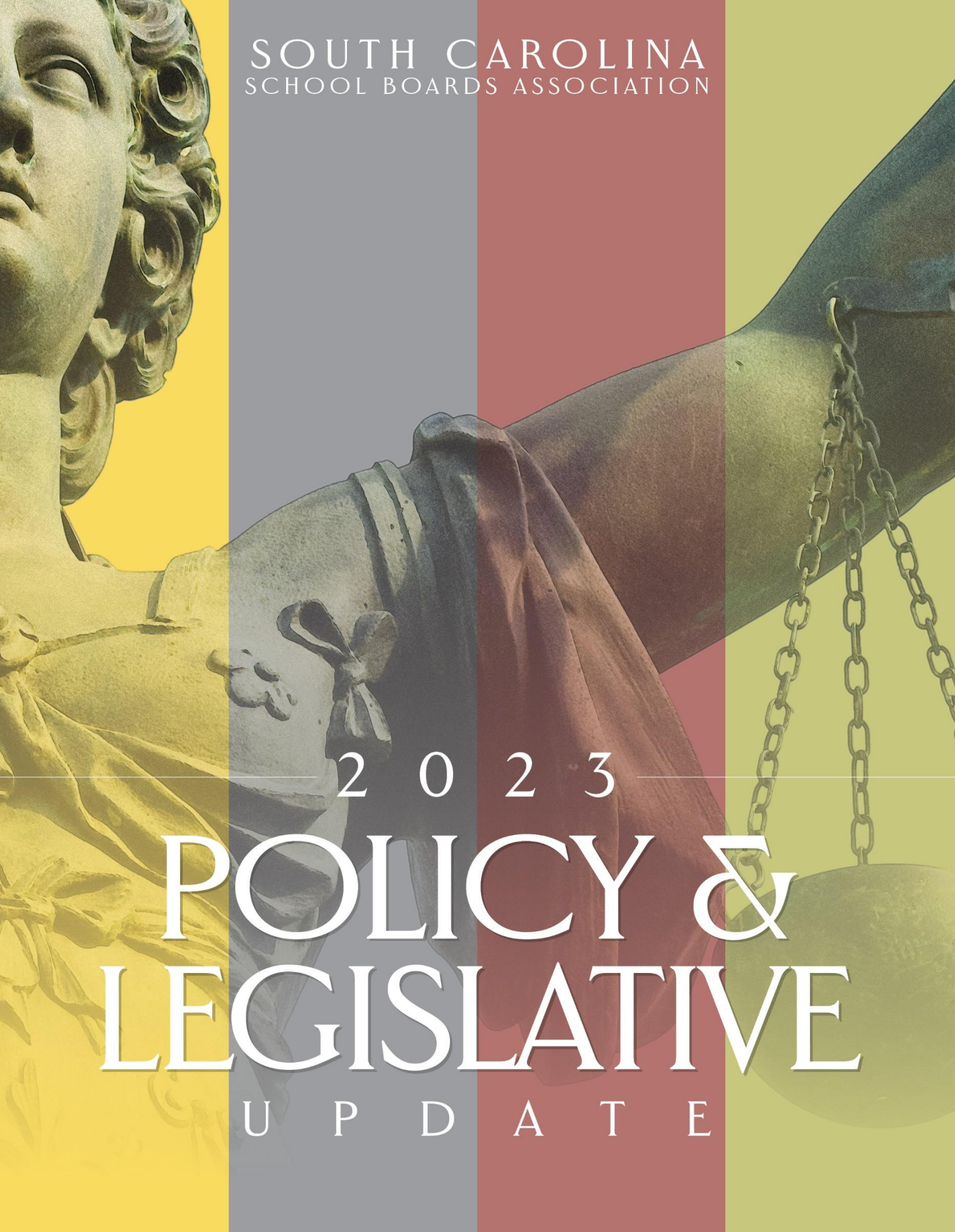


A background image of a classical statue of Lady Justice, blindfolded and holding scales of justice. The image is overlaid with a vertical color gradient of yellow, grey, red, and green. The statue's head is on the left, and the scales are on the right.

SOUTH CAROLINA  
SCHOOL BOARDS ASSOCIATION

2 0 2 3

# POLICY & LEGISLATIVE

U P D A T E

**TO: Board Chairs, Superintendents, and SCSBA Board of Directors**

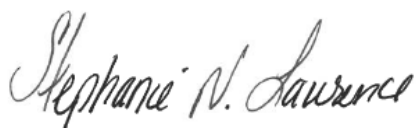
Welcome to the new school year! Districts across our state accomplished great things last year and we know the same will be true for 2023 – 2024. As you reach even greater heights, remember that SCSBA is here to support you and all that you do to educate the students of South Carolina. Please do not hesitate to contact us for assistance.

This booklet includes updates on state and federal education-related legislation, court cases, department of education guidance, and other informational items of interest to districts. Each summary contains a link to the text discussed, if applicable. After the summary and the recommended district action, we have included policy references so that you may check the language in your existing policies to ensure that it does not conflict with a change in law. Policy references are the alphabetical codes, which are based on a national policy classification system and the SCSBA model manual. Applicable model policies and rules are listed in the Table of Contents.

The *2023 Policy and Legislative Update* is presented to you in a Microsoft Word document and Adobe.pdf format. The Adobe Acrobat Reader (.pdf) version is a read-only file; however, it will print camera ready material if you would like to make hard copies. The Microsoft Word document is a working document that you can copy and paste to help you create your district policies.

Each local school board should review the information and determine which policies it will adopt. In all instances, SCSBA does not mandate adoption of a particular policy or policy language. Further, this booklet is not intended as a substitute for legal advice relating to any district specific situation.

For additional information on policy or legislative issues, please contact the following staff members.



Stephanie N. Lawrence  
General Counsel &  
Director of Policy and Legal Services



Debbie Elmore  
Director of Governmental Relations

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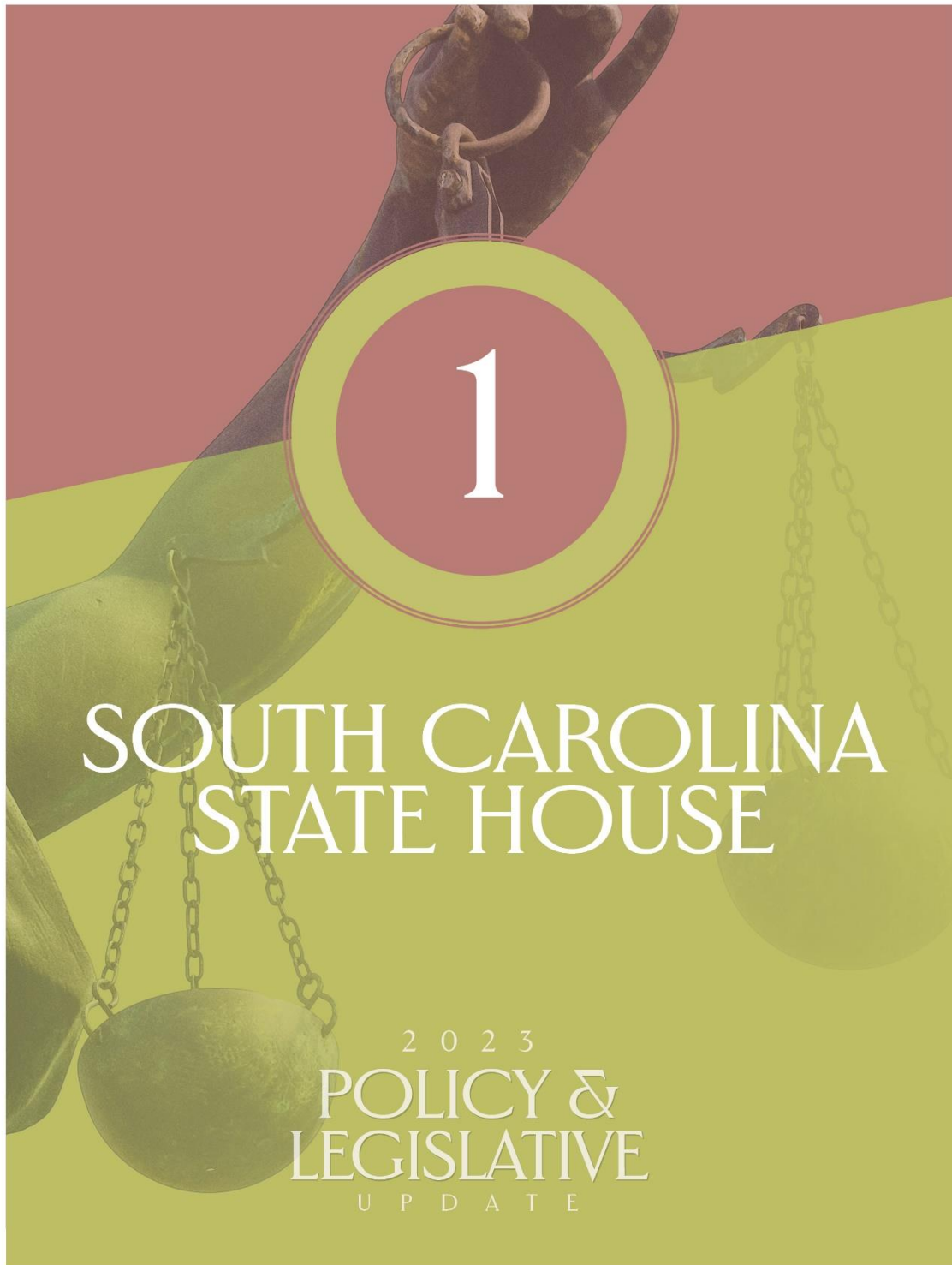
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## Administration of Lifesaving Medications

**Effective date: May 16, 2023**

Existing law authorizing the use of Epinephrine Auto-Injectors or EpiPens in schools was amended to include lifesaving medications, which are defined as “any prescription medication that can be administered to a person experiencing a medical emergency.”

The Department of Health and Environmental Control (DHEC), in consultation with the S.C. Department of Education (SCDE), will determine the list of lifesaving medications that can be administered by designated school personnel in response to a medical emergency and publish training guidelines for the provision and administration of lifesaving medications.

Local boards of trustees may authorize school nurses and other designated school personnel (employee, agent, or volunteer of a school) who are trained to administer a lifesaving medication to a student or others on school premises whom the school nurse or other designated school personnel believes is experiencing a medical emergency.

Schools may maintain a stock supply of lifesaving medications that are prescribed by a physician, including the Director of Public Health for DHEC, an advanced practice registered nurse, or a physician assistant. Districts may enter into arrangements with drug manufacturers or third-party suppliers to obtain the medications at fair-market, free, or reduced prices.

Participating schools, in consultation with the SCDE and DHEC, are to amend their existing plan for the management of students with life-threatening allergies to include medical emergencies.

Finally, the amended law states that a school, school district, and local school board are not subject to civil or criminal liability for damages caused by injuries to the student or person resulting from the administration of lifesaving medications during an emergency.

**Local district action required:** SCSBA has revised policy JLCDB (Use of Epinephrine Auto-Injectors) and recommends that districts adopt the model to incorporate the changes.

**Policy reference:** JLCDB (Use of Lifesaving Medications)

**Text:** The text of this law can be found [here](#).

## Center for School Safety and Targeted Violence

**Effective date: June 19, 2023**

The General Assembly took steps this year to help reduce the threat of violence in schools by establishing and funding the creation of a Center for School Safety and Targeted Violence within the State Law Enforcement Division (SLED). The center is scheduled to be housed in a former elementary school in Lexington County.

South Carolina joins other states, including Texas, Colorado, and Virginia, in creating a dedicated statewide safety center that can bring together multiple government agencies and community groups to ensure consistent statewide school safety practices and responses that are consistently evaluated, improved, and updated.

The purpose of the center is to provide extensive training, education, and expertise in the fields of school safety and targeted violence. SLED is directed to adopt guidelines and establish procedures for training and educating local and state law enforcement, teachers, administrators, bus drivers, other school personnel, parents, and the public on school safety and targeted violence. SLED can incorporate existing and new personnel from its Homeland Security Department, Investigative Services Department, Behavioral Science Unit, and any other unit or department as assigned by the Chief of SLED.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** EB (Environmental And Safety Program) and ECAA (Threat Assessment)

**Text:** The text of this law can be found [here](#).

## Child Food and Nutrition Services Study Committee

**Effective date: April 25, 2023**

A 17-member legislative study committee was formed to examine the feasibility of transferring the administration of certain federal child food and nutrition programs that are currently administered by the S.C. Department of Education (SCDE) to the State Department of Agriculture. These programs include, but are not limited to, the school lunch program, school breakfast program, afterschool snack program, special milk program, and summer food service programs.

Additionally, the committee is to study whether these programs should be provided at no cost to all students in the state and examine ways to enhance collaboration and pricing to increase purchasing powers for South Carolina farmers to ensure locally sourced foods are being provided to schools.

The committee is to report its findings and recommendations to the General Assembly by January 1, 2024.

Members of the committee will serve without compensation but are allowed to receive a per diem provided for members of state boards, committees and commissions and will be composed of the following:

- one member appointed by the House speaker;
- one member appointed by the chairman of the House Education and Public Works Committee;
- one member appointed by the chairman of the House Agriculture, Natural Resources, and Environmental Affairs Committee;
- one member appointed by the House minority leader;
- one member appointed by the Senate president;
- one member appointed by the chairman of the Senate Education Committee;
- one member appointed by the chairman of the Senate Agriculture and Natural Resources Committee;
- one member appointed by the Senate minority leader;
- one member appointed by the state superintendent of education;
- the director of the Department of Social Services or his designee;
- two members from a local school district's food services department appointed by the state superintendent;
- one member appointed by the commissioner of agriculture;
- two members appointed by the governor who are employed by nonprofit service providers that specialize in hunger relief; and
- two members who have a child who is a recipient of free and reduced lunch appointed by the state superintendent.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** ADF (District Wellness) and EF, EF-R (Food Services)

**Text:** The text of this law can be found [here](#).

# Education and Workforce Development Act

**Effective date: May 19, 2023**

A new division within the state’s Department of Employment and Workforce (DEW) was created to better streamline publicly funded programs and services aimed at workforce development. These include K12 career and technology education programs. The Office of Statewide Workforce Development (OSWD) will include, among other things, the centralized oversight and implementation of the Coordinating Council for Workforce Development, formerly the Education and Economic Development Coordinating Council, which is currently housed in the Department of Commerce.

The council’s membership is comprised of a variety of legislative appointees and includes the director of the Education Oversight Committee or designee, the state superintendent of education or designee, the state superintendent’s appointment of a district superintendent, a school counselor, and a career and technology education director. The state superintendent also serves as a member of the council’s executive committee.

Among other responsibilities, the council is required to facilitate and coordinate the development of a Unified State Plan (USP). The plan will focus on a systemwide approach to streamline and unify workforce development efforts to include enhanced coordination between K-12, higher education, and employers. The plan must contain an “Educational Program Alignment Toolkit” to assist K12 and higher education in ensuring their educational programs are meeting the workforce needs and a “Career Pathways Tool” for students, counselors, parents, and others to learn about potential career pathways and the various routes to meaningful employment. Other program requirements are detailed in the statute.

The OSWD will hire, with input from the S.C. Department of Education, regional workforce advisors (RWA) to provide, among other things, information to students about available industrial and business job opportunities across the state. Each RWA’s geographic region will include an advisory board comprised of members appointed by the local legislative delegation and represent the following: a school district superintendent, high school principal, local workforce investment board chairperson, technical college president, four-year college or university representative, career center director or school district career and technology education coordinator, parent-teacher organization representative, and business and civic leaders.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** IHAQ (Career/Transition to Work Education)

**Text:** The text of this law can be found [here](#).

## Education Scholarship Trust Fund Program

Effective date: April 25, 2023

Six days before the end of the legislative session, a bill to create the first statewide publicly funded school voucher program was signed into law. The Education Scholarship Trust Fund program will provide scholarships to eligible students for expenses to attend a private school, a public school outside of their resident district, or for services from an approved Education Service Provider (ESP). The program will be administered by the S.C. Department of Education (SCDE) and is set to begin during the 2024-2025 school year. The 2023-2024 state budget allocates \$2 million to the SCDE for initial costs to create and implement the program.

### *Scholarship amount*

The program provides a \$6,000 scholarship allocated to the parent of an eligible student to pay for qualifying expenses through an online account known as the Education Scholarship Trust Fund (ESTF). The General Assembly may increase or decrease the scholarship amount through the state budget.

The bill annually caps the number of participating students as follows:

- 5,000 students in school year 2024-25
- 10,000 students in school year 2025-26
- 15,000 students in school year 2026-27 and beyond

In 2027, and every five years thereafter, the SCDE will conduct an eligibility and use review of the program to include recommendations for improvements.

### *Qualifying students*

Eligible students must meet the following qualifications:

- must be a resident of the state;
- attended a public school in the state during the previous school year; or,
- who had not attained the age of five on or before September 1 of the prior school year but has attained the age of five on or before September 1 of the current school year, or
- received a scholarship in the prior school year; and
- in school year 2024-25, has a household income that does not exceed 200 percent of the federal poverty guidelines, or
- in school year 2025-26, has a household income that does not exceed 300 percent of the federal poverty guidelines; or
- in school year 2026-27 and all subsequent years, has a household income that does not exceed 400 percent of the federal poverty guidelines.

Parents of qualifying students must sign an annual agreement with SCDE pledging to follow certain requirements. The signed agreement satisfies the state's compulsory attendance law requiring students to annually attend 180 days of instruction.

### *Qualifying expenses*

Scholarship funds can be used for ESP defined as a person or organization approved by the SCDE for educational goods and services that includes the following:

- tuition and fees;
- tuition and fees for an approved nonpublic online education service provider or course;
- tuition and fees for a public school outside of the student's resident school district;
- textbooks, curriculum, or other instructional materials;
- tutoring services;
- computer hardware or other technological devices;
- fees for national norm-referenced tests, advanced placement tests, industry certification exams, or college admissions exams;
- educational services for students with disabilities, including occupational, behavioral, physical, and speech-language therapies from a licensed or accredited practitioner or provider;
- contracted services from a public school district, including individual classes, after school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;
- contracted teaching services and education classes;
- fees for transportation not to annually exceed \$750;
- fees for ESTF account management by private financial management firms; or
- any other educational expense approved by the SCDE.

An eligible school is defined as a South Carolina public school or an independent school that chooses to participate in the program but does not include a charter school.

### *Accountability measures*

Eligible private and public schools serving scholarship students who are enrolled full-time are required to administer the following accountability testing requirements:

- students in grades 3 – 8 the SC Ready or SC Ready alternative summative assessment required of students in public schools in this State;
- students in grades 4 and 6 the SC Pass or SC Pass alternative summative assessment required of students in public schools in this State; or
- in lieu of those tests for students in grades 3 – 8 a nationally norm-referenced formative assessment at the beginning of the school year, at the end of the first semester, and at the end of the school year;
- students in grades 9 – 12 a nationally norm-referenced or formative assessment;
- high school graduation information; and
- ensure that parents or guardians of a scholarship student receives a written report of their child's performance on each assessment. The report must include the student's score on the assessment and how the student's performance compares to other students.

For students who do not receive full-time instruction from a full-time education service provider, the parent must pledge in a signed agreement to ensure the student takes assessments in a similar manner or through other means. Also, SCDE is directed to track the student's wellness with

mandatory, in-person attendance at least once per semester at their resident public school no later than November 15 during the first semester and no later than March 15 in the second semester. During the in-person attendance, a teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, school nurse, on-site mental health, allied health professional, or other appropriately designated school mandated reporter must complete a comprehensive wellness check to screen for abuse and neglect.

Further, the new law directs that “in order to allow parents and the public to measure the achievements of the program, academic progress must be documented annually for each scholarship student.”

Finally, a 10-member review panel will serve as an advisory panel to the SCDE and ensure expenses meet the requirements of qualified expenses and periodically make recommendations to the General Assembly about improving the program.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** N/A

**Text:** The text of this law can be found [here](#).

## First Steps Enactment and Reform

**Effective date: May 16, 2023**

After years of annually renewing the South Carolina First Steps to School Readiness program, the General Assembly took measures to permanently enact the program's provisions originally passed in 1999. This enactment came with revisions regarding the membership, powers and duties, procurement policies and procedures, and increased partnership between local boards and the state board.

The one change impacting local school districts is a directive for the local school district board of trustees to appoint one of its employees to serve as a member of the local First Steps Partnership board.

Highlights of other changes are as follows:

- The state board must establish bylaws for local partnership boards, which must include a requirement that meetings, elections, and applicable records must comply with all Freedom of Information Act and IRS disclosure requirements.
- The terms of all current local First Steps Partnership members terminate on July 1, 2023. The state board is directed to design and implement a transition plan that must be fully implemented by July 1, 2024.
- The state Office of First Steps, in consultation with the Office of State Procurement, must develop procurement policies and procedures that must be adopted by local partnership boards for the purchase and procurement of goods and services.

**Local district action required:** SCSBA does not recommend any policy changes. However, boards should identify and appoint an employee to serve on the local First Steps Partnership.

**Policy reference:** IHBIB, IHBIB-R (Primary/Pre-Primary Education Child Development)

**Text:** The text of this law can be found [here](#).

## Gavin's Law: Sexual Extortion

**Effective date: May 18, 2023**

Named after Rep. Brandon Guffey's son, Gavin Guffey, the General Assembly passed a new law establishing sexual extortion and aggravated felony extortion as criminal offenses and setting prison sentences for each.

School districts must collaborate with the State Department of Education (SCDE), the South Carolina Law Enforcement Division (SLED), and the Attorney General's office to implement a policy to educate and notify students of the provisions of the new law. This includes an adequate notice provision for students, parents or guardians, the public, and school personnel. Further, the SCDE must provide the status of the adoption and implementation of the education policies to the Governor, House, and Senate leadership by July 1 of each year.

Under Gavin's Law, a person commits the offense of felony sexual extortion if he/she "intentionally and maliciously threatens to release, exhibit, or distribute a private image of another in order to compel or attempt to compel the victim to do any act or refrain from doing any act against his will, with the intent to obtain additional private images or anything else of value." A person convicted of felony sexual extortion must be imprisoned:

- not more than five years for the first offense;
- not more than 10 years for a second offense; or
- not more than 20 years for a third or subsequent offense.

A person who commits the offense of aggravated felony sexual extortion occurs when the victim is a minor (under the age of 18), or a vulnerable adult and the person convicted of sexual extortion is an adult or the victim suffers great bodily injury or death, and the "finder of fact finds beyond a reasonable doubt that the sexual extortion of the victim was the proximate cause of the great bodily injury or death." A person convicted of felony sexual extortion must be imprisoned for not more than 20 years.

If the person convicted is a minor, then he/she is guilty of misdemeanor sexual extortion and must be sentenced by the family court, which may order as a condition of sentencing behavioral health counseling from an appropriate agency or provider.

**Local district action required:** School districts should be aware of the notice provision requirement in this new law and plan to collaborate with the SCDE, SLED, and the Attorney General's office on information to go out to families and school personnel regarding the crime of sexual extortion.

**Policy references:** IJNDB (Use of Technology Resources in Instruction), JIAA, JIAA-R (Sexual Harassment and Retaliation), JIAB, JIAB -R (Discrimination, harassment, Retaliation), JICFAA (Intimidation, Bullying, or Harassment)

**Text:** The text of this law can be found [here](#).

## Homeless Child/Youth Defined

**Effective date: May 16, 2023**

To develop an accurate count of homeless children and youth in the State, the General Assembly passed legislation to define terms related to unaccompanied and homeless children as provided in the South Carolina Children's Code. The new section, South Carolina Code 63-1-45, specifically defines "Unaccompanied homeless youth", "Homeless child or youth", and "Youth at risk of homelessness".

**Local district action required:** SCSBA has revised administrative rule JFABD-R to include these definitions and the applicable legal reference in policy JFABD. SCSBA recommends that districts adopt the models to incorporate the changes.

**Policy reference:** JFABD, JFABD-R (Admission of Homeless Students)

**Text:** The text of this law can be found [here](#).

## **Military Temporary Remote School Enrollment Act**

**Effective date: May 16, 2023**

The Military Temporary Remote School Enrollment Act puts into law a practice that many school districts in the state have provided for years. Generally, the law grants residency to children of active-duty military parents (full-time military duty status in the U.S. active uniformed services, including members of the National Guard and the State Military Reserve on active-duty orders) who have orders to move to the military installation (a base, camp, post, station, yard, center, homeport facility for any ship, or other installation) within a school district.

School districts are directed to accept applications for enrollment and course registrations by electronic means, including enrollment in a specific school or program.

After arrival, military parents must provide the school district proof of residence, which may include any of the following:

- a temporary on-base billeting facility
- a purchased or leased home or apartment
- any federal government housing or off-base military housing, including off-base military housing that may be provided through a public-private venture

**Local district action required:** SCSBA has created a model policy and recommends districts consider it for adoption.

**Policy reference:** JFABH (Military Temporary Remote School Enrollment)

**Text:** The text of this law can be found [here](#).

## Omnibus Tobacco Enforcement Act of 2023

**Effective date: August 14, 2023**

The General Assembly amended the existing law related to the prevention of youth access to tobacco and other nicotine products to continue its prohibition against the use of any tobacco product by any person in school buildings, in school facilities, on campuses, and any other school or property owned or operated by a local school district. To that effort, the definition of “Tobacco Product” was changed along with other conforming provisions to the mandatory public-school tobacco-free campus policy.

**Local district action required:** SCSBA has revised model policies related to tobacco-free school environments and recommends that districts adopt the models to incorporate the changes.

**Policy references:** ADC (Tobacco-Free School District), GBED (Tobacco-Free Workplace), and JICG (Tobacco Use By Students)

**Text:** The text of this law can be found [here](#).

## Paid Parental Leave

**Effective date: June 26, 2023**

A year after passing legislation to provide state employees with six weeks of paid leave for the birth, fostering or adoption of a child, lawmakers quickly moved to extend the benefit to full-time employees of school districts this legislative session. More specifically, the Paid Parental Leave Act mandates that school districts provide, and fund paid parental leave (PPL) for certified school personnel and full-time equivalent classified staff “to the same extent as employees of the state.”

The leave duration depends on the qualifying event (birth, adoption, or foster care placement) and the relationship of the employee to the child as follows:

- Six weeks of PPL for the birth of a child or adoption of a child if the employee is the primary caregiver.
- Two weeks of PPL are provided to employees considered to be the co-parent of a newborn or adopted child.
- All eligible employees are provided two weeks of PPL who foster a child under the age of 18 who is in state custody.

Other provisions of the act are as follows:

- Where an employee’s entitlement to PPL extends beyond their designated term of employment as provided in their contract (ex. 190 days, 230 days etc.), a district may enact policies to allow the affected employee to continue their PPL in the subsequent contractual term.
- School district holidays and vacations on the district calendar must not be counted against PPL.
- The use of PPL by an eligible employee does not prevent him/her from earning a STEP increase the following year.
- Employees cannot be required to exhaust all other forms of leave, such as sick or annual leave, before they are eligible to take PPL, and they may not donate PPL.
- If both parents are eligible state employees, PPL may be taken concurrently, consecutively or at different times. No child may have more than two parents eligible for PPL, which expires at the end of the 12-month period beginning on the date of the qualifying event.
- Foster parents may request and receive approval for parental leave in nonconsecutive one-week time periods.

Finally, the legislation directs the State Board of Education to promulgate regulations, guidance, and procedures to implement the PPL program. The PPL guidance from South Carolina Department of Education can be found [here](#).

**Local district action required:** SCSBA developed a model policy for Paid Parental Leave that was sent out to Districts on June 5, 2023, for districts to consider adopting.

**Policy reference:** GCCAC/GDCC (Paid Parental Leave)

**Text:** The text of this law can be found [here](#).

## South Carolina Athletic Trainer Act

**Effective date: June 19, 2023**

The regulatory authority of athletic trainers, including those employed by school districts, was moved from the Department of Health and Environmental Control to the Board of Medical Examiners under the Athletic Trainer Act of South Carolina.

The Act directs the medical board, with the advice of a nine-member Athletic Trainers' Advisory Committee, to implement and develop standards and promulgate regulations for the improvement of athletic training services in the state, which includes setting the biennial renewal date of licenses. Among other things, it provides penalties for anyone declaring to be an athletic trainer without obtaining a license.

Further, it grandfathers the continued employment of persons currently employed by the South Carolina Department of Education, local boards, or private schools treating injuries received by students participating in school sports activities, serving as an athletic training student, or any similar position if services are under the supervision of a physician or certified athletic trainer. It reiterates that school districts are not required to hire licensed athletic trainers.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** N/A

**Text:** The text of this law can be found [here](#).

## Sunscreen in Schools

**Effective date: May 16, 2023**

The General Assembly passed legislation to clarify any questions concerning the possession or use of sunscreen in schools. More specifically, the current law was amended to prevent public schools or charter schools from prohibiting the possession or personal use of sunscreen in schools or at school events. Sunscreen is defined as “a topical, non-aerosol product regulated by the United States Food and Drug Administration for over-the-counter use for the purpose of limiting ultraviolet light-induced skin damage. Sunscreen does not include prescription medication.”

**Local district action required:** SCSBA has created a model policy dedicated to the possession or use of sunscreen in schools. Districts should consider adopting the model policy.

**Policy reference:** JLIG (Sun Safety)

**Text:** The text of this law can be found [here](#).

## Workforce Development Housing

**Effective date: May 19, 2023**

Lawmakers took steps to give local governments revenue options for constructing affordable workforce housing, which could include educators. Under the updated law, cities and counties can use up to 15 percent of their local accommodations tax revenue for the development of workforce housing, which must include programs to promote home ownership. The new provision, however, ends December 31, 2030.

Workforce housing is defined as residential housing that is reasonably and appropriately priced for rent or sale to a person or family whose income falls within 30 percent and 120 percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the U.S. Department of Housing and Urban Development (HUD).

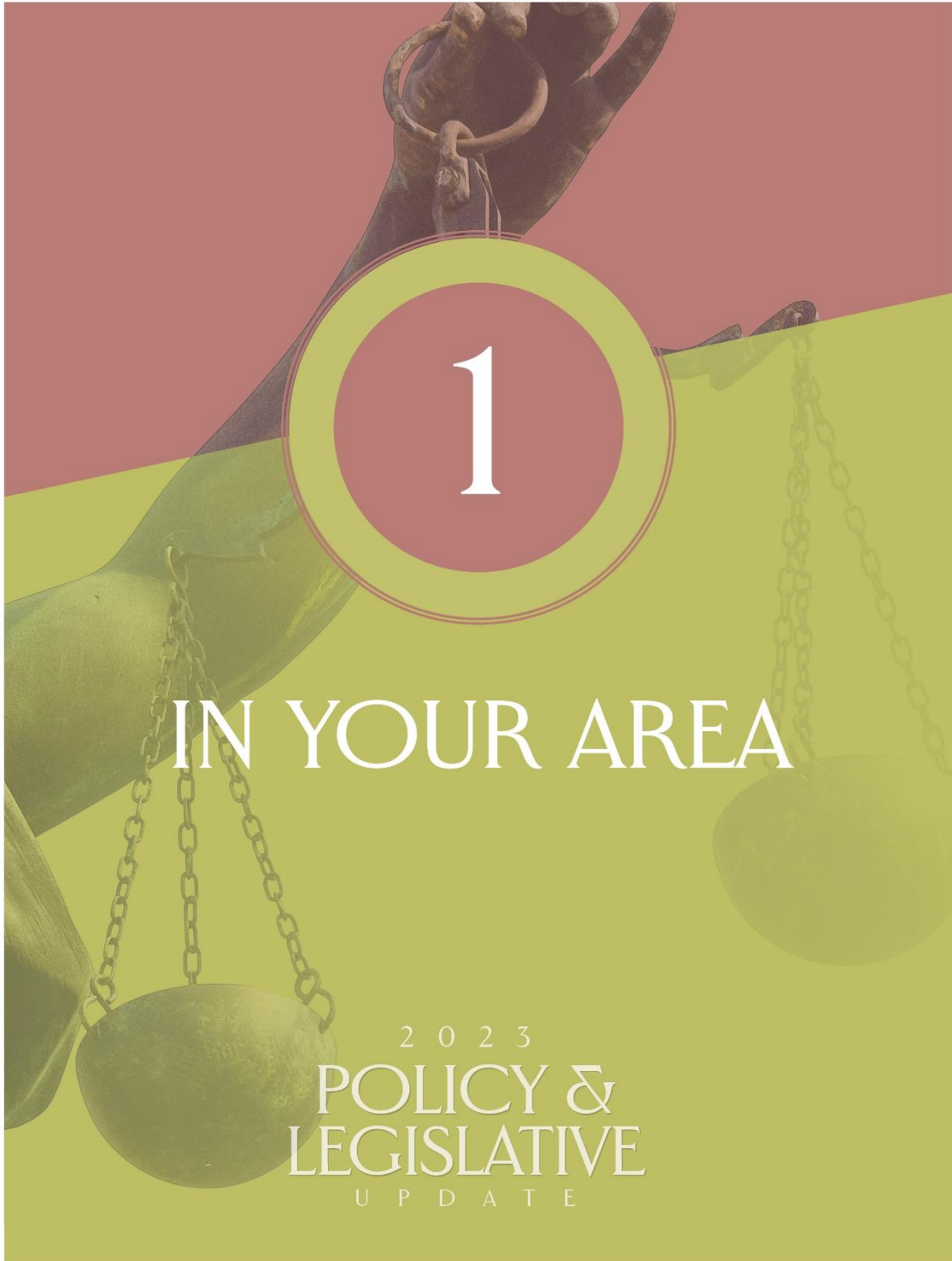
Cities or counties using this option are required to conduct a housing impact analysis, which includes the following:

- the cost of developing, constructing, rehabilitating, improving, maintaining, or owning single-family or multi-family dwellings
- the purchase price of new homes or the fair market value of existing homes
- the cost and availability of financing to purchase or develop housing
- housing costs
- the density, location, setback, size or height development on a lot, parcel, land division, or subdivision
- an analysis of the relative impact on low- and moderate-income households

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** N/A

**Text:** The text of this law can be found [here](#).

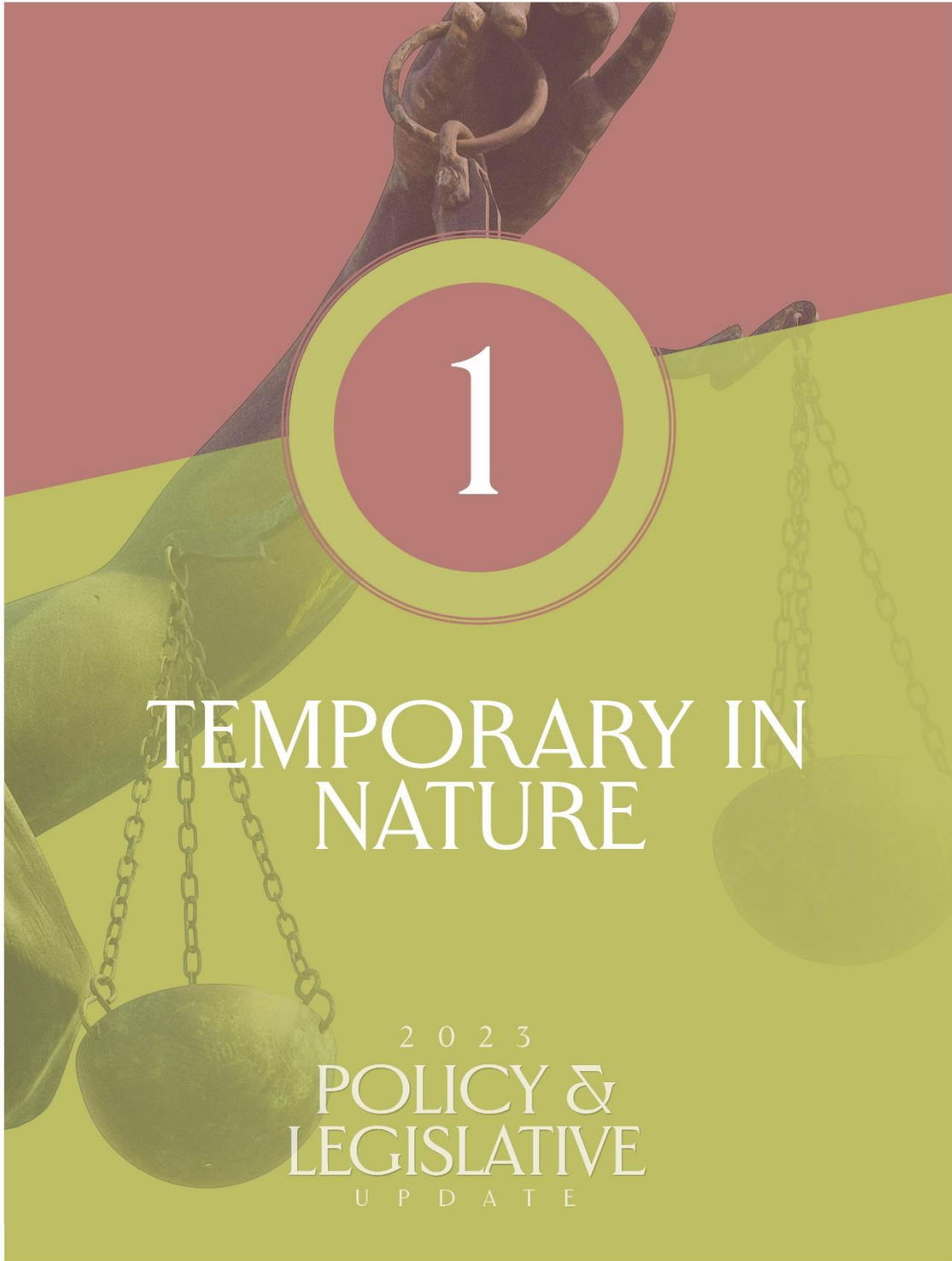


## Local Law Report

Below is an alphabetized list of local laws that passed this legislative session. Please check the legislative website at [www.scstatehouse.gov](http://www.scstatehouse.gov) for the most recent status and for more details on each bill or contact [Debbie Elmore](#) at SCSBA.

- |                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (Act 91, R.55, H.3987) | Reassigns a tract of land (identified by tax map sheet number: TMS 1440005001-051) zoned for <b>Anderson School District Five</b> to <b>Anderson School District One</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| (Act 92, R.11, S.654)  | Provides a process and timelines for consolidating <b>Barnwell School District 45</b> , <b>Barnwell County Career Center District</b> , and <b>Barnwell Consolidated School District</b> into the <b>Barnwell County School District</b> by July 1, 2024. Five members initially appointed by the local legislative delegation will govern the newly consolidated district until their successors are elected from single-member districts in nonpartisan elections in November of 2024. Candidates running for board seats will file written notice of their candidacy with the county voter registration and elections office beginning at noon on August 1 through noon on August 15. Roles and responsibilities of the board and superintendent are outlined, and tax millage levy limits are prescribed until 2026, when the board of trustees are vested with full fiscal autonomy. |
| (Act 95, R.2, H.3254)  | Repeals a local law (Act 593 of 1992) for <b>Dorchester School District Two</b> and <b>Dorchester School District Four</b> that limits the cash reserves that may be maintained by both districts.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| (Act 96, R.8, H.3961)  | Changes the method of electing the seven members of the <b>Dorchester School District Two</b> Board of Trustees from at-large to single-member districts beginning with the 2024 general election. To stagger the members' election terms, those elected from even-numbered districts in 2024 will serve for an initial two-year term. When their successors are elected in November of 2026, and thereafter, members from even-number districts will serve four-year terms. Members elected to odd-numbered districts in 2024 will serve four-year terms and until their successors are elected in November of 2028.                                                                                                                                                                                                                                                                     |

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (Act 101, R.77 8, S.764) | Reapportions the election districts (map number S-91-03-23 created and maintained by the Revenue and Fiscal Affairs Office) of the seven-member <b>Rock Hill School District Three</b> Board of Trustees beginning with the 2024 election.                                                                                                                                                                                                                                                               |
| (Act 97, R.14, H.4215)   | Reapportions the election districts (map number S-83-05-23 created and maintained by the Revenue and Fiscal Affairs Office) of the nine-member <b>Spartanburg School District Five</b> Board of Trustees beginning with the 2023 election.                                                                                                                                                                                                                                                               |
| (Act 98, R.15, H.4216)   | Reapportions the election districts (map S-83-07-23 created and maintained by the Revenue and Fiscal Affairs Office) of the nine-member <b>Spartanburg School District Seven</b> Board of Trustees beginning with the 2023 election.                                                                                                                                                                                                                                                                     |
| (Act 100, R.69, S.360)   | Changes the method for candidates seeking election to the <b>Williamsburg County School District</b> Board of Trustees from requiring a certain number of signatures on a petition to submitting a statement of candidacy to the county voter registration and elections office. In the event of a vacancy on the board, the board of trustees will call for a special election to fill the unexpired term. The county voter registration and elections office are charged with conducting the election. |



## Temporary Provisos

**Effective date: July 1, 2023**

There were several new temporary provisos enacted this year, as well as others that were carried over from previous years and amended or deleted. Because they are temporary, budget provisos must be revisited each year. What follows is a summary of amended continuing provisos of note, new provisos of note, and deleted provisos of note by the General Assembly. A complete listing of the provisos and the full text of each can be found [here](#).

### Amended Continuing Provisos

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#### *1.3 (SCDE: State Aid to Classrooms)*

Formerly known as the EFA/Base Student Cost, this proviso was amended to delete all references to the Education Finance Act (EFA) Formula/Base Student Cost Inflation Factor and replaced with language appropriating state funding through a new formula as State Aid to Classrooms. The amount of state aid for the 2023-2024 school year is based on 75 percent of the total cost of funding one teacher's salary for every 11.2 students. The teacher salary used to determine the required state effort is based on a teacher with a master's degree and 12 years of experience. This equates to \$55,104 on the statewide minimum salary schedule for the current fiscal year, and including fringe benefits is \$72,991.

The total Aid to Classrooms funding for each district is calculated based on the district's percentage of the total statewide weighted pupils multiplied by the total Aid to Classrooms program. The district's local share is calculated by multiplying the total local share by the district's imputed index of taxpaying ability, which is the district's relative fiscal capacity compared to that of all other districts in the State. The State Aid to Classrooms amount allocated to each district will be determined by subtracting the calculation of the district's local share from the calculation of the district's total Aid to Classrooms projected funding.

The proviso was amended to roll up the following state funding line items into the State Aid to Classrooms funding:

- Aid to Districts
- Student Health and Fitness (school nurses)
- Guidance/career Specialists
- Handicapped – Profoundly Mentally

Further, it adds charter school authorizers to the Revenue and Fiscal Affairs Office's online financial dashboard that documents annual expenditures of all state, local, and federal funds and for RFA to routinely consult with stakeholder groups about the online dashboard.

Finally, it directs that state funding for the employee health insurance increase be allocated to school districts proportionately utilizing weighted pupil units and that state funding for the increase in the employer contribution to the state retirement fund be allocated to school districts through the State Aid to Classrooms formula.

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### *1.68 (SDE: Student Meals)*

Directs districts to conduct an updated analysis identifying students in poverty and increase access to free school meals for these students. If a district is unable to participate in Community Eligibility Provision in Section 1759(a) of Title 42 of the United States Code because participation causes a financial hardship, the local board of trustees is to adopt a resolution stating that it is unable to participate in CEP and demonstrate the financial hardship. Further, it prohibits schools from publicly identifying or penalizing a student who is unable to pay for a meal or accrues meal debt for any reason including, but not limited to, denying meals, serving alternative meals, discarding meals after serving them to a student, requiring chores or work in exchange for meals, prohibiting participation in extracurricular activities, denying participation in graduation, withholding diplomas, or refusing transcript requests.

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### *1.79 (SDE: Teacher Salaries/SE Average)*

The \$2,500 increase to each of the pay cells in the state minimum teacher salary schedule for 2023-2024 increased the projected Southeastern average teacher salary from \$55,898 to \$58,048. Also, the requirement that school districts maintain local salary supplements per teacher no less than their prior fiscal year is suspended.

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### *1.81 (SDE: Capital Funding for Schools)*

The General Assembly appropriated \$120 million to be made available first to a school district that is consolidating with another school district for costs directly related to consolidation (see proviso language). Eligible districts must submit a preliminary plan and timeline for pursuing consolidation and using the funds on or before August 1.

Up to \$10 million is available to a local district consolidating at least three schools within a single district into a single school campus and consolidating other district-owned educational buildings or buildings that support district functions into a single building. Funds can also be used to support consolidation costs.

Up to \$20 million is available to any district or charter school district for facilities upgrades aligned with school safety priorities that include: (a) classroom/internal door locks; (b) secure school entry points and access control; (c) window covers; (d) bulletproof glass or bulletproof film for windows; and (e) electronic or other technology. SCDE is directed to develop an application for requesting funding for facilities upgrades and establish policies, procedures, and priorities for awarding the funds. Criteria for prioritizing awards includes percentage of students enrolled from low-income families, the age and condition of the existing school facilities to be upgraded as well as the ability to commence construction in a timely matter, and the quality of the application. The criteria must also require that all proposed projects do not create new recurring annual expenses and comply with local, state, and federal building codes.

Applications must be submitted to the department by September 1, 2023, and a list of recommended grant awards must be presented to the State Board of Education for approval no later than November 30, 2023. SCDE is directed to submit a report of approved projects to the Governor, the chairman of the Senate Finance Committee, and the chairman of the House Ways and Means Committee.

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#### *1A.9 (SDE-EIA: Teacher Supplies)*

Lawmakers increased funding for the annual teaching supplies and materials stipend from \$300 to \$350 for all eligible certified and non-certified public-school teachers, certified special school classroom teachers, certified media specialists, certified guidance counselors, and career specialists who are employed by a school district, a charter school, or lead teachers employed in a publicly funded full day 4K classroom for teacher supplies.

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#### *1A.51 (SDE-EIA: Career and Technology Education)*

Of the state funds appropriated for Career and Technology Education, \$2.75 million will be allocated to multi-district career centers that received funds in fiscal year 2022-23 from the State Aid to Classrooms line item. The balance of funds will be distributed to school districts and multi-district career centers based on the prior year actual student enrollment for career and technology education courses, with no district or multi-district career center receiving less than \$50,000.

### **Remaining Provisos (in effect for the 2023-2024 School Year)**

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#### *1.40 (SCDE: High School Driver Education)*

This continuing proviso suspends the requirement for high schools to provide a driver education course and remains unchanged. High schools may continue to offer driver education courses if they choose to do so. As in past years, if school districts have suspended the driver education course, SCSBA will update the legal reference in policy IHAN (Driver Training) to reflect the current proviso upon request.

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#### *1.91 (SDE: Public School Virtual Program Funding)*

Districts and brick and mortar charter schools will be permitted to offer a virtual education program for up to five percent of their student population based on the most recent 135 days ADM count without impacting any state funding. The SCDE will establish guidelines for the virtual program and parameters students must meet to participate in the virtual program. Districts must submit their plans for the virtual program to the SBE for approval. Districts offering a virtual program must also report their ADM counts for students participating in their virtual program and the number of students participating face to face for the 5th, 45th, 90th, and 135th day to the SCDE. For every student participating in the virtual program above the five percent threshold, the school district will not receive 47.22% of its State Aid to Classroom allocation.

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### *1.93 (SDE: Partnership Curriculum)*

No funds allocated to districts by the SCDE can be used to provide instruction in, to teach, instruct, or train any administrator, teacher, staff member, or employee to adopt or believe, or to approve for use, make use of, or carry out standards, curricula, lesson plans, textbooks, instructional materials, or instructional practices that serve to inculcate any of the following concepts:

- One race or sex is inherently superior to another race or sex
- An individual, by virtue of his race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously
- An individual should be discriminated against or receive adverse treatment solely or partly because of his race or sex
- An individual's moral standing or worth is necessarily determined by his race or sex
- An individual, by virtue of his race or sex, bears responsibility for actions committed in the past by other members of the same race or sex
- An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his race or sex
- Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by members of a particular race to oppress members of another race
- Fault, blame, or bias should be assigned to a race or sex, or to members of a race or sex because of their race or sex

### **New Provisos**

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### *1.98 (SDE: Career Readiness Assessments)*

Authorizes districts and high schools to request an exemption from reporting student performance on the career readiness assessment for the 2022-23 school year for students who are taking the career readiness assessment for the second time and when the career readiness assessment is different from the career readiness assessment the student took in 11th grade. The Education Oversight Committee (EOC) and the State Board of Education (SBE) are directed to create a waiver form by July 31, 2023.

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### *1.99 (SDE: Alternative Education Programs Options)*

The SCDE is directed to create, publish, and provide to all public schools a list of alternative education programs that can award a high school degree or high school equivalency credential. The list must include, but not be limited to, the Wil Lou Gray Opportunity School and the South Carolina Youth Challenge Academy.

As part of each student's annual review of his Individualized Graduation Plan, school counselors must distribute information provided by the Wil Lou Gray Opportunity School, the South Carolina Youth Challenge Academy, and any other alternative education program to students who are not on track for on-time graduation or who otherwise are at risk of dropping out of school.

School counselors are to provide those institutions the names and addresses of all students who are not on track for on-time graduation or who are otherwise at risk of dropping out of school, except for students who have opted out of disclosure of directory information under the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g. Parents or students age eighteen or older may complete a form to opt the student out of the disclosure of student contact information with these institutions. The SCDE is to develop the opt-out form, and each district is to make the form available on its website.

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*1.100 (SDE: Incentive Prohibition)*

No school district, or any of its schools, may use state funds to offer students any monetary incentive or inducement to receive a COVID-19 vaccination.

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*1.101 (SDE: Reporting Requirements)*

The college freshman reporting requirements of Section 59-101-130 are suspended. The SCDE, in collaboration with the EOC, is authorized to use data that is already collected to report on the in-state and out-of-state college enrollment, college persistence, and post-secondary completion of South Carolina's high school graduates.

The SCDE is directed to streamline data collection timelines and processes to reduce burden and increase efficiency of data collection and reporting. Legislatively mandated due dates for school, district, and state plans including, but not limited to, District Strategic and School Renewal Plans, Read to Succeed Reading Plans, Academic Recovery Plans, District ADEPT Plans, and School Turnaround Plans are extended at the discretion of the SCDE, but shall be due by June 30, 2024.

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*1.102 (SDE: ByteDance Ltd. Application Prohibition)*

School districts and schools are prohibited from using state funds for any devices to access the TikTok application. The prohibition extends to any application with any ownership by ByteDance Ltd., which is the parent company of TikTok.

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*1.103 (SDE: Student Technology Safety)*

The SCDE is directed to create and annually maintain an approved list of third-party providers that provide technology to mitigate cyberbullying and assist in the prevention of self-harm, suicide, or possible harm to others by monitoring student digital activity on school-issued devices and accounts. Providers included on the list must meet all state and agency data use and governance policies and must be domiciled in the United States.

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*1.104 (SDE: Cash for Admissions)*

Directs school districts or schools that receive state funds to accept cash as a payment option for admission to extracurricular school activities.

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*1.105 (SDE: Read to Succeed Endorsement)*

Suspends the requirement for teachers of grades 6 – 12 who are not teaching English or special education and middle and secondary administrators to obtain the Read to Succeed endorsement. Also, certified faculty and staff working outside of a school setting are exempt from having to earn the literacy endorsement to maintain certification.

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*1A.70 (SDE-EIA: Instructional Materials)*

Directs that \$250,000 of the funds appropriated for instructional materials must be used to assist individual schools and/or districts provide high school students instruction in cardiopulmonary resuscitation and awareness of the use of automated external defibrillators in health education class. Funds may be used to purchase, replace, and maintain equipment and training materials. Priority for funds will go to schools and districts determined high-need, which can be determined by using a district's Index of Taxpaying Ability.

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**Deleted Provisos (proviso numbers no longer in effect)**

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*1.38 (SDE: Student Health and Fitness)*

This proviso directed Student Health and Fitness funding to school districts to increase the number of physical education teachers and nurses for elementary public schools. Since the funds were rolled into the State Aid to Classrooms, the proviso is no longer needed.

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*1.77 (SDE: School District Employees Data)*

This proviso directed school districts to provide a report detailing school, district administration, and career centers employees to the SCDE by December of 2022. Since the reports were completed, the proviso is no longer needed.

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*1.90 (SDE: Dyslexia Screener)*

This proviso directed funding to establish the Learning Ally - USC Literacy Screener Pilot Project.

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*1.95 (SDE: Teacher Recruitment and Retention)*

This proviso directed the convening of a task force to examine teacher recruitment and retention efforts.



## South Carolina Department of Education Regulation

The information below includes a brief discussion of an updated South Carolina Department of Education (SCDE) regulation and actions SCSBA recommends based on this regulation.

For the full text of a regulation, visit the SCDE website [here](#). Scroll through the Table of Contents to the regulation you are looking for and click on the number. The document will be available to view or print in its entirety.

### Financial Literacy (Regulation 43-234)

**Effective date: May 26, 2023**

During the 2022 legislative session, State Board of Education (SBE) Regulation 43-234 Graduation Requirements was amended to include one-half credit in financial literacy to earn a South Carolina High School Diploma. Although the change was made last year, implementation begins now with incoming freshmen in the 2023-2024 school year. Accordingly, we have made content changes in one policy and administrative rule based on the regulation change.

**Local district action required:** SCSBA has revised the model policy and rule for Graduation Requirements and recommends that districts adopt the models to incorporate the changes.

**Policy reference:** IKF, IKF-R (Graduation Requirements).

**Text:** The text of this regulation can be found [here](#).

## 30-Minute Unencumbered Time

**Publication date: January 24, 2023**

The purpose of this memorandum is to inform the districts of the recent model policy adopted by the State Board of Education on January 17, 2023, regarding unencumbered time.

This policy requires that each local school board develop and implement a plan that directs the principal of each elementary school to provide at least 30 minutes of unencumbered time during the regular school day. This applies to all full-time instructional staff teaching in kindergarten through fifth grade and to any elementary, middle, or high school teacher responsible for teaching a special education class for more than 20 percent of the school day with students who are removed from the general education setting, as required by Section 59-5-63, Code of Laws of South Carolina, 1976.

As of April 17, 2023, the local boards should have adopted a policy at a regularly scheduled meeting. The policy must include, at a minimum, the policy of the State Board of Education, but may also include additional provisions. Once the policy is adopted, the local school board must submit its policy and any subsequent revisions to the South Carolina Department of Education within thirty days of adoption.

**Local district action required:** SCSBA developed a model policy and administrative rule for 30-Minute Unencumbered Time that was sent out to districts on February 6, 2023. If you have not done so already, SCSBA recommends that districts adopt an unencumbered time policy to meet the statutory requirements.

**Policy reference:** GCLE, GCLE-R (Unencumbered Time)

**Text:** The text may be found [here](#).

## Competency Based Education (Proviso 1.116)

**Publication date: August 16, 2022**

The purpose of this memo is to provide additional information on implementation of the new 1.116 Competency Based Education proviso adopted by the General Assembly in the 2022-23 General Appropriations Bill. As noted in a previous memo on July 5, 2022, this new proviso states the following:

**1.116.** (SDE: Competency-Based Education): (A) In the current fiscal year, districts seeking to implement competency-based education may submit a waiver application to the State Board of Education in a format developed by the State Department of Education. For purposes of this proviso, competency-based education refers to a comprehensive learning approach for a student to master competencies and related standards along a personalized, self-paced, and flexible pathway. As part of the waiver application, districts may include in-person instruction, virtual instruction, self-guided learning, and experiential learning through approved off-campus educational opportunities in calculating instructional hours and may offer the required instructional days at any time during the school year, consistent with the law. (B) Of the funds appropriated to the Department, the State Department of Education shall create evaluation criteria and guidelines for schools that are operating under a waiver pursuant to this proviso. A participating school shall submit required data for a biennial cyclical review on a form developed by the department. A report summarizing the reviews, including the waivers requested and how they hindered implementation must be distributed to the Governor and members of the General Assembly no later than June 30, 2023.

The SCDE has developed a scaffolded approach to assist districts with this new proviso. Districts interested in exploring the possibility of submitting an application for competency-based learning to the State Board of Education can expect informational overview sessions, district cohort monthly meetings (September, October, November, December, January), additional on-demand sessions for individuals or small groups, and application submission to the SCDE.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** IA (Instructional Goals and Learning Objectives)

**Text:** The text may be found [here](#).

## Distribution of Child ID Kits

**Publication date: March 7, 2023**

South Carolina Child ID kits have been distributed to every school district in the state through a partnership with the South Carolina Attorney General's Office, South Carolina Department of Education (SCDE), and grant support from Duke Energy and Dominion Energy.

Under Act 180 of 2022, the Child ID law, districts are required to notify parents/legal guardians of the availability of the Child ID kits and should provide the kits at the parent/legal guardian's request. There is no timeframe included in the law, but the SCDE would ask that the districts notify the parents by the end of March. While this first supply is for all students K-12, after this year, each child entering kindergarten will have the same opportunity to request and receive a kit.

The Act does not prescribe the method to distribute the Child ID kits or the way in which parents/legal guardians should be notified of their availability. Some suggested language from the SCDE to use in notifying the parents/legal guardians of the kits availability is included in the memo.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** N/A

**Text:** The text may be found [here](#).

## **Foundations in School Leadership Cohort Starting January 2023-24**

**Publication date: October 18, 2022**

The Office of Educator Effectiveness and Leadership Development is pleased to announce a new cohort of Foundations in School Leadership (FSL) is open to teacher leaders and coaches beginning January 2023.

The South Carolina Department of Education's leadership development cohorts all focus on growing highly-effective educators who are prepared to support all students to reach the Profile of the South Carolina Graduate. Specifically, participants will grow in their understanding and skill with supporting colleagues in personalization, collective leadership, and ensuring equitable access to effective instruction. Districts and/or school participants will be responsible for any applicable program fees, travel expenses, lodging, and meals. Each cohort is limited based on space; previous cohorts have filled quickly.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** GCI (Professional Staff Development).

**Text:** The text may be found [here](#).

## Frequently Asked Questions Regarding Paid Parental Leave for Educators

**Publication date: June 6, 2023**

On May 12, 2023, Governor Henry McMaster signed into law H. 3908, which adds Section 8-11-151 (A) and Section 8-11-156 of the South Carolina Code of Laws to provide six weeks or two weeks of paid parental leave (PPL) to school district staff members who occupy all or part of a full-time equivalent position (FTE).

This guidance and FAQs are designed to aid school districts in implementing PPL and answer the most common questions the Department has received. The South Carolina Department of Education has carefully reviewed the guidance contained in the South Carolina Department of Administration's Paid Parental Leave Toolkit as well as questions unique to the public school district setting. This guidance will be periodically reviewed and updated as necessary.

This Act took effect on June 26, 2023.

**Local district action required:** SCSBA developed a model policy for Paid Parental Leave that was sent out to districts on June 5, 2023. If you have not done so already, SCSBA recommends that districts adopt a paid parental leave policy.

**Policy reference:** GCCAC/GDCC (Paid Parental Leave)

**Text:** The text may be found [here](#).

## Instructional Leadership Professional Learning Opportunities 2023–24

**Publication date:** April 18, 2023

The Office of Educator Effectiveness and Leadership Development is pleased to announce dates for instructional leadership development cohorts beginning summer and fall 2023. The mission is to increase access to highly effective teaching and leadership for every student in South Carolina. Participants in the cohorts build their leadership capacity in three focus areas: personalization, collective leadership, and access to effective instruction. Each cohort is limited based on space, and interested participants should register at the appropriate link which can be found in the text of the memo linked below.

Please share with appropriate staff and note the format for each cohort. Some cohorts are facilitated face-to-face at our Leadership classroom at 8301 Parklane Road, Columbia, SC, while others are facilitated using a hybrid format that blends face-to-face and virtual sessions.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** GCI (Professional Staff Development)

**Text:** The text may be found [here](#).

## **New Opportunity to Support School Mental Health Efforts**

**Publication date: September 27, 2022**

The University of South Carolina Department of Psychology, in partnership with the S.C. Department of Health and Human Services, is announcing the launch of the John H. Magill S.C. School Behavioral Health Academy (SBHA). The SBHA is designed to support school districts as they strengthen mental health services to students using a multi-tiered systems approach. Through a mix of online instruction and in-person coaching, the SBHA will assist school districts in responding to the child and adolescent mental health crisis by adopting practical, science-based approaches to improving mental health for all students.

SBHA courses are available to counselors, teachers, administrators, and other staff to support student mental health. The SBHA will offer two online certificate programs in School Behavioral Health that include continuing education credits and content tailored to the roles and needs of learners, even those who are not formal mental health providers. For more information on the SBHA, visit their website at [www.scsbha.org](http://www.scsbha.org).

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** JLD (School Counseling)

**Text:** The text may be found [here](#).

## Optional Assistant Principal Evaluation

**Publication date: August 23, 2022**

The South Carolina Department of Education (SCDE) recognizes the essential role that school leadership teams play in supporting effective instruction, creating a safe and inclusive school culture, and maintaining systems that set students, families, and teachers up for success. Assistant principals (APs) are central to the day-to-day work of running a successful school.

Although the SCDE does not require a specific AP evaluation tool, district human resources and leadership staff, principals, and assistant principals have reached out to ask for guidance on the best ways to evaluate and support the growth of APs. The Office of Educator Effectiveness and Leadership Development (OEELD) has designed the Optional Assistant Principal Evaluation framework to provide a practical, flexible, and optional tool districts and principals can use to support the growth and development of APs.

Schools and districts are invited to adapt or adopt the Assistant Principal Professional Growth and Development Plan Template, to use the examples in the Assistant Principal Evaluation Process Guidebook to start conversations with APs and principals, or to continue to use existing systems. Share this information with interested staff. Contact Tom Smith, [tsmith@ed.sc.gov](mailto:tsmith@ed.sc.gov), with additional questions.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** GCO, GCO-R (Evaluation of Administrative Staff)

**Text:** The text may be found [here](#).

## Personal Finance

**Publication date: February 14, 2023, May 9, 2023**

In November 2022, the State Board of Education (SBE) approved the requirement that, beginning with the entering freshman class of 2023-24, students will be expected to complete a one-half credit in financial literacy to earn a South Carolina High School Diploma.

**1.101.** (SDE: Graduation Requirements): Of the funds appropriated or authorized herein, and pursuant to Section 59-39-100 of the 1976 Code, the Department of Education, through the State Board of Education, is directed to promulgate regulations to update the current graduation requirements to include within the existing credits a required half credit in personal finance.

The Office of Career and Technical Education and Student Transition Services is currently finalizing the course standards and field review. The projected date to request approval from the SBE is March 2023; information will then be distributed to districts in April 2023. Professional development for teachers will be offered at the 2023 Education Business Summit in June. The full implementation of the 0.5 personal finance course that will meet this graduation requirement is scheduled for the 2023-24 school year. In addition, there will be current one-unit courses that will be identified to meet the graduation requirement.

Once legislative approval is granted to amend Regulation 43-234 Defined Program, Grades 9 - 12 and Graduation Requirements, new graduation requirements beginning with the entering freshmen class of 2023-24 will be in effect.

On May 9, 2023, upon the second reading, the State Board of Education approved the standards for the Personal Finance one-half (0.5) unit Graduation Requirement. The new one-half unit course will be available through multiple formats: face-to-face instruction, virtual, and hybrid. Personal Finance course standards are located on the Finance Course Standards webpage and resources are in the Instruction Hub.

**Local district action required:** SCSBA has revised the model policy and rule for Graduation Requirements and recommends that districts adopt the models to incorporate the changes.

**Policy reference:** IKF, IKF-R (Graduation Requirements)

**Text:** The February 14, 2023 text may be found [here](#). The May 9, 2023 text may be found [here](#).

## Phonological Awareness Literacy Screening (PALS) 4K Readiness Assessment

**Publication date: November 22, 2022**

The Phonological Awareness Literacy Screening (PALSTM) readiness assessments administered to four-year-old kindergarten (4K) students will be retired on June 30, 2023. Districts using PALSTM will continue to have access to assessments, the online system, and customer support through the end of the 2022–23 school year. Renaissance will be providing additional support and information regarding how to access and save all of your historical PALSTM data.

For the 2023–24 school year, districts who were administering PALSTM will be asked to administer one of the other two readiness assessments: Teaching Strategies GOLD™ or Individual Growth and Development Indicators (myIGDIs™). Districts will be provided with information regarding these remaining assessments. The Office of Assessment and Standards will be in contact with districts to determine their test selection and to provide necessary information for completing the change from PALSTM to another assessment. This will also give districts administering GOLD or myIGDIs™ the opportunity to select a new 4K kindergarten readiness assessment.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** IHBIB (Primary/Pre-Primary Education (Child Development))

**Text:** The text may be found [here](#).

## Principal Induction Program (PIP) Registration 2023-24

**Publication date: April 4, 2023**

The South Carolina Principal Induction Program (PIP) is now accepting enrollment of all first-time principals for the 2023–2024 school year. Satisfactory completion of PIP is required for all first-time principals per S.C. Code Ann. § 59-5-60 and 59-24-80. State Board of Education Regulation 43-165.1 defines a principal as, “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 PIP and have received an overall rating of proficient or exemplary on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal. The successful completion of PIP is the first step for a principal to move from Tier One to Tier Two of their principal certification.

SCDE encourages you to see that the enrollment information is submitted as soon as possible before the July 25, 2023, deadline. Each cohort will be closed once the group reaches 30 participants, and early enrollment helps us accommodate principal preferences as well as plan for additional cohorts if needed. We will attempt to give each induction principal his/her first choice of orientation dates.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** GCO, GCO-R (Evaluation of Administrative Staff), GCI (Professional Staff Development)

**Text:** The text may be found [here](#).

## Procedures for Requirements to Employ Retired Individuals for School Year 2023-24

**Publication date: April 4, 2023, May 2, 2023**

Pursuant to law, the South Carolina Department of Education (SCDE) has confirmed all critical need designations which may be used to determine retired teachers' employment eligibility and exemption from the earnings limitation of S.C. Code Section 9-1-1790. For SY 2023-24 and for the purpose of employing retired certified teachers who will be exempt from the earnings limitation, the SBE defined critical need areas as follows:

1. Critical need subject areas identified and approved by the SBE on February 14, 2023, for forgiveness of the South Carolina Teacher Loan Program.
2. Critical need geographic areas for the employment of retired teachers include the following:
  - the schools identified and approved by the SBE on February 14, 2023, for forgiveness of the South Carolina Teacher Loan Program
  - additional schools in any school district in which at least 67 percent of the schools meet the criteria to qualify as a critical need geographic area for the purpose of teacher loan forgiveness
  - all career and technical education (CTE) centers statewide

For the salary cap exemption as stated in S.C. Code Section 9-1-1795, eligible teachers must hold a valid educator certificate for the 2023-24 school year and teach in a subject area that they are certified in. Retired educators must either teach in a critical needs subject area or critical needs geographical area based on the approved SY 2023–2024 critical needs list. Expired teaching certificates for retired educators will not be approved until the certification is renewed or extended. Based upon Proviso 1.72 of the current fiscal year, school districts may notify retired educators of employment in writing on or before May 1. Additional information regarding the 2023–24 critical need geographic areas (schools) for the employment of retired teachers may be found on the SCDE Critical Need Areas webpage.

Retiree Assurance Forms are submitted through the SCDE Web Application Portal. User roles are created for the superintendent (Retiree Waiver Superintendent) and the superintendent's designee (Retiree Assurance Form Submitter) for the submission of these forms. Only the superintendent or the superintendent's designee can sign and submit the assurance forms for verification.

New or revised user roles need to be assigned by Friday, April 14, 2023. Per a May 2, 2023, memorandum, the School Year 2023–2024 Retiree Assurance Form has been loaded to the web portal.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** GCF (Professional Staff Hiring), GCQE (Retirement of Professional Staff).

**Text:** The April 4, 2023 text may be found [here](#). The May 2, 2023 text may be found [here](#).

## **Qualifications for Special Education Teachers Pursuant to the Individuals with Disabilities Education Act (IDEA)**

**Publication date: November 8, 2022**

On October 4, 2022, the United States Department of Education (USDE) issued a memorandum to state directors of special education regarding personnel qualifications under Part B of the Individuals with Disabilities Education Act (IDEA). Specifically, the memorandum addresses IDEA Part B requirements to ensure that special education teachers and related service providers are “appropriately and adequately prepared and trained” to meet the needs of the students they serve. The USDE Office of Special Education Programs recognizes the challenges that states have faced related to the COVID-19 pandemic and the ongoing shortage of special education teachers and related service providers nationwide. Despite these challenges, each State Education Agency (SEA) must meet the requirements related to personnel qualifications under IDEA.

A teacher teaching in a public charter school must meet the certification or licensing requirements, if any, set forth in the State’s public charter school law. In addition, public school special education teachers may not have special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and must hold at least a bachelor’s degree.

Personnel who have not obtained full state certification as a special education teacher may obtain certification through an alternate route.

Following receipt of the October 4 memorandum, staff from the South Carolina Department of Education (SCDE) Offices of Special Education Services, Educator Services, and General Counsel convened to review the USDE guidance and IDEA Part B personnel requirements.

The SCDE has provided guidance to stakeholders, including several changes to policy and practice, to ensure compliance with federal requirements for full state certification and alternative route certification.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** GCA (Professional Staff Positions), GCF, GCF-R (Professional Staff Hiring).

**Text:** The text may be found [here](#).

## Report to General Assembly on Performance on Interim Assessments

Publication date: August 16, 2022

The South Carolina Department of Education (SCDE) has been directed under Proviso 1.86 to create a report to the General Assembly on performance on interim assessments. The tests approved for interim assessment are STAR Reading and STAR Mathematics, MAP Growth and MAP for Primary Grades, i-Ready® Diagnostic, and CASE Benchmarks. Any changes to the approved interim list will be published [here](#). The guidelines for the approval process are available [here](#).

**1.86.** (SDE: Formative Assessment Data) For the 2022-2023 school year, districts must ensure all students in first through eighth grades are assessed using a state approved interim assessment tool during the fall, winter, and spring. School districts shall provide all 2021-2022 and 2022-2023 interim and formative assessment data scores by grade and school to the Department of Education. The department is directed to compile the information received and submit a comprehensive report regarding performance on such assessments to the General Assembly by January 31 of the current fiscal year. **Any school district failing to provide this data to the department shall have ten percent of their State Aid to Classrooms funding withheld until the data is provided.**

Poor data quality has negatively impacted acceptance of previous collections resulting in depressed record counts. Various factors have impacted the data quality: incorrect assignment of test administration, incorrect test administration dates, and misalignment of student identifiers. To meet the requirements of the proviso, the SCDE will not be able to accommodate the extended collection periods that were afforded the past two years.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** ILB (Test Assessment/Administration), ILBB (State Program Assessments).

**Text:** The text may be found [here](#).

## Revised 2019 World Language Standards with ASL Inclusion

**Publication date: September 6, 2022**

State standards provide the basis for decision-making and educational policy development as well as the foundation for the development of curricula at the local level. The primary goal of standards is to articulate high expectations for teaching and learning for all students enrolled in the public schools of South Carolina.

As a result of the dedicated efforts of a team of South Carolina educators from school and district levels, the revised 2019 South Carolina College- and Career-Ready Standards for World Languages Proficiency draft now seamlessly integrates American Sign Language (ASL).

ASL has long been recognized as a modern indigenous language and is used primarily by cultural members of the Deaf Community in the United States and Canada. Since 2009, successful completers of ASL courses in South Carolina high schools have been awarded world language credit. This credit has been based on our South Carolina Standards for American Sign Language, published in 2009 and 2016. The 2016 SC Standard for American Sign Language Proficiency has the same competencies and structural organization as the 2019 South Carolina College- and Career-Ready Standards for World Languages Proficiency. Furthermore, both the ASL and World Language documents are defined and guided by the National Council of State Supervisors for Foreign Languages (NCSSFL) and the American Council for the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines (2012). Thus, the American Sign Language Community has decided against utilizing a separate standards document but to revise the 2019 South Carolina College- and Career-Ready Standards for World Languages Proficiency document, ensuring that ASL is accounted for through inclusive language and content.

With guidelines in place, the committee reviewed all narratives and graphics from pages 7- 82 of the 2019 World Language standards document and made additions to the Glossary of Terms and References.

Following a field review, the draft standards will be updated to reflect field review feedback and other panel/task force input. The standards will then be submitted to the State Board of Education (SBE) for approval with adoption of the revised 2019 South Carolina College- and Career-Ready Standards for World Languages Proficiency targeted for August 2023.

**Local district action required:** SCSBA does not recommend any policy changes at this time.

**Policy reference:** IHAH (World Language Education), IKF (Graduation Requirements).

**Text:** The text may be found [here](#).

## School District Fire and Safety Policy Feedback

**Publication date: May 23, 2023**

In accordance with S.C. Code Ann. § 59-17-160, the South Carolina Department of Education (SCDE) and the South Carolina State Fire Marshal administered the review process of school districts' fire and safety policies. Each policy was reviewed by independent subject matter experts who provided objective feedback and rated each policy as "Excellent," "Satisfactory," or "Unsatisfactory."

Please review the attached scoring rubric for all sections marked "Unsatisfactory" to make the suggested improvements or updates to your district's fire and safety policy. Note that all changes and updates to your district's policy must be approved by your district's school board and resubmitted in the South Carolina School Safety Portal via the Member Center along with the attached Assurance and Certification document signed by the district superintendent.

During your review, please use the Model Fire and Safety Program Guidelines for South Carolina School Districts and Charter Schools as a reference. The guidelines were promulgated to comply with S.C. Code Ann. § 59-17-160 and serve as best practices for district fire and safety policies.

**Local district action required:** SCDE is currently working with the State Fire Marshal's office to update the rubric that was used to evaluate your fire and safety policies during the review process. Once the evaluation tool is finalized, SCSBA will use it to update the language in model policy EBCB (Safety Plans and Drills). Accordingly, SCSBA does not recommend any policy changes at this time. However, an updated model policy is forthcoming and will be sent out to districts.

**Policy reference:** EBCB (Safety Plans and Drills).

**Text:** The text may be found [here](#).

## Services Available to Students with Special Health Care Needs Notice

**Publication date: May 9, 2023**

In accordance with S.C. Code Ann. § 59-63-90, the South Carolina Department of Education is required to develop a notice to be sent by each local educational agency to all parents/legal guardians that notifies them of available services and rights pursuant to Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act (IDEA), and medical homebound regulations at the beginning of the school year.

Please add your school or district-based contacts as indicated in four sections of the notice and distribute as directed above. It is also recommended to share the notice with guidance counselors, Section 504 Coordinators, and other applicable staff.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** IHBA (Special Education Programs for Students with Disabilities), IHB (Medical Homebound Instruction), JI (Student Rights and Responsibilities), JLCDA (Individual Healthcare Plans).

**Text:** The memo text may be found [here](#) and the available services text may be found [here](#).

## Talent Matters: Human Capital Dashboard Release

**Publication date: April 4, 2023**

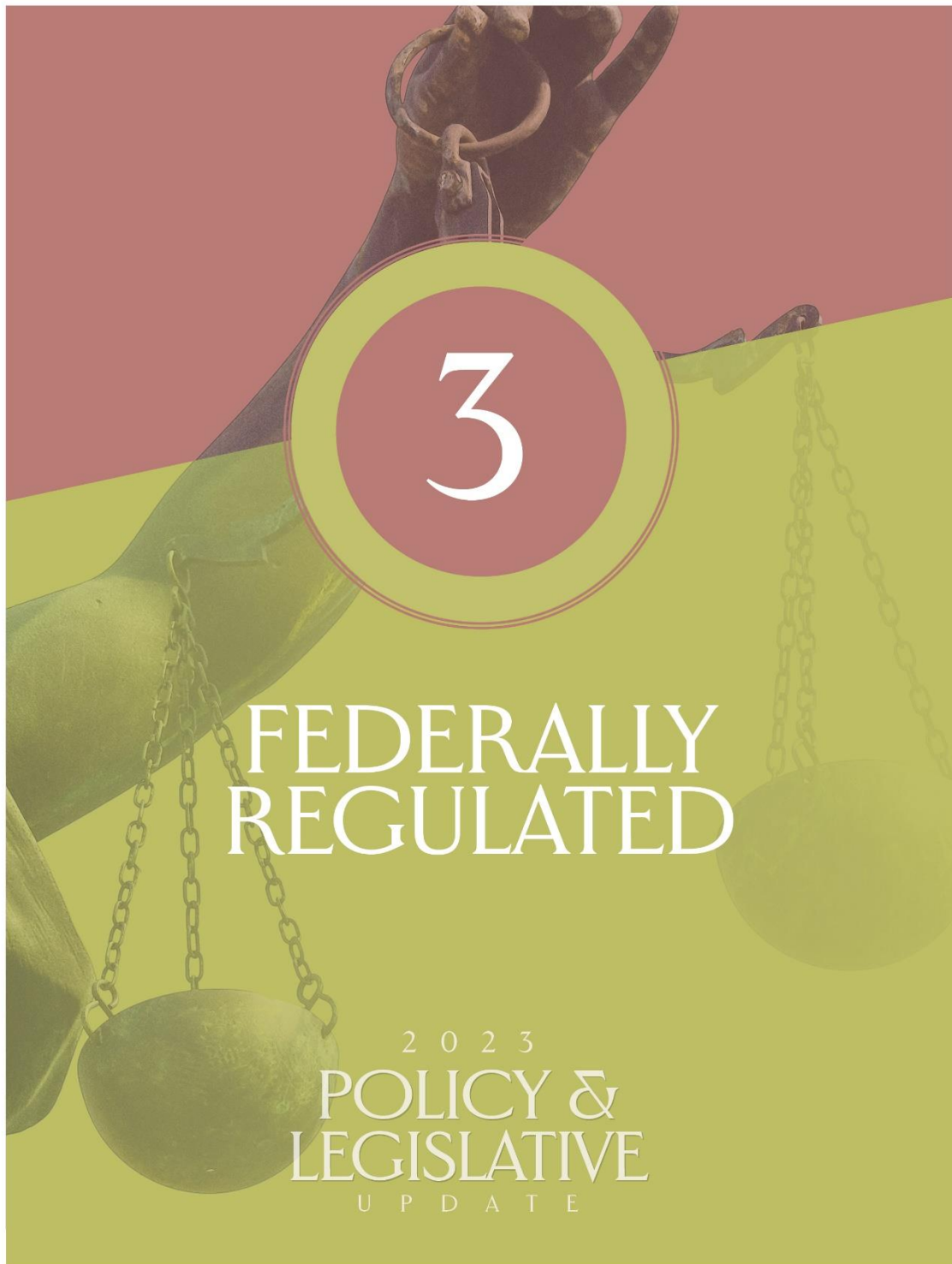
The quality of teachers and leaders in a school directly impacts the quality of a student's learning. The South Carolina Department of Education (SCDE) is committed to supporting school and district leaders to build expertise in best practices for recruiting, retaining, and developing high-quality teachers and leaders. As a part of this support, the SCDE is introducing a new Human Capital Dashboard. The Human Capital Dashboard is accessible to district and school leaders in the SCDE Web Application Portal.

Strategically managing human capital issues of recruitment, retention, and advancement requires an understanding of school-, district-, and state-level data. The Human Capital Dashboard is an initial attempt to provide multiple years of student demographics, teacher demographics, and key workforce indicators in one place. The Human Capital Dashboard brings different data sources including SC School Report Cards and SCLead together and allows users to drill down to districts and schools.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** GCE (Professional Staff Recruitment), GCED (Posting and Advertising of Professional Vacancies), GCI (Professional Development).

**Text:** The text may be found [here](#).



## Federal Laws

The federal laws outlined below require district compliance.

### **Age Discrimination Act of 1967, 42 U.S.C. Sections 6101-6107**

Prohibits discrimination on the basis of age (all ages) in programs and activities receiving federal financial assistance. Recipients of federal funds will notify stakeholders of information regarding the Act, adopt and publish a grievance procedure, and designate at least one employee to coordinate investigative and compliance efforts.

### **Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. Sections 12101-12213**

A public entity that employs 50 or more persons will designate at least one employee to coordinate its compliance efforts and carry out its responsibilities under the ADA. These responsibilities include investigating any complaint communicated to the public entity alleging noncompliance or actions that would be prohibited by Title II of the ADA. The public entity will make available to all interested individuals the name, office address, and telephone number of the designated employee(s). The public entity will adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II of the ADA.

### **Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. Sections 2641-2656**

The Asbestos Hazard Emergency Response Act requires inspection for asbestos-containing material and requires school districts to have an asbestos management plan for each school, including all buildings that they lease, own, or otherwise use as school buildings and to maintain and update the plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, re-inspection, and response action activities. At least once each school year, school districts must notify parents/legal guardians, teachers, and employees of the availability of management plans. All members of the custodial staff who may work in a building with asbestos-containing building materials must have at least two hours of awareness training. All new custodial staff must be trained within 60 days of hire. A model EPA asbestos management plan can be found [here](#).

### **Children's Internet Protection Act (CIPA) of 2000, 47 U.S.C. Sections 254(h)(5)(B)-(C), 254(1)**

The CIPA requires that any district or school using E-Rate discounts must have an Internet safety policy that includes a technology protection measure that prohibits access by both adults and minors to visual depictions that are obscene, contain child pornography, or, with respect to use of the computers by minors, are harmful to them. The Internet safety policy must also include monitoring the online activities of minors and must provide for educating them about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms, and cyberbullying awareness and response. The Internet safety policy must also address all of the following: (A) access by minors to inappropriate content on the Internet; (B) the safety and security of minors when using email, chat rooms, and other forms of direct electronic communications; (C) unauthorized access, including so-called "hacking," and other unlawful online activities by minors; (D) unauthorized disclosure, use, and dissemination of personal information regarding minors; and (E) measures designed to restrict minors' access to materials harmful to them.

### **Copyright Act of 1976, 17 U.S.C. Sections 106, 107, 110**

The fair use doctrine and the face-to-face teaching exemption allow educators to use copyrighted materials in narrowly defined teaching situations.

### **Drug-Free Workplace Act of 1988, 41 U.S.C. Section 8103**

Districts receiving direct federal grants must publish a statement and provide a copy to each employee notifying them that controlled substances are prohibited in the workplace; that specific actions will be taken against the employee for violating the prohibition; and that, as a condition of employment under the grant, the employee will abide by the terms of the statement and must notify the district in writing no more than five calendar days after the conviction if he/she is convicted for a violation of a criminal drug statute occurring in the workplace.

### **Every Student Succeeds Act of 2015, 20 U.S.C. Section 6321(c)**

A school district will file with the state a written assurance that it has established and implemented: (1) a school district-wide salary schedule; (2) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and (3) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. Biennially, school districts will maintain records which document compliance with this requirement.

### **Every Student Succeeds Act of 2015, 20 U.S.C. Section 7912(a)**

Districts that can offer a transfer option are required to have a policy that allows a student who attends a persistently dangerous public school or who becomes a victim of a violent criminal offense while in or on school grounds to attend a safe school within the district, including a public charter school.

### **Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. Sections 201-219**

Every employer of employees subject to the FLSA's minimum wage provisions must post, and keep posted, a notice explaining the FLSA in a conspicuous place in all of their establishments so as to permit employees to readily read it. The required poster can be found [here](#).

### **Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. Section 2619**

Employers must post a general notice/poster from the U.S. Department of Labor (DOL), or in another format so long as it includes all of the information in the DOL's FMLA poster, explaining the FMLA's provisions and complaint procedures. This general notice must be posted even if no employees are eligible for FMLA leave. The notice must be posted prominently where it can be readily seen by employees and applicants. The general notice, FMLA leave eligibility notice, rights and responsibilities notice, and the FMLA designation notice will either be distributed to each new employee upon hiring or be included in employee handbooks or other written guidance concerning benefits or leave rights. Electronic posting is sufficient to meet these requirements. The required poster can be found [here](#).

### **Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. Sections 1751-1769j**

Districts participating in a federal food program will establish a local school wellness policy that includes (1) specific goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness; (2) standards and nutrition guidelines for all foods available on campus during the school day that meet minimum nutritional requirements, promote student health, and reduce childhood obesity; (3) a description of the manner in which parents/legal guardians, students, representatives of the school food authority, physical education

teachers, school health professionals, the school board, school administrators, and the general public are provided an opportunity to participate in the development, implementation, and periodic review and update of the wellness policy; (4) identification of the position of the school official(s) responsible for implementation and oversight of the local school wellness policy to ensure each school's compliance with the policy; and (5) description of the plan for measuring the implementation of the local school wellness policy and for reporting local school wellness policy content and implementation issues to the public.

#### **Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. Section 1776(g)**

School districts must maintain minimum hiring standards, required education, training, and certification as established by the USDA for school nutrition professionals who manage and operate the National School Lunch and School Breakfast Programs. The standards include training requirements for current and new school nutrition program employees, in addition to the hiring standards for new employees. The standards are differentiated based on the size of the school district and the employee's position.

#### **Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1415(d)**

School districts will establish and maintain procedures to ensure that children with disabilities and their parents/legal guardians are guaranteed procedural safeguards with respect to the provision of a free, appropriate public education. School districts must give parents/legal guardians of a child with a disability a copy of the procedural safeguards one time per year; and upon initial referral or parental request for an evaluation, upon a parent/legal guardian filing a request for a due process complaint, upon a disciplinary action constituting a change in placement, or upon request of a parent/legal guardian. The notice must fully explain the safeguards in the parent/legal guardians' native language unless it is clearly not feasible to do so.

#### **McKinney-Vento Homeless Assistance Act of 2001, 42 U.S.C.A. Section 11432**

The McKinney-Vento Homeless Assistance Act requires that all school districts provide homeless students with the same educational opportunities as housed students. School districts must designate a liaison to coordinate services to ensure that children and youth experiencing homelessness have access to all programs and services for which they are eligible. All school districts must have policies that remove barriers to the enrollment and retention of homeless children and youths, including transportation, and prevent homeless children and youths from being stigmatized or segregated on the basis of their status as homeless.

#### **Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012, 49 U.S.C. Section 5331(b)**

Employers must have a policy for employees engaged in safety-sensitive positions to be tested for drugs and alcohol. Testing of bus drivers is required for districts that provide transportation.

#### **Parent and Family Engagement Act of 2015, 20 U.S.C. Section 6318**

Districts and schools receiving Title I funds must have a parental involvement policy. Among other things, a district parental involvement policy must provide support for schools in planning and implementing parent involvement activities, building schools' and parents' capacities for parental involvement, coordinating and integrating parental involvement strategies, and conduct by an annual evaluation of the content and effectiveness of the policy. A school-based parental involvement policy must include, among other requirements, provisions for sharing between the parents, school staff, and students the responsibilities for improved student academic achievement.

### **Protection of Pupil Rights Amendment (PPRA) of 1978, 20 U.S.C. Section 1232h(c)**

Districts will have policies regarding parents' rights to inspect a student survey; arrangements to protect student privacy in surveys covering particular topics; parents' rights to inspect instructional materials; administration of physical examinations of students; collection, disclosure, or use of personal student information for marketing or selling purposes; and parents'/legal guardians' right to inspect any instrument for collection of information for marketing and selling purposes. Districts must also provide notice of these policies to parents/legal guardians at least annually at the beginning of the school year.

### **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794**

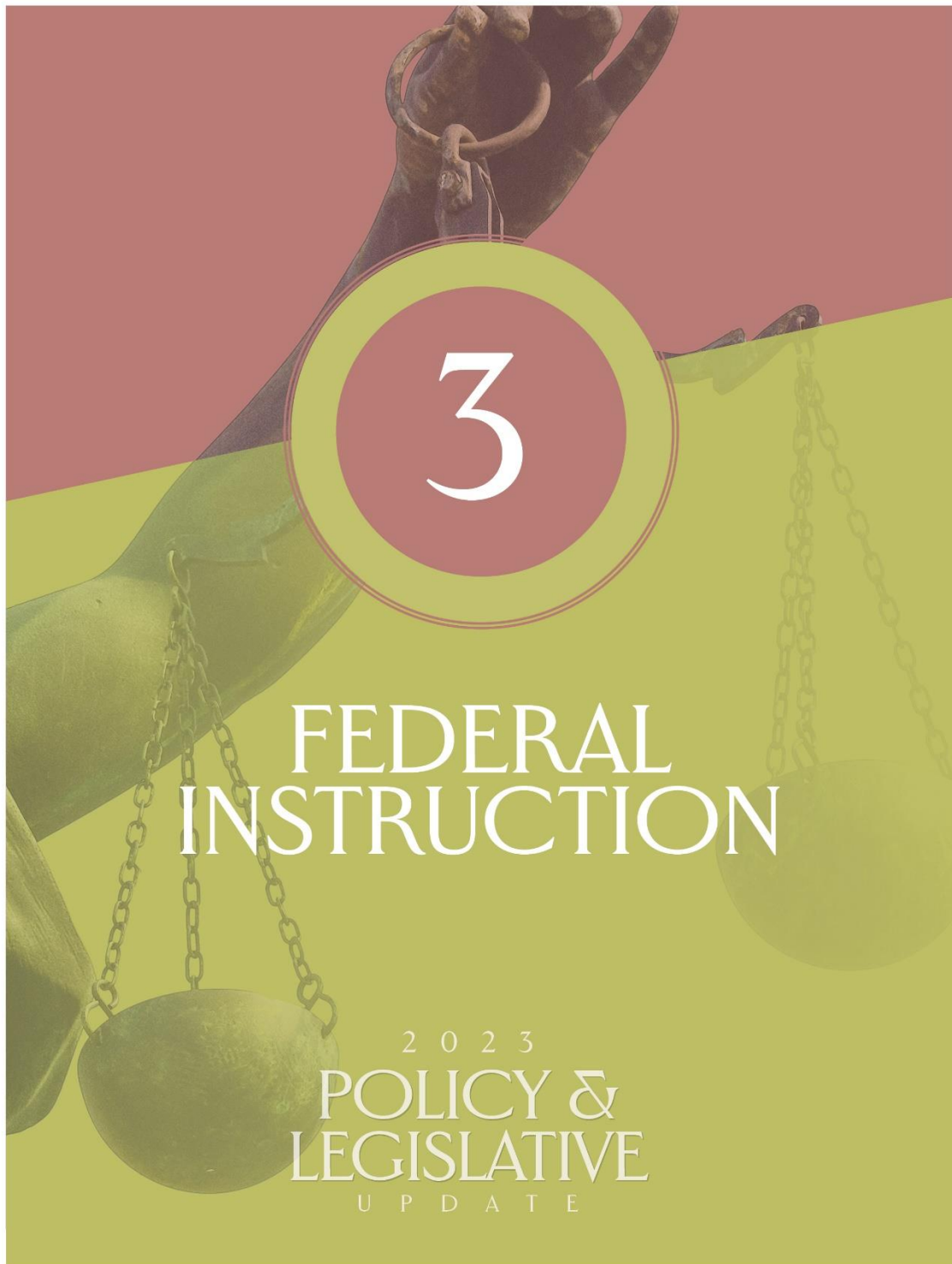
Recipients of federal funds that employ 15 or more persons will designate at least one employee to coordinate compliance efforts, adopt and publish grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504, and notify students and others that they do not discriminate on the basis of disability.

### **Title IX of the Education Amendments of 1972, 20 U.S.C. Sections 1681-1688**

A district receiving federal funds must designate a Title IX Coordinator, investigators (if different from the Title IX Coordinator), and decision-makers to coordinate its compliance efforts under Title IX and will adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any discrimination on the basis of sex (including gender identity, sexual orientation, and pregnancy, childbirth, or any related medical conditions) in education programs or activities receiving federal financial assistance. Districts will provide Title IX training to certain designated personnel. Districts will also publish all training materials by posting them on their district webpage. Additionally, districts are required to maintain records pertaining to training and resolution of complaints for seven years. A flowchart outlining the complaint process may be found [here](#).

### **Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C.A. Sections 4301-4335**

Employers must provide notice to persons entitled to rights and benefits under the USERRA of the rights, benefits, and obligations of such persons and such employers under the USERRA. The notice requirement may be met by posting the notice where employers customarily place notices for employees. The required poster may be found [here](#).



## Federal Guidance

**Summary:** Over the past year, the United States Department of Education (USDE) has issued a few guidance documents. These documents are considered best practices and guides by the issuing authority. They do not create any rights and do not impose any requirements beyond what is established under applicable law and regulations. The information below briefly summarizes the guidance and provides links to the locations.

### United States Department of Education

#### **Family Educational Rights and Privacy Act (FERPA) Guidance for School Officials on Student Health Records**

The USDE issued guidance to provide school officials, parents, and eligible students with general information about FERPA focused on protecting student health records maintained by educational agencies and institutions and third parties acting on their behalf. The guidance reinforces the distinction between education records and treatment records. The agency also issued a “know-your-rights resource” that provides parents and eligible students with a brief overview of FERPA rights relating to student health records. The guidance document can be viewed [here](#) and the corresponding “know-your-rights resource” can be viewed [here](#).

#### **Dear Colleague Calling for End to Corporal Punishment in Schools and Guiding Principles on School Discipline**

The USDE issued a letter to Governors, Chief State School Officers, and School District and School Leadership urging them to end corporal punishment in schools. The letter reinforced USDE’s position that corporal punishment in schools should be replaced with evidence-based practices. The department also released Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates to provide guiding principles on maintaining safe, inclusive, supportive, and fair learning environments for students and school staff. The document includes specific recommendations for evidence-based practices. The letter can be found [here](#). The guiding principles document can be found [here](#).

#### **Updated Guidance on Prayer in Schools**

The USDE released its revised guidance on prayer in schools to address the issues raised in the Supreme Court’s ruling in *Kennedy v. Bremerton*. The guidance explains that although schools may not require prayers to be recited by students or school authorities, the First Amendment does not require public schools to be religion-free zones or that students or staff leave their private religious expression at home. The updated guidance explains that when school staff speak in their official capacities, they “may not engage in prayer or promote religious views.” The guidance also addresses scenarios such as religious expression in classroom assignments and excusals from instruction. The guidance document can be viewed [here](#).

#### **Equal Employment Opportunity Commission**

The U.S. Equal Employment Opportunity Commission (EEOC) issued updated guidance on how employers should handle hearing related disabilities in the workplace. The guidance includes a series of question and answer documents and explains how the Americans with Disabilities Act (ADA) applies to job applicants and employees with hearing disabilities. The guidance can be found [here](#).

## Office of Special Education Programs

The U.S. Department of Education’s Office of Special Education Programs (OSEP) released new guidance and a “Dear Colleague Letter” addressing the “general supervision” requirement under IDEA. The updated guidance takes immediate effect to ensure and strengthen the rights and protections guaranteed to children with disabilities and their families under the Individuals with Disabilities Education Act (IDEA). This guidance underlines each state's general supervision responsibility to meet the purpose of IDEA and ensure that all school-age children, regardless of the nature or severity of their disability, can access FAPE in the least restrictive environment and that infants and toddlers with disabilities receive appropriate early intervention services. OSEP also clarified and expanded its requirements in response to requests to clarify the roles and responsibilities of all state education administrators in satisfying the IDEA’s general supervision requirement. The guidance can be found [here](#). The letter can be found [here](#).



## Voting In Executive Session Is Not Permitted By FOIA

The South Carolina Court of Appeals in *Miramonti v. Richland County School District One* (the District) held that a public-school board violated the Freedom of Information Act (FOIA) when it decided during an executive session to send a letter in response to a parent's complaint.

In this matter, the District changed its policy that allowed English for Speakers of Other Languages (ESOL) students to receive instruction at specific magnet schools. Instead, those students would be required to receive ESOL instruction at their zoned schools. Since this policy change occurred after the deadline for transfer requests, a parent of an ESOL student submitted a written request for the district to reopen its transfer window to allow ESOL students currently attending magnet schools outside of their zones to remain at those schools for the following year.

The school district board of trustees (the Board) entered executive session at its next meeting where the issue was discussed. However, the meeting minutes did not reflect the Board's announcement of the purpose of the executive session. Upon returning to open session, the Board chair reported that he had received a parent's complaint and that the parent would get something in writing from the Board the next day. After debate regarding concern for that decision, the chair explained that a letter in response to the complaint would be sent out based on the executive session discussion. Thereafter, a letter on behalf of the board was sent to the parent stating that the answer to her question about the transfer policy remained the same.

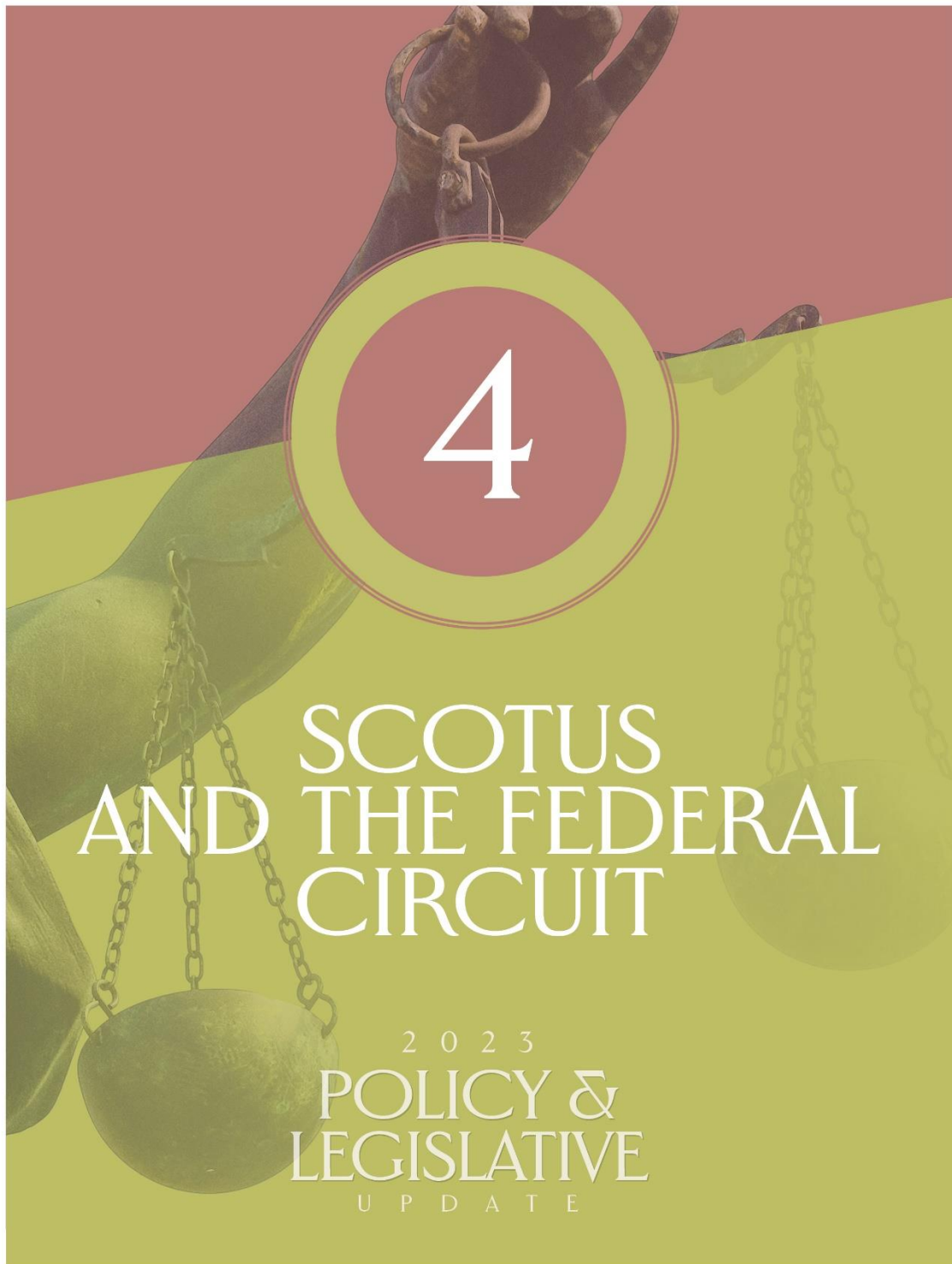
The parent then filed a lawsuit in circuit court seeking a declaratory judgment that the board's actions regarding her complaint violated FOIA; an order enjoining the Board from further FOIA violations; and injunctive relief to have her complaint considered at the next meeting. Ultimately, the circuit court ruled in her favor by finding a FOIA violation and enjoining the Board from improperly entering into executive session or taking any action in executive session. The court further ordered the Board to take up the complaint at its next meeting. The board then appealed the portion of the decision requiring it to take up the complaint anew.

After reviewing the case, the Court of Appeals agreed with the circuit court's finding that the board violated FOIA by improperly entering executive session and deciding how to respond to the parent's complaint during executive session. The Court also noted that the chair had "no authority to send the letter without a majority vote" of the board because "an individual member of a public body has no authority to act" absent constitutional or legislative authority. However, the Court vacated the portion of the injunction requiring reconsideration of the complaint as that extended beyond providing an equitable remedy for the FOIA violation. Instead, it was a judicial decree requiring the board to take specific legislative action, which is contrary to the general rule against the court's restraint of legislative power.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** BEC (Executive Sessions/ Open Meetings)

**Text:** The court decision can be found [here](#).



## Middle School Principal Was Entitled to Qualified Immunity

In *Burns-Fisher v. Romero-Lehrer*, the United States Court of Appeals for the Fourth Circuit held that a middle school principal was entitled to qualified immunity after a teacher failed to prove the existence of a clearly established constitutional right following a student attack during classroom instruction.

On April 9, 2021, Kimberly Burns-Fisher, a middle school teacher in Pender County, North Carolina, filed a lawsuit against the county board of education, the superintendent, and Anna Maria Romero-Lehrer, the middle school principal, after a student physically attacked her. The attack occurred during Burns-Fisher's language arts class when the student became upset with the outcome of a vocabulary game. The student called Burns-Fisher a moron and struck her in the head with a book bag. After Burns-Fisher fell to the floor, the student continued the attack kicking her multiple times in the head and back, causing various injuries. The student had a history of violence and was also one who received special education services.

In the lawsuit, Burns-Fisher included a personal liability claim against Romero-Lehrer alleging that Romero-Lehrer established a state-created danger in failing to place a second teacher – one who was exceptional child (EC) certified – in an inclusion class with ten of thirty students having an individualized education plan (IEP) in accordance with Board policy. She further alleged that Romero-Lehrer knew or should have known that her action and inaction could lead to a violation of Burns-Fisher's constitutional liberty interest in bodily integrity and an increased risk of harm. In response, Romero-Lehrer filed a motion to dismiss the claims against her in the United States District Court for the Eastern District of North Carolina, arguing that she was entitled to qualified immunity. The district court denied the motion, and Romero-Lehrer appealed.

As a general rule, Fourteenth Amendment due process “does not require governmental actors to affirmatively protect life, liberty, or property against intrusion by private third parties”. However, the state-created danger doctrine is an exception to this rule and applies when the state affirmatively acts to create or increase the risk that resulted in the injury. In this case, Burns-Fisher argued that Romero-Lehrer knew this student posed a risk to her safety based on his prior acts of violence and failed to protect her; and that allowing a deficiently staffed inclusion classroom increased her risk of harm.

The Court disagreed, finding that Romero-Lehrer's alleged knowledge of the student's violent history and failure to prevent the attack was “insufficient to constitute affirmative acts” as she did not create the direct danger that caused the injuries. Because Romero-Lehrer's conduct did not directly cause the injuries, the constitutional violation allegation was insufficient.

The Court also noted that Burns-Fisher did not demonstrate a clearly established constitutional right to be protected from a student known to have a violent history. As a result, the Court concluded that Romero-Lehrer was entitled to qualified immunity. Qualified immunity attaches to government officials performing discretionary functions when their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would know.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** N/A

**Text:** The court decision can be found [here](#).

## **South Carolina Disorderly Conduct and Disturbing School Laws Found Unconstitutionally Vague**

On February 22, 2023, in the matter of *Carolina Youth Action Project v. Wilson*, the Fourth Circuit Court of Appeals affirmed the district court’s decision and held that both South Carolina’s disorderly conduct and disturbing school laws were unconstitutionally vague as applied to elementary and secondary school students.

Under South Carolina’s “disorderly conduct law,”<sup>1</sup> it is a misdemeanor to behave in a disorderly or boisterous manner in any public place or to use obscene or profane language on any highway or at any public place or gathering within hearing distance of a school or church. Likewise, under the South Carolina’s “disturbing school law”<sup>2</sup> it is a misdemeanor for any person to “willfully or unnecessarily” interfere with or disturb students or teachers or to act obnoxiously at any school or college in the state. Historically, students referred for criminal charges under either law were in danger of being charged or determined delinquent. Further, the charges would continue to appear on a student’s record with the South Carolina Department of Juvenile Justice (DJJ) and the local prosecutor, regardless of whether the charges were later dismissed.

In this case, D.S., D.D., and S.P. were students charged with disruptive conduct under the disturbing schools and disorderly conduct laws. In 2015, S.P., a high school freshman at the time, refused to leave the library when directed by staff to do so following an altercation with another student. During the fight, S.P. repeatedly used profanity which resulted in S.P.’s suspension and charge of violating the disorderly conduct laws. In 2016, D.S., a 17-year-old student, was also charged with violating the disturbing schools law following her involvement in a fight in the school hallway. In 2017, D.D., an eighth-grade student, was charged with violating the disturbing schools law after multiple students alleged that D.D. threatened to shoot up a school. The students and Carolina Youth Project, a nonprofit youth advocacy organization, filed a class action lawsuit in the district court alleging that the disorderly conduct and disturbing school laws were unconstitutionally vague and violative of due process.

The Due Process Clause of the Fourteenth Amendment provides that “no state shall deprive any person of life, liberty, or property, without due process of law.” A key component of due process is the void-for-vagueness doctrine. Under this doctrine, states are prohibited from taking the life, liberty, or property of a person under a law that fails to give sufficient notice of the prohibited conduct or lacks sufficient standards to prevent disparate enforcement.

As to the disorderly conduct statute, the court’s vagueness analysis turned on the terms “disorderly” and “boisterous manner” because those terms failed to provide students with notice of when their behavior would be considered generally age-appropriate conduct versus criminal behavior. As to the disturbing schools law, the “interfere with or to disturb in any way,” “loiter,” and “to act in an obnoxious manner” language was the focus. Ultimately, the district court sided with the Plaintiffs and prohibited enforcement of both laws for K-12 students. The court further enjoined the state from retaining records of the charges, adjudication, or disposition under the disorderly conduct law except those allowed under the state’s expungement law. The Attorney General then appealed the decision to the Fourth Circuit Court of Appeals.

Following its review, the Court of Appeals agreed that the South Carolina disorderly conduct law failed to give “schoolchildren fair warning” about what was prohibited conduct and provided “unfettered discretion” in its enforcement. The Court upheld the district court’s finding that the law was unconstitutionally vague as applied to elementary and secondary school students. Likewise,

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<sup>1</sup> South Carolina Code §16-17-530 (A)(1) & (2)

<sup>2</sup> South Carolina Code §16-17-420(1)

the Court also found that the disturbing schools law was unconstitutionally vague noting that if the state “prosecuted all unnecessary disturbance, loitering, or obnoxiousness in schools” the court dockets would be “overrun by preteens.” The Court further identified the problem as stemming from a failure to describe the specific conduct covered by the statute.

While affirming the ruling of the district court, the Court also confirmed the continued authority of schools to control disturbances in the learning environment through the adoption and enforcement of codes of conduct.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** JICDA, JICDA -R (Code of Conduct)

**Text:** The court decision can be found [here](#).

## Administrative Exhaustion Is Not Required In All IDEA Cases

In *Perez v. Sturgis Public Schools*, decided March 21, 2023, the United States Supreme Court, in a unanimous decision held that the Individuals with Disabilities Education Act's (IDEA) exhaustion requirement does not apply to cases seeking compensatory damages under the American with Disabilities Act (ADA).

Miguel Luna Perez (Perez), a student who was deaf, attended school in Sturgis Public School District (District) in Michigan from ages 9 through 20. While in school, Perez required the assistance of a sign language interpreter to translate classroom instruction. For the eleven years that Perez attended schools in the District, he was assigned aides. However, the family alleged that many of the aides were unqualified or absent from the classroom during instructional hours. They further claimed that the district misrepresented Perez's academic progress leading his parents to believe that Perez would receive his high school diploma. However, months before graduation, his parents were informed that Perez was ineligible for a high school diploma and would receive a certificate of completion instead.

In response, the family filed an administrative complaint with the Michigan Department of Education alleging that the district "failed its duties under IDEA and other laws." However, the parties settled the matter prior to the administrative hearing. As part of the settlement, Sturgis agreed to provide Perez with additional education at the Michigan School for the Deaf. Thereafter, the family also filed a federal suit seeking compensatory damages in Michigan District Court under the Americans with Disabilities Act (ADA). The District moved to dismiss the case asserting that Perez was barred from bringing the ADA claim because he failed to exhaust his administrative remedies under the IDEA's dispute resolution procedures. The district court agreed and dismissed the suit. Perez then appealed the issue to the Sixth Circuit Court of Appeals where the district court's decision was affirmed. He then appealed to the Supreme Court of the United States.

In reviewing this case, the Supreme Court focused on the interpretation of two provisions in the IDEA addressing the restriction or limitation of "remedies" and the application of "exhaustion." As explained by the Court, remedies refer to "the means of enforcing a right" in the form of "money damages, an injunction, or a declaratory judgment." Where as; exhaustion "bars individuals from seeking relief under other federal laws unless they first exhaust administrative procedures. Perez argued the seeking relief clause of IDEA applied only if he pursued remedies that are also available under IDEA. Therefore, the exhaustion requirement did not foreclose his claim for compensatory damages because that form of relief is not available to him under the IDEA. In contrast, the District maintained that exhaustion was required before Perez could seek any relief "for the same underlying harm."

Ultimately, the Court agreed with Perez by unanimously concluding that "IDEA's administrative exhaustion requirement applies only to suits brought under another federal law that seek relief also available under IDEA." In this case, Perez was not required to exhaust the administrative procedures under IDEA because he sought relief in the form of compensatory damages which was available to him under the ADA but not under the IDEA.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** IHBA (Special Education/Programs for Students with Disabilities)

**Text:** The court decision can be found [here](#).

## New Test For Title VII Religious Accommodation Requests

In *Groff v. DeJoy*, a unanimous Supreme Court held that Title VII requires an employer that denies a religious accommodation to show that the burden of granting the accommodation would result in substantial increased costs in relation to the conduct of its particular business.

Title VII of the Civil Rights Act of 1964 requires employers to reasonably accommodate employees whose sincerely held religious beliefs or observances conflict with work requirements, unless doing so would create an undue hardship on the conduct of the employer's business. For nearly the last 50 years, religious claims brought under Title VII were analyzed using a "de minimis cost" framework to establish the undue hardship component. More specifically, if a request for religious accommodation required the employer to bear more than a de minimis cost, then it could be denied as causing an undue hardship on the employer's business. With the *Groff* decision, the Supreme Court clarified the undue hardship threshold and essentially heightened the standard.

In this case, *Groff*, was an Evangelical Christian who was employed with the U.S. Postal Service (USPS). *Groff* did not want to work on Sundays as this was a day of worship and rest pursuant to the tenets of his faith. When he began working with USPS in 2012 the position did not require him to work on Sundays. However, later the USPS entered into a new contract that would begin Sunday deliveries. In response to the change, *Groff* requested and received a transfer to a different site that did not make Sunday deliveries. Eventually, that site began requiring Sunday deliveries as well. In an effort to accommodate *Groff*'s request to not work on Sundays, other employees were scheduled in his place when possible. Because this was often a problem due to staff shortages, *Groff* requested an exemption. USPS declined the request stating it would lead to undue hardship for the company. Eventually *Groff* was disciplined for refusing to work on Sundays. This led to his resignation and a suit in federal district court.

In his lawsuit, *Groff* argued that USPS could have provided religious accommodation "without undue hardship on the conduct of [USPS's] business". Using the former de minimis cost standard, the District Court and the Third Circuit Court of Appeals ruled in favor of USPS, finding that exempting *Groff* from working on Sundays would not only burden his co-workers and diminish morale but also disrupt the workplace and damages USPS's operations. The matter was appealed to the Supreme Court of the United States.

In reviewing this case, the Supreme Court clarified the appropriate framework for determining undue hardship in Title VII religious accommodation claims. In a textual analysis of the phrase "undue hardship" the Court concluded that something "more severe than a mere burden" that is "excessive" or "unjustifiable" is required. Setting aside the de minimis cost standard, the Court established that undue hardship is shown when an accommodation "results in substantial increased costs in relation to the conduct of" the business.

The Court declined to determine which facts would meet this new test. Instead, this will rely on a case-by-case analysis that considers all relevant factors, including the specific accommodation at issue and the practical impact on the size and operating costs of the employer.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy references:** GBA (Open Hiring/Equal Employment Opportunity), GBAC, GBAC -R (Discrimination, Harassment, And Retaliation)

**Text:** The court decision can be found [here](#).

## **School Board Was Not Liable for A Disabled Student’s Conduct in A Hostile Work Environment Claim**

In *Webster v. Chesterfield County School Board*, decided on June 28, 2022, the Fourth Circuit Court of Appeals affirmed the decision of the district court in its issuance of summary judgment finding the Chesterfield County School Board was not liable for the conduct of a disabled student in a hostile work environment claim.

Regina Webster (Webster), an instructional assistant in special education at Providence Elementary School, filed a hostile work environment complaint with the United States Equal Employment Opportunity Commission (EEOC), alleging that she was “subjected to a sexually hostile work environment” from September 2018 through March 2019. The complaint stemmed from incidents involving S.M., an eight-year-old student diagnosed with Down’s Syndrome and Attention Deficit Hyperactivity Disorder (ADHD). According to Webster’s claim, she was sexually harassed by S.M. almost daily. Webster indicated that she reported the incidents to the classroom teacher, the assistant principal, and the principal. In response, the principal transferred Webster from the class with S.M. However, she did not welcome the change, viewing it as an indication that the administration believed she could not manage her assigned duties. Ultimately, after other staffing challenges, Webster was transferred back to the classroom and resumed working with S.M.

In March 2019, Webster was inappropriately touched while assisting S.M. during a general education computer class. Following this incident, the school altered Webster’s assignment and increased monitoring in an effort to reduce the time Webster spent alone with S.M. Later that spring, the school also proposed transferring Webster to a different classroom to avoid any contact with S.M.

Eventually, Webster moved forward with a hostile work environment claim. After exhausting her remedies with the EEOC, Webster filed suit in the district court alleging that she was “subjected to a sexually hostile work environment in violation of Title VII.” After hearing oral arguments in the case, the district court found that Webster failed to establish a hostile work environment claim<sup>1</sup> because she did not show that S.M.’s conduct was based on sex, severe or pervasive, and imputable to the school board.

On appeal, the dispute was whether Webster met the necessary elements to establish a hostile work environment claim. Specifically regarding the question of S.M.’s conduct toward Webster being based on sex, the Court after hearing the testimony of two special education experts, found that Webster could not demonstrate that S.M.’s conduct “surpassed what could be expected of an eight-year-old with his disabilities.” The Court further held that “even if Webster established S.M. targeted her because of sex, she would still be unable to show that his conduct was severe or pervasive.” To be deemed severe or pervasive, the conduct must be subjectively and objectively severe or pervasive. Based on the record, the Court concluded that S.M.’s conduct was subjectively pervasive in that Webster described feeling humiliated and embarrassed numerous times. On the other hand, the Court found that Webster failed to establish that a reasonable person in her position would find S.M.’s conduct severe or pervasive.

Next, the Court addressed Webster’s claim that S.M.’s conduct was imputable to the school board. To show that S.M.’s conduct was imputable, Webster was required to show that the school board “knew or should have known about the harassment and failed to take effective action to stop it by

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<sup>1</sup> A hostile work environment sexual harassment claim under Title VII requires: (1) unwelcome; (2) based on plaintiff sex; (3) sufficiently severe or pervasive to alter the plaintiff’s conditions of employment and create an abusive work environment; and (4) imputable to the employer.

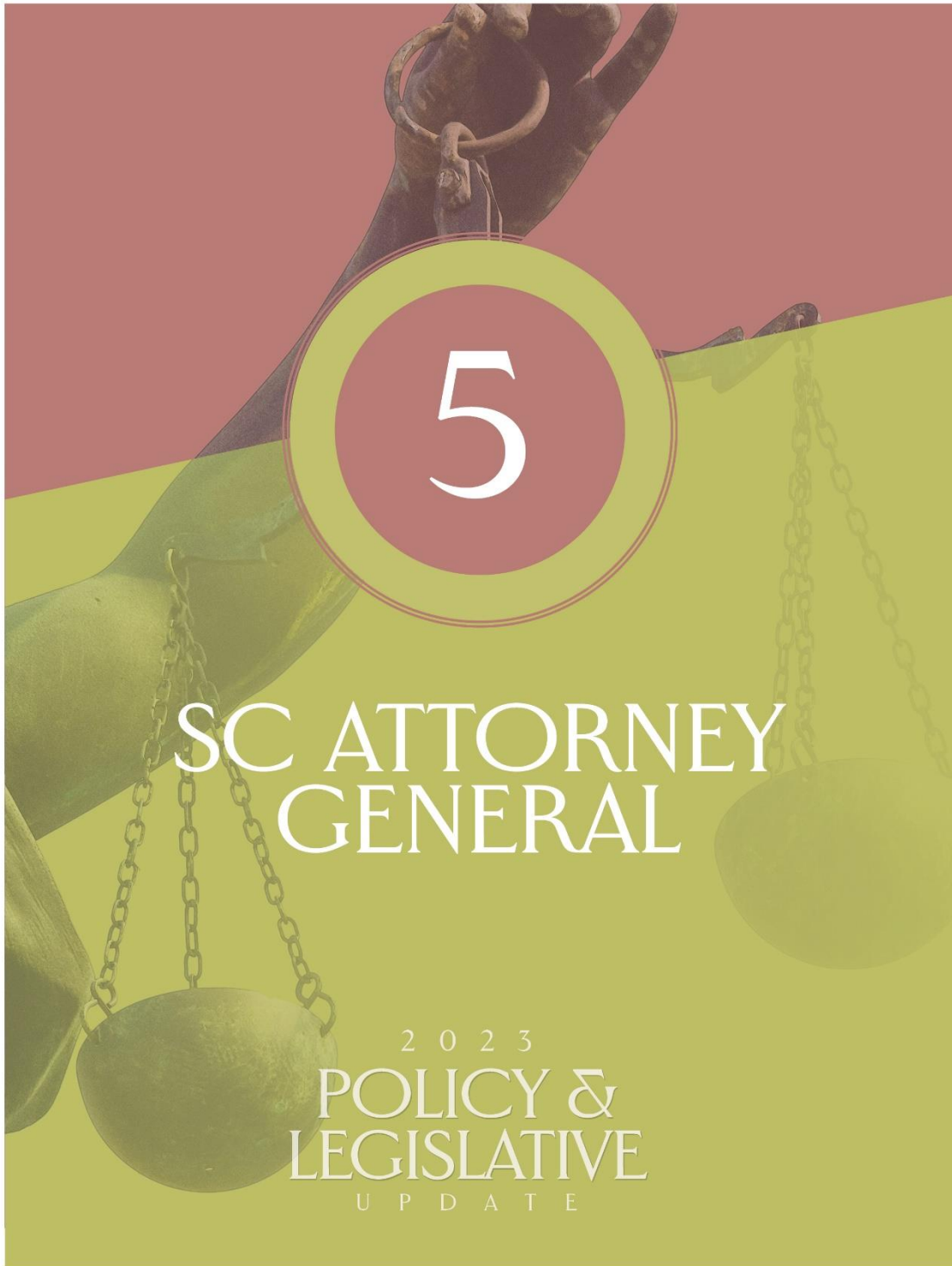
responding with remedial action reasonably calculated to end the harassment.” The Court noted that there is no exhaustive list or combination of remedial measures or steps an employer must take to shield itself from liability. However, if an employer takes action that results in “cessation” of the complained of behavior then liability ceases. Here, the school board responded to Webster’s complaint by altering her bus assignment, changing her schedule, and increasing classroom monitoring to prevent Webster from being alone with S.M.

The Court recognized that Webster’s case demonstrates the more limited set of remedies a school district has as compared to other employers since they must balance maintaining a nonhostile work environment with ensuring all students have access to public education. That said, since these cases require a context specific analysis to determine whether appropriate remedial action was taken in response to specific conduct, the Court did not rule out the possibility that a student-teacher sexual harassment claim could be recognized under Title VII. In conclusion, the Court affirmed the district court’s decision, finding that based upon the facts of this case, it could not hold that a reasonable jury could find that S.M.’s conduct was based on sex, severe or pervasive, and imputable to the school board.

**Local district action required:** SCSBA does not recommend any changes to local board policies.

**Policy reference:** GBAC, GBAC-R (Discrimination, Harassment, and Retaliation), GBAA, GBAA-R (Sexual Harassment and Retaliation (Staff))

**Text:** The court decision can be found [here](#).



## Attorney General Opinions

**Summary:** We have identified opinions from the Office of the Attorney General this past year which may prove useful to board members. While these are instructive and provide guidance, Attorney General’s opinions are not law. Further, they cannot predict how the matter would be handled in court before a judge. The information below are summaries explaining the opinions and include reference links to their locations.

### Parameters of Department of Social Services Interviews on School Grounds

**Publication date:** August 19, 2022

The South Carolina Attorney General’s Office issued an advisory opinion in response to an inquiry concerning the district’s ability to set parameters on interviews of children on school grounds by the Department of Social Services (DSS). Specifically, the opinion addressed if school administrators or guidance counselors could be allowed to sit in on interviews with children in lieu of a school resource officer.

The specific statutory reference is S.C. Code Ann. Section 63-7-920 and related statutes in Chapter 7 of Title 63 to explain constraints of DSS interviews and what additional parameters a school district may establish for interviews occurring on school district property. These would be interviews pertaining to three events: (1) receipt of a report of suspected child abuse or neglect; (2) DSS assuming legal custody of a child under certain circumstances; or (3) DSS receiving notification that a child has been taken into emergency protective custody.

The opinion further discussed the specific categorical requirements for individuals to have access to and use of “unfounded case information<sup>1</sup>” during a DSS investigation and determined that school administrators and guidance counselors generally do not qualify under the statute. Ultimately, the opinion concluded that the school district has the authority to establish parameters regarding the times and facilities available on school district property that DSS may use to conduct an interview of a child but is unaware of any authority allowing a school district to require administrators, guidance counselors, or other school personnel – who are not law enforcement – to be present in the interviews.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** JLF (Student Welfare)

**Text:** The text of the opinion can be found [here](#).

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<sup>1</sup> The Department of Social Services generally considers a case unfounded until it is indicted.

## Prayer at School Pregame Events

**Publication date: September 22, 2022**

The South Carolina Attorney General's Office issued an advisory opinion in response to an inquiry concerning whether prayer can be allowed at a pregame for a South Carolina High School sporting event when the event is sanctioned by a non-profit organization.

To answer this question, the AG opinion specifically reviewed several U.S. Supreme Court decisions concerning the issue of prayer in schools. These included: *Lee v. Weisman*, which found that government involvement with religious activity conflicts with rules pertaining to prayer exercises for students; *Santa Fe Ind. Sch. Dist. v. Doe.*, which held that a student-led invocation prior to the District's football game was impermissible coercive government speech that could reasonably be seen as the school endorsing a religious message; *Town of Greece v. Galloway*, which ruled the town's prayer practice was not unconstitutional; and the decision in *Kennedy v. Bremerton*, which supported a coach's First Amendment right to personally pray after a high school game.

Following this very detailed analysis, the opinion concluded that prayer prior to a public high school game is impermissible as the Court's decisions in *Weisman* and *Santa Fe* remain the current law and have not been overturned.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** N/A

**Text:** The text of the opinion can be found [here](#).

# **Mandatory Filing Statement of Economic Interest Prior to Taking an Oath of Office**

**Publication date: October 11, 2022**

The South Carolina Attorney General's Office issued an advisory opinion in response to an inquiry concerning a public official's responsibility to file a statement of economic interest (SEI) prior to taking an oath of office. More specifically, the inquiry questioned the validity of a school board member's actions prior to their filing an SEI.

Following discussion of language in the South Carolina Ethics Reform Act which states that no public official may take the oath of office or enter into official responsibilities unless they have filed an SEI with the appropriate supervisory office, the opinion concluded that Section 8-13-1110 of the Ethics Reform Act makes clear that a public official, including a school board member, must file an SEI prior to taking their oath of office.

As to the validity of a board member's actions prior to filing an SEI, the opinion reasoned that a court would first have to determine whether an individual is ineligible to hold office for failure to file the SEI. However, such ineligibility would not invalidate that board member's actions.

Although the Ethics Reform Act does not allow the Ethics Commission to remove a board member from office, failure to satisfy the SEI requirement could result in civil and possibly criminal charges brought by the Ethics Commission. Further, such a violation may be sufficient cause for removal by either the board's enabling legislation or a court of law.

**Local district action required:** SCSBA does not recommend any policy changes.

**Policy reference:** BCA (Board Member Code of Ethics)

**Text:** The text of the opinion can be found [here](#).

