Social Services, Non-profits*
Level Requires Inform General Assembly	*NA*
3 General Assembly Options	*NA*

REVIEWS/AUDITS

Instructions : Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)
Program Management Evelauation (ME)	*The ME was requested by USDA being that this was SCDE first year administering the Summer Food Service Program and to provide technical assistance. The purpose of the ME was to evaluate the State Agency's (SA) program implementation, performance, regulatory requirements, quality standards, areas of achievements, and innovations.*	*United States Department of Agriculture (USDA)*	*1/11/2016-1/14/2016*

PARTNERS

Instructions : Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?	
End Childhood Hunger, SC University of South Carolina Center for Research in Nutrition and Health Disparities, Comet Bus Transit System, SC State Library Association, SC Commission for Minority Affairs, SC Department of Health and Environmental Control-Women Infant and Children Program (WIC), SC Department of Agriculture-Agritourist Market Specialist, US Department of Housing and Urban Development, Eat Smart Move More, SC, SC Afterschool Alliance, SC Department of Social Services	*Varies depending on entity's expertise and role in access to summer meals*	*Business, Association or Individual*	And state agency, and colleges/universities.

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
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Legal responsibilities satisfied by Goal:
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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How the Agency is Measuring its Performance

Results

Details
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Current Partner Entity
District Representatives TBD
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South Carolina Department of Education
2/26/2016
2015-16

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Strategy 6.3- Students will learn in safe school buildings.

Objective 6.3.1-Sponsor the development of appraisal and maintenance standards for school buildings.
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Safe school buildings for students

Office of School Facilities

Virgie Chambers
13 months
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1429 Senate Street Columbia, SC 29201
Operations and Support

$4,349,221,400
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notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Some districts may not have the tools to optimize their
Input from districts and design professionals will be nee
Input from districts and design professionals will be nee
n/a
n/a

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Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner
TBD
TBD

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Budget is across all funding sources for this section of objectives

[redacted]

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.3.1-Sponsor the development of appraisal and maintenance standards for school buildings.
Develop "Best Practice Guide for Facility Assessment and Capital Planning" and "Best Practice Guide for Maintenance"
Output
n/a
n/a

n/a
Develop both guidance papers
Develop both guidance papers
Only Agency Selected
Delisa Clark, Director
Deliverable that most closely meets the objective
n/a
Delisa Clark, Director
Deliverable that most closely meets the objective
Yes
n/a

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facility assessment and maintenance programs
ded to develop guidance
ded to develop guidance

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Entity Performing the Review and Whether Reviewing Entity External or Internal

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State/Local Government Entity
Business, Association or Individual

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Please save the information related to
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[redacted]

Chart

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esponsibility Chart

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Insert any further explanation, if needed

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Department or Division:
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How the Agency is Measuring its Performance

Results

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Matter(s) or Issue(s) Under Review
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PARTNERS

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Current Partner Entity
Districts TBD

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South Carolina Department of Education
2/26/2016
2015-16

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Strategy 6.3- Students will learn in safe school buildings.

Objective 6.3.2-Review plans to remodel and build new schools buildings that support systems of personalized learning with educator teams.
State-SC Code of Laws Title 59
Safe school buildings for students

Virgie Chambers
Deputy Superintendent

1429 Senate Street Columbia, SC 29201
Operations and Support

$4,349,221,400
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House Legislative Oversight Committee will provide

Districts may not have the advantage of alternate ideas
n/a to establish baseline
n/a to establish baseline
n/a
n/a

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Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.3.2-Review plans to remodel and build new schools buildings that support systems of personalized learning with educator teams.
Increase in person reviews 10%
Output
n/a
n/a
n/a
Establish baseline
Establish baseline

Only Agency Selected
Delisa Clark, Director
Increasing in person reviews provides increased opportunity for the exchange of ideas
n/a
Delisa Clark, Director
The target will allow for development of service to the districts and change of current culture
n/a
n/a

occur as a result of the agency not accomplishing this objective. Next to,
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International Building Code

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Strategy 6.3- Students will learn in safe school buildings.

Objective 6.3.3-Monitor the number of districts' capital improvements to address safety and building access.
State-SC Code of Laws Title 59
Safe school buildings for students

Virgie Chambers
13 months
Deputy Superintendent

1429 Senate Street Columbia, SC 29201
Operations and Support

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House Legislative Oversight Committee will provide

Information is more costly to collect
n/a
n/a
n/a
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Ways Agency Works with Current Partner

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.3.3-Monitor the number of districts' capital improvements to address safety and building access.
Monitor number of District projects
Output
n/a
n/a
n/a
Provide record of reportable projects
Provide record of reportable projects

Only Agency Selected
Delisa Clark, Director
Deliverable that most closely meets the objective
n/a
Delisa Clark, Director
Deliverable that most closely meets the objective
Yes
n/a

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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ata in this tab into multiple other tabs,
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[redacted]

Chart

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International Building Code

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Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:

Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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South Carolina Department of Education
2/26/2016
2015-16

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Strategy 6.4- Support schools in developing positive and supportive climates for learning

Objective 6.4.1-Ensure that 100 percent of schools implement anti-bullying initiatives
State-SC Code of Laws Title 59
Positive climates for learning

Student Intervention Services

Karla Hawkins
5
Deputy Superintendent
1429 Senate Street Columbia, SC 29201

Federal, State, and Community Resources
The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

$4,349,221,400
Agency will provide next year

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Objective Number and Description	
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Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	

2014-15 Target Results:
2014-15 Actual Results (as of 6/30/15):
2015-16 Minimum Acceptable Results:
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es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Schools perceived as unsafe.
NA
NA
NA
NA

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ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)
NA
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Ways Agency Works with Current Partner
NA
NA

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iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or requ

Output

Objective 6.4.1-Ensure that 100 percent of schools implement anti-bullying initiatives
Districts will indicate that all schools have anti-bullying policies.
Output

100%
100%
100%
100%
Yes
Sabrina Moore, Director of Officer of Student Intervention Services
State requirement
NA
Sabrina Moore, Director of Officer of Student Intervention Services
State requirement
Yes
NA

occur as a result of the agency not accomplishing this objective. Next to, '
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Responsible Person
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Number of Months Responsible:
Position:
Office Address:

Department or Division:
Department or Division Summary:

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Total Budgeted for this fiscal year:
Total Actually Spent:

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South Carolina Department of Education
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Strategy 6.4- Support schools in developing positive and supportive climates for learning

Objective 6.4.2-100% of schools will conduct safety drills according to district and school safety plans
State-SC Code of Laws Title 59
Positive climates for learning

Office of Student Intervention Services

Karla Hawkins

5

Deputy Superintendent
1429 Senate Street Columbia, SC 29201

Federal, State, and Community Resources
The Division of Federal, State, and Community Resources is committed to ensuring that our schools receive the support and guidance necessary to utilize all resources – be they education professionals, volunteers, government funding, or intellectual capital – in a professional, safe, efficient, and effective manner that will support our students meeting the Profile of the South Carolina Graduate.

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Schools perceived to be unsafe
NA
NA
NA
NA

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Reason Review was Initiated (outside request, internal policy, etc.)
NA

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nputs are "what we use to do the work." They measure the factors or requ

Output

Objective 6.4.2-100% of schools will conduct safety drills according to district and school safety plans
Districts confirm that all schools will conduct safety drills according to state law and distict and school policy
Output

100%
100%
100%
100%
Yes
State requirement
State requirement
NA
State requirement
State requirement
Yes

occur as a result of the agency not accomplishing this objective. Next to, '
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operations. Efficiency measures measure the efficient use
Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa
Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
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Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
N/A

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
SC Department of Mental Health
SC Department of Health & Human Services

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 6- SCDE will support Districts in Building Capacity and expertise so that students have a safe and healthy environment for long-term success.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., the Rehabilitation Act, and laws enforced by the U.S. Departments of Agriculture, Education, Justice, Health & Human Services, and Transportation.
Strategy 6.4- Support schools in developing positive and supportive climates for learning

Objective 6.4.3- Increase access to counselors, social workers, and mental health professionals to support the whole child and promote students' ability to learn
= 'Strategy, Obj. & Responsibility'!A127
Positive climates for learning

Office of Medicaid Services and Office of Student Intervention Services

Karla Hawkins/Virgie Chambers
5 and 13 months

Deputy Superintendents
1429 Senate Street Columbia, SC 29201
Federal, State, and Community Resources; Operations & Support

$4,349,221,400
Agency will provide next year
[redacted]

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. O
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	

2015-16 Minimum Acceptable Results:
2015-16 Target Results:
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is as a performance measure?
were made to try and ensure it was reached?
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rget value in 2015-16 and why was the decision finally
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what changes are being made to try and ensure it is rmance measures more likely to be reached, are

ost potential negative impact to the public that may occur as a result of the agency not accomplishing th es to whom the agency would reach out if the poten notice of the level at which the potential negative ir House Legislative Oversight Committee will provide

Further study of the target and reason for not meeting
N/A
N/A
N/A
N/A

iews, audits, investigations or studies ("Reviews") of information generated by the entity performing the ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
: within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner
Some school districts contract with SCDMH for mental health services in the schools
Sets School-based health Medicaid reimbursement policies

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Copy and paste this from the second column of the Strategy, Objectives and Re

Copy and paste this from the first column of the Strategy, Objectives and Respo
Copy and paste this from the fourth column of the Strategy, Objectives and Res

Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

[redacted]

ın provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belc
actual value the agency had for that performance measure at the end of tl
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
/ during this year."
ıgency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priority

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 6.4.3- Increase access to counselors, social workers, and mental health professionals to support the whole child and promote students' ability to learn
number of school districts with formal arrangement to provide behavioral health services
N/A
N/A
N/A

28
35
N/A
Ed Johnson, Ed Associate Student Intervention Services, Dee Drayton, Ed Associate Medicaid Services, Shelley McGeorge, Director Medicaid Services
To assess the level of behavioral health services offered in the districts
N/A
Ed Johnson, Ed Associate Student Intervention Services, Dee Drayton, Ed Associate Medicaid Services, Shelley McGeorge, Director Medicaid Services
Deliverable that most meets the objective
Yes
N/A

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
: this information to all other House standing committees, but will not add

the target will be carried out.

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?
State agency
State agency

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

rt

esponsibility Chart

esponsibility Chart

onsibility Chart
sponsibility Chart

e agency can determine this by sorting the
olumn

es and Responsibility Chart

this objective.

ow).
hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Insert any further explanation, if needed

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
TE: Responses are not limited to the

Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
/ rows as necessary to list all of the
/ith every middle school in the state, the
list Lexington County High Schools,

[redacted]

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.

Efficiency Measure - A quantifiable indicator of productiv
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Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
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How the Agency is Measuring its Performance

Results
Details
Does the state or federal government require the agency to tra two cells over)
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POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact

Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
Not applicable

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
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agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
Not applicable.

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formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

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rsion to complete for each separate Objective. The
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Goal 7- The culture of South Carolina public education will be one of innovation and continuous improvement.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 7.1-SCDE will add to the evidence and research base of what works in public education.

Objective 7.1.1-All programs will have metrics for determining quality and fidelity of implementation.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased evidence and research based practices; better evaluation metrics for assessment what works and return on investment.

All programs within the agency

Elizabeth Carpentier

13 months
Chief of Staff/Chief Operating Officer
1429 Senate Street Columbia, SC 29201
Chief Operating Officer
Coordinate internal operations for efficient and effective use of the State's resources to improve public education and promote all students' meeting the Profile of the SC Graduate.

$4,349,221,400
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - "Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. Ou
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:

2014-15 Actual Results (as of 6/30/15):

2015-16 Minimum Acceptable Results:

2015-16 Target Results:

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rget value in 2015-16 and why was the decision finally

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rmance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

State and Federal programs may be only partially or ine

Not applicable
Not applicable
Not applicable
Not applicable

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
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l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
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Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

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the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 7.1.1-All programs will have metrics for determining quality and fidelity of implementation.

Each EPMS review year (12/2), at least one program in each office will develop, pilot, and implement implementation rubrics that capture the essential elements for high-quality implementation by the impacted stakeholders (e.g., districts, schools, agencies, food service providers, bus shops) of a program with which that office is charged. In subsequent years, each already-developed rubric will be reviewed and updated for continuous improvement.
Input/Explanatory/Activity
New for 2016
New for 2016
New for 2016
By 12/2/16, at least one rubric in each office.
By 12/2/16, at least one rubric in each office.
Elizabeth Carpentier, Chief of Staff/COO
To make explicit the core elements of each program and to enable more effective evaluation by being able to take into account program recipients' variation in implementation of programs.
New for 2016
N/a
This is a new requirement being implemented at a time when multiple and not always consistent requierments are being imposed on staff. 1 per office is perceived as achievable and measurable as a pilot of this new initiative.
New for 2016. Training is planned for Spring-Summer of 2016. Piloting is planned for Fall 2016. The target is considered achievable.
N/A.

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

ffectively implemented without a focus on the core elements, wasting citizens' r

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e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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esponsibility Chart

esponsibility Chart

onsibility Chart

sponsibility Chart

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olumn

es and Responsibility Chart

this objective.

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Although not explicity required, all state and federal programs anticipate SEAs will monitor fideility of implementation and evaluate effectiveness of programs.

"Most Potential Negative Impact," enter
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neral Assembly," enter the level at which
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TE: Responses are not limited to the

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Agency Responding
Date of Submission
Fiscal Year for which information below pertains

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while it is still blank. The agency will then have a blank ve
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and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
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How the Agency is Measuring its Performance

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly

3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
None

PARTNERS

Instructions : Under the column labeled, "Current Partner
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partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
None

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formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
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.abel each Tab, "O__" and insert the applicable num

Goal 7- The culture of South Carolina public education will be one of innovation and continuous
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 7.1-SCDE will add to the evidence and research base of what works in public education.

Objective 7.1.2-All programs will have baseline and post-implementation objective metrics for measuring effectiveness in meeting the stated goals.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased evidence and research based practices; better evaluation metrics for assessment what works and return on investment.

Department Strategic Plan

Elizabeth Carpentier

13
Chief of Staff/Chief Operating Officer
1429 Senate Street Columbia, SC 29201
Chief Operating Officer
The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources. Further, the COO focuses the Department of continuous improvement in regard to strategic planning, high-quality program development and evaluation, customer service, and return on public investment.

$4,349,221,400
Agency will provide next year

ns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
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mple - # of business license applications processed.
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Objective Number and Description
Performance Measure:
Type of Measure:
2013-14 Actual Results (as of 6/30/14):
2014-15 Target Results:
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ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Reduced capacity for service to field; Lack of program su
Less than 10% of Department programs with metrics ac
General Assembly
Inform the General Assembly annually on progress

Provide increased funding to assist; Provide additional F

iews, audits, investigations or studies (“Reviews”) of
information generated by the entity performing the
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Reason Review was Initiated (outside request, internal policy, etc.)

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f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
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Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
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Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

[redacted]

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tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 7.1.2-All programs will have baseline and post-implementation objective metrics for measuring effectiveness in meeting the stated goals.
Percentage of Department programs with metrics adhering to Department standard for measuring effectiveness in meeting stated program goals
Output
n/a; new administration
n/a; new administration
n/a; Department standards to be developed in 2015-16
Standard established for program metrics (baseline to be established in 2016-17)
Standard established for program metrics (baseline to be established in 2016-17)
Elizabeth Carpentier
Continuous improvement of Department outputs and outcomes; SCDE program sustainability
n/a; new administration
Elizabeth Carpentier
Department baselines must be set before performance can be measured. Training and culture changes needed internally for effective implementation.
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
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ustainabillity
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FTEs to enable SCDE to increase internal capacity for service to field

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

[redacted]

Chart

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e agency can determine this by sorting the
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es and Responsibility Chart

this objective.

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Output

2016 is training year

2016 is training and baseline year

Neither

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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rows as necessary to list all of the
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list Lexington County High Schools,

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:

Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
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an entity in state government requires the agency to track
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Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
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Efficiency Measure - A quantifiable indicator of productiv
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workload and efforts and should be the third priority. Exa

Input/Explanatory/Activity Measure - Resources that cont
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How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
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If the answer to the question above is "questionable" or "no," v reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request

Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review
None

PARTNERS

Instructions : Under the column labeled, "Current Partner
enter the ways the agency works with the entity (names o
partners. Note, if there is a large list of partners that all fit
agency can list SC Middle Schools, instead of listing each n
instead of listing each high school in the county separately

Current Partner Entity
None

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
2/26/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Goal 7- The culture of South Carolina public education will be one of innovation and continuous
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the Perkins Act, the I.D.E.A., and the Rehabilitation Act.
Strategy 7.1-SCDE will add to the evidence and research base of what works in public education.

Objective 7.1.3-All programs will include qualitative feedback loops to track stakeholder satisfaction and to serve as early indicators of elements needing improvement.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased evidence and research based practices; indicators for continuous improvement; early assessment of programs that are not working to reduce public waste.

Department Strategic Plan

Elizabeth Carpentier
13
Chief of Staff/Chief Operating Officer
1429 Senate Street Columbia, SC 29201
Chief Operating Officer
The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources. Further, the COO focuses the Department of continuous improvement in regard to strategic planning, high-quality program development and evaluation, customer service, and return on public investment.

$4,349,221,400
Agency will provide next year

ons below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - “Agency did not use PM
Details about each measure. In the cell next to, "Is a
this information, Federal if an entity in the federal
nd the agency selected it.

and customer benefits from an agency's actions. Ou
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of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:

2014-15 Actual Results (as of 6/30/15):

2015-16 Minimum Acceptable Results:

2015-16 Target Results:

ack this? (provide any additional explanation needed,

is as a performance measure?

were made to try and ensure it was reached?

e target value for 2015-16?

rget value in 2015-16 and why was the decision finally

e agency is going to reach the target for 2015-16?

what changes are being made to try and ensure it is
rmance measures more likely to be reached, are

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occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Reduced capacity for service to field; Lack of program su

Less than 10% of Department programs with metrics ac

General Assembly

Inform the General Assembly annually on progress
Provide increased funding to assist; Provide additional F

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ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner

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easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 7.1.3-All programs will include qualitative feedback loops to track stakeholder satisfaction and to serve as early indicators of elements needing improvement.
Percentage of Department programs with metrics adhering to Department standard for establishment and use of quality feedback loops
Output
n/a; new administration
n/a; new administration
n/a; Department standards to be developed in 2015-16
Standard established for program metrics (baseline to be established in 2016-17)
Standard established for program metrics (baseline to be established in 2016-17)
Elizabeth Carpentier
Continuous improvement of Department outputs and outcomes; SCDE program sustainability; decrease perception of public waste.
n/a; new administration
Elizabeth Carpentier
Department standard must be set before performance can be measured; internal training and culture changes needed.
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
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: this information to all other House standing committees, but will not add

ustainabillity
dhering to Department standard(s) in 2017-18

FTEs to enable SCDE to increase internal capacity for service to field

the agency which occurred during the past fiscal year that relates/impact
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Entity Performing the Review and Whether Reviewing Entity External or Internal

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Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

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Chart

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hat year. Next to "Target Results," enter
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formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Output

Training on surveys and early feedback loops to occur in 2016.

Neither

"Most Potential Negative Impact," enter
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ns for what the General Assembly could
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
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Strategic Plan Context
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Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:

Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
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How the Agency is Measuring its Performance

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POTENTIAL NEGATIVE IMPACT

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Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request

Level Requires Inform General Assembly
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REVIEWS/AUDITS

Instructions : Below please list all external or internal revi
maintain an electronic copy of each Review and any other
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Matter(s) or Issue(s) Under Review
None

PARTNERS

Instructions : Under the column labeled, "Current Partner
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instead of listing each high school in the county separately

Current Partner Entity
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South Carolina Department of Education
2/26/2016
2015-16

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Strategy 7.1-SCDE will add to the evidence and research base of what works in public education.

Objective 7.1.4- All programs will collect and evaluate data to estimate the return on the public's investment compared to cost and effectiveness.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased evidence and research based practices; better stewardship of state resources.

Department Strategic Plan

Elizabeth Carpentier
12 months

Chief of Staff/Chief Operating Officer
1429 Senate Street Columbia, SC 29201
Chief Operating Officer
The Chief Operating Officer (COO) manages the day-to-day activities of the Department of Education, ensures that the agency complies with state and federal law, and oversees use of agency resources. Further, the COO focuses the Department of continuous improvement in regard to strategic planning, high-quality program development and evaluation, customer service, and return on public investment.

$4,349,221,400
Agency will provide next year

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Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	
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were made to try and ensure it was reached?	
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Reduced capacity for service to field; Lack of program su
Less than 10% of Department programs with metrics ac
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Inform the General Assembly annually on progress
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Ways Agency Works with Current Partner

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Budget is across all funding sources for this section of objectives

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Objective 7.1.4- All programs will collect and evaluate data to estimate the return on the public's investment compared to cost and effectiveness.
Percentage of Department programs with metrics adhering to Department standard for estimating return on the public's investment compared to cost and effectiveness
Output
n/a; new administration
n/a; new administration
n/a; Department standards to be developed in 2015-16
Standard established for program metrics (baseline to be established in 2016-17)
Standard established for program metrics (baseline to be established in 2016-17)
Elizabeth Carpentier
Continuous improvement of Department outputs and outcomes; SCDE program sustainability
n/a; new administration
Elizabeth Carpentier
Department standard and baselines must be set before performance can be measured; systems changes to capture ROI are needed; staff training.
Yes

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
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FTEs to enable SCDE to increase internal capacity for service to field

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Entity Performing the Review and Whether Reviewing Entity External or Internal

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Agency Responding
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Legal responsibilities satisfied by Goal:
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Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:

Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

PERFORMANCE MEASURES

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South Carolina Department of Education
2/26/2016
2015-16

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Objective 7.2.1- SCDE will recruit, retain, and develop high-quality professionals dedicated to its culture and promotion of the Profile of the SC Graduate.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
Increased productivity; better service to the State, and a culture of excellence

Department Strategic Plan

Elizabeth Carpentier

13
Chief of Staff/Chief Operating Officer
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Chief Operating Officer
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House Legislative Oversight Committee will provide

Reduced capacity for service to field; Lack of program su
No baselines established or metric improvement if need
General Assembly
Inform the General Assembly annually on progress
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Ways Agency Works with Current Partner

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Objective 7.2.1- SCDE will recruit, retain, and develop high-quality professionals dedicated to its culture and promotion of the Profile of the SC Graduate.
Percentage of open positions; Average retention rate; Quantitative and qualitative data regarding Department staff dedication to culture and promotion of the Profile of the SC Graduate
Output
n/a; new administration
n/a; new administration
n/a; new administration
n/a; Baselines to be established in 2016-17
n/a; Baselines to be established in 2016-17
Elizabeth Carpentier
Continuous improvement of Department outputs and outcomes; SCDE program sustainability
n/a; new administration
Elizabeth Carpentier
n/a; Baselines to be established in 2016-17
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[redacted]

Chart

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Department or Division:
Department or Division Summary:

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South Carolina Department of Education
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Strategy 7.2- SCDE will foster a culture of innovation, improvement, excellence, collaboration, service, and urgency.

Objective 7.2.2- SCDE will model its culture for schools and districts in all of its activities.
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A culture of excellence

Department Strategic Plan

Elizabeth Carpentier
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Ways Agency Works with Current Partner

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Objective 7.2.2- SCDE will model its culture for schools and districts in all of its activities.

Quantitative and qualitative data regarding district and school perception of how and how well the Department models its culture in external activities
Output
n/a; new administration
n/a; new administration
n/a; new administration
n/a; Baselines to be established in 2016-17
n/a; Baselines to be established in 2016-17
Elizabeth Carpentier
Continuous improvement of Department outputs and outcomes; SCDE program sustainability
n/a; new administration
Elizabeth Carpentier
n/a; Baselines to be established in 2016-17
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Department or Division Summary:

Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:

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Strategy 7.2- SCDE will foster a culture of innovation, improvement, excellence, collaboration, service, and urgency.

Objective 7.2.3- SCDE will measure its climate, culture, and effectiveness through annual performance reviews, stakeholder input, and well-defined performance measures.
State-SC Code of Laws Title 59; Federal - primarily the Elementary & Secondary Education Act as amended by E.S.S.A., the I.D.E.A., and the Rehabilitation Act.
A culture of excellence; improved public service; resulting in more effective public schools and increased student achievement

Department Strategic Plan

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s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
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sults" and "Target Results," - “Agency did not use PM
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nd the agency selected it.

and customer benefits from an agency's actions. Ou
t resources to strategies with the greatest effect on

ity expressed in unit costs, units of time, or other ra
of available resources and should be the second pr
of goods or services an agency produces. Output m
mple - # of business license applications processed.
ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description

Performance Measure:

Type of Measure:

2013-14 Actual Results (as of 6/30/14):

2014-15 Target Results:

2014-15 Actual Results (as of 6/30/15):

2015-16 Minimum Acceptable Results:

2015-16 Target Results:

ack this? (provide any additional explanation needed,

is as a performance measure?

were made to try and ensure it was reached?

e target value for 2015-16?

rget value in 2015-16 and why was the decision finally

e agency is going to reach the target for 2015-16?

what changes are being made to try and ensure it is
mance measures more likely to be reached, are

ost potential negative impact to the public that may
occur as a result of the agency not accomplishing th
es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

Reduced capacity for service to field; Lack of program su

No baselines established or metric improvement if need

General Assembly
Inform the General Assembly annually on progress
Provide increased funding to assist

iews, audits, investigations or studies ("Reviews") of
information generated by the entity performing the
ease insert as many rows as needed.

Reason Review was Initiated (outside request, internal policy, etc.)

r Entities" list all entities the agency is currently worl
f projects, initiatives, etc.) which helps the agency a
within a certain group, the agency can list the grou
niddle school separately. As another example, if the
/.

Ways Agency Works with Current Partner

grams and amount of funds it is allocating to accompl
ack how effectively and efficiently it is utilizing the res
l need to be addressed, if the objective is not accomp
r which partners the agency could work with to more

onsibility Chart. It is recommended that the agency copy and paste the da
agency needs to provide information in all the cells that are highlighted. F
bers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the ag

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Enter all the agency programs which are helping accomplish this objective. The
Associated Programs Chart by the "Objective the Program Helps Accomplish" co

Copy and paste this information from the fifth column of the Strategy, Objectiv

Budget is across all funding sources for this section of objectives

[redacted]

an provide this information for each Performance Measure that applies to
accountability report.
m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
cceptable level," enter the minimum level for this performance measure t
challenging targets each year. If the agency did not utilize a particular perf
A during this year."
agency required to keep track of this by the state or federal government,"
government requires the agency to track this information, or Only Agency

utcome measures are used to assess an agency's effectiveness in serving i
the most valued outcomes. Outcome measures should be the first priorit

tio-based units. Efficiency measures are used to assess the cost-efficiency
iority. Example - cost per inspection
easures are used to assess workload and the agency's efforts to address d

nputs are "what we use to do the work." They measure the factors or req

Objective 7.2.3- SCDE will measure its climate, culture, and effectiveness through annual performance reviews, stakeholder input, and well-defined performance measures.
Quantitative and qualitative data related to climate, culture, and effectiveness from annual performance review, stakeholders, and achievement of performance measures
Output
n/a; new administration
n/a; new administration
n/a; new administration
Some standards for program metrics to be established in 2015-16; Baselines to be established in 2016-17
Some standards for program metrics to be established in 2015-16; Baselines to be established in 2016-17
Elizabeth Carpentier
Continuous improvement of Department outputs and outcomes; SCDE program sustainability
n/a; new administration
Elizabeth Carpentier
Some standards for program metrics to be established in 2015-16; Baselines to be established in 2016-17
Some standards for program metrics to be established in 2015-16; Baselines to be established in 2016-17

occur as a result of the agency not accomplishing this objective. Next to,
ne objective. Next to, "Level Requires Outside Help," enter the level at wh
tial negative impact rises to that level. Next to, "Level Requires Inform Ge
npact has risen. Next to, "3 General Assembly Options," enter three optio
this information to all other House standing committees, but will not add

ustainabillity
ed by 2017-18

the agency which occurred during the past fiscal year that relates/impact
e Review as copies may be requested when the agency is under study. NO

Entity Performing the Review and Whether Reviewing Entity External or Internal

king with that help the agency accomplish this objective. Under the "Way
ccomplish this objective. List only one partner per row and insert as many
p instead of each partner individually. For example, if the agency works w
agency works with every high school in Lexington county, the agency can

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

ish each objective, the
sources allocated. The
blished; ensure the agency is
effectively and efficiently

ata in this tab into multiple other tabs,
Please save the information related to
gency has any questions or needs any

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hat year. Next to "Target Results," enter
hat the agency would find acceptable.
formance measure during certain years,

pick State from the drop down menu if
Selected if there is no state or federal

ts key customers and in achieving its
y. Example - % of licensees with no

, productivity, and timeliness of agency

lemands. Output measures measure

uests received that explain performance

Output

Neither

"Most Potential Negative Impact," enter
ich the agency believes it needs outside
neral Assembly," enter the level at which
ns for what the General Assembly could
ress it itself until the agency is under

s this objective. Please remember to
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

s Agency works with Current Partners,"
rows as necessary to list all of the
ith every middle school in the state, the
list Lexington County High Schools,

This is the next chart because once the ag
agency needs to ensure it has proper perf
agency also needs to consider potential n
addressing issues raised in previous audit
accomplish each objective.

Agency Responding
Date of Submission
Fiscal Year for which information below pertains

Instructions: Below is a template to complete for each O
while it is still blank. The agency will then have a blank ve
each Objective as a separate tab in the excel document. L
assistance in completing the information below.

Strategic Plan Context
and description of Goal the Objective is helping accomplish:
Legal responsibilities satisfied by Goal:
and description of Strategy the Objective is under:
Objective
Objective # and Description:
Legal responsibilities satisfied by Objective:
Public Benefit/Intended Outcome:
Agency Programs Associated with Objective
Program Names:
Responsible Person
Name:
Number of Months Responsible:
Position:
Office Address:
Department or Division:
Department or Division Summary:
Amount Budgeted and Spent To Accomplish Objective
Total Budgeted for this fiscal year:
Total Actually Spent:
PERFORMANCE MEASURES

Instructions : Please copy and paste the chart and questio
1) In the cell next to, “Performance Measure,” enter the p
2) In the cell next to, "Type of Measure," pick the type of r
3) In the next set of cells enter the actual and target result
the target value the agency wanted to reach for the perfo
Including a minimum acceptable level and target level will
then enter the following next to the applicable "Actual Res
4) In the last set of cells, answer the questions to provide I
an entity in state government requires the agency to track
entity that requires the agency to track this information ar

Types of Performance Measures:
Outcome Measure - A quantifiable indicator of the public
mission, goals and objectives. They are also used to direct
violations.
Efficiency Measure - A quantifiable indicator of productiv
operations. Efficiency measures measure the efficient use
Output Measure - A quantifiable indicator of the number
workload and efforts and should be the third priority. Exa
Input/Explanatory/Activity Measure - Resources that cont
(i.e. explanatory). These measures should be the last prio

How the Agency is Measuring its Performance

Results

Details
Does the state or federal government require the agency to tra two cells over)
What are the names and titles of the individuals who chose thi
Why was this performance measure chosen?
If the target value was not reached in 2014-15, what changes v
What are the names and titles of the individuals who chose the
What was considered when determining the level to set the ta made on setting it at the level at which it was set?

Based on the performance so far in 2015-16, does it appear th
If the answer to the question above is "questionable" or "no," reached or what resources are being diverted to ensure perfor reached?

POTENTIAL NEGATIVE IMPACT

Instructions : Please list what the agency considers the mo the most potential negative impact to the public that may help. Next to, "Outside Help to Request," enter the entitie the agency thinks the General Assembly should be put on do to help resolve the issue before it became a crisis. The study.

Most Potential Negative Impact
Level Requires Outside Help
Outside Help to Request
Level Requires Inform General Assembly
3 General Assembly Options

REVIEWS/AUDITS

Instructions : Below please list all external or internal revi maintain an electronic copy of each Review and any other number of rows below that have borders around them, pl

Matter(s) or Issue(s) Under Review

PARTNERS

Instructions : Under the column labeled, "Current Partner enter the ways the agency works with the entity (names o partners. Note, if there is a large list of partners that all fit agency can list SC Middle Schools, instead of listing each n instead of listing each high school in the county separately

Current Partner Entity

gency determines the associated prog
formance measures established to tra
egative impacts which may arise, and
s or reviews; and continually consider

South Carolina Department of Education
1/11/2016
2015-16

bjective listed in the Strategy, Objectives and Respc
rsion to complete for each separate Objective. The
.abel each Tab, "O__" and insert the applicable num

Agency will provide next year

ıns below as many times as needed so the agency ca
erformance measure just like the agency did in the a
neasure that best fits the performance measure fro
:s for each year. Next to "Actual Results," enter the
rmance measure for that year. Next to "Minimum a
hopefully encourage the agency to continually set c
sults" and "Target Results," - “Agency did not use PM
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of goods or services an agency produces. Output m
mple - # of business license applications processed.
:ribute to the production and delivery of a service. I
rity. Example - # of license applications received

Objective Number and Description	
Performance Measure:	
Type of Measure:	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	
ack this? (provide any additional explanation needed,	
is as a performance measure?	
were made to try and ensure it was reached?	
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rget value in 2015-16 and why was the decision finally	

e agency is going to reach the target for 2015-16?
what changes are being made to try and ensure it is rmance measures more likely to be reached, are

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es to whom the agency would reach out if the poten
notice of the level at which the potential negative ir
House Legislative Oversight Committee will provide

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Reason Review was Initiated (outside request, internal policy, etc.)

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Ways Agency Works with Current Partner

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Copy and paste this information from the fifth column of the Strategy, Objectiv

Copy and paste this information from the Strategic Budgeting Chart

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m the drop down box (see Types of Performance Measures explained belo
actual value the agency had for that performance measure at the end of t
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challenging targets each year. If the agency did not utilize a particular perf
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Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

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list Lexington County High Schools,

Reporting Requirements

Agency Responding	South Carolina Department of Education
Date of Submission	1/11/2016
Fiscal Year for which information below pertains	2015-16

Instructions :
List all reports, if any, the agency is required to submit to a state, federal or outside entity on a regular basis. Insert the name of each report in a separate column and answer the questions below it.
Add as many columns as needed.
PLEASE NOTE: All information the agency provides in the rows below the row labeled, "Date the Report was last submitted," should apply to when the agency most recently submitted the report (i.e. date report was last submitted).

Agency Responding	South Carolina Department of Education							
Report #	1	2	3	4	5	6	7	8
Report Name:	Restructuring Report	Accountability Report (Proviso Related to - "Base Budget Analysis)	SDE-EIA: Adult Education	Proviso Related to - "Work-Based Learning"	Proviso Related to - "Technology Academy Pilot"	Students Health and Fitness Act	Proviso Related to - "Aid to Districts Draw Down"	Proviso Related to - "Fines and Fees Report"
Why Report is Required								
Legislative entity requesting the agency complete the report:	House Legislative Oversight Committee	Executive Budget Office, Governor, Senate Finance Committee, House Ways and Means Committee, and Public	House Ways and Means Committee, the House Education and Public Works Committee, the Senate Finance Committee and the Senate Education Committee	Senate Finance and House Education	House Ways and Means, House Education, Senate Finance, and Senate Education	Posted on General Assembly Website	House Ways and Means; House Education and Public Works; Senate Finance; Senate Education	Chairman of Senate Finance and Chairman of Ways and Means
Law which requires the report:	Section 1-30-10(G)(1) and 1-30-10(G)(2)	§1-1-810 and Proviso 117.29	Proviso 1A.28	Proviso 1A.6	Proviso 1A.54	SC 59-10-10	Proviso 1A.50	Proviso 117.75
Agency's understanding of the intent of the report:	To adhere to the following requirements: Pursuant to Section 1-30-10(G)(1), state department and agency governing authorities must submit the following to the Governor and General Assembly: • "reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services." (Annual Restructuring Report, Restructuring Report or ARR) Pursuant to Section 1-30-10(G)(2), state department and agency governing authorities must submit the following to the Governor and General Assembly:	Agencies' annual accountability reports for the prior fiscal year, as required in Section 1-1-810, must be accessible to the Governor, Senate Finance Committee, House Ways and Means Committee, and to the public on or before September fifteenth, for the purpose of a zero-base budget analysis and in order to ensure that the Agency Head Salary Commission has the accountability reports for use in a timely manner. To promote strategic planning and thoughtful review of agency goals by its executive leadership and senior management; and to bring objectivity by formulating SMART (Specific, Measurable, Attainable, Relevant, and Time-bound) objectives.	To report why the student has enrolled in Adult Education and whether or not the student is pursuing a GED or Diploma.	To provide accomplishments of Career Counseling Specialists	To report number of high schools that participated in pilot and number of students earning Microsoft Office certifications	To report district and school level compliance with all elements of the 2005 Student Health and Fitness Act	To ensure districts are meeting the safety needs of their students; to ensure districts, Palmetto Unified and DJJ have updated safety plans in place; to identify any districts that failed to submit an updated school safety plan	Promoting transparency and accountability
Year agency was first required to complete the report:	2015		2013-14	2008-09	2013-14	2007	2011-2012	
Reporting frequency (i.e. annually, quarterly, monthly):	Annually	Annually	Quarterly	Annually	Annually	Annually	Annually	Annually
Information on Most Recently Submitted Report								
Date Report was last submitted:	May-15							
Timing of the Report								
Month Report Template is Received by Agency:			Template developed in-house	N/A	N/A	June	Created in house	
Month Agency is Required to Submit the Report:	January	By September 15	Nov., Feb., May, & Aug.	February	February	December	September	September 1st
Where Report is Available & Positive Results								
To whom the agency provides the completed report:	Legislative Oversight Committee for submission to the Governor and General Assembly	Executive Budget Office, Governor, Senate Finance Committee, House Ways and Means Committee, and Public	House Ways and Means Committee, the House Education and Public Works Committee, the Senate Finance Committee and the Senate Education Committee	Senate Finance and House Education	House Ways and Means, House Education, Senate Finance, and Senate Education	Sent by SCDE staff member for legislative affairs	House Ways and Means; House Education and Public Works; Senate Finance; Senate Education	Governor, Senate Finance, House Ways and Means and public
Website on which the report is available:	The South Carolina Statehouse Website on the Publications page as well as on the SCDE page, which can be accessed from the House Legislative Oversight Page. General Assembly's website.	South Carolina Legislature website				Posted on General Assembly Website		Post on SCDE's Website
If it is not online, how can someone obtain a copy of it:	N/A	N/A				N/A		N/A
Positive results agency has seen from completing the report:		Assists in the aforementioned intent and the Accountability Report is Completed	No inquiries received	Funding has been renewed every year	None-pilot discontinued	District & school level feedback. Trend analysis showing growth over the years	To ensure no money is received by districts until reporting all safety needs are met; all districts confirmed that they have a school safety plan	Transparency of fines and fees collected

Report #	9	10	11	12	13	14	15	16
Report Name:	EIA Program Reports	Proviso related to "CDEPP Expansion"	Proviso Related to - "PowerSchool Dropout Recovery Data"	School Facilities Needs Report	Proviso Related to - "Public Charter Pupil Counts"	Proviso Related to - "Technical Assistance"	Proviso Related to - "HSTW/Dropout Prevention"	Proviso Related to - "IDEA Maintenance of Effort"
Why Report is Required								
Legislative entity requesting the agency complete the report:		Education Oversight Committee	House Ways and Means Committee, the House Education and Public Works Committee, the Senate Finance Committee and the Senate Education Committee	General Assembly	Ways & Means, House, Senate Finance and Senate	EOC	The Governor, the Senate Finance Committee, the House Ways and Means Committee, the Senate Education Committee, and the House Education and Public Works Committee	SC General Assembly
Law which requires the report:	SC 59-6-10	General Appropriations Act, 2014 Proviso 1.85	1A.30	SC 59-144-130	Proviso 1A.60	59-18-1510	Proviso 1A.17	SC Appropriations Act (1A.34)
Agency's understanding of the intent of the report:	Programmatic and Expenditure Reports	EOC is required to do an evaluation of the CDEPP program.	Each school district must collect information from both the student and the school including why the student has enrolled in Adult Education and whether or not the student is pursuing a GED or Diploma.	Report projected five-year school facilities improvements identified and addressed since the last report as determined by the districts	Public Charter District must report student counts for the 5th, 45th, 90th, 135th days of school; Monitoring of charter school enrollment	Program monitoring and effectiveness	To assess the programs' progress and effectiveness in providing a better prepared workforce and student success in post-secondary education; EEDA program monitoring and effectiveness	By December 1, 2015, the department must submit an estimate of the IDEA MOE requirement to the General Assembly and the Governor
Year agency was first required to complete the report:	1998	2014	2013-14	1998	2013-2014		2011-12	~2012
Reporting frequency (i.e. annually, quarterly, monthly):	Annually	Twice annually in December and mid-June	Quarterly	3 years	the 5th, 45th, 90th and 135th days of school	Annually	Annually	Annually (due Dec. 1)
Information on Most Recently Submitted Report								
Date Report was last submitted:								
Timing of the Report								
Month Report Template is Received by Agency:		April	N/A	Not provided	Created in house	August	N/A	N/A
Month Agency is Required to Submit the Report:		June	N/A	December	August, November, February, May (Quarterly)	October	December	December
Where Report is Available & Positive Results								
To whom the agency provides the completed report:		Education Oversight Committee	House Ways and Means Committee, the House Education and Public Works Committee, the Senate Finance Committee and the Senate Education Committee	General Assembly	Ways & Means, House, Senate Finance and Senate	EOC	The Governor, the Senate Finance Committee, the House Ways and Means Committee, the Senate Education Committee, and the House Education and Public Works Committee	SC General Assembly
Website on which the report is available:			Dropout Recovery rates are required to appear on each district report card.					
If it is not online, how can someone obtain a copy of it:			N/A					
Positive results agency has seen from completing the report:	Second layer of assurance of program and expenditure efficacy	Continued support for funding	Provides information on the % of students who dropped out of public school, but returned to continue their high school education through an adult education program.	To ensure no money is received by districts until reporting all safety needs are met; all districts confirmed that they have a school safety plan	Tracking student growth or decline in the charter district; Continued funding; Ability to analyze changes in enrollment over course of year	Continued funding; Program reflection	High percentage of students who participate in the funded programs remain in school; Continued funding; Program reflection	Yes

Report #	17	18	19	20	21	22	23	24
Report Name:	Preschool Children with Disabilities	School Crime Reports	SC Virtual School Program	Proviso Related to - "School District Flexibility" Old Proviso Number 1.32	Proviso Related to - "School District Furlough"	Proviso Related to - "CDEPP Expansion"	Proviso Related to - "School District Flexibility" Old Proviso Number 1A.17	Proviso Related to - "Artistically and Academically High-Achieving Students"
Why Report is Required								
Legislative entity requesting the agency complete the report:	SC General Assembly	General Assembly	General Assembly, Education Oversight Committee	Ways & Means, House, Senate Finance and Senate	Supt of Education, Senate Finance, House Ways and Means	Senate Finance; House Ways and Means	Ways & Means, House, Senate Finance and Senate	Senate Education Committee; House Education and Public Works Committee
Law which requires the report:	SC 59-36-70	SC 59-63-330	SC 59-16-60	Proviso 1.32	Proviso 1.37	Proviso 1.87	Proviso 1A.17	Proviso 1A.27
Agency's understanding of the intent of the report:	Act 86, the law requiring local education agencies to serve children with disabilities ages three through five, was approved by the Governor of South Carolina on June 15, 1993. This state-mandate represented a downward extension of all the requirements of the Individuals with Disabilities Education Act (IDEA), Public Law 101-476. One of the stipulations of the state mandate is the requirement for the submission of a report to the South	To identify persistently dangerous schools	Report on the overall effectiveness of the virtual school program, including: successful completion rates, course enrollments, program enrollments, etc.	Provide information on district flexibility activities on staffing and finance	Districts must request approval to take furlough after all other flexibility options have occurred.	Provide number of additional 4k programs and additional students served	Provide information on district flexibility activities on staffing and finance	Report allocation of funds for Artistically and Academically High Achieving Students served
Year agency was first required to complete the report:	~1993	2009-10	2007	2004-2005	2004-2005	2013-2014	2004-2005	2010-2011
Reporting frequency (i.e. annually, quarterly, monthly):	Annually (due Feb. 1)	Annually	Annually	Quarterly with year end report	As required by action in the districts; if there is no budget shortfall districts are not allowed to take furlough therefore no	Annually; Feb 1	Quarterly with year end report	Year end - June 1
Information on Most Recently Submitted Report								
Date Report was last submitted:								
Timing of the Report								
Month Report Template is Received by Agency:	N/A	N/A	November	Created in house	Created in house	Created in house	Created in house	Created in house
Month Agency is Required to Submit the Report:	February	January	December	Final report after year end. Report is not submitted if no action is taken	As requested by districts. In the past the agency has reported along with flexibility	February	Final report after year end. Report is not submitted if no action is take	June
Where Report is Available & Positive Results								
To whom the agency provides the completed report:	SC General Assembly	General Assembly	General Assembly, Education Oversight Committee	Ways & Means, House, Senate Finance and Senate	Supt of Education, Senate Finance, House Ways and Means	Senate Finance; House Ways and Means	Ways & Means, House, Senate Finance and Senate	Senate Education Committee; House Education and Public Works Committee
Website on which the report is available:								
If it is not online, how can someone obtain a copy of it:								
Positive results agency has seen from completing the report:	Yes	SC does not have any persistently dangerous schools	Knowledge of program statewide, legislative support of program, and a time to share successes with legislators, EOC, and SCDE.	Identifies any/all flexibility taken by a district for the year.		Identifies students and programs serving 4 year old students	Identifies any/all flexibility taken by a district for the year.	Report identifies funding spent on High Achieving Students

Report #	25	26	27	28	29	30	31
Report Name:	Proviso Related to - "IDEA Maintenance of Effort"	Proviso Related to - "Debt Collection Reports"	Proviso Related to - "IMD Operations"	Proviso Related to - "Bank Account Transparency and Accountability"	ABCTE Data	Teacher Quality Report EOC EIA	Teacher of the Year Report EOC EIA
Why Report is Required							
Legislative entity requesting the agency complete the report:	General Assembly	State Budget Office	Gov Office; Senate Finance; House Ways and Means	Budget and Control Board	SBE and General Assembly	EOC	EOC
Law which requires the report:	Proviso 1A.34	Proviso 117.34	Proviso 117.74	Proviso 117.84	SC 59-25-350	EIA	EIA
Agency's understanding of the intent of the report:	Provide guidance on need for funding for State level IDEA maintenance of effort	To report outstanding debt owed to the agency by outside entities	To report funding for students placed in IMDs	Report if agency uses composite reservoir bank accounts	Annual information on candidates employed through ABCTE	Explanation of Services	Explanation of Services
Year agency was first required to complete the report:	2011-2012				2008		
Reporting frequency (i.e. annually, quarterly, monthly):	Annually	Annually	Annually	Annually	By March 31 Annually	Annually	Annually
Information on Most Recently Submitted Report							
Date Report was last submitted:							
Timing of the Report							
Month Report Template is Received by Agency:	Created in house	Created in house	Created in house	September	N/A	August	August
Month Agency is Required to Submit the Report:	December	February	November	By October 1	By March 31 Annually	October	October
Where Report is Available & Positive Results							
To whom the agency provides the completed report:	General Assembly	State Budget Office	Gov Office; Senate Finance; House Ways and Means	Budget and Control Board	SBE and General Assembly	EOC	EOC
Website on which the report is available:						Education Oversight Committee website	Education Oversight Committee website
If it is not online, how can someone obtain a copy of it:						N/A	N/A
Positive results agency has seen from completing the report:	Report need of funds required for the state to meet maintenance of effort	To report outstanding debt owed to the agency	Ensure funding is provided for students placed in other agencies	Ensure agency is not using composite reservoir accounts	Provides update to stakeholders	Provides update to stakeholders	Provides update to stakeholders

Information in all these rows should be for when the agency completed the report most recently

Reporting Requirements

32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47
South Carolina Teacher Loan Report	Critical Needs Schools Geographic and Subject Areas for SC Teacher Loan Forgiveness	South Carolina Financial Literacy Board of Trustees Report/South Carolina Financial Literacy Board of Trustees Statewide Evaluation	Average Teacher Salary	College Freshman Report	Teacher Loan Program	J-1 Exchange Visitor	Title II	State Teacher Shortage Areas	Guns Free Schools Act	EdFacts: Students Involved with Firearms, Firearm	Consolidated School Report	National Reporting System	EdFacts, Consolidated State	National Public Education Finance	Southern Legislative Public
EOC	General Assembly	General Assembly	SC Dept of Corrections	General Assembly	General Assembly	US Department of State	US Department of Education	US Department of Education	USED	USED		United States Department of Education	USED	USDE National Center for Education Statistics	Fiscal Affairs and Government Operations
	SC 59-26-20	SC 59-29-480/SC 59-29-570	SC 24-25-70	Sections 59-101-	SC 59-26-20(j)		Title II of the Higher		GFSA Authorizing		SAFE AND DRUG-FREE	Workforce Innovation	ESEA	Federal Register,Vol.	None
Explanation of Services	Teacher Loan Forgiveness	Update on the progress of the Financial Literacy Trust Act	SECTION 24-25-70 gives the school board of the SC Department of Corrections the responsi	State law (59-39-120 and 59-39-130) mandates that in-state colleges report the first	The Education Oversight Committee (EOC) is mandated by Section	Provide information regarding cultural exchange teachers in South Carolna	Update on completers of South Carolina educator preparation providers	federal student loan forgiveness	To provide information about weapons in schools	To provide data related to various types of students behaviors	To provide data related to various types of students behaviors	The end-of the-year report is due on December 31 of each year. There are multiple sections. There are financial,	To inform US Dept.of Ed and Congress	To calculate the state per pupil expenditure that is used to determine the amount of allocation for the Title I program and other	Data is compiled into a comparative data report which is submitted and presented to the Fiscal Affairs and Government Operations
		2006				unknown	unknown	unknown				Unknown	N/A	unknown	
Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually	Annually
						July	August	August	Mar-15	Feb-15	Feb-15	17-Dec-15	Dec-Feb	7/23/15;	5-Jun-15
April	N/A	No template				template	online	template	February?			October		February	March
May	January	January 1st				August	October	December	March	February	February	December		August	June
EOC	General Assembly	General Assembly				US Department of State	US Department of Education	US Department of Education	USED	USED	USED	United States Department of Education/Office of Career,	USED	US Census Bureau	Hank Hager, Counsel, Senate Education Committee
							https://title2.ed.gov/Public/Home.aspx	http://www2.ed.gov/about/offices/list/ope/pol/tsa.html				https://wdcrobcolp01.ed.gov/CFAPPS/OVAE/NRS/lo		Report is not available online.	http://www.legis.state.wv.us/Surveys/educsurv/edsurv-
									http://www2.ed.gov/about/reports/annual/gfsa/index.ht					Contact SCDE Office of Auditing Services	
Provides update to stakeholders	Teacher Recruitment and Retention Incentive	Implementation of the intent of the legislation				Provide information regarding J-1 Exchange Visitor Program	Provides updates to stakeholders and the general public	teachers may receive deferral of loan repayment				The yearly report helsp the office look for patterns in program growth, performance, and the amount of funds expended for adult education		Appropriate allocations to the state for Title I and other federal programs	Allows for respresentatives from our state legislature to see how our State responses compare with the responses of other states.

Restructuring Recommendations and Feedback

Agency Responding	South Carolina Department of Education
Date of Submission	2/26/2016
Fiscal Year for which information below pertains	2015-16

RESTRUCTURING RECOMMENDATIONS

Instructions: Please answer the questions below and add as many rows as needed.

Does the agency have any recommendations, minor or major, for restructuring?	Yes

If the agency has recommendations for restructuring, list each one on a separate row in the chart below. Add as many rows as needed.

Does the agency recommendation require legislative action?	Recommendation for restructuring
Yes	Yes, the legislature should consider coherence in all PreK-20 education related agencies (SCDE, SBE, EOC, First Steps, CHE, CERRA, Centers for Excellence, Department of Commerce (EEDA), Department of Employment and Workforce (WorkKeys, Keytrain, EEDA), SC Technical College System).

FEEDBACK (Optional)

Instructions: Please answer the questions below to provide feedback on this Annual Restructuring Report ("Report").

Please list 1-3 benefits the agency sees in the public having access to the information requested in the Report, in the format it was requested.	Please list 1-3 benefits to agency management and employees in having all of this information available in one document.	Now that the agency has completed the Report, please list 1-3 things the agency could do differently next year (or it could advise other agencies to do) to complete the Report in less time and at a lower cost to the agency.
1 The public can understand the goals for public education and understand the objectives needed to support the Profile of the SC Graduate	1	1
2	2	2
3	3	3

Does the agency believe this year's Restructuring Report was less burdensome than last year's?	Please list 1-3 changes to the Report questions, format, etc. the agency recommends to ensure the Report provides the best information to the public and General Assembly, in the least burdensome way to the agency.	Please add any other feedback the agency would like to provide (add as many additional rows as necessary)
	1 When similar information requested in the Accountability report is needed for this report, maintain the same format for both reports so it will be less burdensome for agencies to complete both reports, or simply permit reference to the Agency Accountability Report.	
Why or why not?	2 Provide the format and questions for the report at least 2-3 months before the due date.	
	3 Provide the report form in a format that allows multiple people to work on completion and compilation (linked fields not updating, drop down fields not copying; lost work because files overwritten when multiple people were contributing to the file/folder.)	
	4 Our legal requirements are so large, the file would not open when included; had to delete and separately save that section.	

Agencies are not required to do anything in this worksheet. This worksheet is part of the document so the proper drop down menues can be available in the other tabs.

Is Performance Measure Required?
State
Federal
Only Agency Selected

Type of Performance Measure
Outcome
Efficiency
Output
Input/Explanatory/Activity

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

State/Local Government Entity
College/University
Business, Association or Individual

Does the Agency have any restructuring recommendations
Yes
No

Does the agency believe this year's Restructuring Report was less burdensome than last year's?
Yes
No